



G R E T A

Group of Experts on Action
against Trafficking in Human Beings

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Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Turkey

First evaluation round

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Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe
F-67075 Strasbourg Cedex
France

trafficking@coe.int

www.coe.int/en/web/anti-human-trafficking

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Preamble

As the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") and the monitoring mechanism to evaluate its implementation are relatively new, it is appropriate to set out their salient features at the beginning of the first report to each Party to the Convention.

The Convention was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008. It is a legally binding instrument which builds on already existing international instruments. At the same time, the Convention goes beyond the minimum standards agreed upon in other international instruments and aims at strengthening the protection afforded by them.

The main added value of the Convention is its human rights perspective and focus on victim protection. The Convention clearly defines trafficking as being first and foremost a violation of human rights and an offence to the dignity and integrity of the human being; greater protection is therefore needed for all of its victims. The Convention also has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

As trafficking in human beings is a world-wide phenomenon, one of the express purposes of the Convention is to promote international co-operation in the efforts to combat trafficking. In this context, it is noteworthy that the Convention is not restricted to Council of Europe member states; non-member states and the European Union also have the possibility of becoming Parties.

To be effective, and given the nature of the phenomenon, a strategy for combating trafficking in human beings must adopt a co-ordinated and multidisciplinary approach, incorporating prevention, protection of victims' rights and prosecution of traffickers. The Convention contains various provisions in each of these three areas, placing obligations on States to take appropriate measures, in partnership with civil society and in co-operation with other States.

The measures provided for by the Convention in the area of prevention include awareness-raising for persons vulnerable to trafficking; economic and social initiatives to tackle the underlying causes of trafficking; actions aimed at discouraging demand; and putting in place border control measures to prevent and detect trafficking in human beings.

The Convention also provides for a series of measures to protect and promote the rights of victims. Victims of trafficking must be identified and recognised as such in order to avoid police and public authorities treating them as "irregular migrants" or criminals. Victims should be granted physical and psychological assistance and support for their reintegration into society. Further, by virtue of the Convention, victims are entitled to a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision about their possible co-operation with the authorities. A renewable residence permit should be granted if their personal situation so requires and/or if their continued presence is needed in order to co-operate in a criminal investigation. In addition, the Convention establishes the right of victims to receive compensation and provides for measures for their repatriation and return with due regard to the rights, safety and dignity of the victims.

In the area of substantive and procedural criminal law, the Convention places on Parties a series of obligations aimed at enabling the effective prosecution of traffickers and ensuring that they are punished in a proportionate and dissuasive manner. Particular attention is paid to the issue of victim and witness protection during investigation and court proceedings. Parties should also provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

GRETA is composed of 15 independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009).

In carrying out its monitoring work, GRETA has the right to avail itself of a variety of means for collecting information. As a first step, GRETA sends a detailed questionnaire to the authorities of the Party undergoing evaluation. It may also make additional requests for information. By virtue of the Convention, Parties are obliged to co-operate with GRETA in providing the requested information. Another important source of information is civil society and, indeed, GRETA maintains contacts with non-governmental organisations which can provide relevant information. In addition, GRETA may decide to carry out a visit to the country concerned in order to collect additional information or to evaluate the practical implementation of the adopted measures. This visit allows for direct meetings with the relevant bodies (governmental and non-governmental) and is also an occasion for GRETA to visit facilities where protection and assistance are provided to victims of trafficking and other related structures. Furthermore, GRETA may decide to organise hearings with various actors in the field of action against trafficking in human beings.

GRETA's evaluation reports are thus the result of information gathered from a variety of sources. They contain an analysis of the situation in each Party regarding action taken to combat trafficking in human beings and suggestions concerning the way in which the country may strengthen the implementation of the Convention and deal with any problems identified. In its assessment, GRETA is not bound by the case law of judicial and quasi-judicial bodies acting in the same field, but may use them as a point of departure or reference. The reports are drawn up in a co-operative spirit and are intended to assist States in their efforts; they can offer support for the changes on which the national authorities have already embarked, and lend legitimacy to the direction of national policies. Because of its multidisciplinary and multinational composition, and as a consequence of its independent approach, GRETA provides a professional and impartial international voice in this process.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each Party in plenary session. The report is sent to the relevant government for comments, which are taken into account by GRETA when establishing its final report. This final report is adopted by GRETA in a plenary session and transmitted to the Party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month for the Party to make comments, the report and conclusions by GRETA, together with eventual comments made by the national authorities, are made public and sent to the Committee of the Parties. In the context of the first evaluation round, this completes GRETA's task in respect of the Party concerned, but it is only the first stage in an on-going dialogue between GRETA and the authorities.

The second pillar of the monitoring mechanism, the Committee of the Parties, is composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of Parties non-members of the Council of Europe. On the basis of GRETA's reports, the Committee of the Parties may adopt recommendations addressed to a Party concerning the measures to be taken to implement GRETA's conclusions.

Executive summary

Turkey has taken a number of steps to combat trafficking in human beings. The relevant national legal framework has evolved over the years, in the light of the country's international commitments. In addition to human trafficking being criminalised under Article 80 of the Turkish Criminal Code, the rights of victims of trafficking to a recovery and reflection period and a renewable residence permit are included in the Law on Foreigners and International Protection. Further, the Regulation on Combating Human Trafficking and the Protection of Victims, which entered into force on 17 March 2016, lays down the rules and procedures concerning the identification and support of victims of trafficking.

Since February 2013, the role of co-ordinating national action against human trafficking has been entrusted to the Ministry of the Interior's Directorate General on Migration Management (DGMM), which has a Department of Protection of Victims of Human Trafficking. A Co-ordination Commission on Combating Trafficking in Human Beings, including representatives of relevant ministries and agencies, is convened annually to discuss policies, measures and legislative proposals. International organisations and non-governmental organisations are invited to the meetings of the Co-ordination Commission.

Turkey has implemented two national action plans on combating human trafficking, adopted respectively in 2003 and 2009. GRETA notes the current absence of a national action plan against human trafficking in Turkey and urges the authorities to adopt as a matter of priority a new action plan, accompanied by a mechanism for monitoring its implementation. With a view to ensuring that national action to combat trafficking is comprehensive, the action plan should address all victims of trafficking, including Turkish nationals, for all forms of exploitation, prioritise the identification of victims of human trafficking amongst refugees, asylum seekers and internally displaced persons, and strengthen action to combat trafficking for the purpose of labour exploitation. Further, GRETA urges the Turkish authorities to ensure the involvement of specialised NGOs and other relevant civil society actors in the planning, drafting, implementing and evaluating of national anti-trafficking policies, with the aim of building strategic partnerships for achieving the purposes of the Convention.

Moreover, in order to be fully consistent with the definition of trafficking in human beings in the Convention, GRETA urges the Turkish authorities to add "servitude" and "other forms of sexual exploitation" to the list of forms of exploitation resulting from human trafficking, as well as to ensure that all the aggravating circumstances included in the Convention are appropriately taken into account.

Providing training to relevant professionals and raising general awareness of human trafficking has formed part of various projects run by international organisations in Turkey. GRETA urges the Turkish authorities to take further steps to provide training on human trafficking and to mainstream it into the regular training curricula of relevant professionals. Further, GRETA calls on the authorities to launch nation-wide awareness-raising campaigns regarding human trafficking for different forms of exploitation, taking place both transnationally and within the country. GRETA also considers that the authorities should enhance their efforts to discourage demand for the services of trafficked persons, in partnership with civil society, trade unions and the media. Moreover, additional social and economic empowerment measures should be taken in respect of groups and persons vulnerable to trafficking, including refugees, asylum seekers, migrants in transit, internally displaced persons, women and children.

The identification of victims of trafficking is performed by identification experts appointed in each of the 81 provincial directorates of the DGMM. GRETA urges the Turkish authorities to take steps to improve victim identification by promoting a multi-agency approach and involving the expertise of relevant organisations and entities, such as specialised NGOs, social workers, labour inspectors, child protection specialists and health-care staff.

The report notes that the great majority of identified victims of trafficking leave the country soon after identification, without benefiting from the 30-day recovery and reflection period, and do not have the possibility to take part in investigations and court trials in trafficking cases. GRETA is seriously concerned by the limited accommodation capacity of specialised shelters for victims of trafficking and urges the Turkish authorities to provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking - women, men and children - and to facilitate their social inclusion.

Despite the existence of legal possibilities for victims of trafficking to claim compensation from the perpetrator, no information is available on compensation awards. There is currently no provision for State compensation of victims of trafficking in Turkey. Consequently, GRETA urges the Turkish authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking.

Moreover, GRETA calls on the authorities to take additional steps to ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, and to develop international co-operation and involvement of NGOs in order to ensure comprehensive risk assessment and safe and effective reintegration of victims of trafficking.

Turkish legislation does not contain a specific non-punishment provision in respect of victims of trafficking and no guidance is available for law enforcement officials, prosecutors and judges concerning the application of this provision. GRETA urges the Turkish authorities to take measures to ensure that victims of trafficking are not punished for their involvement in unlawful activities, to the extent that they were compelled to do so, including through the adoption of a specific legal provision and/or the development of guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision.

GRETA notes with concern that the available statistics indicate a high proportion of acquittals in human trafficking cases. Victims of human trafficking very rarely participate in criminal proceedings, either because they have already left Turkey or because they felt intimidated. GRETA urges the Turkish authorities to prioritise the identification of gaps in the investigation procedure and the prosecution of trafficking cases with a view to ensuring effective, proportionate and dissuasive convictions, to systematically carry out financial investigations into human trafficking cases, and to improve the possibilities for victims to participate in court proceedings. The report also stresses the need for improving international co-operation in order to dismantle transnational criminal networks. Finally, GRETA urges the authorities to make full use of the available measures to protect victims and witnesses of human trafficking, including children, and to prevent their intimidation during the investigation and during and after the court proceedings.

I. Introduction

1. Turkey deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") on 2 May 2016. The Convention entered into force for Turkey on 1 September 2016.¹

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings ("GRETA") monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Turkey to implement the provisions set out in the Convention. The "Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties - first evaluation round" was sent to Turkey on 5 October 2017. The deadline for replying to the questionnaire was 5 February 2018, date on which Turkey submitted its reply.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Turkey and other information collected by GRETA. In addition, an evaluation visit to Turkey took place from 5 to 12 October 2018, carried out by the following delegation:

- Ms Siobhán Mullally, President of GRETA;
- Mr Ola Laurell, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention on Action against Trafficking in Human Beings;
- Mr David Dolidze, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation met officials from the Directorate General of Migration Management, including its Department of Protection of Victims of Human Trafficking, the National Police, the Gendarmerie General Command, the Coast Guard Command, the Ministry of Justice, the Ministry of Labour, Social Service and Family, the Ministry of Education, and the Ministry of Foreign Affairs. Meetings were also held with prosecutors and judges. Further, the GRETA delegation met a Member of the Grand National Assembly (Parliament) and representatives of the National Human Rights and Equality Institution.

6. In addition to holding meetings in Ankara, the GRETA delegation travelled to Adana, Edirne, Istanbul, Kırkkale and Kırklareli Provinces where it met representatives of relevant provincial structures.

7. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and Bar Associations. Discussions were also held with officials from the European Union (EU) Delegation, the International Centre for Migration Policy Development (ICMPD), the International Labour Organization (ILO), the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR). GRETA is grateful for the information provided by them.

8. In the context of the evaluation visit, the GRETA delegation visited the two existing shelters for women victims of human trafficking, in Ankara and Kırkkale, run by the respective Provincial Migration Management Directorates. It also visited Bağlum Child Support Centre for unaccompanied children in Ankara and the Sarıçam Temporary Protection Centre for Syrian refugees near Adana. Further, the GRETA delegation visited a removal centre for irregular migrants in Pehlivan köyü, Kırklareli Province. It also paid a visit to a Violence Prevention and Monitoring Centre in Ankara.

¹ The Convention as such entered into force on 1 February 2008, following its 10th ratification.

9. GRETA regrets not having been given the opportunity to visit a shelter for women victims of domestic violence, which reportedly can accommodate victims of human trafficking, despite having repeatedly requested to visit such a shelter, run by the Ministry of Labour, Social Affairs and Family or by a municipality.

10. GRETA is grateful for the valuable assistance provided before, during and after the visit by the contact person appointed by the Turkish authorities to liaise with GRETA, Mr Ebubekir Kurt, Assistant Migration Expert in the Directorate General of Migration Management.

11. The draft version of the present report was adopted by GRETA at its 34th meeting (18-22 March 2019) and was submitted to the Turkish authorities for comments on 2 April 2019. The authorities' comments were received on 3 June 2019 and were taken into account by GRETA when adopting the final report at its 35th meeting (8-12 July 2019). The report covers the situation up to 12 July 2019; developments since that date are not taken into account in the following analysis and conclusions.

II. National framework in the field of action against trafficking in human beings in Turkey

1. Overview of the current situation in the area of trafficking in human beings in Turkey

12. Turkey is primarily a country of destination and transit of victims of trafficking in human beings (THB). According to statistical information collected by the Ministry of the Interior's Directorate General of Migration Management, the number of identified victims of THB was 50 in 2014, 108 in 2015, 181 in 2016, 303 in 2017, and 134 in 2018 (a total of 776 victims). Some 80% of the identified victims were female. There were 170 children among the victims identified during the period 2014-2018 (i.e. 22% of all victims). As regards the forms of exploitation, in 2014, there were 43 victims of sexual exploitation and seven of labour exploitation; in 2015, 88 victims of sexual exploitation, 19 of labour exploitation and one of exploitation of begging; in 2016, 143 victims of sexual exploitation, 30 of labour exploitation and eight of exploitation of begging; in 2017, 186 victims of sexual exploitation, 52 of labour exploitation and 65 of exploitation of begging; and in 2018, 95 victims of sexual exploitation and 39 victims of labour exploitation. The main countries of origin of the victims over the period 2014-2018 were Syria (150 victims), Kyrgyzstan (112 victims), Uzbekistan (106 victims), Morocco (61 victims), Georgia (39 victims), Republic of Moldova (38 victims), Ukraine (34 victims), Russian Federation (27 victims), Azerbaijan (24 victims) and Turkmenistan (20 victims). The number of Turkish nationals identified as victims of THB has been very low (two in 2015, two in 2016 and nine in 2017). As regards the provinces where the victims were identified, the biggest number of identifications took place in Antalya (166) and Istanbul (172).²

13. According to the available statistics, the number of identified victims of THB in Turkey has increased over the last four years.³ While THB for the purpose of sexual exploitation, affecting primarily women and girls, continues to prevail, the number of victims of THB for the purpose of labour exploitation has been on the rise, accounting for 19% of all victims in 2014-2018, as well as the number of male victims. Further, there has been an increasing number of victims of exploitation of begging, all of whom were Syrian. Due to its geographical situation, Turkey has been at the forefront of the arrival of an increasing number of asylum seekers and migrants and currently hosts the largest number of refugees worldwide.⁴ Following the EU-Turkey statement of 18 March 2016 on steps to end the irregular migration from Turkey to the EU, these asylum seekers and migrants remain in Turkey. The protracted situation increases the risks of trafficking and exploitation, and there are reports of Syrian and other refugee and migrant children, accompanied by families or unaccompanied, being trafficked for the purposes of sexual exploitation, including forced marriages, exploitation in begging and labour exploitation, in particular in the agricultural sector.

14. GRETA notes that the above figures of identified victims of THB do not reflect the real scale of the phenomenon of THB in Turkey, due to limited capacity and training of responsible officials performing the identification of victims, lack of co-operation with specialised civil society organisations experienced in the identification and support of victims, as well as insufficient attention to trafficking for purposes other than sexual exploitation of women and girls, as well as to trafficking of Turkish nationals.

² Ministry of the Interior Directorate General of Migration Management, *2017 Annual Report on Combating Human Trafficking in Turkey*, February 2018 ([Türkiye İnsan Ticaretiyle Mücadele Yıllık Raporu, 2017](#)).

³ The number of identified victims of THB was higher in 2005 (256) and 2006 (246), following which there was a period of decrease (down to 21 in 2013).

⁴ According to UNHCR, there are over 3.5 million registered Syrian refugees along with some 370,000 persons of concern of other nationalities (mainly from Iraq and Afghanistan) registered with UNHCR.

2. Overview of the legal and policy framework in the field of action against trafficking in human beings

a. Legal framework

15. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Turkey is Party to the United Nations Convention against Transnational Organized Crime (ratified in 2003) and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ("Palermo Protocol", ratified in 2004). Turkey is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified, respectively, in 1991 and 2004), the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1991), as well as to relevant conventions elaborated under the International Labour Organization (ILO).⁵ Further, Turkey is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.⁶

16. Moreover, as a candidate country to join the EU, Turkey has undertaken to make its legislation compliant with the EU *acquis communautaires*, which includes the EU legal instruments aimed at combating THB and protecting and assisting victims of crime.⁷

17. As regards domestic legislation, following the adoption of the new Turkish Criminal Code (CC) in 2005, trafficking in human beings is criminalised under Article 80 of the CC. In addition, the Law on Foreigners and International Protection No. 6458 provides for a recovery and reflection period (Article 48) and renewable residence permits (Article 49) for victims of trafficking, as well as stipulating that victims of THB included in the victim support programme shall not be removed from the country (Article 55). Of relevance is also the Act on Fees No. 492, Article 88 of which provides that victims of THB are exempted from residence permit fees.

18. Further, the Regulation on Combating Human Trafficking and the Protection of Victims, which entered into force on 17 March 2016, lays down the rules and procedures concerning the identification of victims of THB, victim support programmes, voluntary and safe return programmes, and residency permits for foreign victims. In addition, the Regulation on the Implementation of the Law on Work Permits of Foreigners No. 4817 entitles victims of THB to have access to the labour market.

19. The Turkish authorities have referred to other legislative acts containing provisions relevant to action against THB, in particular:

- the Law on Family Protection and Prevention of Violence against Women No. 6284, which applies to Turkish citizens who are identified as victims of THB;
- the Child Protection Law No. 5395, which provides for protective and supportive measures for child victims of THB and defines the best interests of the child;

⁵ In particular, the Convention concerning Forced or Compulsory Labour (No. 29), the Convention concerning the Abolition of Forced Labour (No. 105), and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182).

⁶ The European Convention on Mutual Assistance in Criminal Matters and its two Additional Protocols, the European Convention on the Transfer of Proceedings in Criminal Matters, the European Convention on Extradition and its two Additional Protocols, the European Convention on Information on Foreign Law and its Additional Protocol, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, and the European Convention on the International Validity of Criminal Judgments.

⁷ Such as Directive 2011/36/EU of the European Parliament and of the Council of the EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, and Directive 2012/29/EU of the European Parliament and the Council of the EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

- the Turkish Citizenship Law No. 5901, Article 16 of which stipulates prevention measures for acquiring Turkish citizenship through marriage, as well as the Regulation on the implementation of this law, Article 72(5) of which prevents those who have committed THB offences from acquiring Turkish citizenship;
- the International Labour Law No. 6735 of 28 July 2016, Article 16 of which provides that victims of THB benefiting from victim support programmes may be granted work permits exceptionally.

20. Further, a draft Law on Victim Rights has been prepared and presented for consultation in July 2017. The draft includes victims of human trafficking in the definition of "vulnerable groups". According to an opinion on the draft prepared by the United Nations Country Team in Turkey, the connection of the draft Law with the Regulation on Combating Human Trafficking and the Protection of Victims should be clarified in order to prevent overlaps and possible confusions.⁸ Further, the provision of financial assistance to victims, which sets strict eligibility criteria (i.e. residing in Turkey for at least three years under a residence permit), runs against the non-discrimination principle and may hinder the right of access to such assistance for victims of trafficking (see also paragraph 189). According to information provided by the Turkish authorities, the draft Law on Victim Rights has been submitted to the Council of Ministers, following its revision in line with the comments made by public institutions and the United National Country Team, but the date of the draft law's introduction before the National Assembly is not yet known.

b. National Action Plans

21. Turkey had previously implemented two national action plans on combating THB, adopted respectively in 2003 and 2009. The measures envisaged under these action plans included amending legislation relating to THB, establishing a hotline for preventing THB, setting up shelters for victims of THB, ensuring the safe return of victims, awareness raising and training.

22. According to the authorities, in 2017 it was decided to draft the third National Action Plan on Combating Trafficking in Human Beings. At the time of GRETA's evaluation visit in October 2018, no progress appeared to have been made in this respect (see paragraphs 70 and 73).

23. The Ministry of Family, Labour and Social Services has included victims of THB in its National Action Plan on Violence against Women (2016-2020), with specific reference made to refugees, asylum seekers and victims of THB as the beneficiaries of centres to be established pursuant to the Istanbul Convention. In its five-year National Strategy on Women's Empowerment and Action Plan (2018-2023), the Ministry envisages the conduct of research to identify the needs for health services for women, with victims of THB being listed among the groups to be targeted.

⁸ United Nations Turkey, *UN Country Team Opinion on the Draft Law on Victim Rights in Turkey*.

b. Co-ordination Commission on Combating Trafficking in Human Beings

27. The mandate and duties of the Co-ordination Commission on Combating Human Trafficking, set up pursuant to the 2016 Regulation on Combating Human Trafficking and the Protection of Victims, are defined in Articles 5, 6 and 7 of the Regulation as follows: to draft policies and strategies regarding preventing and combating THB; to prepare action plans; to ensure co-ordination between public institutions, international organisations and NGOs; to identify measures on protection and accommodation of victims; to co-ordinate the collection and analysis of data; to make legislative proposals; and to discuss the annual report prepared by the DGMM.

28. The Co-ordination Commission on Combating Trafficking in Human Beings includes representatives of the following bodies: the Presidency of the Court of Cassation¹³ or the Presidency of the Court of Cassation's Chief Public Prosecutor's Office, high-ranking officials from the Ministries of Justice, Labour, Social Service and Family, Foreign Affairs, Education, Culture and Tourism, Health, Customs and Trade, as well as the Human Rights and Equality Institution of Turkey, the Turkish Employment Agency, the National Intelligence Organisation, the Directorate General of Health Services for Borders and Coasts of Turkey, the Directorate General of Security, the Directorate General of Local Administrations, the Gendarmerie General Command, the Coast Guard Command, the Union of Turkish Bar Associations, and the Directorate General of Migration Management. Furthermore, international organisations, trade unions and NGOs may be invited to Commission meetings. According to the Turkish authorities, IOM, ICMPD, the Turkish Red Crescent, the Antalya Family Counsellors Association, the Human Resource Development Foundation and Ankara Municipality were invited to the meetings held in 2017 and 2018 and there are plans to invite them to future meetings. Focal points to liaise with the Co-ordination Commission have been appointed in different provinces.

29. The Co-ordination Commission is supposed to meet once annually and additionally if needed. The first meeting was held on 1 March 2017 and the second one in 2018. GRETA was informed that two sub-commissions have been set up. According to the Turkish authorities, the sub-commission on children met on 21 September 2018 and decided that awareness-raising activities and training should be provided to staff dealing with child victims. The sub-commission on labour met on 27 September 2018 and issued an opinion about a draft regulation regarding the implementation of the Law on Work Permit for Foreigners, pursuant to which victims of THB should not be included into the work permit quota and should not be subjected to a waiting period of six months between being issued with a residence permit and applying for a work permit.

c. Ministry of the Interior

30. Under the Ministry of the Interior, there are three law enforcement agencies with different areas of responsibility. The Turkish National Police functions in urban areas and has a Department for Combating Migrant Smuggling and Human Trafficking, which was set up in February 2016. This department has some 30 specialised staff and deals primarily with co-ordination of activities and international co-operation. In the 81 provinces of the country, there are police units dealing with sexual offences (which cover THB) as well as police units for combating migrant smuggling and THB, which deal with forms of exploitation other than sexual. These units have the mandate to carry out investigations into THB and related offences. When presumed victims of THB are detected, they are handed over to the DGMM.

¹³ Also called Supreme Court of Appeals.

31. Further, the General Command of Gendarmerie, which functions in rural areas, has a Department of Counter Smuggling and Human Trafficking, also established in 2016. Specialised Gendarmerie branch offices on combating migrant smuggling and THB have so far been set up in 16 Provincial Gendarmerie Commands in 2018-2019, and sections for combating migrant smuggling and THB have become operational in one provincial and eight district Gendarmerie commands. A further seven branch offices in provincial Gendarmerie commands and nine sections in district Gendarmerie commands are planned to become operational in 2020-2021. Further, Working Groups on Combating THB, consisting of at least two Gendarmerie personnel, have been formed in 33 Provincial Gendarmerie Commands which are more likely to encounter THB offences. Since 2018, contact persons for combating THB have been appointed at 15 Provincial Gendarmerie Commands. Similar to the Police, the Gendarmerie has the mandate to carry out investigations into THB.

32. The Coast Guard Command controls the sea areas (some 8 400 km of sea borders), performs search and rescue operations, and combats irregular migration. It has no investigative powers in the area of THB and no role in the identification of victims of THB, but is involved in the initial screening and profiling of rescued or intercepted migrants, in the short period after disembarkation. If vulnerabilities or indicators of THB are detected, the information is submitted to the DGMM and relevant law enforcement departments.

d. Ministry of Labour, Social Services and Family

33. Pursuant to the Regulation on Combating Human Trafficking and the Protection of Victims, when Turkish nationals are identified as victims of human trafficking, subsequent procedures are carried out in accordance with the Law on Family Protection and Prevention of Violence against Women. In the case of identified child victims of trafficking, procedures are carried out in line with the Child Protection Law and children are referred to the relevant units of the Ministry of Labour, Social Services and Family. The Regulation on Combating Human Trafficking and the Protection of Victims foresees the conclusion of a protocol between the DGMM and the Ministry of Labour, Social Services and Family, which would set the details of the support programmes involving Turkish victims (including child victims). However, at the time of GRETA's visit to Turkey, such a protocol had not yet been concluded (see paragraph 153).

e. NGOs, other members of civil society and international organisations

34. The Human Resource Development Foundation (İKGV) opened the first shelter for victims of THB in 2004, located in Istanbul. The shelter was closed down in 2017 due to lack of funding. İKGV has been involved in awareness raising, research and training of professionals. A study on THB in Turkey was published by İKGV in 2012 (see paragraph 95).¹⁴ İKGV continues to provide psycho-social support to victims of THB as part of projects with international organisations. In recent years, İKGV has carried out awareness raising and training in provinces where most of the Syrian refugees live.

35. The Antalya Family Counsellors Association (AİLEDER) ran a shelter for victims of THB in Antalya from 2009 to June 2016, which closed due to security concerns and lack of funding. Its staff used to have access to removal centres and were involved in the identification of victims of THB. Social workers of AİLEDER continue to be involved in the provision of support to victims of THB. Further, AİLEDER is involved in awareness raising and training, including to DGMM staff working in removal centres and performing the identification of victims of THB. AİLEDER has participated as an implementing partner in international projects, together with IOM, ICMPD and partners from other countries. In October 2017, AİLEDER applied to the DGMM for permission to open a shelter in Izmir. According to information provided by the DGMM, funding would be provided if a suitable place for a shelter is found.

¹⁴ Tuba Dunder, Elif Ozar, *Türkiye'ye hoşgeldiniz, Türkiye'de İnsan Ticareti Sorunu (Welcome to Turkey: Human Trafficking in Turkey)*, İKGV Publications, 2012, available in Turkish at: [http://www.ikgv.org/pdf/Turkiyede İnsan Ticareti.pdf](http://www.ikgv.org/pdf/Turkiyede%20Insan%20Ticareti.pdf); available in English at: [http://www.ikgv.org/pdf/Human Trafficking in Turkey.pdf](http://www.ikgv.org/pdf/Human%20Trafficking%20in%20Turkey.pdf)

36. The Women's Solidarity Foundation, which has a broader mandate of combating violence against women, has been engaged in the anti-trafficking field since 2005. Until October 2016, this NGO was running a shelter for victims of THB within premises provided by Ankara Metropolitan Municipality for a shelter for women victims of violence. Following an inspection by the Ministry of Family, Labour and Social Services, it was decided that the shelter was not physically suitable and that the victims of THB should be transferred to the Kirikkale shelter (see paragraph 160). The Women's Solidarity Foundation has a protocol with the Ministry of the Interior for providing opinions on new legislation and has participated in the discussion of a framework law on THB which was being drafted in 2010, as well as the Regulation on Combating Human Trafficking and the Protection of Victims. Further, it submits shadow reports to the United Nations Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) and other international organisations.

37. The Association for Solidarity with Asylum Seekers and Migrants, which has some 70 field offices across Turkey, has had a protocol with the DGMM since 2018 for the independent monitoring of removal centres. This puts them into contact with presumed victims of THB, though they have no role in the identification process.

38. The International Centre for Migration Policy Development (ICMPD) recently implemented a project dealing with trafficking in persons (P-TIP), which started in May 2017 and ran until the end of 2018. The project, which was fully funded by the UK Embassy to Turkey, had two pillars: capacity building and awareness raising. Training modules were developed addressing gaps identified as a result of a stock-taking study. Six rounds of multi-stakeholder training, with NGO representatives involved as trainers, were organised in Ankara and other key provinces. Further, three training sessions were organised for the focal points appointed in different provinces to liaise with the Co-ordination Commission on Combating Human Trafficking and on-the-job training was provided to staff working at eight removal centres. Moreover, information brochures were developed and distributed to public officials in all provinces. In the period 2014-2017, ICMPD ran another project on combating THB, involving Turkey and another five countries. Further, a project on combating the trafficking and exploitation of Syrian refugees and displaced persons was implemented in 2016-2017.

39. The IOM Office in Turkey has been involved in several projects in the area of combating human trafficking. A project of protecting victims of THB was implemented in 2014-2016 in co-operation with the DGMM, the aim of which was to put into place national policies in line with the Council of Europe Convention on Action against Trafficking in Human Beings. As part of this project, training of stakeholders was organised, awareness-raising materials were produced, and financial aid was provided to shelters. Another project focused on humanitarian assistance to refugees from Syria, establishing systematic referral of victims of THB between the DGMM and humanitarian assistance agencies. Yet another project aims to build the capacity of the Gendarmerie Department of Counter Smuggling and Human Trafficking and promote better referral of possible THB victims for identification and assistance.

40. The ILO Office in Turkey runs projects on combating child labour (in particular as regards seasonal work in hazelnut harvesting) and increasing the capacity of Syrians and other applicants for international protection to be employed. Further, it was involved in the launch of a campaign in 2018, which was declared as the year against child labour in Turkey. It also supports collective organisations of domestic workers and promotes research on the working conditions of refugees.

41. The UNHCR Office in Turkey has co-operation activities with the Bar Associations in different provinces of the country, which provide legal aid during the asylum and removal procedure. Since September 2018, UNHCR is no longer involved in refugee status determination in Turkey, which is now implemented by the DGMM (see paragraph 24). GRETA was informed that UNHCR Turkey is currently developing an e-learning platform on migration management, including one specific module on counter-trafficking.

III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Turkey

1. Integration of the core concepts and definitions contained in the Convention in the internal law

a. Human rights-based approach to action against trafficking in human beings

42. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”¹⁵.

43. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights¹⁶ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.¹⁷

44. The Convention on Action against Trafficking in Human Beings requires States to set up a comprehensive framework for the prevention of THB, the protection of trafficked persons, and the effective investigation and prosecution of traffickers. Such protection includes steps to ensure that all victims of different forms of human trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

45. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.¹⁸

¹⁵ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

¹⁶ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹⁷ See *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement of 30 March 2017.

¹⁸ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

46. In their reply to GRETA's questionnaire, the Turkish authorities have stated that THB is considered to be violation of fundamental human rights and freedoms guaranteed by the 1982 Constitution of Turkey. The authorities have referred in particular to the following provisions of the Constitution: Article 17 (personal inviolability), Article 18 (prohibition of forced labour) and Article 19 (personal liberty and security). Further, pursuant to Article 90 of the Constitution, the Council of Europe Convention on Action against Trafficking in Human Beings is an integral part of Turkish law. According to the Turkish authorities, the Convention can be applied by Turkish courts, but there are no examples of case-law.

47. The human rights-based approach to action against THB entails transparency and accountability on the part of the State through the adoption of a national policy and action plans for combating trafficking in human beings, the co-ordination of the efforts of all relevant actors, the regular training of relevant professionals, research and data collection, and the provision of adequate funding for the implementation of all these measures. The following sections of this report examine in detail the effectiveness of the policies and measures taken by the Turkish authorities in these fields.

b. Definitions of "trafficking in human beings" and "victim of THB" in Turkish law

i. Definition of "trafficking in human beings"

48. In accordance with Article 4(a) of the Convention, trafficking in human beings includes three components: an action ("the recruitment, transportation, transfer, harbouring or receipt of persons"); the use of certain means ("threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person"); and the purpose of exploitation ("at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"). In the case of children, pursuant to Article 4(c) of the Convention, it is irrelevant whether the means referred to above have been used.

49. In Turkey, trafficking in human beings is criminalised under Article 80 of the CC, which reads as follows:

"(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 (1) the use of threat, pressure, force or violence, (2) employing deceit, (3) abuse of influence, or (4) obtaining consent by exploiting control over another or the desperation of such other, for the purpose of forcing them into prostitution or to work, provide a service, harvest their organs or subject them to slavery or any similar practice, shall be sentenced to imprisonment for a term of eight to 12 years and a judicial fine of up to ten thousand days.

(2) Where an act is undertaken for the purposes referred to in paragraph one and such an act constitutes an offence, the consent of the victim shall be presumed to be invalid.

(3) Where a person under 18 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 the penalty described in paragraph one, notwithstanding the fact that no means instrumental to the offence has been resorted to.

(4) Security measures shall be imposed upon legal entities in respect of the aforementioned offences."¹⁹

50. The Turkish legal definition of THB includes the three constitutive elements of THB (action, means and purpose of exploitation) as regards adults, in line with Article 4(a) of the Convention. As regards children, it contains only two of the above elements, i.e. the action and the purpose of exploitation, irrespective of the means used, which is also in line with the Convention's definition.

¹⁹ Unofficial translation.

51. As regards the actions leading to the exploitation of the victim, Article 80 of the CC does not refer to "transfer" and "receipt", which form part of the definition of THB under the Convention. The Turkish authorities have stated that the primary actions under Article 80 of the CC are categorised as: a) bring a person into the country; b) take a person out of the country; c) procure; d) kidnap; e) harbour; f) transport a person from one place to another; g) accommodate. These actions, in particular f) and g), are interpreted as, taken together, covering the situations of "transfer" and "receipt".

52. Further, not all means contained in the definition of THB under the Convention are specifically mentioned in the Turkish definition of THB, in particular "fraud", "abuse of a position of vulnerability" and "giving or receiving of payments or benefits to achieve the consent of a person having control over another person". The Turkish authorities have stated that the concepts contained in Article 80 of the CC cover the previously mentioned means. According to them, "fraud" is assessed under "deceit". "Abuse of a position of vulnerability" is considered to be covered by the concept of "abuse of desperation" in Article 80 of the CC, which has been interpreted through case-law of the Supreme Court's 18th Criminal Department as covering, *inter alia*, situations of difficult economic circumstances of the victims in their home countries.²⁰ The authorities have stated that "giving or receiving of payments or benefits to achieve the consent of a person having control over another person" would be covered by "obtaining consent by exploiting control over another".

53. As regards the forms of exploitation, GRETA notes that Article 80 of the CC refers to the exploitation of prostitution, but not to other forms of sexual exploitation. Further, Article 80 refers to "slavery or any similar practice", but does not specifically mention "servitude". GRETA notes that in *Siliadin v. France*²¹ the European Court of Human Rights found that the concept of "servitude" in Article 4 of the ECHR prohibits "a particularly serious form of denial of freedom". It includes "in addition to the obligation to provide certain services to another (...) the obligation on the 'serf' to live on the other's property and the impossibility of changing his status".²² The Court found that the French Criminal Code did not provide "practical and effective protection" against treatment contrary to Article 4 of the ECHR. Further, in *C.N. v. the United Kingdom*²³ the Court recognised "domestic servitude" as a specific offence, "which involves a complex set of dynamics, involving both overt and more subtle forms of coercion, to force compliance". Due to the absence of a specific offence of servitude in domestic law, the Court found that the UK authorities were unable to give sufficient weight to these factors and to meet their obligation under Article 4 of the ECHR to carry out an effective investigation into C.N.'s complaints. Drawing on this case law of the European Court of Human Rights, GRETA notes that the absence of a specific criminal offence of servitude in Turkish law may lead to difficulties in complying with the State's positive obligations under Article 4 of the ECHR, to prevent, investigate and prosecute servitude, including trafficking for the purpose of servitude.

54. Further, GRETA notes that trafficking for the purpose of exploitation of criminal activities and the exploitation of begging are not explicitly mentioned in Article 80 of the CC. The Turkish authorities have stated that these exploitative purposes are covered by Supreme Court case-law under Article 80 of the CC. They have referred to a case which concerned eight children, aged 10-14, who were transported from Ömerli, Mardin to Istanbul and forced into street work/begging.²⁴ In another case, the victims were brought from Bismil to Istanbul in order to commit theft.²⁵ In addition, there is a CC provision which regulates the offence of exploitation of begging (Article 229 of CC).

55. Article 80, paragraph 2, of the CC, explicitly states that the consent of a victim of THB to exploitation is irrelevant, as long as any of the illegal means are used.

²⁰ 18.C.D.06/12/2016 and 2016/15853 E., 2016/18706 K.

²¹ *Siliadin v. France*, application No. 73316/01, ECtHR judgment of 26 July 2005, paragraph 123.

²² Ibidem.

²³ *C.N. v. the United Kingdom*, application No. 4239/08, ECtHR judgment of 13 November 2012.

²⁴ 8CD.2008/4555 E, 2008/7998.

²⁵ 8.CD.15.6.2009 - 2008/19262 E 2009/9026 K.

56. GRETA refers to paragraph 72 of the Explanatory Report of the Convention, which states that “it is of fundamental importance to use a definition of trafficking in human beings on which there is international consensus.” **GRETA urges the Turkish authorities to bring the definition of THB in conformity with Article 4 of the Convention by adding “servitude” and “other forms of sexual exploitation” to the list of forms of exploitation.**

57. **Further, GRETA considers that the Turkish authorities should ensure that the means of “abuse of a position of vulnerability” and “giving or receiving of payments or benefits to achieve the consent of a person having control over another person” are adequately covered by law and practice.**

58. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 200-208.

ii. Definition of “victim of THB”

59. The Convention defines “victim of THB” as “any natural person who is subjected to THB as defined in Article 4 of the Convention”. Recognition of victims of trafficking as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention.

60. Article 3(n) of the Regulation on Combating Human Trafficking and the Protection of Victims states that victims of THB are “natural persons who have been or are strongly suspected to be subject to crime of human trafficking.” According to the authorities, in conjunction with Article 80 of the CC, any natural person (woman, man and child) subjected to the offence of THB would be considered a victim of THB.

61. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

- c. Comprehensive approach to action against THB, co-ordination of all actors and actions, and international co-operation

i. Comprehensive approach and co-ordination

62. One of the aims of the Convention is to design a comprehensive framework for the protection of and assistance to victims and witnesses. To be effective, any national action to combat THB must be comprehensive and multi-sectoral, and take on board the required multidisciplinary expertise. Article 29(2) of the Convention requires Parties to take measures to ensure the co-ordination of national policies and actions against THB, including through the setting-up of specific co-ordinating bodies. Further, the Convention refers to the need to co-operate and build strategic partnership with civil society through co-operative frameworks that can help governments fulfil their obligations under the Convention (Article 35).

63. As noted in paragraph 24, since 2013, the responsibility for implementing and co-ordinating anti-trafficking activities in Turkey has been assigned to the Directorate General of Migration Management (DGMM), which has a Department for the Protection of Victims of Human Trafficking, set up in 2013. The Co-ordination Commission of Combating Trafficking in Human Beings brings together representatives of relevant public agencies and meets, in principle, once a year. Pursuant to Article 4(4) of the Regulation on Combating Human Trafficking and the Protection of Victims, the President of the Co-ordination Commission shall be the National Co-ordinator for combating trafficking in human beings. According to Article 5 of the Regulation, the Undersecretary of the Ministry or the Deputy Undersecretary assigned by the Undersecretary chairs the Commission.

64. Article 9 of the Regulation on Combating Human Trafficking and the Protection of Victims stipulates that provincial co-ordination commissions²⁶ on combating THB should be established, as deemed appropriate by the DGMM. Such provincial commissions have not yet been set up.

65. GRETA notes that national anti-trafficking policy in Turkey is frequently associated with action against smuggling of migrants and irregular migration, as is evident from the tasks of the DGMM and the titles of the specialised law enforcement departments which are tasked with tackling both phenomena (e.g. the Police and Gendarmeries Departments for Combating Migrant Smuggling and Human Trafficking). Victims of migrant smuggling may, in some cases, become victims of trafficking once they have arrived in the destination country or during transit. GRETA stresses the distinction between migrant smuggling and trafficking in human beings and the importance of ensuring that these phenomena are not confused, and that the rights of victims of trafficking established by the Council of Europe Convention on Action against Trafficking in Human Beings are effectively protected. **GRETA considers that the Turkish authorities should continue raising awareness among all frontline professionals involved in action against trafficking concerning the scope of the definition of trafficking in human beings and the rights of victims of trafficking, including in the context of irregular migration.**

66. One limitation of the current anti-trafficking institutional framework in Turkey is the very low number of civil society organisations involved in counter-trafficking efforts. GRETA notes that following the attempted *coup d'Etat* in 2016 and the ensuing state of emergency, which was lifted on 19 July 2018, the overall conditions for operation of NGOs engaged in the protection of human rights in Turkey considerably deteriorated.²⁷ GRETA is concerned that the limitations put on the activities of NGOs create a significant risk that violations of human rights concerning victims of trafficking will not be recognised as such.

67. GRETA notes that shelters for victims of THB previously operated by specialised NGOs have been shut down (see paragraph 69). The Turkish authorities have stated that the budget of the Department of the Protection of Victims of Trafficking included 100 000 TYR (approximately 15 250 euros) in 2016 and 107 000 TYR in 2017 for the running of shelters by NGOs, but this money was not spent because there were no NGOs running or seeking to run shelters. To GRETA's knowledge, no formal agreements or Memoranda of Understanding are currently in place between the DGMM or other public bodies and NGOs regarding co-operation in preventing and combating THB and assisting victims. Specialised NGOs working in the anti-trafficking field are not members of the Co-ordination Commission, but as noted in paragraph 28, they may be invited to its meetings. GRETA stresses the importance of closely associating civil society in the co-ordination of action against trafficking in human beings.

68. Reference should be made to an EU-funded project on strengthening the role of NGOs in the fight against THB, which ran in 2016-2017 and involved three specialised NGOs and 20 other civil society organisations from Turkey, as well as 14 NGOs from Germany and Greece. The project highlighted the need for funding of NGO activities and strengthening information exchange and co-ordination.

²⁶ Consisting of the Mayor, the Chief Public Prosecutor, the Provincial Director of Family and Social Policies, the Provincial Director of the Social Security Institution, the Provincial Director of National Education, the Provincial Director of Culture and Tourism, the Provincial Director of Work and Labour, the Provincial Director of Health, the Provincial Director of Security, the Provincial Gendarmerie Commander, the Provincial Director of Migration or their representatives along with the representatives from the Command of Coast Guard, the Customs Enforcement Organization and the Bar Association in the province, if any, under the chairpersonship of the Governor or the Deputy Governor of the province.

²⁷ See CommDH(2018)30, available at: <https://rm.coe.int/third-party-intervention-before-the-european-court-of-human-rights-cas/1680906e27>

69. GRETA was informed that a group of Turkish civil society organisations had submitted a declaration to the DGMM in 2017, asking for recognition of their mission in combating THB. The DGMM was reportedly working on a contract with NGOs, but no decision has so far been taken by the DGMM in respect of the proposed contract with NGOs. Further, GRETA understands that only NGOs with the status of “working for public benefit” have the right to operate shelters. Pursuant to Articles 27 and 48 of Law No. 5253 on Associations, “public benefit associations” are identified by a Cabinet Decree upon the proposal of the Ministry of the Interior in consultation with relevant ministries and the Ministry of Finance. Public benefit status is granted to associations pursuing activities which yield socially beneficial outcomes, to reach their aims at least for one year.

70. As noted in paragraph 22, following the expiry of the second National Action Plan for Combating Trafficking in Human Beings, adopted in 2009, Turkey has no dedicated policy document on combating THB. GRETA notes that over the years, action against THB in Turkey has primarily focused on trafficking of foreign women for the purposes of exploitation in prostitution. Efforts to identify victims of THB for other purposes of exploitation remain insufficient. In particular, greater attention and human resources need to be devoted to prevention and combating of THB for the purpose of labour exploitation in different sectors of the economy. The scale of internal trafficking (i.e. of Turkish or other nationals within Turkey) is currently not known,²⁸ despite indications that adults and children are being exploited in different sectors of the economy. Internally displaced persons, particularly children, in the South-Eastern region may be vulnerable to risks of exploitation, including trafficking for different forms of exploitation.²⁹ There have been reports of Syrian children exploited in textile factories which are subcontractors of foreign fashion brands.³⁰

71. GRETA welcomes the steps taken in Turkey to develop the institutional framework for combating THB, including through the adoption of the Regulation on Combating Human Trafficking and the Protection of Victims. However, GRETA is concerned by the lack of a comprehensive, integrated approach to addressing all forms of trafficking in human beings, including for the purposes of labour exploitation, exploitation of begging, exploitation of criminal activities, organ removal and forced marriage, and all victims of trafficking, including Turkish citizens. GRETA is also concerned by the absence of strategic partnerships with NGOs, and the failure to involve non-governmental organisations and other elements of civil society committed to the prevention of trafficking in human beings and victim protection or assistance, in the anti-trafficking measures. GRETA notes that the involvement of civil society in action against human trafficking is part of the human rights-based approach to combating human trafficking that State Parties to the Convention are required to adopt (Article 5, paragraph 3, of the Convention).

72. GRETA refers to the call for action to end forced labour, modern slavery and human trafficking, which was launched on 19 September 2017 during the 72nd meeting of the UN General Assembly and has been endorsed by Turkey, amongst other countries.³¹ This document contains, *inter alia*, pledges to develop and publish national strategies that set out a comprehensive approach to THB, to promote co-operation amongst the full range of stakeholders needed for effective prevention and response, including the private sector and civil society, as well as to put victims first, including by putting effective mechanisms in place to help ensure that all victims are identified and protected.

²⁸ See also *Country Visit Report by the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings* (SEC.GAL/6/17, 19 January 2017), paragraph 22.

²⁹ UN OHCHR, *Report on the human rights situation in South-East Turkey*, February 2017, available at: https://www.ohchr.org/Documents/Countries/TR/OHCHR_South-East_TurkeyReport_10March2017.pdf

³⁰ <https://inews.co.uk/news/uk/syrian-refugees-making-clothes-illegally-marks-spencer-asos/>

³¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759332/End-Forced-Labour-Modern-Slavery1.pdf

73. **GRETA urges the Turkish authorities to take further steps to ensure that national action to combat THB is comprehensive, through the adoption, as a matter of priority, of a new national action plan against THB, in which objectives, concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated. The action plan should be accompanied by a mechanism for monitoring its implementation and should aim to:**

- **address all victims of trafficking, including Turkish nationals, for all forms of exploitation, including forced begging, forced criminality, forced marriages and the removal of organs, while taking into account the gender-dimension of trafficking and the particular vulnerability of children;**
- **prioritise the identification of victims of human trafficking amongst refugees, asylum seekers and internally displaced persons, particularly in the South-Eastern region;**
- **strengthen action to combat THB for the purpose of labour exploitation by reviewing the legislative framework, improving the identification of, and assistance to, victims of THB for the purpose of labour exploitation in different sectors of the economy (in particular high-risk sectors such as agriculture, construction, restaurants, entertainment and domestic work), and involving civil society, trade unions, labour inspectorates and the private sector.**

74. Further, **GRETA urges the Turkish authorities to ensure the involvement of specialised NGOs and other relevant civil society actors in the planning, drafting, implementing and evaluating of national anti-trafficking policies, with the aim of building strategic partnerships for achieving the purposes of the Convention, as envisaged in Article 35 of the Convention, and promoting a human rights-based approach to combating human trafficking (Article 5, paragraph 3, of the Convention). In this context, the authorities should provide on-going and sustainable funding for anti-trafficking activities of NGOs.**

75. In addition, **GRETA considers that the Turkish authorities should consolidate the co-ordination of anti-trafficking activities at the national and provincial levels by ensuring regular exchange of information between all public bodies involved in prevention of THB, identification and assistance to victims, and prosecution of traffickers. In this context, the establishment of the post of National Co-ordinator on action against THB, supported by a dedicated office, could significantly strengthen co-ordination.**

76. Turkey has not designated a National Rapporteur on combating trafficking in human beings. In GRETA's view, there is a merit in having an independent national rapporteur in the sense of Article 29, paragraph 4, of the Convention, who has the ability to critically monitor the efforts and effectiveness of all state institutions, including the national co-ordination mechanism, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between the monitoring and executive functions would enable an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, the identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. **GRETA considers that the Turkish authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions, including the implementation of the National Action Plan.**

ii. Training of relevant professionals

77. As noted in paragraphs 38-41, training on preventing and combating THB has been provided through several projects run by international organisations (ICMPD, IOM, ILO, UNHCR). This training has covered a variety of stakeholders, including NGOs.

78. There was an important turnover of staff in the aftermath of the attempted *coup d'Etat* in July 2016, including some 4 500 judges and prosecutors (around 30% of the overall number). Similarly, there has been a significant turnover of staff in law enforcement agencies and the DGMM. The effect has been that many judges, prosecutors and police officers with a long experience in the fight against human trafficking have been replaced by personnel without experience in dealing with THB. This creates the need for training many newly appointed officials.

79. The DGMM has been involved in the provision of training on THB to various professionals, frequently as part of projects run by international organisations. Workshops and study visits have been organised for migration experts employed by the provincial units of the DGMM, staff of the Ministry of Justice, the Ministry of Labour, Social Services and Family, police and Gendarmerie officers, and municipal staff. In 2016, the equivalent of 725 000 euros was allocated for training from the budgets of public institutions and project funding, while in 2017 the budget spent on training was 1 025 000 euros.

80. Police and Gendarmerie officers working in specialised units for combating migrant smuggling and THB follow one-month training courses. Further, in-service training on THB is provided through various projects, e.g. run by IOM and ICMPD. By way of example, representatives of the provincial office of the DGMM in Adana referred to a training organised in Gaziantep in July 2018 involving representatives of law enforcement bodies, prosecutors, and staff of the Ministry of Labour, Social Services and Family. A five-day training course on "Investigation Techniques for the Offence of Human Trafficking" was organised for police officers working on sex crimes in the 81 provinces. This training was attended by 70 staff members in 2015, 82 in 2016, 35 in 2017 and 35 in 2018. Newly recruited staff receive training on combating migrant smuggling and human trafficking as part of the curriculum of the Gendarmerie and Coast Guard Academy. Training on migrant smuggling and combating human trafficking is also reportedly provided to higher level decision-makers.

81. GRETA was informed of a new project "Enhancing the Efficiency of the General Command of Gendarmerie on Combating Human Trafficking" which was launched on 30 October 2018 with the co-operation and co-ordination of IOM. Within the scope of the project, three-day training courses were given to 30 staff members in Istanbul, 50 in Antalya, and 25 in Izmir, on interview techniques; out of the trained staff, 25 received further training with a view to becoming trainers. Further, 751 Gendarmerie staff in 13 provinces with a high probability of encountering human trafficking received on-the-job training. Additional training will take place in 2019-2020.

82. The Justice Academy has not had any specialised modules on THB in recent years. Judges at the Court of Cassation, which has a chamber with competence to consider appeals in THB cases, have been offered a one-day course on smuggling of migrants and THB. In some provinces, judges and prosecutors have been invited to training organised by international organisations. The Turkish authorities have referred to training on "Access to justice by refugees and asylum seekers" and "Refugees, International Labour Standards and Labour Law" provided to judges and prosecutors, in co-operation with, respectively, UNHCR and ILO. Further, within the scope of the project "Supporting Access to Justice by Children under International Protection", workshops and training activities were organised for judges and public prosecutors. In addition, public prosecutor candidates were offered a four-hour course on "Migrant Smuggling and Rules and Practices on Human Trafficking Investigations". The authorities referred to the envisaged reform of the Justice Academy, as part of the implementation of the new Judicial Reform Strategy (see paragraph 231). The DGMM intends to be involved in designing a new training module on THB to be offered in the Justice Academy for judges and prosecutors.

83. A limited number of labour inspectors have participated in the training on THB organised by the DGMM and international organisations. For example, in May 2016, 35 labour inspectors followed a two-day training on THB. Further, on 22-23 December 2018, 35 labour inspectors followed training which focused on labour exploitation risks and the role of the labour inspectors in combating human trafficking pursuant to judicial decisions and the Supreme Court's case-law. It is aimed to continue providing training in 2019. However, the number of labour inspectors who have followed such training is proportionately low, which limits their capacity to detect possible victims of THB for labour exploitation (see paragraph 148).

84. The authorities have indicated that in 2018, information activities on THB were carried out for staff working at Şanlıurfa Ceylanpınar, Harran and Suruç Temporary Accommodation Centres. Training on the indications of human trafficking was also organised in removal centres in November 2017 and January-February 2018 (Gaziantep, Kayseri, Erzurum, Istanbul, Aydın, Izmir, Edirne and Antalya).

85. GRETA was informed that no specific training on THB has been provided to staff working at shelters for victims of domestic violence or other forms of sexual and gender-based violence, which in principle can be used for accommodating and assisting victims of THB.

86. GRETA notes that training on THB has been to a large extent project-based and is not integrated in the initial and on-going training of relevant professionals. The significant turnover of staff and the evolving legislative framework increase the need for regular and comprehensive training of all professionals who may encounter victims of THB. **GRETA urges the Turkish authorities to take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (such as police and Gendarmerie officers, prosecutors, judges, social workers and other staff delivering social services, labour inspectors, staff working in centres for asylum seekers, staff working in removal centres, child protection authorities, consular officials, health-care professionals, coast guard services). The training should be mainstreamed into the regular training curricula of relevant professionals, at all levels, including those at senior decision-making levels, and implemented systematically across the country. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to ensure effective access to compensation for victims, to enable effective investigations, and to secure convictions of traffickers.**

iii. Data collection and research

87. Pursuant to Article 14 of the Regulation on Combating Human Trafficking and the Protection of Victims, the DGMM is authorised to collect and publish data concerning victims and perpetrators of THB. The DGMM may request information, documents and statistics from the related ministries, public institutions and other organisations. The DGMM's Department of Protection of Victims of Human Trafficking collects statistical data on victims of THB identified by the DGMM, which since 2017 is published in an annual report on THB.³² Prior to that, data on THB was included in the annual Migration Reports.³³ Further, the Directorate General of Criminal Records and Statistics of the Ministry of Justice maintains the National Judiciary Informatics System (UYAP), which brings together all courts in Turkey and also collects information from Bar Associations. No information is available on compensations awarded to victims as part of criminal proceedings.

88. As regards the protection of personal data, the Turkish authorities have referred to the fact that Turkey is Party to the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data and applies the protection measures contained therein.

³² Ministry of the Interior Directorate General of Migration Management, *2017 Annual Report on Combating Human Trafficking in Turkey*, February 2018 ([Türkiye İnsan Ticaretiyle Mücadele Yıllık Raporu, 2017](#))

³³ [Türkiye 2013-2016 Göç Raporları](#).

89. **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Turkish authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

90. The DGMM is responsible for conducting research and surveys concerning THB. To GRETA's knowledge, no such research has been commissioned or carried out since the DGMM became responsible for action against THB. The authorities have indicated that within the scope of the project "Needs Analysis According to the Status of Foreigners", a needs analysis was conducted by a team of academic researchers specialised in migration, international protection and human trafficking, with a view to preparing the National Migration Policy. Further, the Directorate of Migration and Border Security Research Centre of the Police Academy (GÖÇMER) has put issues related to human trafficking and victims on the agenda of a conference which will be organised in 2019. A Master's thesis entitled "Combating Trafficking and Protecting Victims in Turkey: Research on the Victim Support Programme", which includes carrying out research in shelters for victims, is being prepared at GÖÇMER and is due to be completed in 2019. Research on THB is reportedly carried out as part of other master's and doctoral theses.

91. In 2017, an article was published on the application of the CC provisions related to THB, on the basis of case-law.³⁴ The article analysed the elements of Article 80 of the CC, its compliance with international law and relationship with other related offences (e.g. smuggling of migrants, organ trafficking, forced labour, prostitution, forgery of documents).

92. Another article published in the Turkish Journal of Police Studies (2011), entitled "Human Trafficking and Legislative Measures: Former Problems, Current Solutions",³⁵ concluded that a considerable number of the cases opened as THB resulted in acquittals or were referred to other courts under Article 227 of the CC (prostitution). Further, it noted that victims of THB were quickly repatriated to their countries after their testimonies were taken in the context of the preparative investigation. In a few cases, it was observed that although there were signs that the persons could be victims, they were not treated as victims and were charged with offences related to the lack of valid documents.

93. An article entitled "Migrant Children for Sale in a Globalising World", published in June 2015, explored the phenomenon of trafficking of migrant children.³⁶ It noted that there had been a limited number of formally identified child victims of THB (29 in the period 2007-2011). The article also referred to ICMPD data, according to which 41 non-national children (33 boys, 8 girls) and 94 national children (64 boys, 30 girls) were identified as potential victims of trafficking in 2009-2013. Further, it noted that children from poverty-stricken areas in South-Eastern Turkey were forced to work in the streets of large cities or in prostitution, but these cases were usually not considered as human trafficking. Further, it referred to the phenomenon of early, child and forced marriages, which is one of the most invisible forms of child trafficking because of low awareness and scarcity or unreliability of data. In 2015 the Constitutional Court cancelled a law that required individuals to conduct an official marriage ceremony before the religious one, which is seen to increase the risk of child marriages and trafficking to that end.

³⁴ Yeşim Yılmaz, *The Crime of Human Trafficking and the Issue of Multiplicity Aggregation* (original article in Turkish), 2017, available at: <http://dergipark.gov.tr/download/article-file/456966>

³⁵ Bersu Renk, Oğuzhan Ömer Demir, *Human Trafficking and Legislative Measures: Former Problems, Current Solutions*, Turkish Journal of Police Studies, Volume 13 (1) (2011).

³⁶ Available at: https://www.academia.edu/12943664/Küreselleşen_Dünyada_Satılık_Göçmen

94. Reference should also be made to a research report entitled "Southeast Safe Net: Preventing Child Trafficking and Protecting Unaccompanied Minors on Greek-Turkish Borders", which was carried out in 2016 out as part of a joint Greek-Turkish project financed by the European Commission.

95. In 2012, the NGO Human Resource Development Foundation published an extensive research report entitled "Welcome to Turkey - Human Trafficking in Turkey".³⁷ It analysed the phenomenon of human trafficking in Turkey, the provision of support to victims of THB and the criminal justice process, and provided recommendations.

96. GRETA notes that research on trafficking in human beings in Turkey is rather limited, with little analysis or data available on emerging trends. GRETA notes with concern the difficulties faced by civil society and academics in Turkey in undertaking independent research and analysis of best practices, methods and strategies to counter human trafficking.³⁸

97. GRETA considers that the Turkish authorities should conduct and support research on THB as an important source of information for the evaluation and planning of policy measures. Areas where research should be carried out include trafficking for the purpose of labour exploitation, child trafficking and trafficking taking place within Turkey for different purposes of exploitation. Further research on emerging trends, including on the potential for trafficking of children for the purpose of use in hostilities and armed conflict, forced marriage, live streaming of trafficking for the purpose of sexual exploitation of children, should be undertaken, with resources and an enabling framework for independent research supported by the State.

iv. International co-operation

98. The Convention requires Parties to co-operate with each other "to the widest extent possible" in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

99. The modalities of international co-operation in criminal matters are set out in the Law on International Judicial Cooperation in Criminal Matters, in force as of 5 May 2016. Article 2 of this law designates the Ministry of Justice as the competent authority for international legal co-operation, while Article 3 lists the duties and competences of the Ministry in the performance of this function. The law does not envisage the setting up of Joint Investigation Teams (JITs), but this would be possible under Article 20 of the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters, which is in force in respect of Turkey as of 1 November 2016. The Turkish authorities have provided examples on requests for international legal co-operation in THB cases. By way of example, in response to a request for legal assistance made by the Dutch authorities on 11 June 2018, the testimony of a witness by video conference was enabled by Bolu Chief Public Prosecutor's Office. In another request for legal assistance, from Belarus, the person suspected of committing the offence of THB whose statement was requested could not be found in Turkey. In June 2018, the Ministry of the Interior of the Republic of Moldova, through Interpol, requested the extradition of a Turkish citizen to face charges of THB, but the Turkish authorities decided that the extradition was not possible and in turn requested the Moldovan authorities for information in order to initiate an investigation in Turkey.

³⁷ Tuba Dundar, Elif Ozar, *Welcome to Turkey - Human Trafficking in Turkey*, Human Resources Development Foundation, 2012. Original title: *Türkiye'ye hoşgeldiniz, Türkiye'de İnsan Ticareti Sorunu*, available in Turkish at: http://www.ikqv.org/pdf/Turkiyede_Insan_Ticareti.pdf

³⁸ See *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Turkey*, 21 June 2017, UN Doc. A/HRC/35/22/Add.3 (pp.14-17). On the protection of academic freedom, as a component of the right to freedom of expression, see *Sorguc v. Turkey* (application no. 17089/03, judgment of the European Court of Human Rights, 21 January 2010).

100. Turkey has concluded co-operation agreements specifically on combating THB with five countries³⁹ and, more generally, in the field of security with more than 100 countries, which include provisions on combating irregular migration and THB.⁴⁰

101. Police co-operation is carried out through Interpol. The National Central Bureau of the Interpol in Turkey is part of the Central Directorate of the National Police, with headquarters in Ankara, and is involved in investigating transnational criminal offences, including THB, in co-ordination with the Ministry of Justice. Turkey is also engaged in the activities of the Southeast European Law Enforcement Centre (SELEC). Further, Turkey has concluded a co-operation agreement with Europol in May 2004. Eurojust has a judicial contact point in Turkey.

102. Turkey participates in the work of the European Judicial Network, for which the Ministry of Justice appoints contact persons to follow up the judicial co-operation requests and ensure co-ordination. Judges appointed as contact points for the European Judicial Network also attend the General Assembly and other meetings of the network.

103. In the framework of Turkey-EU Visa Liberalisation Dialogue, negotiations on a draft agreement between Turkey and the EU on exchange of personal data between Europol and the Turkish authorities to better and jointly fight serious crimes and terrorism were launched on 30 November 2018 in Brussels.⁴¹ The negotiations are ongoing.

104. GRETA notes that despite the existence of agreements facilitating international co-operation, there is a lack of effective international co-operation in practice (see paragraph 227). Interlocutors met during the visit referred to the slowness of communications via Interpol and noted that communication is facilitated by the presence of resident police liaison officers who are appointed by some countries.

105. **GRETA urges the Turkish authorities to strengthen international co-operation in the field of action against THB, including as regards investigating cases of transnational THB, and to explore further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit, with a view to providing assistance to, and safe referral for, victims of trafficking and preventing THB.**

2. Implementation by Turkey of measures aimed to prevent trafficking in human beings

106. According to Article 5 of the Convention, Parties must take co-ordinated action to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society, as appropriate. The Convention also requires Parties to take measures to discourage demand, strengthen border controls and ensure the integrity, security and validity of travel or identity documents (Articles 6 to 9).

³⁹ Belarus (signed on 28 July 2004), Georgia (signed on 10 March 2005), Ukraine (signed on 7 July 2005), the Republic of Moldova (signed on 8 February 2005) and Kyrgyzstan (signed on 5 September 2006).

⁴⁰ Ministry of the Interior Directorate General of Migration Management, *2017 Annual Report on Combating Human Trafficking in Turkey*, February 2018 ([Türkiye İnsan Ticaretiyle Mücadele Yıllık Raporu, 2017](#)).

⁴¹ See, in particular: <https://www.schengenvisainfo.com/news/turkey-eu-continue-visa-liberalization-dialogue-after-long-break/>
https://eeas.europa.eu/headquarters/headquarters-homepage/54285/joint-statement-following-high-level-political-dialogue-between-eu-and-turkey_en

a. Measures to raise awareness

107. There have been no nationwide campaigns to raise awareness of THB in Turkey in recent years. The Turkish authorities have nevertheless provided examples of awareness-raising activities, such as a documentary concerning victims of human trafficking, produced by the TV channel 24 TV and released on 18 October 2018,⁴² as well as public service announcements on the sexual exploitation of women.⁴³ In addition, a public service announcement is being prepared on child victims of human trafficking for the second half of 2019. The authorities have indicated that information activities for members of the press on human trafficking were carried out in Ankara and Istanbul in 2017. Further, in 2019, awareness-raising activities were carried out for airport and bus station drivers, airport ground operators and staff at bus stations in Antalya.

108. Raising awareness of THB has formed part of the above-mentioned projects run by international organisations in Turkey (see paragraphs 38-41). By way of example, from July 2014 to October 2016, the DGMM, in co-operation with the IOM Office in Turkey, implemented a project entitled "Protecting Victims of Human Trafficking", which included 39 awareness-raising activities, such as the production of posters and public service announcements to raise awareness of THB. Further, one of the pillars of the ICMPD-led project "Preventing, Identifying and Combating Trafficking in Persons in Turkey" (see paragraph 38) was to raise awareness of THB among the general public. As part of this project, information leaflets and posters were distributed, as well as organising workshops and training seminars.

109. In their reply to GRETA's questionnaire, the Turkish authorities have referred to the distribution of 500 000 leaflets in six different languages (Turkish, English, Russian, Arabic, Farsi and Uzbek) and 2 000 posters in four languages (Turkish, English, Russian, Arabic) to public institutions in all 81 provinces. All materials were produced under the above-mentioned project "Protecting the Victims of Human Trafficking" funded by IPA (see also paragraph 144). Further, under the project "International Protection in Mixed Migration Movements and Strengthening the Institutional Capacity of Gendarmerie General Command", carried out with UNHCR, 6 000 copies of the "Migrant Smuggling and Human Trafficking Visual Communication Brochure" were published in Turkish, English, Arabic and Persian and distributed to the Gendarmerie in the 81 provinces.

110. Representatives of the Ministry of Education informed GRETA that the issue of THB is touched upon as part of the guidance given to teachers concerning vulnerable groups and domestic or gender-based violence. No specific awareness-raising activities on THB for children and education professionals, including on the risks of being recruited through social media and the Internet, were planned.

111. Representatives of public bodies in charge of combating THB in Turkey acknowledged that awareness of THB among the general public is low and drew GRETA's attention to the fact that the understanding of THB was mostly limited to exploitation of prostitution of foreign women, while other forms of exploitation, such as labour exploitation in different sectors of the economy, forced begging, forced criminality and child, early or forced marriages, were not adequately understood as manifestations of human trafficking. Trafficking of Turkish nationals, including children, within Turkey seems to be largely overlooked.

112. GRETA urges the Turkish authorities to launch nation-wide awareness-raising campaigns regarding THB for different forms of exploitation, taking place both transnationally and within the country. Further, awareness-raising activities about THB and the rights of victims should be carried out in respect of vulnerable groups, such as migrant workers, refugees, persons under temporary protection, asylum seekers and internally displaced persons. Future awareness-raising activities should be designed in the light of impact assessment of previous measures, focusing on the needs identified.

⁴² <https://www.youtube.com/watch?v=PXIR6fDYtW4>

⁴³ <https://www.youtube.com/watch?v=cwEc9a0E6L0>; <https://www.youtube.com/watch?v=AxPNhK6O6NU>

b. Measures to discourage demand

113. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.⁴⁴

114. Article 11 of the Regulation on Combating Human Trafficking and the Protection of Victims envisages that the DGMM shall, in co-operation with the line ministries and other national and provincial/district public institutions, implement activities with the aim of reducing demand for services leading to THB, for all types of exploitation. The Turkish authorities have stated that the awareness-raising activities mentioned above (see paragraphs 107-109) as well as the information activities carried out at temporary accommodation centres (see paragraph 84) were relevant to discouraging demand.

115. The use of services of victims of THB, with the knowledge that a person is a victim, is not subject to criminal liability in Turkey. The authorities stated that it would be possible under the trafficking offence (Article 80 of the CC) to prosecute a person facilitating the stay of a foreigner in the country in exchange of material benefits, or acting as an intermediary in accommodating a foreigner engaged in prostitution.

116. GRETA notes that the majority of the victims of THB identified in Turkey have been foreign women exploited in prostitution. Further, the number of identified victims of THB for the purpose of labour exploitation has been on the rise (see paragraph 12) and there are reports of labour exploitation in different sectors of the economy (see paragraphs 13 and 70). GRETA is concerned that there is currently a shortage of measures to address demand as a root cause of human trafficking.

117. **GRETA considers that the Turkish authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:**

- **raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;**
- **promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains;**
- **implementing educational programmes at schools that stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination.**

118. **Further, GRETA considers that the Turkish authorities should examine the possibility of establishing as a criminal offence the use of services which are the object of exploitation as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings.**

⁴⁴ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

c. Economic, social and other initiatives for groups vulnerable to THB

119. As noted in paragraph 13, Turkey currently has the world's largest refugee population (around 4 million persons). There are three international protection regimes in Turkey: "temporary protection", currently provided to Syrian nationals forced to leave their country and arriving in Turkey *en masse*; "international protection" (Geneva Convention refugee status, conditional refugee status or complementary protection status), which may be granted to all other nationalities following an individual assessment;⁴⁵ and "humanitarian" residence permits, sometimes granted to those in need of protection.⁴⁶

120. GRETA refers to the report of the fact-finding mission to Turkey by the Special Representative of the Council of Europe Secretary General on migration and refugees, which notes the significant efforts made by the Turkish authorities, NGOs and international organisations to provide the refugee population of Turkey with accommodation, welfare support, access to health care and the labour market, and access to education for children.⁴⁷ During the country evaluation visit, GRETA's delegation witnessed the efforts made at the Sarıçam Temporary Protection Centre in the Province of Adana, which was set up in 2013 to accommodate Syrian nationals fleeing the armed conflict. Initially a tent city for 10 000 people, it was converted in 2017 into a container city and currently accommodates over 30 000 people, making it the largest container accommodation centre in the world. It provides primary and secondary education (there are eight schools on its territory), medical care, vocational training (including in a sewing factory within the centre), sports and recreation. Beneficiaries also have an opportunity to engage in agricultural activities located on the territory of the Centre. All these measures contribute to preventing refugees from becoming vulnerable to trafficking in human beings and exploitation.

121. Similarly, specialised child protection facilities for unaccompanied and separated foreign children, such as the Bağlum Child Support Centre for unaccompanied and separated children in Ankara, which was visited by GRETA's delegation (see paragraph 167), which pay particular attention to the needs of vulnerable children and where efforts are made to prevent disappearance of children from these facilities, have the potential to serve the needs of any foreign children identified as victims of THB. The Turkish authorities have also referred to steps taken to protect unaccompanied children, who are reportedly provided with all the social services envisaged by the Child Protection Law. Since 2015, the Ministry of Family, Labour and Social Services and UNICEF have been implementing a social integration programme that enables Syrian children living out of camps to integrate society.

122. The number of children in street situations in large cities, such as Istanbul, is important. Some of them are forced to beg by their families, while others are subjected to forced prostitution. In Istanbul, there is a Working Group on Protecting Victims of Human Trafficking which reaches out to children who are exploited in begging or forced into marriage, and co-operates with relevant institutions and organisations, including the Provincial Directorate of Family, Labour and Social Services, to identify victims of human trafficking.

⁴⁵ In this case "international protection" is used within the meaning of the Law on Foreigners and International Protection, as Turkey has maintained its geographical limitation to the 1951 Refugee Convention.

⁴⁶ See Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Council of Europe Secretary General on migration and refugees, 30 May - 4 June 2016 (SG/Inf(2016)29), available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680699e93

⁴⁷ See Chapter VI of the Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Council of Europe Secretary General on migration and refugees, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680699e93

123. Unregistered children are at higher risk of being trafficked and therefore GRETA pays particular attention to measures taken to ensure the registration of all children at birth, in particular from socially vulnerable groups. Registration of children born into Turkish families is the responsibility of the Ministry of the Interior and can be carried out free of charge within 30 days from the child's birth in one of the Population and Civil Registry Departments under the Governorates. GRETA was informed that medical institutions make efforts to ensure that all births are registered, through outreach activities to detect and report any unregistered children and provide the families concerned with economic and social incentives to register their children. Child registration is also required for access to public healthcare and education. GRETA received no reports suggesting that in Turkey there may be a high number of unregistered Turkish children.⁴⁸ Concerning the registration of births of children of refugees and asylum seekers, GRETA refers to the above-mentioned report of the Special Representative of the Council of Europe Secretary General on Migration and Refugees, according to which unregistered refugees and asylum-seekers are given access only to emergency health care, which does not include maternity health care or giving birth in hospital. The Turkish authorities have indicated that the new-born children of Syrian nationals under temporary protection are also taken under temporary protection and issued with an identification document which gives them access to services as soon as possible. Applicants for international protection and their children are issued with certificates which entitle them to access to health services, education and the labour market.

124. GRETA acknowledges the significant work of the Turkish authorities in seeking to ensure protection for refugees and asylum seekers arriving in Turkey, particularly those displaced by war and conflict in Syria. GRETA notes the adoption of the 2016-2023 Time-bound Policy and Programme Framework on the Elimination of the Worst Forms of Child Labour and that the minimum age for employment, set at 15 years, is lower than the age at which children normally complete compulsory education. Reports were received by GRETA of migrant and refugee children, in particular, at risk of trafficking for the purpose of sexual exploitation, labour exploitation in the agricultural sector, and exploitation in begging and forced criminality. GRETA notes the recommendations of the UN Committee on the Rights of Migrant Workers and their families, according to which Turkey should incorporate specific interventions regarding migrant children into the 2016-2023 Time-bound Policy and Programme Framework on the Elimination of the Worst Forms of Child Labour.

125. GRETA refers to the Conclusions of the European Committee on Social Rights in respect of Turkey's implementation of Article 30 of the European Social Charter (right to protection against poverty and social exclusion), adopted on 8 December 2017, where it is noted that taking into account "the high poverty rates, the relatively low spending levels and the assessments made under other provisions of the Charter, the Committee considers that the situation is in breach of Article 30 as there is no adequate overall and coordinated approach to combating poverty and social exclusion."⁴⁹ The Turkish authorities have referred to measures taken to address poverty, in particular social aid programmes (on which a total of 43 billion TYR was spent in 2018), as well as family benefits for children and education assistance to enable children from poor families to attend school (in 2018, 2.5 million children benefited from such assistance).

126. GRETA notes the high number of internally displaced persons, particularly in the South-Eastern region of Turkey, and reports of kidnapping and disappearances of children and stresses the importance of ensuring a protective environment for children to reduce vulnerability to trafficking. GRETA also notes reports of possible recruitment of children for use in hostilities and armed conflict, and stresses the importance of effective prevention measures, including awareness-raising and effective child protection measures, premised on a human rights-based approach.⁵⁰

⁴⁸ According to CEIC Global Databases, the completeness of birth registration in Turkey reached 98.8% in 2013 (see <https://www.ceicdata.com/en/turkey/population-and-urbanization-statistics/tr-completeness-of-birth-registration>).

⁴⁹ European Committee on Social Rights, *Conclusions 2017 Turkey*, January 2018, p. 51, available at: https://www.ecoi.net/en/file/local/1425578/1226_1519805149_cr-2017-tur-eng.pdf

⁵⁰ Dakota Foster, Daniel Milton, *Children at War: Foreign Child Recruits of the Islamic State*, June/July 2018, Volume 11, Issue 6, available at: <https://ctc.usma.edu/children-war-foreign-child-recruits-islamic-state/>

127. The first National Action Plan on Women's Employment (2016-2018) had as an objective the attainment of greater gender equality. Further, the National Employment Strategy (2014-2023) aims at addressing structural problems in the labour market.⁵¹ These policy documents do not specifically address victims of human trafficking, but refer to women victims of violence as part of groups requiring special policies whose access to the labour market should be facilitated.

128. **GRETA considers that the Turkish authorities should continue strengthening prevention of THB through targeted social and economic empowerment measures for groups and persons vulnerable to THB, including refugees, asylum seekers, migrants in transit, internally displaced persons, women and children. Further, recalling the Council of Europe Action Plan on Protecting Migrant and Refugee children, GRETA considers that further measures should be taken to prevent trafficking among migrant and refugee children (unaccompanied and separated children, as well as those accompanied by families), including through timely appointment of guardians, provision of specialised accommodation and a protective environment for all children, and ensuring the implementation of a child rights approach.**⁵²

d. Border measures to prevent THB and measures to enable legal migration

129. Turkey has land borders of over 2 600 km long shared with Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Iran, Iraq and Syria, with more than 30 land border crossing points. Further, the Turkish coastline is 7 200 km long. If indicators of human trafficking are detected during border surveillance operations by law enforcement bodies, the information is referred to the competent authorities for further investigation and the presumed victims are referred to the DGMM for formal identification.

130. Representatives of the Ministry of Foreign Affairs informed GRETA that staff in Turkish consulates and embassies abroad carry out personal interviews with visa applicants. Consulates share an electronic database which includes information concerning persons whose entrance to Turkey has been denied. Visa applications from such persons are cross-checked with the DGMM prior to decisions whether to grant a visa. No specific training on human trafficking has been provided to consular staff.

131. The Migration Policies Board, which had been set up in 2013 under the Law on Foreigners and International Protection, was abolished by Presidential Decree No. 703 and a Migration Board was set up instead by Presidential Decree No. 17 of 18 September 2018. It is chaired by the Minister of the Interior and is responsible for determining migration strategies, as well as co-ordinating and following up the implementation of these strategies. The Board consists of representatives of ministries, institutions and organisations determined by the Ministry of the Interior. There will be a section on combating human trafficking in the "Migration Strategy Document", the drafting of which started upon decision of the Migration Policies Board and continues under the current Migration Board.

132. Pursuant to Article 108 of the Law on Foreigners and International Protection, the duties of the DGMM include carrying out activities related to regular migration. The Turkish authorities have indicated that in 2018, the articles of the Law on Foreigners and International Protection regulating the structure of the DGMM were rescinded and by Presidential Decree No. 4, the organisational structure of the DGMM was rearranged. Provincial Directorates of Migration Management have taken over the responsibility of registration procedures of all foreigners residing in Turkey.

⁵¹ See 10th National Report on the implementation of the European Social Charter submitted by the Government of Turkey on 5 May 2018, available at: <http://rm.coe.int/10th-national-report-on-the-implementation-of-the-european-social-char/168089ed15>

⁵² UN Committee of the Rights of the Child, General Comment No. 21 on Children in Street Situations (2017), UN Doc. CRC/C/GC/21.

133. **GRETA considers that the Turkish authorities should strengthen their efforts to detect and prevent THB through border control measures, in particular in the context of increased migration. This should include:**

- **strengthening the capacity of all competent law enforcement bodies to detect indicators of THB among persons arriving in Turkey and ensure prompt and effective access to assistance and protection;**
 - **providing Coast Guard officers with indicators to enable the identification and prompt and effective referral to assistance and protection of all possible victims of trafficking;**
 - **providing information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of THB, their rights and the availability of legal assistance, counselling and other services. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit (2016);⁵³**
 - **proactive measures at all borders, including maritime borders, to ensure compliance with the State's positive obligations to prevent trafficking in human beings and to effectively protect the human rights of victims of trafficking.**
- e. Measures to ensure the quality, security and integrity of travel and identity documents

134. The Turkish authorities have referred to specific law enforcement units set up to ensure the quality, security and accuracy of travel documents, which are examined in the course of border controls. These units, as well as the staff of the DGMM, have also been trained on identifying forged or tampered travel and identity documents. The personalisation page of Turkish passports is polycarbonate and personal information is laser-written. There will be no need to change passports following EU visa liberalisation as passports have the security features (EAC-SAC) stipulated in the International Civil Aviation Organisation - EU co-operation arrangements.

3. Implementation by Turkey of measures to protect and promote the rights of victims of trafficking in human beings

- a. Identification of victims of trafficking in human beings

135. Article 10 of the Convention requires Parties to adopt measures to identify victims of THB. In order to do so, Parties must provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims, including children. Identifying a trafficking victim is a process which takes time, and therefore the Convention provides for the rights of potential victims by establishing that when the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, s/he must not be removed from the country until the identification process is completed and must receive the assistance required by the Convention.

⁵³

http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf

136. The procedure for the identification of victims of THB is detailed in Articles 16, 17 and 18 of the Regulation on Combating Human Trafficking and the Protection of Victims. Article 16 defines the procedure in case of a notice, complaint or notification about a possible human trafficking situation. Such information can be submitted directly by a person declaring to be a victim of THB or by another person aware of a THB crime, to the telephone hotline "YIMER" 157 (Communication Centre for Foreigners, run by the DGMM), law enforcement agencies or the Chief Public Prosecutor's Office. Institutions with high probability of encountering victims of THB, such as the Ministry of Labour, Social Services and Family, and the Ministry of Health, shall immediately notify the hotline and the DGMM, law enforcement bodies or the Chief Public Prosecutor's Office about presumed victims of trafficking. Pursuant to Article 16 of the Regulation, civil society organisations that receive information about THB offences shall be responsible for informing Provincial Directorates of Migration Management, law enforcement units or the Chief Public Prosecutor's Office.

137. Following the receipt of a notification about a possible victim of THB, a staff member of the relevant unit of the DGMM assigned as an identification expert conducts an interview with the person concerned. The interview can also be attended by a psychologist and/or a social worker. The questions used by the DGMM experts during the identification interview are set out in an appendix of the Regulation on Combating Human Trafficking and the Protection of Victims. Possible victims of THB who cannot be interviewed owing to their unfavourable psychological and/or physical condition may be interviewed during or after the recovery and reflection period (see paragraph 173). Pursuant to the Regulation, a lawyer shall be assigned by the Bar Association to possible victims of trafficking during the interviews with law enforcement officials. However, GRETA was informed that in practice, such lawyers were not assigned to possible victims because there is no provision on this in the Criminal Procedure Code and the Law on Free Legal Aid, and also because victims of THB are usually placed in removal centres and have to ask themselves to meet a lawyer. Interpretation must be provided to foreigners presumed to be victims of THB and if the victim is a woman, the interpreter should preferably be female.

138. Based on the identification interview, and bearing in mind the indicators of the offence of THB, the provincial migration expert drafts a report containing a conclusion as to whether the person concerned should be officially identified as a victim of THB. The victim identification document based on the report drafted by the expert has to be approved by the relevant Provincial Directorate of Migration Management. The identification decision is an administrative act, independent of the initiation of a criminal investigation, but it would appear that a criminal standard of proof is applied in victim identification decisions. According to the authorities, a negative identification decision may be appealed against in an administrative court. However, the authorities have not registered any such appeals. There are general indicators used in the identification of victims of THB (a total of 27) as well as specific indicators for different forms of exploitation (labour exploitation; domestic workers; sexual exploitation; child abuse). Further, a list of interview questions is used.

139. GRETA was informed that in each of the 81 provincial directorates of the DGMM, two identification experts (one principal and one substitute) have been designated for interviewing possible victims of THB. Further, in the 15 provinces most affected by THB, working groups for preventing and combating THB and identifying victims have been set up. In Istanbul and Edirne, the GRETA delegation met the members of such a THB working group. These working groups have representatives from all relevant authorities involved in the fight against THB, such as the Provincial Directorate of Migration Management, the Police, the Gendarmerie, and the Provincial Directorate of Family, Labour and Social Policies. The members of the working groups were of the view that co-operation and information exchange worked very well.

140. In Istanbul, GRETA was informed that interviews with possible victims usually take place in removal centres after persons in an irregular situation are arrested by the police, at police stations or in centres for children. There were a total of 14 migration experts (six women and eight men) trained to identify victims of THB and working at the removal centres in Istanbul Province. Migration experts study the files prepared by law enforcement officials for each irregular migrant placed in a removal centre, which highlights possible sensitive issues. Migration experts observe the behaviour of possible victims and their psychological readiness to be interviewed. The number of interviews varies depending on the case and the psychological state of the person concerned. The possible victim can be referred to a medical examination. Information about available support services and residence permit procedures is provided to possible victims by the migration experts.

141. The majority of the identified victims of THB have been placed in removal centres, due to being in an irregular migration situation, and returned to their countries of origin within a few days. By way of example, representatives of the Adana Provincial Directorate of Migration Management informed GRETA that in 2017-2018, 10 women (from Belarus, Ukraine, Azerbaijan and Kazakhstan) were referred to the Provincial Directorate of Migration Management from the removal centre of the Adana Province, were formally identified as victims of THB, and were subsequently repatriated to their countries. GRETA was informed that prior to their return, they had been placed for brief periods of time in shelters for victims of domestic violence.

142. In Istanbul, GRETA was informed that in the preceding six months, some 450 interviews with possible victims of THB had been held and around 30 persons had been identified as victims of THB. Some 80 to 90% of the identified victims of THB chose to return to their countries of origin and those who remained were referred to shelters under the Ministry of Labour, Social Affairs and Family or run by the municipality.

143. In Edirne, GRETA was informed that two victims of THB had been identified in 2016 and four in 2017 (all exploited in prostitution). Two migration experts of the Provincial Directorate of Migration Management have been trained on interviewing victims of THB. A psycho-social team (consisting of a migration expert, a psychologist and a social worker) is reportedly convened whenever there is a notification by the police about a possible victim of THB being placed at the removal centre in Edirne. Edirne Province has the only land border between Turkey and the EU and up to 50 000 irregular migrants are detected annually trying to cross the border, originating mostly from Syria, Afghanistan and Pakistan. Unaccompanied children are referred to the Directorate of Family and Child Services.

144. GRETA visited the removal centre for irregular migrants in Pehlivan köyü, Kırklareli Province, which had been opened in April 2016, to a large extent with EU funding. The removal centre had a capacity of 750, with distinct sections for single men, women, unaccompanied children, and families with children. The maximum length of stay is 12 months. The centre was operating at full capacity. GRETA was informed that no victims of THB had been identified at the Pehlivan köyü removal centre. Around 200 unaccompanied children had been held at the centre since its opening and had subsequently been transferred to the relevant Directorate of Family and Child Services. Posters and leaflets containing information on a range of issues, including THB, were available in six languages.

145. Prior to the adoption of the Regulation on Combating Human Trafficking and the Protection of Victims, specialised NGOs were involved in interviewing presumed victims of THB, alongside law enforcement officers who contacted NGOs in order to benefit from their expertise. Since the transfer of the responsibility for the identification of victims of THB to the DGMM, NGOs have been excluded from the identification procedure. GRETA was informed that only in exceptional cases, where the DGMM experts have doubts concerning the identification, they might contact specialised NGOs for an opinion on the basis of information provided by interviewed persons.

146. The telephone hotline "YIMER" 157, operated by the DGMM since 20 August 2015, provides round-the-clock information in Turkish, English, Arabic, Russian, German and Persian concerning visas, residence permits, international protection and temporary protection, as well as cases of THB and notifications concerning irregular migrants at sea. In addition, THB cases can be notified to the Police emergency hotline 155, the Gendarmerie hotline 156 and the Coast Guard hotline 158. According to information provided by the Turkish authorities, YIMER received 69 calls related to human trafficking between 20 August 2015 and 1 May 2019. The Gendarmerie hotline received four calls concerning human trafficking between 2016 and 2018, while the Coast Guard hotline received none.

147. GRETA was informed that in 2018, there were 49 planned law enforcement anti-prostitution operations and in 2017, 55 such operations. Law enforcement bodies do not co-operate with NGOs in such operations. Law enforcement officials noted difficulties in identifying victims of THB for the purpose of sexual exploitation, who are often threatened by the traffickers and are afraid to complain to law enforcement agencies because they are in an irregular situation. GRETA refers to the findings of the UN Committee on the Elimination of Discrimination against Women (CEDAW) in its Concluding observations on the seventh periodic report of Turkey, which raise concern about the persistence of trafficking in women and girls, both internal and cross-border, for the purpose of sexual exploitation, including frequent cases of Syrian girls being trafficked into exploitation in prostitution.⁵⁴ The Committee also notes the insufficient measures for early identification of victims of trafficking, as well as the insufficient protection services for them.

148. In Turkey, labour inspectors (employed by the Directorate of Guidance and Inspection) do not have a mandate to identify THB victims and have to refer any possible cases to law enforcement agencies, which in turn should decide whether to contact the DGMM to perform victim identification. In case of detecting employees in an irregular situation, labour inspectors have to inform the law enforcement agencies. There are some 950 labour inspectors in Turkey, plus some 100 newly recruited staff. Labour inspectors are organised in five groups located in five cities and can be sent to different parts of the country; the number of labour inspectors stationed in Istanbul is only around 25. Due to the limited number of labour inspectors, it is necessary to prioritise inspections in high-risk sectors (e.g. construction and mining, due to the prevalence of occupational accidents). In the area of agriculture, the mandate of labour inspectors is limited to farms employing over 50 workers. Further, domestic work is outside the scope of labour inspectors' mandates and inspections do not take place in private households. According to information received by GRETA in the course of inspections carried out in 2017, 61 employees were detected as working without a permit, and both the employers and the workers were fined. As noted in paragraph 83, labour inspectors do not receive training on THB for the purpose of labour exploitation, with the exception of a small number of labour inspectors who have attended training organised by the DGMM. No indicators have been provided to labour inspectors to identify THB for labour exploitation.

149. GRETA notes that the identification of victims of THB for the purpose of labour exploitation may be challenging: differences arise in practice in the interpretation and application of labour standards and in defining labour exploitation. Victims, particularly if in an irregular migration situation, may be reluctant to make complaints or to engage in criminal proceedings because of fear of deportation or retaliation from traffickers. Combating trafficking for the purpose of labour exploitation therefore requires co-ordinated action between the State, civil society, trade unions and the private sector.⁵⁵ In this context, GRETA refers to the European Court of Human Rights judgment in the case of *Chowdury and Others v. Greece* in which the Court found a violation of Article 4, paragraph 2, of the European Convention on Human Rights due to the failure of the Greek authorities to fulfil their positive obligations to prevent human trafficking, to protect victims, to effectively investigate the offences committed, and to punish those responsible for human trafficking offences.⁵⁶

⁵⁴ Adopted by the Committee at its sixty-fourth session (4-22 July 2016).

⁵⁵ See GRETA's 7th General report on activities, paragraph 70.

⁵⁶ European Court of Human Rights, *Chowdury and Others v. Greece*, application No. 21884/15, 30 March 2017.

150. Asylum applications are processed by the Department of International Protection of the DGMM.⁵⁷ Until recently, different procedural steps regarding the processing and determination of asylum applications were implemented in partnership with UNHCR and the NGO Association for Solidarity with Asylum Seekers and Migrants. Since 10 September 2018, this task has been fully taken over by the DGMM. At the Sariçam Temporary Protection Centre, staff informed GRETA that no cases of THB had been detected or reported. The staff had not received any training on THB, but the Director had attended some of the trainings organised on this topic by the DGMM. GRETA was informed that no training or guidance on the identification of possible victims of THB had been provided to migration experts in charge of asylum applications, but there are indicators which are used by such experts.

151. Article 24 of the Regulation on Combating Human Trafficking and Protection of Victims sets out the requirements to be met when identifying victims of THB among children. These include taking into consideration the best interests of the child in the identification process, the presence of a psychologist or a social worker during interviews with a child, and the need to carry out the procedures pertaining to the identified child victim, in conformity with the Child Protection Law. Once a child has been identified as a victim of THB, he/she should be referred to the relevant units of the Ministry of Labour, Social Services and Family.

152. GRETA notes that the number of child victims of THB identified in Turkey has increased over the years (two in 2014, 26 in 2015, 29 in 2016, and 98 in 2017). The majority of them were Syrian children exploited in begging. In Istanbul, GRETA was informed that six child victims of THB had been identified in the preceding six months and placed in child support centres for unaccompanied and separated children. GRETA notes reports about Turkish children from the South-Eastern parts of the country employed in seasonal agricultural work, including hazelnut harvesting, which could amount to the worst forms of child labour.⁵⁸

153. As stipulated in the Regulation on Combating Human Trafficking and Protection of Victims, the procedures concerning child victims of THB (both Turkish nationals and foreigners) and the protection of Turkish victims of THB fall under the institutional mandate of the Ministry of Labour, Social Services and Family. However, there is a lack of understanding of the role of this Ministry in respect of the identification and protection of victims of THB. The continuing absence of a protocol between the DGMM and the Ministry of Labour, Social Services and Family, which would clarify the institutional responsibilities in respect of Turkish victims of THB, is problematic. The Ministry of Labour, Social Services and Family, which is responsible for the protection and wellbeing of all children on Turkish territory, pursuant to the Child Protection Law, has set up mobile teams in order to identify children in street situations or forced to work. Children and their families are referred to social services, education and social rehabilitation. Mobile social services have also been created in order to identify children at risk; such children are monitored and their needs are assessed.

⁵⁷ For more information concerning asylum procedures in Turkey, see

<https://www.asylumineurope.org/reports/country/turkey/regular-procedure>

⁵⁸ https://www.ilo.org/ankara/WCMS_392498/lang--en/index.htm

154. **GRETA urges the Turkish authorities to take steps to improve the identification of victims of THB, and in particular to:**

- **promote a multi-agency approach in the identification of victims of trafficking by involving the expertise of all relevant organisations and entities, such as specialised NGOs, social workers, labour inspectors, child protection specialists and health-care staff;**
- **ensure an enabling environment for NGOs and sufficient resources to support their involvement in the identification of possible victims of trafficking, including in removal centres and in search and rescue operations at sea;**
- **ensure effective implementation of the Regulation on Combating Human Trafficking and Protection of Victims by providing training to relevant professionals on identification indicators, techniques and procedures;**
- **ensure that the authorities have sufficient staff to be able to manage the identification procedure, take measures to proactively identify victims of transnational, as well as internal trafficking (i.e. taking place within Turkey) for different purposes of exploitation, and provide the law enforcement bodies and other competent authorities with the necessary means for doing so;**
- **pay increased attention to the proactive detection of victims of trafficking among asylum seekers and persons placed in removal centres, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, training on the identification of victims of THB and their rights should be provided to staff working in centres where such persons are placed, in co-operation with civil society and lawyers;**
- **ensure the availability and quality of interpreters and cultural mediators during the identification process and at all stages of investigation processes;**
- **ensure that the identification of child victims of THB takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;**
- **ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to unaccompanied and separated migrant and refugee children, as well as children working in the agricultural sector and children in street situations;**
- **ensure identification of possible victims of THB, including child victims, at all border crossings in accordance with the OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit;**
- **provide training and guidance for the identification of child victims of THB for different purposes, including sexual exploitation, forced marriage, exploitation of begging and exploitation of criminal activities.**

155. **Further, GRETA urges the Turkish authorities to take steps to strengthen the proactive identification of victims of THB for the purpose of labour exploitation, and in particular to:**

- **expand the capacity of labour inspectors so that they can be actively engaged in the prevention of THB, including in private households, small businesses in the hotel, catering and restaurant sectors and small agricultural units;**
- **monitor the frequency and effectiveness of labour inspections and ensure that sufficient human and financial resources are made available to labour inspectors to fulfil their mandate, including in remote locations at risk of THB in the agricultural sector;**
- **separate immigration enforcement functions from labour inspectorate roles and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**
- **review the regulatory systems concerning migrants working as home care workers and ensure that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of trafficking.**

b. Assistance to victims

156. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim's safety and protection needs, in co-operation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim's willingness to act as a witness (Article 12). The need to take account of victims' needs is also referred to in the Convention's provisions concerning temporary residence permits (Article 14) and the rights of child victims of trafficking (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

157. Articles 27 and 28 of the Regulation on Combating Human Trafficking and the Protection of Victims contain provisions regarding the accommodation and assistance envisaged for foreign victims of THB. Pursuant to the Regulation, inclusion in the victim support programme is provided subject to the victim's agreement during the recovery and reflection period, the investigation and prosecution and subsequently, considering the safety and health of the victim. As per Article 27 of the Regulation, the assistance measures include: accommodation in shelters or a safe place; access to health services; psycho-social assistance; access to social services; access to legal aid and consultancy services as well as information; guidance on access to educational services; support to receive vocational training and access to the labour market; guidance on financial support with regards to the provisions of the Law on Social Assistance and Solidarity; access to consultancy services to be provided by relevant civil society organisations as well as international and intergovernmental institutions; interpretation; informing the embassy or consulate of the country of nationality, with the victim's consent; enabling interviews with the embassy or consulates of the country of nationality; and support for identification and delivery of travel documents.

158. The expenditure made for activities related to victims of THB amounted to 307 000 TRY in 2016 (approximately 46 850 euros) and 445 213 TRY (approximately 67 900 euros) in 2017 (see also paragraph 26).

159. The Turkish authorities have referred to social and economic assistance provided to victims of THB under the victim support programme. It includes financial support from the social assistance and solidarity foundation, accessible for victims whose income level is below the minimum standard. A one-off financial support is provided to victims returning to their countries. Further, GRETA was informed of plans to provide weekly financial support for victims of THB. As of October 2018, monthly payments of 500 TRY per victim and 200 TRY per child staying with the victim are made; 13 victims and their children (a total of 22 persons) have benefited from this support.

160. The GRETA delegation visited the two specialised shelters for female victims of THB currently existing in Turkey. The first one, in Kırıkkale, had been operated by the DGMM since 2016, but was closed down for refurbishment shortly before GRETA's visit. It used to be a removal centre for irregular migrants and its perimeter continued to be surrounded by barbed wire, with bars on the windows of all rooms and CCTV cameras inside the building. The shelter had the capacity to accommodate 10 victims and a total of 18 victims had been accommodated in it since its opening in 2016. Due to the refurbishment, five women and two children had been moved to the shelter in Ankara (see paragraph 161). The shelter's staff consisted of a Director, Deputy Director and five security staff; further, the assignment of a social worker was in progress. Victims were allowed to leave the shelter only if accompanied by a security officer. GRETA was informed that victims placed in the shelter were provided with medical care at the local public hospital. Further, they could follow Turkish language courses and vocational training. Upon agreement with the Governor of Kırıkkale province, adult victims received 100 TRY (approximately 17 euros) per month and an additional 100 TRY per child. In their comments on the draft GRETA report, the authorities indicated that following the refurbishment, the Kırıkkale shelter was reopened and a female victim with her three children was referred there in December 2018. Photos of the refurbished shelter provided by the Turkish authorities show that the barbed wire has been removed from the perimeter wall.

161. GRETA also visited the shelter for female victims of THB in Ankara, operated by the DGMM in co-operation with Ankara municipality, which had the capacity to accommodate up to 30 victims and their children. The shelter had previously been operated by the NGO Women's Solidarity Foundation (see paragraph 36), but was transferred to Ankara municipality in May 2017, and subsequently to the DGMM's responsibility at the end of September 2018. At the time of GRETA's visit, the shelter was accommodating six female victims and five children of the victims (including victims who had been transferred from the shelter in Kırıkkale), originating from Turkmenistan, Uzbekistan, Syria, Ethiopia and Morocco. Apart from the Director, the staff of the shelter comprised a psychologist, two sociologists, two clinical staff and three security guards. Apart from material items for basic needs, victims received monthly social aid from the solidarity fund of the Ankara Governorate, in the amount of 300 TRY (approximately €50) per adult and 50 TRY (€8.50) per child. Food was provided by a catering company contracted by the DGMM. Victims were offered vocational training by the municipality and were assisted in finding employment. One of the women was working outside the shelter. According to DGMM representatives, co-operation protocols had been concluded with public hospitals to provide medical care to victims accommodated in the shelter. Pursuant to Article 32 of the Regulation on Combating Human Trafficking and the Protection of Victims, health services for victims are provided free of charge. Interpretation services were provided by the DGMM with the financial assistance of IOM. Victims were not allowed to leave the shelter unless accompanied by security officers. Children were in principle entitled to attend school, but the children present at the shelter had not attended school since the beginning of the school year. In their comments on the draft GRETA report, the authorities indicated that one child in the Ankara shelter started primary school in October 2018, another child went to kindergarten in November 2018, and a third child started pre-school in January 2019. According to the authorities, in both the Ankara and Kırıkkale shelters, works are carried out in order to create child-friendly spaces, under a project implemented by IOM.

162. GRETA was informed of the DGMM's plans to increase the capacity of the specialised shelter for victims of THB in Kirikkale by moving it to a larger building, in co-operation with the municipality, which will enable a larger number of persons to be accommodated (20-25) and will provide better conditions for the recovery of victims and their return to normal life. GRETA was also informed that the DGMM was discussing with Antalya municipality the possibility of opening a third specialised shelter for victims of THB.

163. The specialised assistance previously available with the support of NGOs has been discontinued. No funding is provided from the State budget to specialised NGOs for the provision of assistance to victims of THB and all shelters previously operated by such NGOs (in Istanbul, Antalya and Ankara) had been closed or transferred to the DGMM. GRETA notes with concern that the potential for involving specialised NGOs with experience in the provision of assistance to victims of THB is currently unutilised.

164. GRETA was informed that assistance measures for Turkish victims of THB are provided pursuant to the Law No. 6284 on Family Protection and Preventing Violence against Women, the implementation of which is the responsibility of the Ministry of Labour, Social Services and Family. According to the authorities, apart from the two shelters operated by the DGMM in Ankara and Kirikkale, a total of 141 different facilities are capable of accommodating and assisting Turkish victims of THB, of which 110 are shelters for women victims of violence, run by the Ministry of Labour, Social Services and Family, and another 31 shelters for women victims of domestic violence are operated by local administrations. The authorities stated that six foreign women victims of violence were temporarily admitted to shelters run by the Ministry of Labour, Social Services and Family and after being assessed as possible victims of THB, they were referred to Provincial Directorates of Migration Management for identification. It would appear that the provisions of the Law on Family Protection and Prevention of Violence against Women No. 6284 do not specify that these shelters are to be used for victims of THB and, in practice, they are only exceptionally used for this purpose. As noted in paragraph 9, GRETA was not given the opportunity to visit a shelter for victims of domestic violence.

165. During the visit, the GRETA delegation met representatives of the Ankara centre for the protection of Turkish and foreign women victims of gender-based violence and domestic violence, falling under the scope of the Law to Protect Family and Prevent Violence against Women. The main task of the centre is carrying out initial interviews with victims to identify their assistance and accommodation needs. Apart from the Director and social workers, the centre employs an Iraqi interpreter, who is also a psychologist. When needed, Afghani interpreters are also made available by the Ankara provincial directorate. Most of the foreign women referred to the centre are Syrians, Afghanis and Iraqis. According to staff of the centre, no victims of THB were detected among the persons referred to the centre in the past two years. The professionals working in the centre are specialised in identifying and providing initial assistance to victims of domestic violence, and some of them have attended training sessions on THB organised by the DGMM. Representatives of the centre admitted that some of the victims of violence referred to the centre may have been trafficked, but the centre would lack the necessary expertise and specialisation to identify them.

166. There are no specialised accommodation facilities for male victims of THB in Turkey.

167. The Ministry of Labour, Social Services and Family has a Directorate on Child Services which is responsible for the running of specialised centres for unaccompanied children, operating pursuant to the Law on the Protection of Children. Child victims of THB may be accommodated and assisted in such centres (of which there are 12 across Turkey). As noted in paragraph 121, GRETA's delegation visited one such centre, Bağlum Child Support Centre for unaccompanied and separated children in Ankara, which was accommodating 43 unaccompanied boys (aged 13 to 18), mostly originating from Afghanistan, Iran, Iraq, Syria, Yemen and Somalia. None of the children had been identified as a victim of THB. Some 12 of them were attending school in the community and the others attended vocational training. The centre provided very good material conditions and a variety of activities, including sports, Turkish language classes, a ceramics workshop and life-skills training. There were 50 staff members, including social workers, psychologists, a language teacher, child care staff and security staff. No training on THB had been provided to staff. A total of 150 children had been admitted over the span of a year; four of the children had absconded and were being looked for by the police.

168. Further, GRETA was informed that there were 134 mobile teams in the 81 provinces, which have been in contact with 13 372 children in street situations, including refugee and migrant children. The Ministry of Family, Labour and Social Services provides training for all staff working in child services. The Ministry visits the mobile teams in order to strengthen practices, identify needs and hold focus group meetings. Register staff, administrations, notaries and courts must immediately inform civil courts of peace, which are the competent guardianship authority, when there is a need to place a child under guardianship. The guardianship authority is competent in guardianship procedures and may appoint a competent adult as a guardian.

169. GRETA is seriously concerned by the limited accommodating capacity of specialised shelters for victims of THB and the fact that conditions in the available shelters may not meet the needs of victims of THB. The great majority of identified victims leave the country soon after identification, without even benefiting from a recovery and reflection period, and do not have the possibility to take part in investigations and court trials in THB cases. Only a few victims remain in Turkey and take part in victim assistance programmes. This also has negative consequences for the criminal justice process (see paragraph 225). Further, GRETA is concerned by the lack of specialised assistance for Turkish victims of THB, including children, as well as male victims of THB.

170. **GRETA urges the Turkish authorities to take the necessary legislative and practical measures to ensure adequate assistance to victims of trafficking, and in particular to:**

- **provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking (women, men and children);**
- **ensure that conditions provided in shelters for victims of trafficking are adequate and adapted to their special needs. In this context, better balance should be struck between the need to place victims of THB in a safe accommodation and the need to achieve their recovery and rehabilitation; this requires greater awareness among staff working with such victims as regards the need to respect the victims' privacy and to assist in their rehabilitation;**
- **facilitate the social inclusion of victims of trafficking into society and prevent re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market;**
- **provide specialised assistance for child victims of trafficking which takes into account their specific circumstances and the best interests of the child, ensuring timely appointment of qualified guardians and a holistic approach to age assessment, in accordance with General Comment No. 6 of the UN Committee on the Rights of the Child and the Council of Europe Action Plan on Protecting the Rights of Migrant and Refugee Children;**
- **provide regular training to all professionals responsible for implementing assistance measures for victims of trafficking.**

171. Further, **GRETA considers that for the purpose of assisting all victims of THB for different purposes of exploitation, the authorities should strengthen partnerships with specialised NGOs, including by delegating to NGOs the functions of service providers, and provide adequate financing of the services delivered by such NGOs.**

c. Recovery and reflection period

172. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on co-operation with the investigative or prosecution authorities and should not be confused with the issue of a residence permit under Article 14(1) of the Convention. Pursuant to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

173. Article 48 of the Law on Foreigners and International Protection stipulates that a 30-day residence permit shall be granted by the Governorates to identified foreign victims of THB, or where there is strong evidence that a person may be a victim, with a view to allowing them to recover and reflect on whether to co-operate with the competent authorities. The 30-day residence permit may be renewed on the basis of an evaluation report, which is prepared by an Expert from the Provincial Directorate of Migration Management where the victim is accommodated. Similar provisions are replicated in Article 20 of the Regulation on Combating Human Trafficking and Protection of Victims.

174. According to information provided in reply to GRETA's questionnaire, all victims of THB identified in 2014-2016 were granted a recovery and reflection period. The Turkish authorities have clarified that as there is no legal obstacle for Turkish citizens to stay in Turkey, there is no need to apply a recovery and reflection period.

175. GRETA considers that the Turkish authorities should ensure that all presumed foreign victims of THB are systematically informed of their right to a recovery and reflection period and to ensure that the recovery and reflection period is applied in practice to all foreign victims of THB.

d. Residence permits

176. Article 14(1) of the Convention provides for two possibilities when it comes to the issuing of renewable residence permits to victims of trafficking: on the basis of their personal situation and/or their co-operation with the competent authorities in the investigation or criminal proceedings.

177. Article 30 of the Law on Foreigners and International Protection establishes a "victim of human trafficking residence permit" among the types of permits envisaged under the Law. Further, Articles 48 and 49 of this law set out the conditions for granting residence permits to victims of THB, their duration and grounds for cancellation. The initially granted 30-day residence permit (see paragraph 173) may be renewed for periods of six months on the basis of an assessment report by a DGMM expert for reasons of safety, health or special circumstances of the victim. The overall duration of such a residence permit shall not exceed three years. Article 88 of the Law on Fees stipulates that victims of THB are exempted from paying fees related to the issuance of residence permits.

178. A residence permit granted to a victim of THB may be cancelled if it is established that the victim has re-connected with the perpetrators at his/her own will.⁵⁹ A residence permit will be terminated or shall not be renewed if the victim support programme has been terminated,⁶⁰ if the person was found to be a threat to public order and public security, or was found not to be a victim, or following the completion of the safe and voluntary return procedure. GRETA notes that provision is made by law not to cancel residence permits in cases where victims have been forced to commit misdemeanours. Pursuant to Article 29 of the Regulation on Combating Human Trafficking and the Protection of Victims, misdemeanour acts are: to contact the perpetrators of the crime of his/her own free will, to leave the shelter without informing the authorities, not to abide by the measures taken under the support programme, not to co-operate with the authorities, to give a false statement.

179. During the period of validity of residence permits, victims have access to specialised accommodation and assistance provided by the DGMM. The Regulation allows victims to request an extension of the residence permit, while indicating the wish to reside at a different address than a shelter. Such requests should be examined and responded to by the law enforcement authority within 10 days.

180. According to information provided by the authorities, 27 victims of THB were granted residence permits in 2014, 71 in 2015, 123 in 2016, 145 in 2017, and 82 in 2018.

181. Article 22 of the Regulation on Combating Human Trafficking and the Protection of Victims states that "the provisions pertaining to victims of human trafficking shall be applicable to persons who have been or are suspected to be victims from among the holders of, or applicants for, international protection and those under temporary protection and other foreigners." Consequently, if a foreigner is an international protection applicant or status holder, or a temporary protection beneficiary, a residence permit is not issued. However, a foreigner may benefit from the victim support programme. If the foreigner wants to apply for international or temporary protection while he/she has a residence permit as a victim of THB, his/her residence permit is terminated but he/she continues enjoying victim support services. Between 2014 and 2019, 12 victims of THB accommodated in shelters were international protection applicants or status holders, and five victims were beneficiaries of temporary protection.

182. GRETA considers that the Turkish authorities should ensure that all victims of THB can fully benefit from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum.

⁵⁹ Pursuant to the Law on Foreigners and International Protection and the Regulation on Combating Human Trafficking and the Protection of Victims.

⁶⁰ Article 29 of the Regulation on Combating Human Trafficking and the Protection of Victims reads as follows:

"Termination of the victim support programme:

(1) Victim support programme may be terminated with regard to the assessment report drafted by the expert personnel of the Directorate, if the victim;

- a) does not want to benefit from the support programme,
- b) was identified/revealed to contact the offenders of the crime of his/her own free will except for cases hindering the victim's will,
- c) leaves the shelter without informing the authorities,
- c) does not abide by the measures taken under the support programme,
- d) does not cooperate with the authorities,
- e) was revealed to be non-victim,
- f) was found to have a false statement,

(2) The residence permit granted to the foreign victim shall be cancelled or shall not be extended on the basis of the assessment report.

(3) Victims willing to leave the support programme voluntarily shall be informed about the voluntary and safe return programme and their personal safety by the Directorate.

(4) If the victim notifies his/her will to leave the support programme to the officers of the shelter during the support programme verbally or in writing, the notification shall be submitted to the Directorate" (unofficial translation).

183. Further, **GRETA considers that the Turkish authorities should review Article 29 of the Regulation on Combating Human Trafficking and the Protection of Victims, which refers to victims leaving the shelter without informing the authorities as grounds for terminating the victim support programme.**

e. Compensation and legal redress

184. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. A human rights-based approach to action against THB entails the effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

185. As regards access to legal aid for victims, Article 239 of the Criminal Procedure Code (CPC) stipulates that in cases where a victim or an individual who suffered damages from a crime has intervened in the prosecution, a lawyer shall be appointed by the Bar Association in cases of sexual assault and in case of crimes that carry at least five years' imprisonment. If the victim or person who suffered damages from the offence is a child or is deaf, mute or has an intellectual disability and thus cannot defend his/her interests, a lawyer should be appointed *ex officio*.⁶¹ The authorities have stated that Directorates of Judicial Support and Services for Victims have been established in seven pilot provinces as an outcome of a twinning project with Spain. Judicial support staff will provide psycho-social assistance to victims in submitting required documents for access to legal aid in judicial procedures.

186. Representatives of the DGMM informed GRETA that State-funded legal aid was available to victims of THB, but that requests for it were very rare. When such requests are made, the Provincial Directorates of Migration Management would contact the relevant Bar Association to provide the victim concerned with a lawyer from the roster of lawyers participating in the State-funded legal aid scheme. As part of a project implemented by the Union of Turkish Bar Associations and UNHCR, a legal clinic was opened in Şanlıurfa, which has assisted 480 refugees. The authorities have indicated that training on international protection and approaches to refugees was provided in the course of 2018 to lawyers in 17 different provinces, as part of a project on "Support for Improvement of Legal Aid Practices for Access to Justice (SILA)". GRETA notes the concerns raised by the International Bar Association's Human Rights Institute in relation to potential breaches of the independence of the legal profession and the high numbers of lawyers arrested and detained, with negative consequences for the rights of victims to legal assistance and free legal aid.

187. The Turkish authorities have referred to Article 49 of the Code of Obligations, which stipulates that any person who by faulty and unlawful behaviour causes damage to another is obliged to provide compensation. Article 50 of this Code of Obligations states that the injured party shall be required to prove the damage and the fault of the person who caused it. Where the value of the damage occurred cannot be proved in an exact manner, according to equitable considerations, the judge shall estimate the value. Further, Article 51 of the Code of Obligations stipulates that the judge determines the extent and the form of compensation with due regard to the circumstances and the degree of culpability.⁶² The authorities have indicated that pursuant to Articles 178 and 179 of the Legal Profession Act, it is possible for victims of THB to apply to Bar Associations or Bar Legal Assistance Offices for legal assistance where the victims who claim compensation are unable to afford lawyers' expenses in line with the Code of Obligations.

⁶¹ Can Çalıcı, *Access to Legal Aid in Criminal Matters: Istanbul Sample*, International Journal of Scientific and Research Publications, Volume 7, Issue 6, June 2017.

⁶² Journal of the European Tort Law, Volume 3, issue 1, available at: <https://www.degruyter.com/view/j/jetl-2012-3-issue-1/jetl-2012-0090/jetl-2012-0090.xml>

188. No information is available on the number of victims of THB who claimed and were awarded compensation from the offenders. GRETA was informed that victims' compensation claims are usually not examined by criminal courts, but are referred to civil courts.

189. There is currently no provision for State compensation of victims of violent crimes in Turkey, including victims of THB. As noted in paragraph 20, a draft Law on Victim Rights is under preparation. The draft envisages introducing a one-off financial compensation paid by the State to victims of violent criminal offences, including THB. As regards foreign victims of crimes, the draft law intends to limit access to State compensation to either the reciprocity principle with the country of their nationality, or to foreign victims lawfully residing in Turkey for at least three years. GRETA is concerned that such limitation would rule out access to State compensation for a large number of foreign victims of THB, as they are unlikely to meet these requirements.

190. **GRETA urges the Turkish authorities to adopt legislative and practical measures to facilitate access to compensation for victims of trafficking, and in particular to:**

- **ensure that victims have access, from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings and the right to seek compensation, in a language they can understand;**
- **enable victims of trafficking, including those in removal centres, to exercise their right to compensation by ensuring their effective access to State-funded legal aid, by building the capacity of legal practitioners to support victims to claim compensation and including the issue of victim compensation into training programmes for law enforcement officials, prosecutors, judges and lawyers;**
- **establish a State compensation scheme accessible to victims of THB, regardless of their citizenship and residence status.**

191. **GRETA also invites the Turkish authorities to collect statistical information concerning compensation awarded by courts to victims of THB, in response to their compensation claims made in criminal and civil proceedings.**

f. Repatriation and return of victims

192. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore, a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40(4) of the Convention.

193. Article 30 of the Regulation on Combating Trafficking and Protection of Victims provides for a voluntary and safe return programme for victims of THB, which is operated by the DGMM. The return of victims of THB is carried out with the assistance of staff of the shelter where the victim was accommodated, or by an officer of the Provincial Governorate or another institution with which the DGMM has concluded an agreement. The expenses relating to transportation are covered either by the DGMM or another institution, on the basis of a protocol with the DGMM.

194. According to the authorities, victims of THB in voluntary return procedures are not required to pass through passport check points and are brought directly to the boarding gate of the aircraft or another transport. In case of an imminent threat against the life or physical integrity of a victim, he/she will be accompanied by law enforcement authorities. Further, according to the authorities, competent bodies in the country of the victim's return are informed, subject to the victim's consent, of the return date and of the fact that the returnee has been a victim of THB.

195. The DGMM is implementing a voluntary return programme in co-operation with IOM. This programme covers the transportation expenses and financial and/or in-kind aid to enable victims to suppose re-integration in the country of return. According to information provided by the authorities, the number of victims of THB who benefited from the voluntary return programme and financial and in-kind aid was 172 in 2017 and 96 in 2018.

196. The Turkish authorities indicated that they returned 50 victims of THB to other countries in 2014, 97 in 2015, 141 in 2016 and 193 in 2017. According to the authorities, no children were returned, in compliance with Article 24 of the Regulation on Combating Human Trafficking and the Protection of Victims, according to which the best interests of the child shall be considered in the process of the voluntary return programme through a risk and security assessment.

197. GRETA notes the high number of victims of THB being returned to their countries of origin. The Turkish authorities have stressed that the removal of victims of THB is based on voluntariness, and that family unity and the best interests of the child are taken into consideration. Provincial Directorates of Migration Management reportedly carry out risk assessments which take into account the educational situation of the child in Turkey and life standards in the country to which the child is sent.

198. GRETA notes that NGOs do not have access to removal centres, limiting their involvement in identification and referral to assistance of possible victims. Concerns have also been raised in relation to the limited interpretation facilities available and access to legal assistance. GRETA also notes media and civil society reports of forced removals to Syria, and inadequate pre-removal risk assessments including of risks of trafficking and re-trafficking.⁶³

199. **GRETA urges the Turkish authorities to take additional steps to:**

- **ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. This means informing victims about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;**
- **develop international co-operation and involvement of NGOs in order to ensure comprehensive risk assessment and safe return, as well as safe and effective reintegration of victims of THB;**
- **ensure compliance with the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention. In this context, the Turkish authorities should give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.**

⁶³ See The Guardian, *It's against the law': Syrian refugees deported from Turkey back to war*, 16 October 2018, available at: <https://www.theguardian.com/global-development/2018/oct/16/syrian-refugees-deported-from-turkey-back-to-war>

4. Implementation by Turkey of measures concerning substantive criminal law, investigation, prosecution and procedural law

a. Substantive criminal law

200. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

201. As noted in paragraph 49, Article 80 of the CC, which criminalises trafficking in human beings, envisages a penalty of eight to 12 years' imprisonment and a judicial fine of up to ten thousand days.

202. Article 80 of the CC does not provide in itself for the aggravating circumstances envisaged in Article 24 of the Convention, but GRETA was informed that the general provisions of the CC on aggravation would apply, e.g. when the offence is committed by a civil servant or within the framework of a criminal organisation. Further, GRETA understands that the general rules on aggravating circumstances concerning an offence being committed against a child would apply only to children who are younger than 12. GRETA refers to Article 24 of the Convention, pursuant to which each Party shall ensure that trafficking in children, i.e. any person under 18 years of age, is regarded as an aggravating circumstance in the determination of the penalty for offences established in accordance with Article 18 of the Convention. GRETA was informed that draft legislation proposes to include the following aggravating circumstances into Article 80 of the CC: the offence caused deliberate injuries to the victim; the offence caused the death of the victim; the offence is committed against a child; the offence is committed by a public official in the exercise of his/her duties; the offence is committed in the framework of a criminal organisation. The authorities have not indicated when the draft legislation is expected to be adopted. **GRETA urges the Turkish authorities to consider trafficking in all children, i.e. all persons under the age of 18, as an aggravating circumstance, in accordance with Article 24 of the Convention, and to ensure that all the aggravating circumstances included in the Convention, including the offence deliberately or by gross negligence endangering the life of the victim, are appropriately taken into account.**

203. GRETA was informed that Article 80 of the CC can be applied in aggregation with other offences, such as prostitution (Article 227), using children in the production of obscene materials (Article 226), trading of organs and tissues (Article 91),⁶⁴ violation of freedom of work and labour (Article 117)⁶⁵ and

⁶⁴ Article 91 of the CC: "(1) Any person who removes an organ from another person without his lawful consent shall be sentenced to a penalty of imprisonment for a term of five to nine years. If the subject of the offence is tissue, then the offender shall be sentenced to a penalty of imprisonment for a term of two to five years. (2) Any person who unlawfully removes an organ or tissue from a deceased person shall be sentenced to a penalty of imprisonment for a term of up to one year. (3) Any person who purchases, or sells, an organ or tissue, or acts as an intermediary in such activities, shall be sentenced to the penalty in paragraph one. (4) Where an offence, contained in paragraph one or three, is committed within the framework of an organisation the penalty to be imposed shall be imprisonment for a term of eight to fifteen years and a judicial fine of up to ten thousand days. (5) Any person who conceals, transports or engages in the transplantation of an unlawfully obtained organ or tissue shall be sentenced to a penalty of imprisonment for a term of two to five years. (6) Any person who broadcasts, makes an announcement, or engages in commercial advertising in order to secure organs or tissue in order to obtain any gain shall be sentenced to a penalty of imprisonment for a term of up to one year. (7) Any offence contained within this article that is carried out within the activities of a legal entity shall result in security measures being imposed upon that legal entity. (8) The provisions relating to intentional killing shall be applicable where an offence contained in paragraph one results in the death of the victim" (unofficial translation).

⁶⁵ Article 117 of the CC: "(1) Any person who violates the freedom to work or labour by using force, threats or by any other unlawful act shall be sentenced to a penalty of imprisonment for a term of six months to two years or a judicial fine, upon the complaint of the victim. (2) Any person who employs another person, or persons, without payment or on a very low salary, which is clearly disproportionate to the service provided, or subjects such person, or persons, to conditions of work and residence which are incompatible with human dignity by exploiting his helplessness, isolation, or dependence shall be sentenced to a penalty of imprisonment for a term of six months to three years, or a judicial fine which will not be less than a hundred days.(3) Where a

exploitation of begging (Article 229)⁶⁶. The Turkish authorities have provided examples from case-law in which perpetrators were convicted both for human trafficking and prostitution or using children in the production of obscene materials.⁶⁷ At the same time, GRETA understands that cases of THB have been prosecuted and adjudicated as prostitution or forced labour, which carry considerably lower penalties than those envisaged for THB under Article 80 of the CC. This risks creating an inconsistent legal practice when adjudicating cases related or similar to THB and may impede the achieving of effective, proportionate and dissuasive sanctions for offences of comparable gravity.

204. Turkish legislation does not establish a separate offence of retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB. According to the authorities, these acts would be covered by Article 205 of the CC, which criminalises damaging, destroying or concealing a genuine official document, Article 208 of the CC, which criminalises the same acts committed in relation to genuine private documents, and Article 212 of the CC, which criminalises the use of counterfeit official or private documents in the commission of another offence and specifies that the offender shall be sentenced for both the counterfeit forgery and the related offence.

205. As noted in paragraph 115, the use of services of a victim of THB, with the knowledge that a person is a victim, is not established as a criminal offence. The above-mentioned draft legislation amending CC provisions relevant to THB proposes to introduce such a criminal offence. **GRETA would like to be kept informed of the entry into force of the draft legislation criminalising the use of services of a victim of THB, with the knowledge that the person is a victim, regardless of the form of exploitation, as stipulated by Article 19 of the Convention.**

206. Articles 20 and 60 of the CC envisage security measures to be imposed on legal entities, where there has been a conviction in relation to an intentional offence committed for the benefit of a legal entity by misusing the permission conferred by its license and through the participation of the organs or representatives of the legal entity. The security measures envisaged in respect of legal entities include cancellation of a license, seizure of property and confiscation of income. The authorities have not provided information on any investigations/prosecutions of legal entities for their involvement in THB.

207. Legal entities may also be subject to administrative sanctions in cases where natural persons, who are the organs or representatives of legal entities, commit a criminal offence. Such sanctions would include an administrative fine, confiscation, cancellation of license, termination or closure, and operating under the supervision of the law enforcement. The authorities have indicated that THB is among the offences for which administrative sanctions could be imposed on legal entities.

person provides an individual, or sends or transports an individual from one place to another, with the aim of placing such person in the situation described in the above paragraph the same penalty shall be imposed. (4) A person who forces, or threatens, a worker or employer to increase or decrease earnings, or to accept an agreement with conditions that are different from those previously agreed upon, in order to cause the cessation, suspension or continuation of a suspension of work shall be sentenced to a penalty of imprisonment for a term of six months to three years" (unofficial translation).

⁶⁶ Article 229 of the CC: "(1) Any person who uses a child or person with physical or mental impairments as a means for begging shall be sentenced to a penalty of imprisonment for a term of one to three years. (2) The penalty to be imposed shall be increased by one half where the offence is committed by blood relatives or in-laws including third degree or a spouse. (3) The penalty to be imposed shall be increased by one fold where the offence is committed within the framework of the activities of a criminal organisation" (unofficial translation).

⁶⁷ Decision dated 10/3/2011 8.C.D, 2010/13722 E and 2011/1888. Court of Cassation 18th Criminal Chamber, merit No. 2016/3653, decision No. 2018/5741, notification No. 14-2013/402006.

208. Article 25 of the Convention requires Parties to provide for the possibility of taking into account final sentences passed by another Party against the same person in relation to THB offences when determining the penalty. The Turkish authorities have stated that pursuant to the principle of universality in Article 13 of the CC and Article 58 of the CC on the provisions relating to recidivism (i.e. repeat commission of the same offence by the same person), when determining the punishment for offences, previous convictions given by foreign courts would be taken into consideration as a basis of recidivism only if they concern intentional killing, deliberate injuring, plundering, fraud, producing of drugs, or monetary/stamp fraud. **GRETA urges the Turkish authorities to adopt such legislative and other measures providing for the possibility to take into account final sentences passed by another Party in relation to THB when determining the penalty.**

b. Non-punishment of victims of trafficking in human beings

209. Pursuant to Article 26 of the Convention, Parties shall provide for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so.

210. Turkish legislation does not contain a specific non-punishment provision in respect of victims of THB. The authorities have referred to the general provisions of the CC on exculpating or mitigating criminal liability (Articles 24 to 36 of the CC), which include legitimate defence and necessity (Article 25),⁶⁸ and force, violence, menace and threat (Article 28),⁶⁹ leaving the final decision to the judge's discretion. Further, Article 147 of the CC stipulates that where theft was committed as a result of an urgent and serious need, the penalty to be imposed may either be reduced or waived altogether, taking into account the circumstances of the situation.⁷⁰

211. GRETA notes that no guidance is available for law enforcement officials, prosecutors and judges concerning the application of the non-punishment provision in respect of victims of THB. The Turkish authorities have not provided examples of cases in which the above-mentioned provisions of the CC were applied to victims of THB, thereby ensuring that such persons are not punished for their involvement in unlawful activities, to the extent that they have been compelled to do so.

212. As already mentioned in paragraph 179, Article 46 of the Regulation on the Implementation of the Law on Foreigners and International Protection provides for not sanctioning victims of THB by cancellation of their residence permits in cases they have been forced to commit misdemeanours.

213. In the course of the visit, GRETA was informed that in cases where an investigation starts for undocumented labour, if a person concerned is identified as a victim of THB, the administrative fine imposed by the labour inspector would be suspended either by the prosecutor or by the judge. However, should the accused be acquitted by court at the end of the criminal proceedings, the fine on the illegally employed person would be enforced, regardless of his/her being identified by the DGMM as a victim of THB.

⁶⁸ "(1) No penalty shall be imposed upon an offender in respect of acts which were necessary to repel an unjust assault which is directed, carried out, certain to be carried out or to be repeated against a right to which he, or another, was entitled, provided such acts were proportionate to the assault, taking into account the situation and circumstances prevailing at the time. (2) No penalty shall be imposed upon an offender in respect of acts which were committed out of necessity, in order to protect against a serious and certain danger (which he has not knowingly caused) which was directed at a right to which he, or another, was entitled and where there was no other means of protection, provided that the means used were proportionate to the gravity and subject of the danger" (unofficial translation).

⁶⁹ "No penalty shall be imposed upon a person who commits a criminal offence as a result of intolerable or inevitable violence, or serious menace or gross threat. In such cases, the person involved in the use of force, violence, menace or threat shall be deemed to be the offender" (unofficial translation).

⁷⁰ This provision could be applicable to victims of THB for the purposes of forced criminality, involving theft.

214. GRETA is concerned by reports reflected in the Concluding observations of CEDAW on the seventh periodic report of Turkey suggesting that victims of trafficking, including women engaging in prostitution, have been arrested, detained and deported for acts committed as a consequence of having been trafficked.⁷¹

215. **GRETA urges the Turkish authorities to take additional measures to ensure compliance with the provision on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, in pursuance to Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision. Further, the Turkish authorities should examine the possibility of repealing sanctions imposed against victims of THB and providing compensation or reimbursement of fines paid by victims of THB.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁷²

c. Investigation, prosecution and procedural law

216. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB (Article 1(1)(b)). In this context, Parties are required to co-operate with each other regarding investigations and/or criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not be dependent on victims' reports, and that associations or NGOs aimed at fighting THB or protecting human rights must be able to assist and support victims during criminal proceedings, in accordance with the conditions established in the internal law and with the victim's consent (Article 27).

217. Pursuant to Articles 160 and 161 of the CPC, the public prosecutor has the duty to "immediately investigate the factual truth" as soon as he/she is informed of a fact that creates an impression that a crime has been committed, either through a report of crime or any other way. Consequently, THB offences are investigated *ex officio*, regardless of whether a complaint has been filed.

218. GRETA was informed that there are no prosecutors and judges specialised to deal with THB cases at first instance criminal courts. There is reportedly some specialisation when it comes to appeals in THB cases, which are dealt with by the 18th Criminal Chamber of the Court of Cassation. As noted in paragraph 82, the training provided to prosecutors and judges concerning THB is sporadic. GRETA notes that investigators, prosecutors, judges and lawyers who are not specialised and trained to deal with trafficking cases may be prejudiced vis-à-vis victims of trafficking and insensitive to the problems experienced by them.

219. As already mentioned in paragraph 78, some 4 500 judges and prosecutors were removed from office after July 2016. This resulted in a significant reduction in human resources and experience, which has not yet been fully resolved. Representatives of the judiciary and the prosecution concurred that newly appointed staff had not received sufficient training to efficiently investigate and adjudicate complex criminal cases, including THB. GRETA stresses the importance of training and of independence of the judiciary and the legal profession to ensuring an effective, human rights-based approach to combating trafficking, premised on respect for the rule of law.

⁷¹ Adopted by CEDAW at its sixty-fourth session (4-22 July 2016).

⁷² <http://www.osce.org/secretariat/101002?download=true>

220. Article 135 (location, listening and recording of correspondence) and Article 140 (surveillance with technical means) of the CPC allow the use of special investigation techniques, upon permission of the court, for certain criminal offences, including THB. In urgent cases the prosecutor may decide to authorise the use of such means, which should be immediately notified to the judge and approved within 24 hours. GRETA was informed that law enforcement officials use special investigation techniques in THB cases, in particular phone wiretapping, covert surveillance, video and photo recording, and visual and covert observation. These special investigation techniques are mostly used during proactive investigations to detect networks for exploiting women in prostitution, which currently tend to operate more frequently in apartment blocks than in hotels or clubs.

221. GRETA was informed that the co-ordination between the different law enforcement agencies (National Police, Gendarmerie and Coast Guard) worked well in practice. The great majority of the investigated THB cases (around 94%) have concerned sexual exploitation. There have reportedly been no investigations concerning THB for labour exploitation in recent years. Law enforcement officials indicated that it was very difficult to investigate such offences as in most cases, economically vulnerable persons agreed to work for very low wages (e.g. as shepherds or in hazelnut harvesting) and depended on their employer for their economic survival, which is why they refused to talk to the Police or Gendarmerie. Another problem is finding reliable interpreters as in some cases it was discovered that interpreters were themselves involved in criminal networks.

222. According to information contained in the Turkish authorities' reply to GRETA's questionnaire, the number of completed criminal proceedings for THB was 91 in 2014, 115 in 2015, 72 in 2016, 42 in 2017, and 82 in 2018. The number of persons convicted and sentenced to imprisonment was as follows: 38 in 2014, 56 in 2015, 42 in 2016, 45 in 2017 and 77 in 2018. The number of persons acquitted was as follows: 295 in 2014, 317 in 2015, 266 in 2016, 96 in 2017, and 305 in 2018. The number of persons with regard to whom other judgments were handed down was 62 in 2014, 108 in 2015, 29 in 2016, 44 in 2017 and 40 in 2018. The sentences ranged from eight to over 21 years' imprisonment. The high number of acquittals (between 51 and 72% per year) suggests that there is a need to improve the effectiveness of investigations.

223. The Turkish authorities have provided several examples of cases which concerned foreign women and girls apparently forced into prostitution where the accused were acquitted.⁷³ In one case which concerned a girl under 15 years of age who was forced into prostitution, the Court of Cassation's 18th Criminal Chamber convicted the accused of sexual abuse of a child under 15 years of age (Article 103, paragraph 1-a of the CC), which carries a more severe punishment than THB.⁷⁴

224. According to research of case-law relating to Article 80 of the CC and related provisions, there are practical difficulties in adjudicating human trafficking cases and distinguishing between THB and related offences, in particular prostitution (Article 227 of the CC).⁷⁵ Further, there are difficulties in qualifying cases as THB for the purposes of labour exploitation as opposed to Article 117 (violation of freedom of work and labour). Law enforcement officers indicated that they investigate cases of prostitution both on the basis of Article 80 and 227 of the CC, as well as Article 220 (organised criminal groups). Representatives of the judiciary indicated that cases initiated as THB are sometimes re-qualified at the stage of court proceedings to other offences, usually prostitution (Article 227), which carry lesser penalties.

⁷³ Court of Cassation, Criminal Chamber 18, merit No. 2018/794, decision No. 2018/2178, notification No. 18 2016/217859.

⁷⁴ Court of Cassation, Criminal Chamber 18, merit No. 2016/485, decision No. 2017/4050, notification No. 9-2014/40646.

⁷⁵ Yeşim Yılmaz, *The Crime Of Human Trafficking and the Issue of Multiplicity Aggregation*, Marmara University Faculty of Law Journal of Legal Studies, 2017, available in Turkish at: <http://dergipark.gov.tr/maruhad/issue/36611/414852>

225. Representatives of the judiciary and the prosecution noted that the evidence of victims and witnesses was crucial, but victims of THB very rarely participated in criminal proceedings, either because they had already left Turkey or because they felt intimidated. As noted in paragraph 141, the practice in Turkey is to return victims as soon as possible after identification to their countries of origin. A judge with a long experience of THB cases said that he had never had the possibility to hear a victim of trafficking in court as the victims had always left the country. In his opinion, the evidence would have been much stronger if it had been possible to hear victims *in camera*. Prosecutors met by GRETA were favourable to recording victims' statements prior to their return to countries of origin, but noted that the current procedural law did not allow such statements to be taken. In GRETA's view, the interview with the victim is an important part of the evidence in court, together with other types of evidence. As THB is a complex crime to prove in court, victim evidence can be of crucial importance. It is also difficult to handle the compensation of a victim in the court case if the victim is not present.

226. Another problem mentioned by different interlocutors is that during court proceedings victims change statements, which often results in cases not resulting in convictions or the re-qualification of THB cases into other offences. This highlights the importance of ensuring that victims are prepared psychologically before they give statements. Further, it was noted that there was often insufficient evidence to prosecute and convict the masterminds behind THB offences.

227. In addition, international co-operation in criminal matters was considered to be problematic. GRETA was informed that efforts to obtain victim/witness statements from other countries were time consuming and often ineffective. Mutual legal assistance is reportedly almost never used in THB cases. Many interlocutors stressed the need for improving international co-operation in order to dismantle transnational criminal networks.

228. GRETA notes the conclusions of the European Commission that Turkey needs to improve its legislation on cybercrime, asset confiscation and witness protection, indicating that financial investigations remain underused, precautionary freezing of assets is rarely applied, and the level of confiscated assets is low.⁷⁶ No information was provided by the Turkish authorities regarding convictions for THB which resulted in confiscation of assets. The authorities indicated that confiscation of assets acquired through THB is carried out by law enforcement agencies and the Financial Crimes Investigation Board (MASAK) on prosecutor's orders. The legal basis is provided in Articles 54 (seizure of property) and 55 (confiscation of income) of the CC. Further, the authorities have stated that the Cybercrime Department of the General Directorate of Security co-operates with the Migrant Smuggling and Human Trafficking Department in the investigation of THB offences facilitated through the internet.

229. GRETA notes with concern that the available statistics indicate a high proportion of acquittals in THB cases. There appear to be very limited opportunities for victims to participate in the criminal justice process, if they wish, including through the application of protection measures and the provision of legal assistance. The lack of victim participation may hinder the effectiveness of the criminal trial process, with a limited number of convictions for the crime of trafficking, thus contributing to impunity. Convictions are imposed instead for other criminal offences with lesser sentences.

⁷⁶ See Key findings of the 2018 Report on Turkey, [http://europa.eu/rapid/press-release MEMO-18-3407_en.htm](http://europa.eu/rapid/press-release_MEMO-18-3407_en.htm) (17 April 2018)

230. **GRETA urges the Turkish authorities to:**

- **prioritise the identification of gaps in the investigation procedure and the prosecution of THB cases in court, for different purposes of exploitation, with a view to ensuring effective, proportionate and dissuasive convictions;**
- **develop the training and specialisation of law enforcement officials, prosecutors and judges to deal with THB cases;**
- **provide law enforcement authorities with the necessary guidance and tools to detect and investigate THB cases for different purposes of exploitation;**
- **carry out financial investigations into THB cases in order to effectively locate, seize and confiscate criminal assets related to this offence;**
- **improve the possibilities for victims to participate in court proceedings.**

231. GRETA was informed of the on-going preparation of the Judicial Reform Strategy in Turkey, with eight policy objectives, which include improving the effectiveness of the criminal justice system, increasing the performance and efficiency of the judiciary, developing the human resources in the judiciary in quality and quantity, and improving access to justice and the satisfaction with justice services. The Turkish authorities have stated that the preparatory work on the new Judicial Reform Strategy (2019-2023) continues and have referred to additional policy objectives, such as improving victims' access to justice and international co-operation on transnational organised crime, including human trafficking.

d. Protection of victims and witnesses

232. By virtue of Article 28 of the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation of victims and witnesses, in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (physical, relocation, identity change, etc.) and is to be provided to victims of trafficking, to those who report it or otherwise co-operate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. Further, Article 30 of the Convention includes a provision requiring Parties to take measures to protect victims' private life and identity and to provide for their safety and protection from intimidation in the course of judicial proceedings, including special protection measures for child victims of THB.

233. The Turkish authorities informed GRETA that victims of THB would be eligible to benefit from safety and protection measures under the Witness Protection Act, as THB falls under offences carrying at least 10 years' imprisonment. Further, witness protection measures can be applied in cases which concern offences committed by criminal organisations and terrorist organisations. As per Article 5 of the Witness Protection Act, protection measures include keeping identity data and the address secret and designating a different address for notifications to be sent to the witness; conducting the hearing in the absence of the accused, or by changing the witnesses' voice or appearance; placing the accused or the convicted in custody; providing physical protection; changing and issuing identity documents and other relevant data; financial assistance; changing the workplace or educational institution; relocating to another region within the country; temporary relocation to another country in compliance with international agreements and the principle of reciprocity; settling the witness to another country temporarily; changing of physical appearance with or without plastic surgery and rearranging witnesses' identity documents accordingly. No information was provided by the authorities on the application of the witness protection measures to victims of THB.

234. GRETA refers to the 2017 Report on Combating THB in Turkey, which notes that during criminal proceedings, "perpetrators threaten the life or physical integrity of the victims or their families and pressurise them in order not to be arrested or sentenced."

235. The authorities have indicated that courts have discretion to decide if some or all parts of a court session are to be closed, pursuant to Article 182 of the CCP, in cases where public morality or public safety necessitates. Mandatory closed sessions are regulated by Article 185 of the CCP in cases where the defendants are under 18 years of age.

236. Pursuant to Article 236, paragraph 2, of the CCP, during witness hearings of child victims or persons who are mentally disturbed due to the effects of the offence, it is obligatory to have an expert (psychologist, psychiatrist, medical doctor or education expert) present. This expert is responsible for meeting with the child before the hearing and decreasing his/her anxiety level in addition to being present at the time of the hearing. In case a measure is needed to be ordered by the court concerning a child victim, in order to meet the needs of the child (education, counselling and accommodation measures), a social study report is to be prepared by the expert concerned. In addition, pursuant to Article 52, paragraph 3, of the CCP, there is an obligation to keep audio-video recordings of testimonies of child victims.

237. GRETA notes that the report on Turkey by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) refers to the setting up of dedicated "judicial interview rooms" within the premises of courts where victims can give testimony with the assistance of trained specialist staff, and the foreseen establishment of specialist support structures for victims in 150 court houses around the country.⁷⁷ The authorities have stated that all vulnerable victims who may be affected negatively by a confrontation with the offender can benefit from judicial interview rooms, at the discretion of the judge and prosecutor. As noted in paragraph 185, Directorates of Judicial Support and Services for Victims, employing psychologists and social workers, have been established and are operating as of 1 April 2019 in seven pilot courthouses (Istanbul, Izmir, Adana, Eskişehir, Samsun, Rize and Malatya). Special services will be offered to persons who are identified as a member of a vulnerable group, such as victims of human trafficking, including help to collect documents necessary for benefiting from judiciary support.

238. GRETA notes with concern that victims of THB appear to have very limited opportunities to participate in criminal proceedings, if they wish, and the protection measures available in law are apparently not used in practice. As already pointed out, the majority of victims return to their countries of origin much earlier than the cases reaching the stage of criminal proceedings.

239. **GRETA urges the Turkish authorities to make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent their intimidation during the investigation and during and after the court proceedings.** In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁷⁸

⁷⁷ Baseline Evaluation Report on Turkey, published by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) on 15 October 2018, paragraph 317, available at: <https://rm.coe.int/eng-grevio-report-turquie/16808e5283>

⁷⁸ [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)

IV. Concluding remarks

240. The Turkish authorities have undertaken a number of measures to combat trafficking in human beings, through the adoption of relevant legislation and regulations, the setting up of co-ordinating and specialised structures, and the provision of training to relevant professionals.

241. While GRETA acknowledges the steps taken by Turkey so far, a number of challenges remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based approach outlined in paragraphs 42-47.

242. The Convention requires Parties to ensure that anti-trafficking action is comprehensive. GRETA stresses the need for adopting, as a matter of priority, a new national anti-trafficking action plan which addresses all victims of trafficking for all forms of exploitation, while taking into account the gender-dimension of trafficking and the particular vulnerability of children. Further, GRETA urges the Turkish authorities to involve specialised NGOs and other relevant civil society actors in the planning, implementing and evaluating of national anti-trafficking policies, with the aim of building strategic partnerships for achieving the purposes of the Convention.

243. In the area of prevention, efforts should be made to raise awareness of human trafficking among the general public and discourage demand for the services of trafficked persons, combined with targeted measures for groups and persons particularly vulnerable to human trafficking, including refugees, asylum seekers, migrants in transit, internally displaced persons, women and children.

244. GRETA calls on the Turkish authorities to take steps to improve the identification of victims of trafficking, by promoting a multi-agency approach and providing further training and guidance to enable the proactive detection of victims. Identifying victims of trafficking for the purpose of labour exploitation requires strengthened labour inspections and expanding the capacity of labour inspectors to detect cases of human trafficking and refer presumed victims to assistance. The authorities must ensure that all presumed and identified victims, including men, can benefit from the assistance and protection measures provided for under the Convention. Efforts should also be made to ensure that victims of trafficking can take full advantage of the right to be granted a temporary residence permit and have effective access to compensation.

245. In the area of international co-operation, the authorities need to strengthen their efforts as regards investigating cases of transnational human trafficking and explore further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit, with a view to providing assistance to, and safe referral for, victims of trafficking and preventing human trafficking.

246. Strengthening the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive convictions for human trafficking offences for all types of exploitation is another area where further action is required. GRETA draws attention to the need to make full use of the available measures to protect victims and witnesses of human trafficking and to enable them to participate in the criminal justice process.

247. All professionals who may come into contact with victims of human trafficking, in particular law enforcement officials, prosecutors, judges, labour inspectors, social workers, child protection professionals, staff of reception centres for asylum seekers, staff working in removal centres, lawyers, health-care professionals and consular officials, must be continuously informed and trained about the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case law of the European Court of Human Rights.

248. GRETA invites the Turkish authorities to keep it informed on a regular basis of developments in the implementation of the Convention and looks forward to continuing the co-operation in achieving the purposes of the Convention.

Appendix I: List of GRETA's proposals

Definition of "victim of THB"

1. GRETA urges the Turkish authorities to bring the definition of THB in conformity with Article 4 of the Convention by adding "servitude" and "other forms of sexual exploitation" to the list of forms of exploitation.
2. GRETA considers that the Turkish authorities should ensure that the means of "abuse of a position of vulnerability" and "giving or receiving of payments or benefits to achieve the consent of a person having control over another person" are adequately covered by law and practice.

Comprehensive approach and co-ordination

3. GRETA considers that the Turkish authorities should continue raising awareness among all frontline professionals involved in action against trafficking concerning the scope of the definition of trafficking in human beings and the rights of victims of trafficking, including in the context of irregular migration.
4. GRETA urges the Turkish authorities to take further steps to ensure that national action to combat THB is comprehensive, through the adoption, as a matter of priority, of a new national action plan against THB, in which objectives, concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated. The action plan should be accompanied by a mechanism for monitoring its implementation and should aim to:
 - address all victims of trafficking, including Turkish nationals, for all forms of exploitation, including forced begging, forced criminality, forced marriages and the removal of organs, while taking into account the gender-dimension of trafficking and the particular vulnerability of children;
 - prioritise the identification of victims of human trafficking amongst refugees, asylum seekers and internally displaced persons, particularly in the South-Eastern region;
 - strengthen action to combat THB for the purpose of labour exploitation by reviewing the legislative framework, improving the identification of, and assistance to, victims of THB for the purpose of labour exploitation in different sectors of the economy (in particular high-risk sectors such as agriculture, construction, restaurants, entertainment and domestic work), and involving civil society, trade unions, labour inspectorates and the private sector.
5. GRETA urges the Turkish authorities to ensure the involvement of specialised NGOs and other relevant civil society actors in the planning, drafting, implementing and evaluating of national anti-trafficking policies, with the aim of building strategic partnerships for achieving the purposes of the Convention, as envisaged in Article 35 of the Convention, and promoting a human rights-based approach to combating human trafficking (Article 5, paragraph 3, of the Convention). In this context, the authorities should provide on-going and sustainable funding for anti-trafficking activities of NGOs.
6. GRETA considers that the Turkish authorities should consolidate the co-ordination of anti-trafficking activities at the national and provincial levels by ensuring regular exchange of information between all public bodies involved in prevention of THB, identification and assistance to victims, and prosecution of traffickers. In this context, the establishment of the post of National Co-ordinator on action against THB, supported by a dedicated office, could significantly strengthen co-ordination.
7. GRETA considers that the Turkish authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions, including the implementation of the National Action Plan.

Training of relevant professionals

8. GRETA urges the Turkish authorities to take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (such as police and Gendarmerie officers, prosecutors, judges, social workers and other staff delivering social services, labour inspectors, staff working in centres for asylum seekers, staff working in removal centres, child protection authorities, consular officials, health-care professionals, coast guard services). The training should be mainstreamed into the regular training curricula of relevant professionals, at all levels, including those at senior decision-making levels, and implemented systematically across the country. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to ensure effective access to compensation for victims, to enable effective investigations, and to secure convictions of traffickers.

Data collection and research

9. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Turkish authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

10. GRETA considers that the Turkish authorities should conduct and support research on THB as an important source of information for the evaluation and planning of policy measures. Areas where research should be carried out include trafficking for the purpose of labour exploitation, child trafficking and trafficking taking place within Turkey for different purposes of exploitation. Further research on emerging trends, including on the potential for trafficking of children for the purpose of use in hostilities and armed conflict, forced marriage, live streaming of trafficking for the purpose of sexual exploitation of children, should be undertaken, with resources and an enabling framework for independent research supported by the State.

International co-operation

11. GRETA urges the Turkish authorities to strengthen international co-operation in the field of action against THB, including as regards investigating cases of transnational THB, and to explore further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit, with a view to providing assistance to, and safe referral for, victims of trafficking and preventing THB.

Measures to raise awareness

12. GRETA urges the Turkish authorities to launch nation-wide awareness-raising campaigns regarding THB for different forms of exploitation, taking place both transnationally and within the country. Further, awareness-raising activities about THB and the rights of victims should be carried out in respect of vulnerable groups, such as migrant workers, refugees, persons under temporary protection, asylum seekers and internally displaced persons. Future awareness-raising activities should be designed in the light of impact assessment of previous measures, focusing on the needs identified.

Measures to discourage demand

13. GRETA considers that the Turkish authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:

- raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;
- promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains;
- implementing educational programmes at schools that stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination.

14. GRETA considers that the Turkish authorities should examine the possibility of establishing as a criminal offence the use of services which are the object of exploitation as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings.

Economic, social and other initiatives for groups vulnerable to THB

15. GRETA considers that the Turkish authorities should continue strengthening prevention of THB through targeted social and economic empowerment measures for groups and persons vulnerable to THB, including refugees, asylum seekers, migrants in transit, internally displaced persons, women and children. Further, recalling the Council of Europe Action Plan on Protecting Migrant and Refugee children, GRETA considers that further measures should be taken to prevent trafficking among migrant and refugee children (unaccompanied and separated children, as well as those accompanied by families), including through timely appointment of guardians, provision of specialised accommodation and a protective environment for all children, ensuring the implementation of a child rights approach.

Border measures to prevent THB and measures to enable legal migration

16. GRETA considers that the Turkish authorities should strengthen their efforts to detect and prevent THB through border control measures, in particular in the context of increased migration. This should include:

- strengthening the capacity of all competent law enforcement bodies to detect indicators of THB among persons arriving in Turkey and ensure prompt and effective access to assistance and protection;
- providing Coast Guard officers with indicators to enable the identification and prompt and effective referral to assistance and protection of all possible victims of trafficking;
- providing information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of THB, their rights and the availability of legal assistance, counselling and other services. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit (2016);
- proactive measures at all borders, including maritime borders, to ensure compliance with the State's positive obligations to prevent trafficking in human beings and to effectively protect the human rights of victims of trafficking.

Identification of victims of trafficking in human beings

17. GRETA urges the Turkish authorities to take steps to improve the identification of victims of THB, and in particular to:

- promote a multi-agency approach in the identification of victims of trafficking by involving the expertise of all relevant organisations and entities, such as specialised NGOs, social workers, labour inspectors, child protection specialists and health-care staff;
- ensure an enabling environment for NGOs and sufficient resources to support their involvement in the identification of possible victims of trafficking, including in removal centres and in search and rescue operations at sea;
- ensure effective implementation of the Regulation on Combating Human Trafficking and Protection of Victims by providing training to relevant professionals on identification indicators, techniques and procedures;
- ensure that the authorities have sufficient staff to be able to manage the identification procedure, take measures to proactively identify victims of transnational, as well as internal trafficking (i.e. taking place within Turkey) for different purposes of exploitation, and provide the law enforcement bodies and other competent authorities with the necessary means for doing so;
- pay increased attention to the proactive detection of victims of trafficking among asylum seekers and persons placed in removal centres, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, training on the identification of victims of THB and their rights should be provided to staff working in centres where such persons are placed, in co-operation with civil society and lawyers;
- ensure the availability and quality of interpreters and cultural mediators during the identification process and at all stages of investigation processes;
- ensure that the identification of child victims of THB takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;
- ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to unaccompanied and separated migrant and refugee children, as well as children working in the agricultural sector and children in street situations;
- ensure identification of possible victims of THB, including child victims, at all border crossings in accordance with the OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit;
- provide training and guidance for the identification of child victims of THB for different purposes, including sexual exploitation, forced marriage, exploitation of begging and exploitation of criminal activities.

18. GRETA urges the Turkish authorities to take steps to strengthen the proactive identification of victims of THB for the purpose of labour exploitation, and in particular to:

- expand the capacity of labour inspectors so that they can be actively engaged in the prevention of THB, including in private households, small businesses in the hotel, catering and restaurant sectors and small agricultural units;
- monitor the frequency and effectiveness of labour inspections and ensure that sufficient human and financial resources are made available to labour inspectors to fulfil their mandate, including in remote locations at risk of THB in the agricultural sector;
- separate immigration enforcement functions from labour inspectorate roles and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
- review the regulatory systems concerning migrants working as home care workers and ensure that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking.

Assistance to victims

19. GRETA urges the Turkish authorities to take the necessary legislative and practical measures to ensure adequate assistance to victims of trafficking, and in particular to:

- provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking (women, men and children);
- ensure that conditions provided in shelters for victims of trafficking are adequate and adapted to their special needs. In this context, better balance should be struck between the need to place victims of THB in a safe accommodation and the need to achieve their recovery and rehabilitation; this requires greater awareness among staff working with such victims as regards the need to respect the victims' privacy and to assist in their rehabilitation;
- facilitate the social inclusion of victims of trafficking into society and prevent re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market;
- provide specialised assistance for child victims of trafficking which takes into account their specific circumstances and the best interests of the child, ensuring timely appointment of qualified guardians and a holistic approach to age assessment, in accordance with General Comment No. 6 of the UN Committee on the Rights of the Child and the Council of Europe Action Plan on Protecting the Rights of Migrant and Refugee Children;
- provide regular training to all professionals responsible for implementing assistance measures for victims of trafficking.

20. GRETA considers that for the purpose of assisting all victims of THB for different purposes of exploitation, the authorities should strengthen partnerships with specialised NGOs, including by delegating to NGOs the functions of service providers, and provide adequate financing of the services delivered by such NGOs.

Recovery and reflection period

21. GRETA considers that the Turkish authorities should ensure that all presumed foreign victims of THB are systematically informed of their right to a recovery and reflection period and to ensure that the recovery and reflection period is applied in practice to all foreign victims of THB.

Residence permits

22. GRETA considers that the Turkish authorities should ensure that all victims of THB can fully benefit from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum.

23. GRETA considers that the Turkish authorities should review Article 29 of the Regulation on Combating Human Trafficking and the Protection of Victims, which refers to victims leaving the shelter without informing the authorities as grounds for terminating the victim support programme.

Compensation and legal redress

24. GRETA urges the Turkish authorities to adopt legislative and practical measures to facilitate access to compensation for victims of trafficking, and in particular to:

- ensure that victims have access, from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings and the right to seek compensation, in a language they can understand;
- enable victims of trafficking, including those in removal centres, to exercise their right to compensation by ensuring their effective access to State-funded legal aid, by building the capacity of legal practitioners to support victims to claim compensation and including the issue of victim compensation into training programmes for law enforcement officials, prosecutors, judges and lawyers;
- establish a State compensation scheme accessible to victims of THB, regardless of their citizenship and residence status.

25. GRETA invites the Turkish authorities to collect statistical information concerning compensation awarded by courts to victims of THB, in response to their compensation claims made in criminal and civil proceedings.

Repatriation and return of victims

26. GRETA urges the Turkish authorities to take additional steps to:

- ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. This means informing victims about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;
- develop international co-operation and involvement of NGOs in order to ensure comprehensive risk assessment and safe return, as well as safe and effective reintegration of victims of THB;
- ensure compliance with the non-refoulement obligation under Article 40, paragraph 4, of the Convention. In this context, the Turkish authorities should give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.

Substantive criminal law

27. GRETA urges the Turkish authorities to consider trafficking in all children, i.e. all persons under the age of 18, as an aggravating circumstance, in accordance with Article 24 of the Convention, and to ensure that all the aggravating circumstances included in the Convention, including the offence deliberately or by gross negligence endangering the life of the victim, are appropriately taken into account.

28. GRETA urges the Turkish authorities to adopt such legislative and other measures providing for the possibility to take into account final sentences passed by another Party in relation to THB when determining the penalty.

Non-punishment of victims of trafficking in human beings

29. GRETA urges the Turkish authorities to take additional measures to ensure compliance with the provision on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, in pursuance to Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision. Further, the Turkish authorities should examine the possibility of repealing sanctions imposed against victims of THB and providing compensation or reimbursement of fines paid by victims of THB.

Investigation, prosecution and procedural law

30. GRETA urges the Turkish authorities to:

- prioritise the identification of gaps in the investigation procedure and the prosecution of THB cases in court, for different purposes of exploitation, with a view to ensuring effective, proportionate and dissuasive convictions;
- develop the training and specialisation of law enforcement officials, prosecutors and judges to deal with THB cases;
- provide law enforcement authorities with the necessary guidance and tools to detect and investigate THB cases for different purposes of exploitation;
- carry out financial investigations into THB cases in order to effectively locate, seize and confiscate criminal assets related to this offence;
- improve the possibilities for victims to participate in court proceedings.

Protection of victims and witnesses

31. GRETA urges the Turkish authorities to make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent their intimidation during the investigation and during and after the court proceedings.

Appendix II: List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations

Public bodies

- Directorate General of Migration Management, including Department of Protection of Victims of Human Trafficking, and Provincial Directorates of Migration Management in Adana, Ankara, Edirne, Istanbul, Kirikkale and Kırklareli Provinces
- Ministry of Justice
 - Department of Victim Rights
 - General Directorate of Criminal Records and Statistics
- Ministry of Labour, Social Service and Family
 - Directorate General on the Status of Women
 - Directorate General of Child Services
 - Directorate General of International Labour Force
 - Presidency of Labour Inspection Board
- Ministry of Education
- Ministry of Health
- Ministry of Foreign Affairs
- National Police
 - Department of Public Order
 - Department for Combating Migrant Smuggling and Human Trafficking
- Gendarmerie General Command
 - Department for Combating Migrant Smuggling and Human Trafficking
- Coast Guard Command
- Prosecutors from the Supreme Court and Ankara Public Prosecutor Office
- Istanbul Courthouse
- Gaziantep Courthouse
- Grand National Assembly (Parliament)
- National Human Rights and Equality Institution

Intergovernmental organisations

- European Union (EU) Delegation
- International Centre for Migration Policy Development (ICMPD)
- International Labour Organization (ILO)
- International Organization for Migration (IOM)
- United Nations High Commissioner for Refugees (UNHCR)

Non-governmental organisations and other civil society actors

- Antalya Family Counsellors Association (AİLEDER)
- Association for Solidarity with Asylum Seekers and Migrants
- Human Resource Development Foundation (İKGV)
- Istanbul Bar Association
- Women's Solidarity Foundation
- Union of Turkish Bar Associations

Government's comments

The following comments do not form part of GRETA's analysis concerning the situation in Turkey

GRETA engaged in a dialogue with the Turkish authorities on a first draft of the report. The authorities submitted comments on the first draft of the report on 3 June 2019, which were taken on board by GRETA and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Turkish authorities on 19 July 2019 and invited them to submit any final comments. On 6 September 2016, the Turkish authorities submitted comments which included their initial comments on the draft report as well as some additional comments, all of which are reproduced hereafter.

Final comments of the Government of the Republic of Turkey on the final report drawn up by the Group of Experts on Action against Trafficking in Human Beings concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Turkey (first evaluation round)

(the numbering refers to our responses to the paragraphs of the final report presented to Turkey on 19th July 2019)

9. The Women's Shelters under the Ministry of Family, Labour and Social Services are boarding social service organisations that serve to protect the victims of violence and their accompanying children, if any, from violence and to resolve their problems and to strengthen them. Under the Article 17 of the Regulation No 28519 on Women Shelters, the services given by Women's Shelters are based on privacy policy and in accordance with the provision that states "visitors are not allowed to guest houses" in Article 16/2-ç of the same Regulation, the delegation's request to visit a guest house could not have been fulfilled.

However, the visit request of the delegation was met by a visit to Ankara Centre for Preventing and Monitoring Violence which serves 24 hours a day and 7 days a week for the elimination of violence against women. During the visit, the delegation was informed about the Centre for Preventing and Monitoring Violence, which is an institutional unit for the fight against domestic violence and violence against woman, and about the services provided in women's shelters

20. The draft of new regulation is on preparation phase and the comments of the United Nations Country Team will be received. Draft Law on Victim Rights has been submitted to the Council of Ministers following its revision in line with the comments made by the public institutions and the United Nations Country Team. The exact date of its introduction before the National Assembly is not certain yet.

26 - 67 - 79 - 158 The budget allocated to the Department of Protection of Victims of Human Trafficking in 2016 was 13.885.000 TL and in 2017 it was 12.621.000 TL. However, as the Working Group on Irregular Migration carried their duties under the Department of Protection of Victims of Human Trafficking in 2016 and 2017, the total budget covered the budget allocated for the activities of irregular migration. The distribution of this budget into the victims of human trafficking and their activities are clarified in the table.

Budget Categories	2016		2017	
	Budget Allocated	Expenditure Made	Budget Allocated	Expenditure Made
Stationery expenses	38.000 TL	38.000 TL	48.000 TL	39.000 TL
Allowance	458.000 TL	101.000 TL	827.000 TL	127.000 TL
Mission expenses	12.800.000 TL	-	11.138.000 TL	-
Service procurement	29.000 TL	20.000 TL	24.000 TL	24.000 TL
Representation and advertising expenses	50.000 TL	14.000 TL	43.000 TL	7.000 TL

Purchasing of office materials	11.000 TL	11.000 TL	12.000 TL	12.000 TL
Transfers to non-profit organizations	100.000 TL	-	107.000 TL	-
Transfers to abroad	399.000 TL	-	422.000 TL	-
TOTAL	13.885.000 TL	184.000 TL	12.621.000 TL	209.000 TL
DGMM		123.180 TL		236.213 TL
GRAND TOTAL		307.180 TL		445.213 TL

Our Department spent 184.000 TL in 2016 and 209.000 TL in 2017. In addition to those expenses; 27.780 TL for security staff, 95.900 TL for renovation, furnishing and other payments, 123.180 in total in 2016; and 62.955 TL for electric, water, natural gas and food expenses, 166.646 TL for security staff, 1.367 TL for purchasing of office materials, 5.245 TL for maintenance and repair, 236.213 TL in total in 2017 were made for Kırıkkale Shelter House from DGMM Budget.

The projects provide funding for training and other activities.

Apart from that, 100.000 TL in 2016 and 107.000 TL in 2017 was allocated for civil society organisations which run/will run shelter houses however, as there was no civil society organisation which run/ seek to run shelter houses that money was not spent.

28. International organisations (IOM and ICMPD), civil society organisations (Turkish Red Crescent, İKGV, AİLEDER) and Ankara Municipality were invited to the Coordination Commission's meetings in 2017 and 2018. There are plans to invite them to the future meetings.

29. "Sub-commission on children" convened on 21/09/2018 and it was decided that awareness-raising activities and trainings should be provided to the staff dealing with child victims. "Sub-commission on labour" was convened on 27/09/2018. In the meeting, it was decided to express the opinion about the draft regulation (Regulation regarding the Implementation of the Law on Work Permit for Foreigners) prepared by Ministry of Family Labour and Social Services (the Ministry of Labour and Social Security and the Ministry of Family and Social Services were united in 9 July 2018 and became Ministry of Family Labour and Social Services) that victims should not be included into the quota allocated for foreigners for their access to work permits and victims should not have a waiting period for 6 months (holders of residence permits, temporary protection and international protection status holders may apply for work permit 6 months after their id were issued).

31. a. In General Command of Gendarmerie, combating migrant smuggling and THB is carried out by the Chief of Combating Migrant Smuggling and THB section organised under the division of Anti-smuggling and Organised Crime of Provincial Gendarmerie Command in 81 provinces. As shown in the below table, the Branch Offices for Combating Migrant Smuggling and THB became operational in 6 Provincial Gendarmerie Commands in 2018 and in 10 Provincial Gendarmerie Commands in 2019. The Branch Offices for Combating Migrant Smuggling and THB are planned to be operational in 3 Provincial Gendarmerie Commands in 2020 and in 4 Provincial Gendarmerie Commands in 2021.

b. Furthermore, Sections for Combating Migrant Smuggling and THB became operational in 1 Provincial Gendarmerie Command and 2 District Gendarmerie Commands in 2018 and 6 District Gendarmerie Commands in 2019. Sections for Combating Migrant Smuggling and THB are planned to be operational in 9 District Gendarmerie Commands in 2020.

c. Working Groups on Combating Human Trafficking consisting of at least 2 Gendarmerie personnel have been assigned by the Gendarmerie General Command in the field of combating human trafficking in 33 Provincial Gendarmerie Commands, who are more likely to encounter the offence of human trafficking, in order to reveal the criminal organizations and to apprehend the traffickers;

ç. On 28 February 2018, Coordination Commission for Combating Human Trafficking meeting was held at the General Directorate of Migration Management. As a result of this meeting and within the scope of Article 15 of the Regulation on Combating Human Trafficking and Protection of Victims, it was decided to establish and maintain a cooperation mechanism between all relevant public institutions and organizations in the field of preventing and combatting the offence of human trafficking, victim identification process, protection of victims, and return operations. Within the scope of that decision, Contact Persons for Combatting Human Trafficking have been formed from the personnel working in the Branches of Migration Smuggling and Combatting Human Trafficking under the Department of Anti-smuggling and Organised Crimes at 15 Provincial Gendarmerie Commands who are likely to encounter victims of trafficking.

35 – 67 – 71 - 163 AİLEDER had to close its shelter in Antalya due to security concerns and being deciphered by human traffickers. It was stated that AİLEDER could run a shelter in İzmir and if they found a suitable place, DGMM would provide fund; however, no step was taken in this direction and no shelter was opened.

36 – 67 – 71 - 163 A certain part of the premises of Ankara Metropolitan Municipality was used as a shelter for woman victims of violence by the municipality while the other part was used as a shelter for victims of human trafficking by the Women's Solidarity Foundation until October 2016. During the inspection of shelters of Ankara Municipality by the Ministry of Family, Labour and Social Services, the Municipality was informed that the current place was not physically suitable to serve as a shelter pursuant to the new legislation, the capacity should be increased, if the capacity was not increased the shelter would be closed down. Ankara Metropolitan Municipality sent an official letter to DGMM on 04/11/2016 stating the situation. In the letter it was stated that they needed the building run by Women's Solidarity Foundation as a shelter for the victims of human trafficking and that the building should be returned to them till the end of the year. Women's Solidarity Foundation was informed on 18/11/2016 that the victims accommodated in that shelter would be transferred to Kırıkkale Shelter on 21/11/2016 so that they would not be affected negatively and that they should arrange a new service building for themselves. In the same day Women's Solidarity Foundation sent an e-mail to DGMM stating that (although 2 months were granted by the municipality to empty the building) they would dismiss the staff of shelter at 20.00 and stop to serve to victims; thereupon, the victims were needed to be transferred to Kırıkkale shelter at the same night. That negative and malevolent attitude of Women's Solidarity Foundation towards its staff, the victims as well as DGMM caused distrust.

46. The Council of Europe Convention on Action against Trafficking in Human Beings was signed on 19/03/2009, ratified by the Turkish Grand National Assembly on 02/05/2016 and entered into force on 01/09/2016.

Pursuant to Article 90 of the Constitution, it is an international agreement provision entered into force in due form. In case of any divergence between international agreements on fundamental rights and freedoms and laws due to having different provisions on the same theme, the international agreements shall prevail.

As a result, if there is an incompliance with our laws the aforementioned Convention can be applied by Turkish courts. In order for a decision given by the district court to reach the Supreme Court, it needs to reach the court of appeal first. This needs a process, thus there is no case reached to the Supreme Court that practiced the Convention. So we cannot provide you with examples of case-law where the Convention has been applied.

51. Article 80 of the Penal Code No 5237 states that (Amended on 6 December 2006 – By Article 3 of the Law no. 5560) 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 (1) the use of threat, pressure, force or violence, (2) employing deceit, (3) abusing his influence, or (4) obtaining a consent by exploiting control over another or the desperation of such other, for the purpose of forcing them into prostitution or to work, provide a service, harvest their organs or to subject them to slavery or any similar practice 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 an act is undertaken for the purposes referred to in paragraph one and such act constitutes an offence, the consent of the victim shall be presumed to be 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 paragraph one, notwithstanding the fact that no act instrumental to the offence has been resorted to.

(4) Security measures shall be imposed upon legal entities in respect of the aforementioned offences.”

Under the sub-title “Violation of the Freedom to Work and Labour” in Article 117, it is stated that: “(1) Any person who violates the freedom to work or labour by using force, threats or by any other unlawful act shall be sentenced to a penalty of imprisonment for a term of six months to two years or a judicial fine, upon the complaint of the victim.

(2) Any person who employs another person, or persons, without payment or on a very low salary, which is clearly disproportionate to the service provided, or subjects such person, or persons, to conditions of work and residence which are incompatible with human dignity by exploiting his helplessness, isolation, or dependence shall be sentenced to a penalty of imprisonment for a term of six months to three years, or a judicial fine which will not be less than hundred days.

(3) Where a person provides an individual, **or sends or transports an individual from one place to another**, with the aim of placing such person in the situation described in the above paragraph the same penalty shall be imposed.

(4) A person who forces, or threatens, a worker or employer to increase or decrease earnings, or to accept an agreement with conditions that are different from those previously agreed upon, in order to cause the cessation, suspension or continuation of a suspension of work shall be sentenced to a penalty of imprisonment for a term of six months to three years.

- a) Action: (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,)
- b) Means: (threat, pressure, force violence employing deceit, abusing his influence, obtaining a consent by exploiting control over another or the desperation of such other)
- c) Purpose: (forcing them into prostitution or to work, provide a service, harvest their organs or to subject them to slavery or any similar practice)”

In this context, if we examine the situations that require penalty, it is possible to say that our law covers the three elements of human trafficking.

We would also like to state that the actions of transport and delivery as part of human trafficking are considered as offences pursuant to our legislations. Article 37 of the Penal Code states that “(1) Any person who jointly performs an act prescribed by law as an offence shall be culpable as the offender of that act. (2) Any person who uses another as an instrument for the commission of an offence shall remain culpable as an offender. The penalty of a person who uses another as an instrument who lacks the capacity of acting with fault shall be increased by one-third to one-half.”

The definition that set out in Article 80 “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” contains the concept of transport and procure within itself.

In the assessment of transport and delivery, it can be stated that more than one person may get involved in the crime. In such a case the persons who participate in the commission of this offence as well as the ones who transport and deliver those persons have criminal liability. In this regard, as there is a decision to jointly commit a crime as well as assuming joint dominance on the action each accomplice is an instigator.

Pursuant to Article 37 of the Turkish Criminal Code “Any person who jointly performs an act prescribed by law as an offence of human trafficking shall be culpable as the offender of that act and 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.”

Article 38 “Incitement” and Article 39 “Assistance” of the Turkish Criminal Code set forth as follows:

Incitement - Article 38 (1) A person who incites another to commit an offence shall be subject to the penalty appropriate to the offence that is committed.

(2) Where there is incitement to offend by using influence arising from a direct-descendent or direct-antecedent relationship, the penalty of the instigator shall be increased by one-third to one half. Where there is incitement of a minor, a direct-descendant or direct-antecedent relationship is not necessary for the application of this paragraph.

(3) Where the identity of the instigator is not known and if the offender plays a role in the identification of the instigator, or other accomplice, he shall be sentenced to a penalty of imprisonment for a term of twenty to twenty-five years if the offence committed requires aggravated life imprisonment and to a term of imprisonment of fifteen years to twenty years if the offence committed requires life imprisonment. Otherwise the penalty to be imposed may be reduced of one-third.

Assistance - Article 39

(1) A person who assists another with the commission of an offence shall be sentenced to a penalty of imprisonment for a term of fifteen years to twenty years if the offence committed requires aggravated life imprisonment, and to a term of ten to fifteen years imprisonment if the offence committed requires life imprisonment. Otherwise the penalty to be imposed shall be reduced by one-half. However, in this case, the penalty to be imposed shall not exceed eight years.

(2) A person remains culpable as an assistant if he:

- a) encourages the commission of an offence, or reinforces the decision to commit an offence, or promises that he will assist after the commission of an act.
- b) provides counsel as to how an offence is to be committed, or provides the means used for the commission of the offence.
- c) facilitate the execution of an offence by providing assistance before or after the commission of the offence.

Although the situation of delivery is not included directly under the law, it is taken into consideration in the case-law of Supreme Court and included in the practice of law by case-laws.

In brief. In Article 80 of the Criminal Code, primary actions are categorised as *a) bring a person into the country, b) take a person out of the country, c) procure d) kidnap, e) harbour or f) transport a person from one place to another, g) accommodate.* While the point (f) regulates transport a person from one place to another point (g), which regulates accommodation, is interpreted as covering the situation of delivery as well.

52. All means contained in the definition of THB under the Convention are not specifically mentioned in the Turkish definition of THB, in particular “fraud”, “abuse of a position of vulnerability” and “giving or receiving of payments or benefits to achieve the consent of a person having control over another person”. Fraud is assessed under deceit. The other issue that “obtaining a consent by exploiting control over another” appears in our legislation.

Instruments that remove the will and enable the commission of offence are a) threat, b) pressure, c) force or violence, d) employing deceit, e) abusing his influence, f) obtaining a consent by exploiting control over another or the desperation of such other.

Penal Department no. 18 of the Supreme Court defines the desperation in its decisions as noted below. There are lots of case-law in this issue.

In case of desperation as stated in the Article, it is essential to understand the situation of a person who has nothing to continue his life such as food and water, accommodation and travel. In order to accept the presence of this major circumstance, it must be proved that the victim stays in desperation that he/she cannot overcome and he/she is abused by misuse of his/her situation. It is stated that the accused cannot obtain victims’ consent by using their desperation in their falling into prostitution in order to earn money in Turkey because of economic difficulties in their countries. Due to economic difficulties in their countries, victims came to Turkey to earn money and turn into prostitution with their own consent. In this situation “obtaining a consent by exploiting control over another or the desperation of such other” can not be mentioned about. (DECISION ON REVERSING THE JUDGMENT), (18. C.D.06/12/2016 and 2016/15853 E. ,2016/18706 K.)

stated that no mention is made of taking advantage of the helplessness of the victims to obtain their consent

54. Although trafficking for the purpose of exploitation of criminal activities and the exploitation of begging are not explicitly mentioned in Article 80 of the Criminal Code those situations are settled by supreme court case-laws.

The decision of Supreme Court on begging is as follows:

The accused, transported 8 victims between the ages of 10-14 from Ömerli, Mardin to İstanbul, all children were accommodated in a single room in inhuman conditions and were forced to send napkins, mussel or

work as a weigher in streets in different areas of Istanbul and all those actions constitute offences. (8CD. 2008/4555 E, 2008/7998) As can be understood from the decision date this is the practice implemented since 2019.

Supreme Court decision on trafficking for the purpose of using children to commit an offence is as follows:

- According to the context of the case, the defendant took each victim from Bismil for the purpose of theft and brought them to İstanbul by a train and due to that action without OBSERVING PUNISHMENT PER VICTIM he is penalized by a single offence. As there is no counter appeal the judgment was not reversed. (8. CD. 15.6.2009 – 2008/19262 E 2009/9026 K)
- The defendants intercepted the victims under 18 for the purpose of theft. Without considering that this action constitutes an offence of human trafficking under Article 80 of the Criminal Code and falling into error on determining the nature of the offence a judgement was given in writing. (DECISION ON REVERSING THE JUDGMENT), (8. C.D. 03.11.2010, 2010/6495 E., 2010/12652 K. Numbered decision)

Supreme Court case-law on the offence of human trafficking is included in Annex 1.

57. Under the sub-title “Begging” of Article 229 of Turkish Criminal Code, it is stated that “(1) Any person who uses a child or person with physical or mental impairments as a means for begging shall be sentenced to a penalty of imprisonment for a term of one to three years.

(2) The penalty to be imposed shall be increased by one half, where the offence is committed by blood relatives or in-laws including third degree or a spouse.

(3) The penalty to be imposed shall be increased by one fold where the offence is committed within the framework of the activities of a criminal organisation.”

Under the sub-title III Treatment of Article 232, it is stated that “(1) Any person who ill-treats a person that they are living together with in the same dwelling, shall be sentenced to a penalty of imprisonment for a term of two months to one year.

(2) Any person who improperly uses the right to enforce discipline, deriving from his right to educate a person who is under his control or for whom he is responsible for this person’s growth, education, care, protection or training of a profession or trade, shall be sentenced to a penalty of imprisonment for a term of up to one year.”

Under the title “Breach of Obligations Derived from Family Law” of Article 233, it is stated that “(1) Any person who fails to fulfil the obligations conferred upon them by family law, which provides for the care, education or support of family members, shall be sentenced to a penalty of imprisonment for a term of up to one year, upon complaint.

(2) Any person who abandons his pregnant wife, or a pregnant single woman with whom he lives where he is aware of such pregnancy and he is the biological father, shall be sentenced to a penalty of imprisonment for a term of three months to one year.

(3) Where a mother or father seriously endangers the health, safety or morality of their children as a result of a lack of moral or material care derived from degrading behaviour and actions, alcoholism or the use of narcotics or psychotropic substances, notwithstanding any loss of parental responsibility, shall be sentenced to a penalty of imprisonment for a term of three months to one year.”

Under the sub-title “Purpose” of Article 1 of Child Protection Law no 5395, it is stated that “(1) The purpose of this Law is to regulate the procedures and principles with regard to protecting juveniles who are in need

of protection or who are pushed to crime, and ensuring their rights and well-being.” Under the sub-title “Definitions” of Article 3 of the same Law, it is stated that

“(1) For the purposes of this Law, the terms used herein shall have the following meanings:

a) Juvenile: Any individual that has not yet completed age eighteen, regardless of whether they have reached full legal age earlier. Within this scope:

1. Juvenile in need of protection: Any juvenile whose physical, mental, moral, social or emotional development and

personal safety is in danger, who are neglected or abused, or who are victims of crime,

2. Juvenile pushed to crime: Any juvenile about whom an investigation or prosecution is carried out on the allegation that he/she has committed an act which is defined as a crime in the Laws, or any juvenile about whom a security measure has been decided due to an act he/she has committed ...”

Article 71 of the Law no 4857 on Labor Law states that “(Additional clause: 4/4/2015-6645/38) Employment of children who have not completed the age of fifteen is prohibited. However, children who have completed the full age of fourteen and their primary education on light works that will not hinder their physical, mental and moral development, and for those who continue their education, in jobs that will not prevent their school attendance. However, children who have not completed the full age of fourteen may be employed in the artistic, cultural and advertising activities that will not hinder their physical, mental and moral development and that will not prevent their school attendance, on condition that a written contract is entered and permission is obtained for each activity separately.”

When the aforementioned legislation is examined, it is possible to see that begging and fraudulent employment are regulated as offences not only in the Article 80 of the Criminal Code but also in other articles.

Although there are opinions on including the trafficking for the purpose of exploitation of criminal activities and the exploitation of begging under the scope of law, this problem was settled by the Supreme Court Case-law. Likewise, a broad definition of the victim of human trafficking in terms of identifying the victims is made and put in the regulation on victims of human trafficking.

57. Certain phrases/words included in the definition of THB under the Council of Europe *Convention* on Action against Trafficking are not specifically mentioned in the definition of THB indicated in Turkish Criminal Law, in particular “fraud”, “abuse of a position of vulnerability” and “giving or receiving of payments or benefits to achieve the consent of a person having control over another person”. Fraud is assessed under deceit. The other issue is that in our Criminal Law, there is a separate phrase used while identifying a trafficker stating that; “obtaining a consent by exploiting control over another”.

Instruments that remove the will and enable the commission of offence are a) threat, b) pressure, c) force or violence, d) employing deceit, e) abusing his influence, f) obtaining a consent by exploiting control over another or the desperation of such other.

63. According to Article 5 of the Regulation on Combating Human Trafficking and the Protection of Victims, the Undersecretary of the Ministry or the Deputy Undersecretary assigned by the Undersecretary chairs the commission.

Mistake of fact: Department of the Protection of Victims of Human Trafficking is established under the central organisation of DGMM in 2013 not in 2016.

64. Article 9 of the Regulation on Combating Human Trafficking and the Protection of Victims stipulates that provincial commissions may be established; but no provincial commission has been established yet.

66. State of emergency, which is a legitimate right under international law, was declared to take swift and effective measures against various terrorist organizations (PKK/PYD/YPG, FETÖ, DAESH and DHKP-C) right after the terrorist coup attempt of 15 July 2016. State of emergency has ended on 19 July 2018. Measures taken during this period aimed at specifically terrorists and their affiliates, not legitimate NGOs. Furthermore, measures taken during the state of emergency were constantly reviewed so as to prevent any possible grievances.

The Inquiry Commission on the State of Emergency measures is recognized as a domestic remedy by the European Court of Human Rights. Therefore comments of general nature with regard to the state of NGOs in the report are not correct.

67 – 68. DGMM recognises the importance of cooperation and contribution with public bodies, municipalities and specialised NGOs and they are invited to commission meetings.

Moreover, we would like to take GRETA's attention to the fact that 100.000 TL in 2016 and 107.000 TL in 2017 was allocated from the budget of the Department of the Protection of Victims of Human Trafficking to civil society organisations which run/will run shelters. Even though grant is allocated, there are no civil society organizations running a shelter or making a request to run a shelter. Therefore, we would like to present it to the attention of GRETA that no grant has been allocated so far. The reason for the shelters run by specialized non-governmental organizations to be closed is not the lack of foreign funds. It results solely from the non-governmental organizations' own grounds and choices.

69. According to Articles 27 and 48 of Law no 5253 on Associations public benefit associations are identified with the Cabinet Decree upon the proposal of the Ministry of Interior in consultation with relevant ministries and the Ministry of Finance. Public benefit status is granted to associations pursuing activities, which yield socially beneficial outcomes, to reach their aims at least for one year. There is no negative decision taken by DGMM preventing the establishment of contract with NGOs.

78. Civil servants, including judges and public prosecutors were removed from office because of their membership or affiliation with terrorist organization (FETÖ).

A judge, public prosecutor or a police officer affiliated with a terrorist organization that had sought to abolish the Constitutional order in Turkey cannot be relied on in protecting the Constitutional and legal rights of Turkish citizens or in the fight against human trafficking. Their removal from office therefore did not create a vacuum in Turkey's fight against human trafficking. On the contrary, these steps strengthened Turkey's capacity to combat human trafficking even more. All candidate judges, public prosecutors, and police officers receive relevant training before being appointed.

80. "Investigation Techniques for the Offence of Human Trafficking" course for 5-day more than 30 hours was arranged for the staff working at Police Department of Vice in 81 province by the Administrative Office for the Fight against Sex Crimes under Criminal Investigation Branch Office of the Department of Public Order General Directorate of Security with the aim of providing data, skill and attitude on investigating the offence of human trafficking, presenting evidence, competency on victim identification as well as universal values in compliance with national and international law on combatting human

trafficking. 70 staff in 2015, 82 staff in 2016, **35** staff in 2017 and 35 staff in 2018 were provided with Investigation Techniques for the Offence of Human Trafficking course and it is planned to organise training for 100 staff in 2019.”

Newly recruited Officers and sergeants under the General Command of Gendarmerie are trained on migrant smuggling and combatting human trafficking in line with the program set forth on their course curriculum in gendarmerie and coast guard Academy. Trainings on migrant smuggling and combatting human trafficking are provided to higher level decisions-makers (provincial gendarme commander, deputy provincial gendarme commander, department chief, district gendarme commander) on the courses of provincial gendarmerie command, deputy provincial gendarmerie command, branch office and district gendarmerie command.

81. “GRETA was informed of a new project “Enhancing the Efficiency of the General Command of Gendarmerie on Combatting Human Trafficking” which was launched on 30 October 2018 with the co-operation and co-ordination of IOM. Within the scope of the project, three-day training courses were given to 30 staff in Istanbul, **50** staff in Antalya, and 25 staff in Izmir, on interview techniques; out of the trained staff, 25 received further training with a view to becoming trainers. Further, 751 Gendarmerie staff in 13 provinces with high probability of encountering human trafficking received on-the-job training. Additional training will take place in 2019-2020.”

82. As the Ministry of Justice, the Public Prosecutor candidates were offered 4-hour interactive course by the expert public prosecutor and judge faculty members in the field of “Migrant Smuggling – Rules and Practices on Human Trafficking Investigations” with the support of written and visual materials as part of the prevocational training activities.

Within the scope of vocational training, no seminar program is organized under the title of Migrant Smuggling - Rules and Practices on Human Trafficking Investigations by the judges and public prosecutor.

“Access to justice by refugees and asylum-seekers project” conducted in cooperation with UNHCR, the judges and public prosecutors working in the field of law, criminal and administrative jurisdiction were trained on basic concepts and principles of refugee law, national and international legal framework, refugees in the context of human rights, hate speech, the importance of approaching to vulnerable groups.

In the project of “Refugees, International Labour Standards and Labour Law” carried out in cooperation with ILO, training programs were organised to judges of labour court on the problems of work and labour of refugees and asylum-seekers, the right to access to justice, informal employment, disputes arising from work and labour life, non-discrimination and hate speech. Within the scope of the project “Supporting Access to Justice by Children under International Protection” workshops and training activities were organized for judges and public prosecutors on the protection of unaccompanied refugee children and strengthening their access to justice.

83. As part of the trainings on human trafficking, 35 labor inspectors were provided with two-day training on inserting the labor exploitation risks in inspection process and the role of the labor inspectors on combatting human trafficking under judicial decisions and the Supreme Court's case-law on 22-23 December 2018 and it is aimed to continue such training in 2019.

Data collection and research

It deemed appropriate to add the following paragraphs under that title;

- The Directorate of Migration and Border Security Research Centre of the Police Academy (GÖÇMER) has put the issues related to human trafficking and victims into the agenda. In “Third International Migration and Security” conference that will be organised by GÖÇMER in 2019, it is planned to spare some of the sessions to combating trafficking in human beings and protecting victims.
- Police Academy encourages postgraduate thesis to identify the problems experienced by victims of trafficking during their stay in Turkey and to offer solutions. For example GÖÇMER mentors for writing a master's thesis with the title " Combating Trafficking and Protecting the Victims in Turkey: Research on the Victim Support Program". This master's thesis, in which detailed research is conducted on the shelters where victims of trafficking are located, is in the phase of collecting data and will be completed in 2019 and made available to the relevant authorities.

90. Within the scope of the project on “Needs Analysis According to the Status of Foreigners”, a needs analysis was conducted by a team of academicians specialized in migration, in the fields of regular migration, irregular migration, international protection, temporary protection and human trafficking. Within the framework of the “Needs Assessment According to the Status of Foreigners project” a workshop was organised with the participation of the academicians responsible for all fields, the managers of the Directorate General of Migration Management and the migration experts on 7-8 April 2018 and the first drafts of the Needs Analysis were discussed. The final Needs Analysis was presented to the opinions of the Board members at the Migration Board meetings dated 21 November 2018 and 24 January 2019. The needs analysis was prepared for the establishment of the National Migration Policy.

There is no current research planned.

96. Civil society institutions and academics in Turkey are free to conduct their independent research in all areas including human trafficking and other types of organized crime. The State of Emergency measures by no means ban independent research in Turkey. Measures taken against certain academics were due to their affiliation with terrorist organizations. Their dismissal is completely unrelated to the conduct of independent research in Turkey.

In fact; prior to, during and after the state of emergency, various projects and field research aiming to counter human trafficking are conducted in Turkey. The independent research in the form of Master’s thesis or PHD dissertation pertaining to the concept of human trafficking can be reached electronically at <https://tez.yok.gov.tr>. In this site, 26 independent research has been recorded, 4 of which have been published in 2018. In collaboration with UN institutions and international organizations, our public institutions have been conducting capacity-building trainings to our law enforcement personnel and experts who are involved in the identification of traffickers or victims of human trafficking. There have also been several field visits and needs assessment activities in the provinces where migratory flows are concentrated. Academics specialized in migration related topics have also occasionally participated in these visits. Their observations and views have been reported and shared with public during several workshops and conferences. (Some of their findings may be reached electronically). Moreover, during and after state of emergency, various guides and booklets are published in Turkey in coordination with international

organizations, public prosecutors and academics aiming to assist related Turkish institutions in their struggle to combat trafficking. These resources contributed to the preparation of our annual report on counter trafficking. Consequently, the concerns mentioned in this article are ungrounded.

99. National and international basis and practices on international cooperation between Turkey and other countries in combatting human trafficking are as follows:

The requests for legal co-operation are prepared under the provisions of Law no 6706 on International Judicial Cooperation in Criminal Matters and by the provisions of circular No. 69/2 on “Matters to be Paid Attention by our Judicial Authorities in the International Criminal Rogatory Proceedings” of 16/11/2011 which can be reached on ‘www.uhdigm.adalet.gov.tr’.

Turkey is party to the European Convention on Extradition of 13/12/1957. That Convention entered into force in Turkey on 18/04/1960. European Convention on Extradition was signed by 47 member states of European Council as well as Israel, Korea and North Africa. Turkey is also party to The European Convention on Mutual Assistance in Criminal Matters of 20/04/1959 and its First Additional Protocol of 1978. The legal basis for extradition is the European Convention on Extradition. Turkey signed that convention on 13/12/1957 and the Articles between 10-22 of the Act on International Judicial Cooperation in Criminal Matters which entered into force in Turkey on 5/05/2016 regulate the extradition in detail. The convention on the transfer of sentenced persons was signed by Turkey in 1985 and entered into force in 1988.

Law on International Judicial Cooperation in Criminal Matters which entered into force in Turkey on 5/05/2016 regulates the Transfer of Sentenced Persons between the Articles 30-33. In that Law No 6707 which ratified on 23/04/2016 and entered into force on 05/05/2016 with the aim of regulating the procedures and principles of international judicial cooperation in criminal matters, there is no provision to set up a Joint Investigation Team. In addition to that, paragraph 3, Article 1 of the Law on International Judicial Cooperation in Criminal Matters states that “The international agreements on judicial cooperation to which Turkey is a party and the provisions of the other Laws shall be reserved.” Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters which was signed by Turkey on 22/03/2016, ratified on 11/07/2016 and entered into force on 01/11/2016 regulates to setting up of Joint Investigation Teams in detail and the first paragraph of that Article states that " By mutual agreement, the competent authorities of two or more Parties may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Parties setting up the team. The composition of the team shall be set out in the agreement.

A joint investigation team may, in particular, be set up where:

- a. a Party’s investigations into criminal offences require difficult and demanding investigations having links with other Parties;
- b. a number of Parties are conducting investigations into criminal offences in which the circumstances of the case necessitate co-ordinated, concerted action in the Parties involved.”

European Judicial Network (EJN)

The judges in charge of the Ministry of Justice are determined as contact points in order to follow up the requests for judicial cooperation and to provide the necessary coordination within the EJN, and those contact points regularly attend the general assembly and working meetings. In the last paragraph of Article 90 of the Constitution it is stated that International agreements duly put into effect carry the force of law.

Paragraph 3, Article 1 of Law no 6706 on International Judicial Cooperation in Criminal Matters regulates that the international agreements on judicial cooperation to which Turkey is a party and the provisions of the other Laws shall be reserved. Article 2 of the same Law states that the central Authority shall mean the Ministry of Justice and Article 3 states the Duties and competences of the Central Authority as such:

- To decide on accepting the requests for cooperation of foreign States and on the suitability of the requests for cooperation of Turkish judicial authorities within the framework of international agreements to which Turkey is a party or the principle of reciprocity,
- To decide on the form of the judicial cooperation and method to be followed,
- To give consent to the use of the information and documents requested by the States within the scope of judicial cooperation, to limit and to subject the use of the mentioned information and documents to guarantee or condition,
- In the event that statutory and actual reciprocity is not available between the foreign State and Turkey, execution of the request for judicial cooperation may be subjected to the guarantee of the Requesting State that the requests for judicial cooperation of Turkey on the same issue shall be executed.
- The execution of request for judicial cooperation of a foreign State may be subjected to a condition or guarantee by the Central Authority.
- The Central Authority may, except the issues within the competence of the jurisdiction, accept the conditions stipulated by the States or grant the guarantee requested. The judicial authorities shall be bound by the conditions accepted or guarantees granted by the Central Authority.
- In the event that compensation is to be paid due to the execution of the requests for judicial cooperation, the Central Authority may request that compensation from the related State.

In Article 8 of Penal Code no 5237 with the title Territorial Jurisdiction “(1) Turkish law shall apply to all criminal offences committed in Turkey. Where a criminal act is partially, or fully, committed in Turkey, or the result of a criminal act occurs in Turkey the offence shall be presumed to have been committed in Turkey. (2) If the criminal offence is committed:

- a. within Turkish territory, airspace or in Turkish territorial waters;
- b. on the open sea or in the space extending directly above these waters and in, or by using, Turkish sea and air vessels;
- c. in, or by using, Turkish military sea or air vehicles;
- d. on or against a fixed platforms erected on the continental shelf or in the economic zone of Turkey; then this offence is presumed to have been committed in Turkey.

Under the sub-title “Offences Committed by Citizens” of Article 11 “(1) If a Turkish citizen commits an offence in a foreign country that would amount to an offence under Turkish law and that offence is subject to a penalty of imprisonment where the minimum limit is greater than one year, and he is present in Turkey, and upon satisfying the conditions that he has not been convicted for the same offence in a foreign country and a prosecution is possible in Turkey, he shall be subject to a penalty under Turkish law, except in regard as to the offences defined in Article 13.

(2) Where the aforementioned offence is subject to a penalty of imprisonment, the minimum limit of which is less than one year, then criminal proceedings shall only be initiated upon the making of a complaint by a victim or a foreign government. In such a case the complaint must be made within six months of the date the citizen entered Turkey.”

Under the sub-title “Offences Committed by Non-Citizens” of Article 12 “(1) Where a non-citizen commits an offence (other than one defined in Article 13), to the detriment of Turkey, in a foreign country, that would amount to an offence under Turkish law and that offence is subject to a penalty of imprisonment

where the minimum limit is greater than 1 year, and he is present in Turkey, he shall be subject to penalty under Turkish law. Criminal proceedings shall only be brought upon request by the Minister of Justice.

(2) Where the aforementioned offence is committed to the detriment of a Turkish citizen or to the detriment of a legal personality established under Turkish civil law and the offender is present in Turkey and there has been no conviction in a foreign country for the same offence then, upon the making of a complaint by the victim, he shall be subject to penalty under Turkish law.

(3) If the victim is a non-citizen the offender shall be subject to criminal proceedings, upon the request of the Minister of Justice, provided the following conditions are fulfilled:

- a. the offence is subject to a penalty of imprisonment under Turkish law where the minimum limit of imprisonment is not less than 3 years; and
- b. there is no extradition agreement; or the government of the country in which the crime has been committed, or the State of which the offender is a national, has refused to grant extradition.

(4) In relation to offences to which paragraph one is applicable, if a non-citizen is convicted or acquitted in a foreign Court or has any criminal proceedings or penalty against him stayed or set aside respectively by such Court or the offence becomes one which cannot be the subject of a prosecution in a foreign Court then, upon the request of the Minister of Justice, criminal proceedings shall be brought in Turkey.

In Article 13 with the title Miscellaneous Offences “(1) Turkish law shall apply to the following offences committed in a foreign country whether or not committed by a citizen or non-citizen of Turkey:

- a. Offences defined in Chapter I, Volume II;
- b. Offences defined in Parts 3-8, Chapter IV, Volume II;
- c. Torture (Articles 94-95);
- d. Intentional Pollution of the Environment (Article 181);
- e. Production and Trade of Narcotics or Psychotropic Substances (Article 188); Facilitating the use of Narcotics or Psychotropic Substances (Article 190);
- f. Counterfeiting Money (Article 197), Manufacturing and Trading of Instruments used in the Production of Money and valuable Seals (Article 200); Counterfeiting a Seal (Article 202);
- g. Prostitution (Article 227);
- h. (Abolished on 26 June 2009 – By Article 1 of the Law no. 5918)
- i. Seizing control or hijacking of air, sea or rail transport vehicles (Article 223, paragraphs 2 and 3) and offences relating to the damaging of such vehicles (Article 152).

(2) (Paragraph 2 Added on 29 June 2005 – By Article 2 of the Law no. 5377). Except for offences defined in parts 3, 5, 6 and 7 of Chapter IV, Volume II, conducting criminal proceedings in Turkey for crimes within the scope of paragraph one shall be subject to a request of the Ministry of Justice.

(3) Even where a conviction or acquittal pursuant to the offences listed in paragraph one subparagraphs (a) and (b) have occurred in a foreign country, criminal proceedings in Turkey shall be conducted upon the request of the Ministry of Justice.”

Below are the recent examples of international legal co-operation in THB cases between Turkey and other countries. As those cases have personal information, the names are omitted.

- 1) The documents related to the Uzbek national named X whose return to Uzbekistan was sought at international-level by judicial authorities due to the offence of “Human Trafficking for the purpose of Prostitution” were sent by the Ministry of the Interior with the letter on 04/09/2018 to the Ministry of Justice. When the documents attached to that letter examined, it was found out that this person was involved in the offence of human trafficking and brought a victim from Kazakhstan to Turkey on 28/05/2016, confiscated his passport and the action took place in Istanbul, in this context,

pursuant to Articles 8-13 of Turkish Criminal Code a criminal complaint was filed against that person by İstanbul chief public prosecutor's office.

- 2) In the context of the criminal investigation initiated with the demand for legal assistance by the Dutch authorities about X person on 11/06/2018 for the offence of “Trafficking in Persons and Embezzlement” and in the light of the information in the requisition, it was requested to take the testimony of Y person as a witness through videoconference, and if this was not possible, to appoint a delegation during the receipt of the statement. The request for legal assistance was submitted to the competent authority and the request for videoconference was met by the letter of Bolu Chief Public Prosecutor's Office dated 01/03/2019 and the witness's statement was submitted to the Dutch authorities.
- 3) Pursuant to the request for legal assistance of General Prosecutor of Belarus including the request for statement, information and document submitted through the letter on 28/10/2016, an information on that matter was requested from Turkey. During the research, it was found out in the trial record of Istanbul Anatolian 11th High Criminal Court that the person used the phone number 0533-8 stated in the legal assistance document, the suspect Y who declared his residence address as X was arrested due to the offence of “human trafficking”, at the hearing held on 13/01/2016 defendant Y was released and acquitted of the offences of “Human Trafficking, encourages someone to become a prostitute or force someone into Prostitution or acts as an intermediary or who provides an environment” and his case was sent to the Court of Cassation. Furthermore, the phone number 0533-8 which was stated in the request of legal assistance and belonged to Y was called by Public Prosecutor's Office; however, that person could not be reached as that phone line was closed to use in abroad. It was also understood that his central civil registration system address under national judiciary informatics system records was Girne/ Turkish Republic of Northern Cyprus so his statement could not be taken due to material impossibilities.
- 4) Referring to a letter received from the Interpol from Moldova on 03/10/2018 submitted by the Ministry of the Interior, it was stated that the person named X was sought at international-level for the purposes of his extradition to the aforementioned country based on the arrest warrant issued for the offence of “human trafficking for the purpose of prostitution” and he entered into Turkey from İstanbul Atatürk Airport on 19/09/2018 and it was requested to notify the legal action to be taken against him. As that person is the citizen of Turkey, it was evaluated that the extradition of that person to another country was not possible pursuant to our Constitution 38/final, 6/1 of the European Convention on the Extradition of Criminals and Article 11 / 1.a of the Law on International Judicial Cooperation in Criminal Matters. However, in order to make a final evaluation on the matter and to initiate an investigation in Turkey in relation to the affirmative crime in accordance with Article 11 of the Turkish Criminal Code, information has been requested from the Ministry of Interior on whether that person has entered our country or not.
- 5) As regards the arrest of a citizen of the Russian Federation named X on 28/10/2013, the information form regarding the restriction of the freedoms of foreign nationals and the release notification issued in accordance with the Circular no 70/1 was sent to the Embassy of the Russian Federation as aforementioned person did not refuse it. As a result of the investigation conducted by Public Prosecutor's Office through 2013/1 .. Sor number on the offences of “establishing an organization for the purpose of committing offence, human trafficking, encouraging someone to become a prostitute, acting as an intermediary, providing environment” a criminal case was filed against Sincan 1st High Criminal Court.
- 6) Two certified Turkish copies and translated version of the Decision no 2011/138, Merit no. 2011/158, issued by Kars Criminal Court on 14/06/2011 about X and his friend for the offences of

human trafficking and being the member of an organization established for the purpose of committing offence were submitted to the victim living in Russia/ Daghistan.

- 7) Two certified Turkish copies and two certified translated version of the Decision no 2009/265, Merit no. 2006/231, issued by Kars Criminal Court on 24/11/2009 about X, Y and Z for the offences of forcing someone into prostitution, acting as an intermediary and human trafficking were submitted to the victim living in Russia.
- 8) Referring to a letter received from the Embassy of Seoul on 18/02/2019 by the Ministry of Foreign Affairs, it was stated that some of our citizens made a complaint to our Embassy by alleging that they were deceived, defrauded and trafficked by X with the promise of finding a job in South Korea, an investigation was initiated by the South Korean Police Department and his forensic criminal record was requested in order to be used for the investigation in question. This information can be requested through INTERPOL as well as within the scope of international legal cooperation, in addition to that it is necessary to submit a request for legal assistance for that person and a criminal complaint was filed against that person.

As can be understood from the legal assistances that we give information above, legal assistance is carried out for very different situations in combatting human trafficking (notification, taking statement, information request, red notice, extradition) and if there is an investigation procedure to be carried out in our country in relation to the matter, it is referred to the Prosecutor's Office for the action by the Ministry of Justice.

104. Negotiations on a draft agreement between Turkey and the EU on exchange of personal data between Europol and the Turkish authorities to fight serious crimes and terrorism were launched on 30 November 2018 in Brussels.

Draft agreement revised by EU by taking into account the opinions of our delegation during the discussions following the negotiations in Brussel was submitted to Turkey in January, 2019. A technical visit to EUROPOL Headquarter in Hague and EUROPOL Units in the Netherlands and Belgium on 23-25 January 2019. On the other hand, two preliminary meetings, 12/03/2019 and 2/04/2019 respectively, hosted by the Ministry of Foreign Affairs with the participation of relevant authorities were held to address the document submitted by the EU Commission.

The second round negotiation of the agreement was held in Ankara on 9/04/2019 between our delegation chaired by Ambassador Aylin Sekizkök Deputy Directorate General for Security and Intelligence and the delegation of EU Commission chaired by Director Laurent Muschel DG HOME. In the meeting, our opinions on draft agreement was submitted to EU Delegation and clauses in the agreement was examined and suggestions were made.

It was agreed that the EU Delegation would share the new suggestions to our party at the end of May and the next negotiations would be held in June or July in Brussel.

105. With the aim of providing support to the victims of human trafficking and secure their referrals and preventing human trafficking, Turkey support the enhancement of cooperation opportunities with countries of origin and transit as well as government and non-government actors in target countries and strengthening the international cooperation on combatting human trafficking

Turkey actively participate the bilateral, regional and international activities on combatting human trafficking.

Turkey became a member of International Organisation for Migration (IOM) on 30/11/2004 and carries out its cooperation with IOM on migrant smuggling and combatting human trafficking. Cooperation and

coordination on organising workshops for judges and public prosecutors are carried out between Turkey and IOM as well as international agencies on supporting the victims of human trafficking, providing special-purpose trainings to experts liable to consult victims, providing training to increase the capacity of law enforcement units playing an important role in identifying victims, effectively evaluating the migrants who are on trial due to the offence of human trafficking.

Moreover, 157 Emergency Helpline provided support for potential victims of human trafficking in Russian, Romanian, English and Turkish under the “Project on Supporting the Human Trafficking Victims in Turkey” with IOM. In August 20, 2015 DGMM took the responsibility of this Helpline and now the Communication Centre for Foreigners (YİMER)-157 serves in Turkish, German, Arabic, Farsi, English, Russian under DGMM. This helpline is important in identifying the victims and initial referral, in particular, in combatting human trafficking.

In addition to those, Turkey chairs the Budapest Process since 2006 which is established to determine the problems on irregular migration including migrant smuggling and human trafficking and develop sustainable migration policies in Turkey, Europe and neighbouring countries. In the Budapest Process, which is co-chaired by Hungary, there are 59 member states, including EU countries, and 14 international organisation. One of the main objectives in this Process is to cooperate in addressing organised crimes such as human trafficking and migrant smuggling that are caused by irregular migration between source countries and target countries. It is estimated that İstanbul Commitments and Action Plan which was adopted in the 6th Budapest Process Ministerial Conference held in Turkey on 19-20/02/2019 would support the international efforts in combatting human trafficking and migrant smuggling.

Turkey attaches importance to Global Compact on Safe, Orderly and Regular Migration – GCM which is prepared for determining the new global principles to settle the problems on migration and adopted in Marrakech on 19/12/2018 following inter-governmental negotiations. We welcome that the Compact emphasizes cooperation and coordination between parties on combatting human trafficking and supports international solidarity on respecting fundamental agreements. Turkey has actively participated and contributed to negotiations since the preparatory phase of the processes on Global Compact and will sustain its contributions in the following negotiations on implementation of the Compact.

Apart from Turkey; Belarus, Georgia, Kirgizstan, Moldova and Ukraine also signed the Cooperation Protocols on combatting human trafficking.

Joint operations between Turkey and the Ministries of Interior of source countries on human trafficking indicate our efforts on combatting human trafficking in the field of border security.

107. National campaigns to raise awareness of THB in Turkey in recent years are

Documentary;

<https://www.youtube.com/watch?v=PXIR6fDYtW4>

Public service ads;

<https://www.youtube.com/watch?v=cwEc9a0E6L0>

<https://www.youtube.com/watch?v=AxPNhK6O6NU>

In addition to those, a public service ad has been prepared on child victims of human trafficking for the second half of 2019.

108. “Awareness raising workshop on combatting human trafficking” was held for relevant government organisations, Civil Society Organisations, Metropolitan Municipalities and Union of Turkish Bar Associations in Ankara on 12-13 October 2017.

“Human Trafficking Information Workshop for the Members of Press” was held in İstanbul and Ankara, on 16/10/2017 and 19/10/2017 respectively.

“Workshop on developing multi-institutional communication strategy” was held with the participation of relevant public institutions and Ankara Metropolitan Municipality on 20/10/2017.

Provincial Migration Experts from 24 provinces were provided with training of trainers on 30 October – 1 November 2017.

A workshop on “Turkey’s Fight Against Human Trafficking and Effective Policies” was held for foreign missions in Ankara on 14-15 November 2017.

Trainings on the indications of human trafficking in Removal Centres were held on 20/22/27/29 November 2017(Gaziantep, Kayseri, Erzurum, İstanbul).

Information leaflet was prepared to raise awareness of relevant personnel on human trafficking. Within this scope, 4.850 information leaflets and 500 posters were distributed to relevant government institutions and agencies.

“Training of Trainers” program was held for the staff of Ankara Provincial Directorate of Migration Management on 27-28 November 2017.

Trainings on the indications of human trafficking in Removal Centres were held on 16/17/19 January 2018 and 6 February 2018 (Aydın, İzmir, Edirne, Antalya).

“Workshop on developing communication strategies for effective fight in human trafficking” was held with the participation of relevant units in government organisations and agencies on 22 January 2018.

Training on “Combatting human trafficking” was provided to Provincial Directorate of Migration Management, Ministry of Health, The Ministry of Family and Social Policies, the Ministry of Labour and Social Security, Directorate General for Security, Municipality (Police) and General Command of Gendarmerie in İzmir on 29-31 January 2018

“Workshop on Combatting Human Trafficking” was held on 19 February 2018.

“Human Trafficking Liaison Officers Training” was held in Ankara on 16-17-18 April 2018.

“Human Trafficking Liaison Officers Training” was held in İzmir on 27-28-29 June 2018.

“Human Trafficking Liaison Officers Training” was held in Gaziantep on 23-24-25 July 2018.

Training was provided to liaison officers of Provincial Directorate of Migration Management in Ankara on 5-6 October 2018.

109. 500.000 leaflets were published in 6 different languages (Turkish, English, Russian, Arabic, Farsi and Uzbek). 2.000 posters were published in 4 different languages (Turkish, English, Russian, Arabic) and distributed to 81 provinces. All those materials were published under “Project on Protecting the Victims of Human Trafficking” funded by IPA.

Under the Project on “International Protection in Mixed Migration Movements and Strengthening the Institutional Capacity of Gendarmerie General Command” carried out in coordination and cooperation with UNHCR and under the responsibility of the Department of Migrant Smuggling and Human Trafficking between September 2016 - January 2017, 6.000 “Migrant Smuggling and Human Trafficking Visual

Communication Brochure” were published in Turkish, English, Arabic and Persian languages and distributed to Gendarmerie Commanders in 81 provinces.

114. In 2018, information activities were carried out for security, interpreter, teacher, imam, local authority, health personnel and technical-cleaning personnel working in Şanlıurfa Ceylanpınar, Harran and Suruç Temporary Accommodation Centers. In addition to that, information activities for the members of press on human trafficking were carried out in Ankara and Istanbul in 2018. Furthermore, a documentary on the victims of human trafficking “İnsan Diye Biri” was broadcasted in 2018. In 2019, awareness raising activities were carried out for airport and bus station drivers, airport ground operators and workers at bus stations in Antalya. Public service ad was broadcasted on the sexual exploitation of women.

117. a) Information activities for the members of press on human trafficking were carried out in Ankara and Istanbul in 2018. In the World Day against Trafficking in Persons on 30 July 2018, Abdullah Ayaz the Director General of Migration Management gave an interview to Anatolian News Agency to raise awareness on combating trafficking in human beings. Furthermore, a documentary on the victims of human trafficking “İnsan Diye Biri” was broadcasted in 2018. In 2019, a public spot on the sexual exploitation of women was published. In addition to those, a public service ad has been prepared on child victims of human trafficking for the second half of 2019.

b) Under the efforts for updating the educational programmes of 2017-2018, respect for human rights, equality and justice were paid attention. In the section of “Our Values” in that programme it is stated that “The education system is not only a structure that provides success in academic terms as well as some knowledge, skills and behaviours. The main duty is to grow up individuals who adopt basic values; it must influence the values, habits and behaviours of the new generation. The education system fulfils its function of add values through the education program which also includes the curriculum. "Educational program" is built by considering the education programs, learning teaching environments, educational materials, extracurricular activities, legislation, etc. In this program, our values, is not seen as a separate program or learning area, unit, subject, etc. On the contrary our values, which are the ultimate aim and spirit of the whole education process, have been included in each and every unit of the curriculum. The “root values” in the curriculum are justice, friendship, honesty, self-control, patience, respect, love, responsibility, patriotism, benevolence.”

In the section of “Matters to be taken into consideration in course book writing” it is stated that “the context of course books will be prepared by paying attention to gender equality”.

The right to education and training is guaranteed in the Constitution with the statement “No one shall be deprived of the right to education and training”. Educational programmes are also prepared based on the relevant legislation. Therefore, educational programmes are created in a structure that allows each individual to be involved in the process and to benefit from equal opportunities, while also taking into account the sensitivities of individual differences.

Economic, social and other initiatives on groups open to human trafficking

It is deemed appropriate to add the following paragraph under that title;

Under the title “Applications to be Made Within The Country” of Article 7, Section 2 of Regulation on the Implementation of Law on Work Permit for Foreigners published in the Official Gazette no 25214 of 29/08/2003, it is stated that for foreigners who will be employed in the areas that are/may subject to human

trafficking, the provision to reside in for a period of six months is not taken into consideration, they are required to apply for work permit from foreign missions in every time.

122. Amendment: The following information is given to GRETA by İstanbul Provincial Directorate of Migration Management:

Working Group on Protecting the Victims of Human Trafficking reaches the children who are exploited in the form of begging or forcing to marry, under the Law No. 5395 on Child Protection by taking into account the best interests of the child; ensures the cooperation with relevant institutions and organizations including the Provincial Directorate of Family, Labor and Social Services to identify the victim of human trafficking and children brought to Kumkapı Coordination Center by the law enforcement units for the assignment of a foreign identification number are interviewed by expert personnel on the indicators of whether they are Victims of Human Trafficking or not.

123. International protection applications are made to the Governorships in person. Every foreigner or stateless person can apply on his own behalf. Applicant may also make applications based on the same justification for such family members arriving together with him. In this case, no letter of consent is additionally sought from underage family members. The new-borns of international protection applicants are also enrolled by the applicants. Upon completion of registration procedures, an International Protection Application Registration Certificate is issued to the applicant and accompanying family members and by this certificate they can enjoy the rights and services such as access to health, education, labor market and subscription contracts.

The registration of Syrian nationals under temporary protection is completed by the relevant Provincial Directorate of Migration Management and Temporary Protection ID Card is issued. Spouses and children of foreigners under temporary protection are also registered under temporary protection. The new-born children of those who benefit from temporary protection are taken under temporary protection as soon as possible, and all persons are issued with an identification document. With this identity, they can benefit from the rights and services such as access to health, education, labor market and subscription contracts.

125. With the structural innovations, projects and the new policy tools developed in the field of social welfare since 2000, there has been a great transformation and development in the struggle against poverty in our country.

During this period, Turkey has made a serious progress by developing a service delivery through reforms in the field of poverty together with the economic growth and struggling against poverty. When expressed by figures, while the segment of society whose daily spending level was under 4.3 Dollar in 2002 was 30% this rate decreased to 1.58% in 2015. According to the Atlas of Sustainable Development Goals published by the World Bank in 2017, Turkey is the country that has decreased the poverty rates the most in the last 15 years. According to a report of The World Bank's Poverty and Shared Prosperity 2018: Complete the Puzzle of Poverty extreme poverty is no longer a problem for Turkey.

The success of our country in the struggle against poverty is appreciated by international organizations and the lion's share in this achievement is our institutionalized social aid system. Thanks to our inclusive and high targeted social aid system, almost all of the poor households in Turkey can receive help. Within this framework, 43 social aid programmes are carried out for citizens who are in need pursuant to Law No.3294 on Encouraging Social Assistance and Solidarity, Act No. 2022, respecting the grant of pensions to Turkish who are over the age of 65 and who are destitute, infirm and without any means of support, Act No. 2828

on social services and provisions of other legislations by the Ministry of Family, Work and Social Services through Social Assistance and Solidarity Foundation and provincial directorates.

43 billion TL was spent for social aid in Turkey in 2018.

In order to break the vicious cycle of poverty, a significant portion of the social aids made by the Ministry of Family, Labor and Social Services are provided to children. In this context, various social aid programs are carried out in which children living in poor households benefit. Among them, regular financial social aid programs such as conditional education and health assistances, Assistance program for poor children whose fathers are in compulsory military service, Social and Economic Support, Assistance program for orphan children as well as lunch, student transport, sheltering and food assistance, Free Course Book Distribution, maternity benefit and Multiple Offspring Aid. In 2018, 2.517.680 children benefited from the Conditional Education Assistance provided to families who could not send their children to school due to financial difficulties. In 2018, a total of 1.53 Billion TL social assistance was provided.

128. Ministry of Family, Labor and Social Services provides required social service responses within the scope of protective and supportive measures for children in need of protection under Child Protection Law. Unaccompanied children under protection and care may enjoy all the services of the Ministry of Family, Labor and Social Services regardless of race, language, religion, sect or ethnicity. Within this scope, the children may enjoy family-oriented services; if it is not possible, children at the ages of 0-12 are cared under domestic care institutions called Child House and Child Houses Site. Children at the ages of 13-18 are cared under specialized Child Support Centres. Steps are taken in cooperation with relevant institutions in order to monitor and unite families with the purpose of providing family unity for unaccompanied children in Child Support Centres. Individualized services such as psycho-social support and social integration are provided in the centres. Children can participate events arranged by Ministry of Family, Labor and Social Services and partner institutions.

Since 2015, Ministry of Family, Labor and Social Services and UNICEF Turkey Representation have arranged Social Integration Program to create a platform that enables Syrian children out of camps to integrate society and to enhance mutual dialogue and information exchange among Syrian and Turkish children through Province Child Committees on Child Rights. Through that program, it is targeted to diminish integration challenges of Syrian children, raise awareness for current risk and sources of the society, provide a life that they deserve and mutually develop understanding and tolerance in the society.

130. The persons, who have been rejected for entry, are meticulously identified and monitored through electronic data basements of Foreign Missions. The person about whom an entry ban is taken, cannot obtain e-visa. Last year, Turkish Ministry of Foreign Affairs, Directorate General of Security and DGMM agreed on holding meetings on “security of visa applications” and consultations continue. As a result of those meetings, it is foreseen to strengthen well-rounded checks for persons applying e-visa and quickly interfere possible security risks and threats.

131. Migration Policies Board was abolished. This article should be amended as follows:

By the Law on Foreigners and International Protection in 2013, chaired by Minister of Interior; Migration Policies Board was formed in order to determine migration policies and strategies of Turkey, monitor their implementation, draft for migration strategy document, program and implementation documents, identify methods and measures for mass influx and determine procedures and principles for foreigners accepted in

mass and their entry into and stay in country. With switching to presidential government, Migration Policies Board was abolished by Presidential Decree No.703 and Migration Policies Board is rebuilt as Migration Board by Presidential Decree No.17 published in Official Gazette on 18 September 2018. Migration Board is included in the Decree No.1, Article 522, Paragraph 1, subparagraph (h). In the Article, Migration Board chaired by Minister of Interior is responsible for determining migration strategies of Turkey for foreigners, coordinating and following-up implementation of the strategies and the Board consists of representatives of ministries, institutions and organizations determined by Ministry of Interior. It is ruled that the Board convenes upon call of Minister of Interior.

There will be a section including combating human trafficking in the “Migration Strategy Document” and drafting of the document started upon decision of the Migration Policies Board and it continues with Migration Board.

132. Articles of Law on Foreigners and International Protection regulating organizational structure of Directorate General of Migration Management were abolished by Legislative Decree No.703. By Presidential Decree No.4, organizational structure has been rearranged and actions and mandates of regular migration procedures have not been amended. In order to carry out smooth and effective actions and procedures for regular migrants, expertise has been gained through capacity enhancement, training and updated legislations since the establishment of DGMM.

Within this scope, applications are concluded *pari passu* with the increase in applications in visas subject to pre-authorization requested by Consulates and work permits asked by Ministry of Family, Labour and Social Services. In the applications of residence permits, e-residence system has been created and applications are taken via internet. In order to prevent unnecessary red tape and fraudulency, technical integration with many institutions are provided and the number of documents of foreigners are reduced.

Workshops and trainings were organized on humanitarian residence permit and foreigners in special needs. Guides for Interviews with Persons in Special Needs and Country Samples (Regulations of Various Countries in the Assessment of Persons in Special Needs) were prepared.

Provincial Directorates of Migration Management took over the responsibilities for address registration procedures of all foreigners residing in Turkey from Directorate General of Civil Registration and Citizenship Affairs.

133. Under the responsibility of General Command of Gendarmerie, The Department Of Counter Trafficking and Smuggling and in coordination with UN Migration Agency- International Organization for Migration (IOM) Project for 8 months on “Supporting the Turkish Gendarmerie in Building the Capacity of The Department of Counter Trafficking and Smuggling” was launched on 30 October 2018 and closing meeting will be held on 11-12 July 2019.

134. Personalization page of passport is polycarbonate and personal information is laser-written. There will be no need to change passports following EU-visa liberation as passports have security features (EAC-SAC) stipulated in ICAO (International Civil Aviation Organization) - EU cooperation.

136. Pursuant to Article 16 of Regulation on Combating Human Trafficking and The Protection of Victims, civil society organizations receiving notices of human trafficking crime shall be responsible for informing

Provincial Directorates of Migration Management, law enforcement units, Chief Public Prosecutor's Office.

138. General indications used in identification of victims are as follows:

1. Wounds occurred/thought to be occurred as result of physical violence (not treated wounds, burns etc.)
2. Typical wounds and deformation on the body parts that are specific to working areas (bruises and scars on some parts of body such as hands, arms and genital area)
3. Untreated sexually transmitted diseases.
4. Showing a fearful, anxious, obedient/meek attitude.
5. Losing track of place and time, partly memory loss
6. Incoherence his/her story
7. Unable to make eye contact or avoiding to make eye contact.
8. Addiction to drugs/alcohol etc.
9. Recruiting persons through creating confusion in his/her mind (coercion, force, deception and violence)
10. While transferring to target country payments of some expenditures such as passport, flight tickets are met by traffickers.
11. Coming from source countries/holding citizenship that countries
12. Living below the poverty line or living standards.
13. Having limited or no communication or relationship with their families and relatives.
14. Not speaking Turkish or just knowing certain occupational words.
15. Having fake documents such as passport, identity or travel documents and being threatened for delivering those documents to authorized persons.
16. Passport, identity or travel documents have been/are being confiscated by someone.
17. Committing violence against/threatened to committing violence himself/herself; his/her family, relatives and/or beloved ones.
18. Not thrusting authorized persons.
19. Threatened to be delivered officials.
20. Generally not being alone; accompanied by third persons or directly or indirectly controlled by those persons.
21. Abstaining from talking about his/her situation to anyone
22. Not allowed to express himself/herself or someone else stands there.
23. Unable talk freely, showing dependent attitude.
24. Not knowing home or work addresses.
25. There are high security measures at gates of home or work places (For example light-proof windows, windows and doors boarded up, barbed wires, security cameras etc.).
26. Indebted with an amount that he/she is unable to pay.
27. Exposed to insult, threat and/or violence.

All abovementioned indications may differ based on types of exploitation.

Indications for Labour Exploitation

1. Generally working in the areas of labour-intensive and manual such as farm, construction, entertainment.
2. Working without official work permits issued by competent authorities.
3. Working longer than normal work duration
4. Unable to take a day off such as sick leave, rest
5. There is no off-days.
6. Forced to work under the conditions determined by employer.
7. Unable to access his/her gains or not to know when/how to access them.
8. Not paying his/her salary and/or victims are generally told to be paid less than he/she deserves (For example incoherent accounts for payment changing by each day)
9. Access to very less amount of his/her gains and/or victims are told that their earnings have been spent for their expenses.
10. By justifying outgoings, victims always burden debts.
11. Groups of people stay work place; their need of food and bath are not sufficiently met.
12. In the agricultural and industrial fields, victims stay wrecked places, shelters, ware houses.
13. Unable to leave work place,
14. Locking windows and doors in order to keep workers in work places.
15. Working unprotected in dangerous works.
16. There are no health and security alarms in the case of danger or there are security equipment with low quality.
17. Payments of insurance premium have not been made in accordance with legislation.
18. Threatened to be imposed fine.
19. Behaving as though they received instruction from anyone else.
20. Having no more friend apart from colleagues.

Labour Exploitation of Domestic Workers

1. There is no private space in the home.
2. Sleeping in a shared or inappropriate places.
3. Even though victims stay in the home of employer, the employer has notified relevant authorities when he/she quits the job.
4. Without presence of employer, victims cannot go out.
5. Against his/her works, they are only provided food and accommodation.
6. Not provided social security.

Indications for Sexual Exploitation

1. By abusing his/her will (coercion, force, deception, undue influence etc.), they have been forced, abducted or raped to provide sexual service.
2. Victims have very less or no casual dresses, they have mostly dresses used for prostitution.
3. The local language he/she learnt consists of mostly sexual contents.
4. Staying with women whose language she does not know.

5. She has knowledge on human trafficking.
6. While coming to work someone always accompanies.
7. The local language he/she has learnt mostly consists of sex-related words.
8. Not having money.
9. Avoiding to reveal the person controlling her, making irrelevant stories or lying.
10. She is too indebted to pay for it by means of charged by her trafficker.

Indications for Child Abuses

1. Children staying in an inappropriate place for his/her development and age.
2. Having inexplicable money and valuable belonging.
3. Drinking alcohol and taking drugs, carrying or selling drugs.
4. Having relationship with people much older than her/him
5. Getting in/off cars he/she does not know.
6. Often disappearing and appearing
7. Having no relationship with his/her parents and relatives.
8. Begging
9. Working in works inappropriate for children
10. Sharing same place with organized-crime members
11. Children with same nationalities or origins act in groups with only a few adults.
12. Tortured because of not collecting money or not working well enough.
13. Threatened or bullied.
14. Not acting his/her age
15. Travelling/having travelled to target country with members of gang
16. Declared by an adult to find a child unaccompanied/in need of help and he/she helps the child.
17. Travelling without an adult person.
18. There is no access to education for him/her or they have limited access to education.
19. Accommodating under bad conditions.
20. Illegally adopted.

Interview Questions for Victims

1. When did you come to Turkey and what is your purpose of travel?
2. Have you ever been to Turkey before (If yes, what is your purpose of travel?)
3. Could you mention provision of your documents to enter into Turkey? Is there anyone, agency or an institution to assist you to obtain those documents?
4. How do you meet the expenses for travel and documents?
5. Who met you when you came to Turkey?
6. Have you created debtor-creditor relationships with anyone or agency for any reason (covering travel expenses)
7. Do you have still identity and travel documents?
8. Under what conditions and what kind of works have you been forced to work (threat, coercion, force or restricting their mobility, conditions of work environment)?

9. When did this process begin after you came to Turkey?

10. Have you earned money in this period?

Correction: The statement "...the DGMM expert drafts a report containing a conclusion as to whether the person concerned should be officially identified as a victim of THB. The report has to be approved by the relevant unit of the DGMM" must be changed into as "Provincial migration expert drafts a report containing a conclusion as to whether the person concerned should be officially identified as a victim of THB. Victim Identification Document based on the report drafted by expert is approved by Provincial Directorates of Migration Management"

146. Communication Center for Foreigners (YİMER 157) received 69 calls for human trafficking between 20 August 2015 and 1 May 2019. 156 Gendarmerie Hotline received 4 calls for human trafficking between 2016 and 2018. The Coast Guard Notification and Request Line 158 has not received any call for human trafficking.

148. Correction: Inspection unit written as 'Labour Inspectorate' was changed to 'Directorate of Guidance and Inspection' through Presidential Decree No.1 published in Official Gazette numbered 30474 and 10/07/2017 dated.

According to data of Directorate General of International Labor Force, the number of both foreigners working without work permit and employers recruiting foreigners without work permits has been 4669 persons.

153. According to Article 1 of Regulation on Combating Human Trafficking and the Protection of Victims, the Regulation herein covers real persons, who were subject to human trafficking, without discriminating between Turkish nationals and foreign victims. Identification procedures of both Turkish citizens and foreigners are same. Pursuant to the Article 23 of the Regulation, actions and procedures of Turkish citizens identified by DGMM are carried out according to Law No.6284 on Protection Family and Prevention Violence against Women dated 08/03/2012. Within this scope, Turkish victims identified by Provincial Directorates of Migration Management are referred to Provincial Directorates of Ministry of Family, Labor and Social Services.

Ministry of Family, Labor and Social Services aims to assure protection, rights and well being of all children between ages 0 and 18 in Turkey. To that end, Child Protection Law No.5395 entered into force 2005. The Law was prepared in accordance with right to life, protection and participation stipulated by UN Convention of the Rights of Child. The Ministry provides what children needs as soon as possible. Pursuant to UN Convention of the Rights of Child, the best interest of child is observed in our works. Within this scope, the Ministry of Family, Labor and Social Services focuses on protective and preventive measures for protecting children from risks. The Ministry of Family, Labor and Social Services carries out required social service responses in line with protective and supportive measures in the Child Protection Law. Ministry of Family, Labor and Social Services aims to assure protection, rights and wellbeing of all children and carries out its activities in this contexts. Within this framework, Ministry of Family, Labor and Social Services ensures children to be cared in their birth parents and relatives by prioritizing the best interest of child with a view of rights. If it is not possible, foster parents are provided; if foster-parents are not possible, services are provided for children in nursing homes. By Child Protection Law children under 13, for whom care measure has been taken (including unaccompanied minor), are cared in Child House or Child House Sites.

Children between the ages of 13-18, for whom care measure has been taken (including unaccompanied minor) based on pushing crime, of the crime, open to dangers in streets, are cared in specialised Child Support Centers where psycho-social works are conducted. Institutions under Ministry of Family, Labor and Social Services carry out open door system.

The institutions are built on life program, education and trading, courses, social activities, works with family and occupational works. Ministry of Family, Labor and Social Service provides children in need of protection to access to basic social services; employs them through the provision of attendance of school and supports their participation of employment and carries out activities for children to prepare life.

Services for Unaccompanied Minors.

In line with Article 66 of Law No. 6458 on Foreigners and International Protection and Regulation on Unaccompanied Minors of Ministry of Family, Labor and Social services numbered 152065 and dated 20/10/2015, actions are carried out for children arriving at Turkey through irregular migration and apprehended by law enforcement units and observing best interest of child is essential.

Unaccompanied child described as a child who arrives at Turkey without the attendance of an adult who by law or custom is responsible for him/her or, is left unaccompanied after entry into Turkey, unless he/she is not taken under the active care of a person responsible for him/her. Following application and registration procedures, protective and supportive measures are applied for children under Child Protection Law No. 5395 and so it is ensured for children to bear no risk. The children are taken under protection in institutions affiliated to Directorate General of Migration Management. Child Support Centres are specialized in service provision for children. In those centres works are conducted in cooperation with relevant institutions in order to monitor and unite families with purpose of provision of family unity for children separated from their families during migration or so on. In the centres, individualized services such as psycho-social support and social integration are provided. All care institutions and Child Support Centres apply open-door system. In order for children to spend time with their peers, time is given to them. In their leisure time, children can go out by permission of group officer. However, human traffickers are aware of services provided for children and there is a risk that the traffickers may take the advantages of adults by leading them to declare themselves as though they were children and benefit services.

Irregular migrants come to Turkey without ID. Within the scope of Law on Foreigners and International Protection, ID and age determination are carried out upon their statement. In case of not determining bone age based on statement, adults and children may stay same places and there is a risk that adults may commit violence against children. The main responsibility of Ministry of Family, Labor and Social Services is to select the children and provide the services they deserve. The Ministry is also responsible for protecting rights for all children in all the ministerial institutions.

154. a) Relevant to the statement “...ensure the availability and quality of interpreters and cultural mediators during the identification process and at all stages of investigation processes”, there is no direct training program for developing quality of interpreters for improving identification of the victims and investigation processes. With the cooperation between the Ministry of Justice and UNICEF, training was provided for 142 interpreters appointed for judicial processes involving children. The training aimed at enhancing capacity such as communication with children, approach to the children under risk, interpreting through appropriate methods and technique.

b) The Ministry of Family, Labor and Social Services created mobile teams in order to lead children-in streets/forced to work- to appropriate service models by identifying them across Turkey. Through field scanning of mobile teams, it is mainly targeted to research the reasons behind staying in street/being forced to work and refer child and family to appropriate social services and aids as well as regain children at school age for education system; refer children having completed formal education to vocational training; lead addicted children to treatment of addiction; provide social rehabilitation children in streets and ensure psycho-social support and awareness raising works are conducted for return children to their family and their families. Besides, protective and supportive measures are taken in accordance with Child Protection Law when children in need of protection are identified.

Mobile social service units have been created in order to identify children under risk and in need of social service response within the scope of Performance Program of Presidency. In coordination with District Directorates of National Education, mobile service units had interviews with children at schools and their families in disadvantaged regions. In the late of March in 2019, Mobile Social Service Units were mainstreamed across the country. Through 183 Social Support Hotline, the Ministry of Family, Labor and Social Services receives notifications for children being forced to work/live in streets. Considering the urgency, the children are responded as soon as possible and referred to appropriate services they need.

The Ministry of Family, Labor and Social Services targets to prevent any type of violence against the child in its services by observing the best benefit of him/her in accordance with UN Convention on the rights of Child. Expert Response Teams have been created in 81 provinces in December 2018 in order to prevent neglect, abuse or violence and respond timely.

Children in Safe Program was launched in February of 2019. Within the scope of the program, children under risk are monitored through Social Service Centres. Under Family and Social Support Program, house visits are carried out, risks and needs of family and child are assessed and required guidance and response are conducted.

Aids for victims

It is more appropriate to add following paragraph to this article.

- Law No. 6735 on International Labour Force entered into force following its publication in Official Gazette numbered 29800 and dated 13.08.2016. The Law regulates actions and procedures for work permit exemption. Under the title “Exceptions” of the Law, Article 16 regulates that “work permits that may be exceptionally issued to foreigners” and (f) clause of the Article states that holder of international protection status, conditional refugee status, temporary protection or stateless or human trafficking victim who are benefiting from victim support process in accordance with the Law no 6458 are exempted from evaluation criteria.

159. As of October 2018, payments are made monthly. 500 Turkish liras per victim and 200 Turkish liras per child with her/him are paid monthly. 13 victims and with children 22 person have benefited from this support. Payments are made in cooperation with Turkish Red Crescent under the scope of Projects implemented with IOM.

160. Kırıkkale Shelter was closed between 14/09/2018 and 26/09/2019 due to its refurbishment. Following refurbishment, a victim with her 3 children were referred to there in December 2018. Out of two started primary education and one of them started pre-school in February 2019. New images of external sides of Kırıkkale Shelter have been enclosed to ANNEX-II.

Correction: In Kırıkkale Shelter, a victim received only 100 Turkish liras; if a victim has one child she receives 200 Turkish liras, if a victim has two or more than it she receives 300 Turkish liras.

161. In Ankara Shelter, one of victim's children started primary school in October 2018. The other child went to kindergarten in November 2018. Kindergarten tuition was covered by IOM. Another child started pre-school in January 2019. All the children at school age continue their education including pre-school education. In Ankara and Kırıkkale Shelters, works are carried out in order to create child-friendly spaces in cooperation with International Children's Center (ICC) under the scope of project implemented by IOM. Correction: Protocols have been concluded with public hospitals in order to provide health services for victims in shelters. Under the scope Article 32 of Regulation on Combating Human Trafficking and The Protection of Victims, health services for victims are provided free.

162. This article needs to be revised as follows:

There are two specialized shelters run by the Provincial Directorates in Ankara and Kırıkkale. Additionally, a separate shelter in Antalya is utilized as in line with the protocol signed with Antalya Metropolitan Municipality and DGMM.

164. There are 110 guest houses/shelters for women run by Ministry, Labor and Social Services, 31 shelters run by local administrations, 1 shelter house run by civil society organization and 2 shelters for foreign women run by Directorate General of Migration Management. Foreign women victims of THB accommodate in shelters for women run by Directorate General of Migration Management. If there is no shelters of DGMM in a province, foreign woman victims of THB are temporarily accommodated by women guest houses of Ministry of Family, Labor and Social Services where needed until their referring procedures are completed by Provincial Directorates of Migration Management.

Under the Law No.6284 on Protection Family and Prevention Violence against Women, six foreign women victims of violence came to guest houses and have been assessed as possible victims of THB and referred to Provincial Directorates of Migration Management for identification as of May, 2019.

In the provinces where there is no shelter houses of DGMM, 6 women were temporarily accommodated in women guest houses of Ministry of Family, Labor and Social Services as of May, 2019 until their referring to guest houses of DGMM were completed.

Works will be carried out for training of staff in corporate service units on identification and referring of victims of THB.

166. Pursuant to Article 1 of Regulation on Combating Human Trafficking and The Protection of Victims, the Regulation covers real persons, who were subject to human trafficking, without discriminating between Turkish nationals and foreign victims. All victims are supported without considering man, woman, child upon they request.

168. There are 134 mobile teams across Turkey, 13.372 children have been responded.

Ministry of Family, Labor and Social Services provides training for all staff working in child services on determination of needs and risk for works carried out in child services, appropriate guiding and occupational responding for determined situations and cases. In the child services, experts take care of professional and

effective service provision in line with the best benefit of child within the scope of international conventions Turkey has signed and national legislation.

Ministry of Family, Labour and Social Services pays field visits to mobile teams in order to strengthen practices, identify needs for children forced to work in streets and hold focus group meeting. Works on those issues are carried out. In line with information obtained after works, trainings for staff will continue. Every child who is not under custody is placed under guardianship. Register staff, administrations, notaries and courts must immediately inform civil courts of piece, the competent authority of guardianship when they realize there is need of guardianship. Guardianship authority is competent in guardianship procedures where the child has settlement. Guardianship authority may appoint capable adult as a guardian. The person who resides where individuals are placed under guardianship, is responsible for accepting this role.

169. Services offered by the DGMM or its provincial directorates in the shelters are above the international standards.

New images of Ankara Shelter House is enclosed in ANNEX-III.

174. Pursuant to Article 48 of Law No. 6458 on Foreigners and International Protection, a residence permit valid for thirty days shall be granted, by the governorates, to foreigners who are victims of human trafficking or where there is strong circumstantial evidence that they might be victims with a view to allow them to break from the impact of their [negative] experience and reflect on whether to cooperate with the competent authorities.

175. In order to allow victims to break from the impact of their [negative] experience and reflect on whether to cooperate with the competent authorities, they are enabled to legally stay in the country with residence permit for up to thirty days. As there is no legal obstacle for Turkish citizens to stay in Turkey, there is no need to give time for them.

179. Pursuant to article 29 of Regulation on Combating Human Trafficking and the Protection of Victims; misdemeanour acts are as follows;

- to contact the offenders of the crime of his/her own free will,
- to leave the shelter without informing the authorities,
- not to abide by the measures taken under the support program,
- not to cooperate with the authorities,
- have a false statement.

181. In 2018, the number of residence permits granted for victims was 82. Unaccompanied child victims identified are accommodated in Provincial Directorates of Ministry of Family, Labor and Social Services. Residence permit is issued for identified foreign victims until his/her procedures are completed where he/she returns to his/her country in safe and voluntarily.

182. In Article 22 of Regulation on Combating Human Trafficking and the Protection of Victims, it is stated that “the provisions pertaining to the victims of human trafficking shall be applicable for the individuals who have been or suspected to be victims from among the holders or applicants of international protection

status and those under temporary protection and other foreigners.” Pursuant thereto, if foreigner is an international protection applicant or status holder or temporary protection beneficiary, residence permit is not issued. However a foreigner may enjoy victim support program upon he/she requests. If the foreigner wants to apply for one of the status in the Law while he/she has residence permit for victim of THB, his/her residence permit is terminated but he/she continues enjoying victim support services. Between 2014 and 2019, twelve of victims in shelters are international protection applicants or status holders while five of victims are beneficiaries of temporary protection.

185. Directorates of Judicial Support and Services for Victims were established in 7 pilot provinces as an outcome of twinning project implemented both Ministry of Justice, Directorate General for Penal Affairs, Department of Victim Rights and Kingdom of Spain. As judicial support staff pedagogue, psychologist and social service expert provide services in the directorates. Private services will be provided for victims such as victims of THB identified as vulnerable group. Judicial support staff will provide psycho social assistance to victims in submitting required documents for access to judicial aid in judicial procedures.

186. Working Group on Refugee Rights works on establishing judicial expert teams for refugee law, provision of training for lawyers on refugee rights, drafting annual reports, holding follow-up meetings with administration and execution in Province Bar Associations of Union of Human rights Centre of Turkish Bar Associations. The Project on “Support to Improvement of Legal Aid Practices for Access to Justice (SILA)”, Project on the Promotion of Access to Justice by Refugees, Asylum-Seekers and Temporary Protection Beneficiaries in Turkey have been completed and continued projects by International Relations and EU Centre of the Union. Under the scope of the completed Project SILA, occupational skills of lawyers have been improved. Under SILA 2, 350 colleagues have been trained on communication techniques with victims. Union of Turkish Bar Associations has provided trainings to 3500 lawyers on refugee law for 2 days in 18 provinces under the scope of Trainings on International Protection and Approaches to Refugees.

Union of Turkish Bar Associations provided trainings on International Protection and Approaches to Refugees in following provinces and dates;

Gaziantep & İstanbul* 26-27 May 2018

Çanakkale 02-03 June 2018

Trabzon 09-10 June 2018

Kayseri 30 June - 1 July 2018

Ankara & Erzurum* 08-09 September 2018

Aydın & Edirne* 15-16 September 2018

Bursa & Mersin* 29-30 September 2018

Adana & Hatay-Kilis* 03-04 November 2018

Denizli 10-11 November 2018

Şanlıurfa & Van* 24-25 November 2018

İzmir 08-09 December 2018

* Training were simultaneously provided in different cities for two days.

Trainings were planned for solution to challenges that colleagues and Bar Associations encounter. The content of trainings includes Judicial Assistance, Protection women and Children under Law No. 6284 and

Regulation No. 5395 on Unaccompanied Children, Challenges in Civil Code and Business Law for Refugees (Article 4 of International Private and Civil Procedure Law: marriage, divorce, guardianship, birth record, death, access to labour market” and administrative detention, removal and interim measure in line with judicial opinion of the Constitutional Court.

Under the scope of the Project on the Promotion of Access to Justice by Refugees, Asylum-Seekers and Temporary Protection Beneficiaries in Turkey implemented both Union of Turkish Bar Associations and UNHCR, Legal Clinic has been opened in Şanlıurfa and it maintains its activities. In the Law Clinic in Şanlıurfa, 480 refugees were assisted in 2018.

In cooperation with both Union of Turkish Bar Associations and UNHCR, interpretation supports are provided in Arabic and Persian in legal aid applications and law offices. Also interpretation support line is operational in both languages. Through the line, 487 interpretation supports were provided in 2018. Out of 417 were for legal aid, 4 were for compulsory advocacy, 65 were for research for private cases.

The Union takes part in Coordination Board on Combating Irregular Migration and provides its contributions to the Coordination Board.

In addition to this, the Union provided contributions to works carried out under the scope of Project on Protection of Victims of THB. DGMM was the main beneficiary of the project.

187. In Turkish law, it is possible to access legal assistance where financial situation is not sufficient enough to file a case or follow an action in personam, start legal proceedings for bankruptcy and dept.

Legal assistance is regulated in the Articles 334-340 of Code of Civil Procedure. Persons must apply for competent courts before an action brought; courts carrying out judgement after an action brought, enforcement courts in the places where bankruptcy and dept is followed, regional courts of justice or Court of Cassation in the course of application for legal remedy. The court consider whether legal assistance conditions are met and it may decide on partial or full acceptance or refusal of the request. Legal assistance continues until finalization of judgment. Pursuant to Article 337/2 Code of Civil Procedure, persons may object the decision the court have made on refusal of legal assistance requests within one week following notification.

Following the examination of objection, the decision will be definite. If the request for legal assistance is rejected, the person may request again based on considerable decrease in ability to pay on a later time.

Judgment fee, advance payment and expenses may not be covered even if legal assistance request is accepted by the court, as long as legal assistance decision is maintained. All judgment fees postponed due to decision on legal assistance and advance payment by Government are obtained from the person found unfair. It may be decided on judgment expenses to be paid in equated monthly instalments up to maximum one year where the legal assistance beneficiary is found unfair. If the court considers that payment of judgment expenses cause victimization of the person, it may decide for the person to be exempted from full or partial payments.

Pursuant to Articles of 178-179 of Legal Profession Act numbered 1136, it is possible for victims of THB to apply for Bar Associations or Bar Legal Assistance Offices in order for lawyers to follow their cases through legal assistance where the victims, who claim compensation, are unable to afford advocacy expenses in line with Code of Obligations.

DGMM has not any document or information on whether victims of THB claim compensation and receive the compensation under the scope of Code of Obligations

195. The number of victims of THB enjoying voluntary return program and receiving financial and in-kind aids was 172 and 96 respectively in 2017 and 2018.

196. Pursuant to Article 24 of Regulation on Combating Human Trafficking and The Protection of Victims, the best interest of the child shall be considered in the process of safe and voluntary return program through a risk and security assessment. In practice, there is no children returned.

197. The use of the word “removal” is **inappropriate** in this article as it does not fit in the context. Instead, voluntary repatriation/return should be used. In Turkey, return or repatriation of victims of THB is based on **voluntariness**. Since it is based on the consent of the victims of THB, it is by no means a “removal”. Also, while managing one’s voluntary repatriation, family unity and the best interest of the child are taken into consideration. Provincial Directorates of Migration Management make risk assessment considering educational situation of the child in Turkey and life standards in the country to where the child could be sent and the voluntary repatriation process may be initiated only after the approval by DGMM.

202. In accordance with Article 24 of the Convention, a law has been drafted as follows.

In addition to current Article:

(3) If the force and violence for human trafficking cause deliberately injuring, additional provisions for this offense are applied.

(4) If the victim dies as result of commission of offense stated in the first paragraph, aggravated life imprisonment is applied.

(5) If persons who has committed offense stated in the first paragraph by knowing the victim’s situation, he/she will be punished in accordance with relevant offense types regulated through this law.

(6) In case of offense of THB is committed;

a) against a child,

b) by public officer in his/her execution of office

c) by three or more than it,

punishment to be imposed is increased by one half

d) in case of commission of this offense within activities of criminal organization, punishment to be imposed is increased by one fold.

203. In view of Turkish Criminal Law, real provisions are applicable.

Different penalties are imposed for prostitution and human trafficking. This method is valid for forced labor and compelling to beg. Court of Cassation has decisions on this issue:

The accused, who knows victim is in desperation as she has no place to stay and work to earn money, forced her for prostitution without her consent and took her to user of services of the victim by a car for week. They harboured the victim in a house belongs to A.F.D. The victim told her situation to Aydın Bozoğlan who came for use of the service and he informed the police. Acts by accused constitute THB and prostitution offenses as abovementioned (APPROVED) Decision dated 10/3/2011 8.C.D, 2010/13722 E and 2011/1888 numbered).

In her statement, F.T said she had come to Diana for a vacation and her boyfriend, the accused A.K had forced her to prostitute and she was battered by them. Upon this pressure on her, she stated that she had to

prostitute. Her accounts were supported by other victims and the whole case. Upon this, accused must be separately convicted for human trafficking and prostitution offenses regulated by Articles 80/3 and 227/1-4 of Turkish Criminal Code.

(REVERSING THE JUDGMENT) YRG 18. C.D. 13/02/2017 and 2015/24030 E. 2017/1481

Decisions on human trafficking offense by Court of Cassation is enclosed to ANNEX I.

205. In Turkish law, it is possible to punish the user of service of victim if the person knows that she is a victim of THB. In order to implement this more clearly and without interpretation, draft law has been made. “(5) The person who uses knowingly and wilfully service of the victim shall be punished for abuse acts stated in first paragraph.”

206. Security measures are ruled for legal entities due to those of offence (Turkish Criminal Code, Article 80/4). As it is seen, it is regulated that Security precautions are applied for the legal entities committing such offenses by subparagraph 4, Article 80.

Although it is disputable whether legal entities has criminal liabilities in doctrine, principle of individual criminal responsibility has been included in Article 38 of the Constitution, 1. Subparagraph, Article 20 of Turkish Criminal Codes. In the article 20 of Turkish Criminal Code, it is stated that no punitive sanctions may be imposed for the legal entities. However, the sanctions in the form of security precautions stipulated in the law for the offenses are reserved.

Security measures are taken for legal entities which cannot be an offender. Pursuant to Article 60 of Turkish Criminal Code, their licenses shall be cancelled and confiscation is applied for legal entities involved in commission of offense. Security measures may be taken upon the offense of THB is committed for the benefit or activities of legal entities.

Turkish Criminal Code Article 80(4) states that “Security precautions are applied for the legal entities committing such offenses.”

207. Offense of THB is among the offenses for which administrative sanctions are imposed to private entity.

208. In Article 13 of Turkish Criminal Code, principle of universality has been regulated.

As a requirement of principle of universality, a new trial for person can be filed in accordance with Turkish laws in Turkey by disregarding Turkish or foreigner upon request of Ministry of Justice even if he/she is convicted of an offence in a foreign country or is acquitted (Turkish Criminal Code, Article 13)

It is included in the Article 58 of Turkish Criminal Code.

ARTICLE 58

1) Provisions relating to recidivism are applied in case of commission of an offense after finalization of the decision for conviction. Execution of the sentence is not sought for adoption of this provision.

(2) The provisions relating to recidivism may not be applicable for the offenses committed;

a) After lapse of five years as of the execution date of the sentence to imprisonment more than five years due to previous conviction,

b) After lapse of three years as of the execution date of sentence to imprisonment for five years or less due to previous conviction.

- (3) In case of recidivism, the offender is punished with imprisonment if an alternative between imprisonment and administrative fine is provided in the relevant article of the law for the current offense.
- (4) The provisions relating to recidivism may not be applicable in the felonious or negligent offenses and exclusive military offenses. Excluding offenses such as felonious homicide, felonious injury, plunder, swindling, production and trading of narcotic and harmful drugs or counterfeiting of valuable stamps, the decisions taken by the foreign courts may not be taken as basis in recidivism.
- (5) The provisions relating to recidivism may not be applicable for the offenders not attained the full age eighteen on the commission date of the offense.
- (6) The punishment to be imposed in case of recidivism is executed according to the regime exclusive to the recidivists and the convict is released following the execution of the sentence but kept under control and observation as precaution.
- (7) The decision for conviction should contain a statement notifying adoption of special execution regime and imposition of precaution seeking control and observation of the recidivist after release.
- (8) The sentence and precaution seeking control and observation of the recidivist after release is executed according to the procedure set out in the law.
- (9) The court may decide adoption of special execution regime and precaution seeking control and observation of the recidivist after execution of the sentence also for the inveterate offenders, and the persons who commits offense in a professional manner or the offenders belonging to an organized group.

Judgment of foreign court is not taken as a basis of recidivism.

Acceptance the judgment of foreign courts is against the principle of territoriality. It is considered that recognition of judgment of foreign court may damage sovereignty rights of the country that recognizes it. Because of international obligations, rigorous implementation of the principle has been abated with information age. In line with this, exceptions are extended by the Law No. 5237. Some exceptions that decision of foreign courts cannot be regarded as a basis of recidivism as follows:

- offenses of intentional killing,
- offenses of deliberately injuring,
- Offenses of plundering,
- Offenses of fraud,
- Offenses of producing and trafficking of drugs and stimulants
- Offenses of fraudulency in money and valuable stamp,

Accordingly, aforementioned crimes committed in a foreign country can be regarded as recidivism in Turkey. In the event of a criminal attempt or committing these crimes' aggravated versions inherently shall be regarded as recidivism by Turkish courts. Turkish Law does not differentiate a verdict by a foreign court whether the crime is committed by a Turkish citizen or a foreigner.

For instance, a sentence imposed on a Turkish citizen in a foreign country due to reckless homicide shall not be regarded as recidivism by Turkish courts. Considering exceptional crimes, trafficking in human beings can fall under the crimes that will be regarded as recidivism, however Grand National Assembly of Turkey, the legislative power, has the authority on the matter.

222. Statistical data on investigations, prosecutions and convictions for THB in the period 2014-2018 including sanctions and acquittals distributions can be found in ANNEX 4.

228. Lawsuits of confiscation of assets acquired from human trafficking activities are carried out by law enforcement forces and Financial Crimes Investigation Board (MASAK) on prosecutor's orders. The cases where assets of human traffickers were confiscated are present.

232. The first of Judicial Reform Strategies drafted within the scope of Chapter 23 titled Judiciary and Fundamental Rights, was shared with public in 2009, and the second one was shared in 2015. Preparatory work of the new Judicial Reform Strategy to be implemented between 2019 and 2023 is currently on progress.

In the preparation phase of the document, implementation of previous Strategies, developments in the justice within country and/or in abroad, remarks of scholars and stakeholders are taken into consideration and the document is drafted with the contributions of institutions/organizations related to policy-making and civil society organizations.

In this paper, planned to be shared with public shortly, population activities in Turkey due to incidents happening in neighbouring countries and illegal actions related to these situation are not an area of direct focus. However, especially in determination of strategic objectives concerning improving effectiveness of criminal justice system and increasing access to justice, increases in the number of foreigners (as suspect, accused or victim) who benefit from judicial system has been regarded, in addition, a victim-focused service manner is tried to be reflected to the Document. Many subjects in the Document such as;

- Legal aid,
- Foreigners' access to justice,
- Drafting brochures explaining justice system for foreigners,
- Finalizing legislative works concerning rights of victims,
- Improving international cooperation on transnational organized crimes, human trafficking and migrant smuggling,
- Drafting guiding principles for each crime and "standard procedure and checklists" for judicial police,

are directly related to aiding the victims of human trafficking to access justice more efficiently and combatting criminal activities in a more effective manner.

Turkey's human oriented policy on migration movements, supports Syrian refugees' right to live while preventing a crises which would otherwise affect Europe deeply. This migration movement naturally affected the justice system. Determined approach of the previous document concerning refugees' access to justice will be enhanced and maintained.

233. Implementing witness protection measures for every offense is not possible as per the law. In accordance with Turkish Penal Code, witness protection measures can be applied in cases of investigation and prosecution involving; special laws which include criminal sentences of aggravated life imprisonment, life imprisonment and offenses requiring minimum ten years of sentence along with the offenses committed under an organization established to conduct actions which are considered a crime in the eyes of the law and requiring minimum two years of sentence and crimes committed under the agenda of a terrorist organizations. Witness protection measures are enacted by the law and one or multiple of these measures can be applied at the same time.

235. Openness of the trial is regulated by Article 182 of Code of Criminal Procedure. In line with this Article trials should be open as a rule. However, in cases where public morality and public safety necessitates, court may decide that some or all parts of the session to be closed. Justified decision and judgment of the court on holding a closed session is announced in an open trial. There are two types of closeness in Code of Criminal Procedure: discretionary and mandatory closed sessions. In line with Article 182/2 of Code of Criminal Procedure in cases where public morality and public safety necessitates, court may decide that some or all parts of the session to be closed. The court has the power of discretion and it is not mandatory. For instance sexual abuse or a case concerning state secrets may be seen as confidential. Mandatory closed session is regulated under Article 185 of Code of Criminal Procedure and pursuant to it, in cases where defendant is under 18 years of age, a closed session is conducted and provision is also announced in a closed session.

Pursuant to these provisions of Code of Criminal Procedure, prosecutions under the offense of THB cannot be conducted solely under this, however in the case of a situation which necessitates a closed session court has the power of discretion and may decide that some or all parts of the session to be closed.

Pursuant to Article 236/3 of Code of Criminal Procedure; during witness hearings of child victims or mentally depressed persons due to the effects of committed crime, it is obligatory for an expert in the fields of psychology, psychiatry, medicine or education to be present. The basis for this obligation is to keep psychologic status of the children or adults mentally depressed due to the committed crime in check during their testimony and minimize the trauma. Moreover, as per the Article 52/3 of Code of Criminal Procedure, it is also an obligation to keep audio visual recordings of testimonies of child victims, monitor and control their status; and in case of a need to hear the testimony again it is made by examining these recordings.

236. All vulnerable people who can be affected negatively by a confrontation with the offender can benefit from judicial interview rooms. Judicial interview rooms are currently in use and are used for statements and testimonies for vulnerable groups upon discretion of the judge and prosecutor. Protection and support units have been established in 7 pilot courthouses as Judicial Support and Victim Services and started operating on April 1st 2019. These provinces are İstanbul (Anatolia), İzmir, Adana, Eskişehir, Samsun, Rize and Malatya. At these units, psychologists, pedagogues and social workers offer services under the title of Judicial Support Officers. Special services will be offered to persons who are identified as a member of a vulnerable group such as victims of human trafficking. Judicial support officers who will help persons collect documents necessary for benefitting judiciary support, will also provide psycho-social support to the victims during this procedure. Victims themselves can directly apply to these units or the court or a prosecutor refer persons to these units.

In line with Article 236/3 of Code of Criminal Procedure; during the hearings of child victims or mentally depressed persons due to the effects of committed crime, it is obligatory for an expert in the fields of psychology, psychiatry, medicine or education to be present. The basis for this obligation is to keep psychologic status of the children or adults mentally depressed due to the committed crime in check during their testimony and minimize the trauma. Moreover, as per the Article 52/3 of Code of Criminal Procedure, it is also an obligation to keep audio visual recordings of testimonies of child victims, monitor and control their status; and in case of a need to hear the testimony again it is made by examining these recordings.

237. Appointing a pedagogue, psychologist or a social worker when a testimony of the child victim is needed in criminal courts is a legal obligation. This member of profession is responsible for meeting with the child before the hearing and decrease his/her anxiety level in addition to being present at the time of the

hearing. In case a measure is needed to be ordered by the court concerning child victim, a measure which will meet the needs of the child (education, counselling and accommodation measures) is ordered by taking social study report prepared by the member of profession into consideration.

ANNEX 1

Case-Law Examples of Human Trafficking Crime

T.R.

COURT OF CASSATION

18- Criminal Chamber

Merit No: 2016/485

Decision No: 2017/4650

Notification No: 9 – 2014/40626

(...For incurrance of human trafficking crime which has been regulated in Article 80 of TCC, the perpetrator has to get into action “by the use of threat, pressure, force or violence, employing deceit, abusing his influence, or obtaining a consent by exploiting control over another or the desperation of such other” and while and after doing his/her actions the perpetrator has to procure, kidnap, harbour or transport the victim from one place to another or bring him/her into the country or take him/her out of the country. At least one of the means and the purpose have to be performed for occurrence of that crime. The means are required to be done before or simultaneous at the latest with the purpose. In this way the will of victim would be sapped and seemingly his/her consent would be received. Afterwards, the purpose acts which constitute the crime would be realized by taking advantage of his/her situation. The sole exception is the paragraph stipulated in Article 80/3 of TCC “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 paragraph one, notwithstanding the fact that no act instrumental to the offence has been resorted to”.

In accordance with this paragraph, where a child victim is procured, kidnapped, harboured or transported from one place to another for the purpose of prostitution, the human trafficking crime will occur even if none of the means have been resorted to. Due to the fact that the accused person’s performance or not performance of his/her intent will not have any influence on occurrence of human trafficking crime, if the purpose act has been performed for the aim of prostitution of the victim, a further prostitution crime will occur as well in consequence of pushing the victim to prostitute to perform the purpose acts, and in this regard it will not be possible to impose conceptual aggregation provisions in terms of prostitution crime and human trafficking crime.

However, if the victim pushed to prostitution by the accused person is under fifteen years old, the conditions stipulated in Article 44 of TCC will emerge in terms of sexual abuse crime together with prostitution crime and so the judgement is delivered for the crime of sexual abuse which requires much more severe punishment for the perpetrator.

In accordance with Article 6/1-a of TCC, the concept of minor “who has not reached the age of 18” is addressed by being divided in two different periods in Section of Offences against Sexual Integrity as “who completed fifteen years old” and “who not completed fifteen years old”. In that Section sexual crimes against minors “who not completed fifteen years old” and minors “who completed fifteen years old and not reached eighteen years old” are addressed in different categories. Pursuant to Article 103/1-a of TCC, any sexual behaviour against minors “who not completed fifteen years old” are described as sexual abuse, and

in the subparagraph (b) of the same Article other children are addressed as to be minors “who completed fifteen years old but not reached eighteen years old” and so it is accepted that all sexual behaviours committed against other children by force, threat, fraud or another reason affecting the willpower will form sexual abuse crime. The law-maker doesn’t include sexual behaviours against minors with their own consent “who completed fifteen years old but not reached eighteen years old” into the scope of sexual abuse crime and gives priority to the consents of minors under this category, but on the other hand any type of sexual behaviour against minors “who not completed fifteen years old” are included into scope of sexual abuse of minors without taking into account their own consent. The Article 104 of TCC regularizes the sexual intercourse with a child who completed the age of fifteen, without using force, threat and fraud as a crime depending upon filing a complaint. As can be understood from these regulations, for the “sexual abuse” crimes against minors “who not completed fifteen years old”, the consent of children doesn’t have any legal value and even if the victim has consent it will be impossible to implement the provision appropriate with the law which is described as “consent of the relevant person” in Article 26 paragraph (2) of TCC.

To evaluate concrete cases according to descriptions and regulations mentioned above, the victim’s explanations are taken into consideration at 14 years old and the victim said he/she was met with others persons N.Y. and F.U. by the accused person R.Ö. and pushed into prostitution by those accused and when considering the behaviours of accused R.Ö. N.Y. and F.U. who push the child victim into prostitution, which are in comply with Article 80 paragraph (3) of TCC “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 paragraph one, notwithstanding the fact that no act instrumental to the offence has been resorted to”, conceptual aggregation in Article 44 of TCC will not be imposed. In this regard, apart from human trafficking crime, acts of accused will form “prostitution and sexual abuse” crimes against minors under 15 years old, and because this crimes are part of human trafficking crimes, in accordance with Article 44 of TCC major sexual abuse crime of minors in a successive way that are in comply with Articles 103 paragraph (2) , Article 43 of TCC, it is evaluated that ... Court will file a criminal complaint against the accused person within the statute of limitations, in the examination...

Merit No: 2015/31263

Decision No: 2017/5214

Notification No: 9 – 2013/282915

(...Crimes of human trafficking and prostitution are different from each other so conceptual aggregation specified in Article 44 of TCC is not a matter of discussion. While explaining an issue, the reference made for another issue will not prove that an action has also been commenced against it, and the matter in dispute should be explained separately. In accordance with the way of explanation and law articles to be imposed, after noticing that there is not any action commenced for prostitution against the accused in line with 170 Article of TCPC and also that not any indictment is brought, an action for prostitution is commenced against the accused following denouncing for crime and two separate files are to be unified and the requirement for determination of legal status of accused according to the verdict is to be disregarded ...)

Merit No: 2016/12008

Decision No: 2017/1737

Notification No: 18- 2015/59879

(... In the apprehension report dated on 08/06/2014 and the notice submitted from South East Europe Cooperation Entrepreneur that the accused person is apprehended and taken into custody in Romania because of human trafficking crime and victims of the crime are forcibly detained in F...Hotel, ... is to demand through international rogatory and translate certified copies of accused file, if exist, to judge and

determine the legal status of accused according to examinations and discussions of evidences regarding imputed offence after identifying the duration of imprisonment, custody, detention or conviction imposed for the subject crime in the foreign country, if exist, and also to judge with incomplete investigation while the need whether to implement Article 16 of TCC is under consideration ...)

Merit No: 2018/794

Decision No: 2018/2178

Notification No: 18 – 2016/217859

(...In order for the crime of “human trafficking” which is set out in Article 80 of the Turkish Criminal Code to be committed, the perpetrator must procure, kidnap, harbour or transport a person from one place to another or bring a person into the country or take a person out of the country, by the use of threat, pressure, force or violence, employing deceit, abusing his influence, or obtaining a consent by exploiting control over another or the desperation of such other and carry out at least one of both the purpose actions and mean actions. The mean actions should be carried out before or at the latest simultaneously with the purpose or mean actions. Therefore, firstly the will of the victim should be sapped with the mean actions and his/her consent should be obtained in appearance, and then by benefitting from this issue the main purpose actions should be carried out. Considering this explanation,

When the statement of plaintiff R. D. pointing out that “when she came to Antalya to prostitute via her friend Ayka, the accused met her and took her to a house, then she started prostituting with customers including the accused, at first the accused paid her but then he didn’t pay anything and considered it in return for the expenses he made and she was taken to another house for prostitution”, TAPE recordings of 02.11.2013 pointing out that the accused at first threatened to beat the victim who didn’t want to go to the customer and then beat the victim and the statement of plaintiff M.K.K. claiming that “a friend named Asel had her spoken to the victim saying that there was a child care job, the accused took a flight ticket saying that he would help, she was met by the accused at the airport and taken to a house in Alanya, the accused asked for the expenses he made, when she said that she wanted to go, the accused yelled at her and scared her, he didn’t let her leave the house alone” are taken into consideration, it is understood that the accused made the plaintiffs that he brought to Antalya via unidentified foreign women prostitute on the pretext of the expenses that he made for the plaintiffs, he hosted them for this purpose, he urged the plaintiff R. D. by threatening and using violence when she didn’t want to prostitute and the plaintiff M.K.K. with pressure and deceit, and therefore, for the decisions ruled for the plaintiffs R.D. and M.K.K. about prostitution, Article 227/4 of Turkish Penal Code should not be applied due to insufficient reasons and acquittal decision should be ruled instead of conviction for the human trafficking crime which is proved,

b) Regarding the decision ruled for the plaintiff E.T. about prostitution;

Due to the statement of plaintiff that “she was apprehended by the police before prostituting” and the statement of plaintiff R.D. which supports the previous one, successive offence decisions are ruled for the accused who urged the plaintiff to prostitution,

2- Regarding the decisions ruled for the crimes of human trafficking and prostitution committed by the accused A.Ü. for plaintiffs G.Z. and Z.K.;

a) When the statement of the plaintiff G.Z. pointing out that “a woman named Aysema told her that there was child care job and bought the flight ticket and helped her to come into the country, one week later told her that there was no child care job and Aysema and her boyfriend Resul wanted her to prostitute in return for the expenses they made, when she rejected Resul beat her, she started prostitution out of fear, Aysema sold her to the accused A. for 3.500 USD, then she started prostituting with the customers that the accused and Aysema found, the accused never paid her, when she wanted to leave the accused told her that she couldn’t without paying her debt” and the statement of the plaintiff Z.K. pointing out that “a woman named Aysema told her that there was child care job and bought the flight ticket and helped her to come into the

country, Aysema and the accused met her at the airport and took her to a house, she wanted to leave when she understood that three woman including the plaintiff G. prostitute there but Aysema and the accused told her to prostitute until she paid her debt to them, she got scared and accepted the offer out of desperation and started to prostitute” are taken into consideration, it is understood that the accused deceived the plaintiffs by promising them a child care job through a woman named Aysema and brought them to Alanya, told them there was no child care job and asked for the expenses he made, when the plaintiffs told them that they didn’t have any money, the accused suggested that they could pay the money with prostitution and in case his suggestion was not accepted, he told them that he wouldn’t let them leave, he kept them under pressure and forced them to prostitution and therefore, for the decisions ruled for the plaintiffs G.Z. and Z.K. about prostitution, Articles 227/4 and 43 of Turkish Penal Code should not be applied due to insufficient reasons and acquittal decision should be ruled instead of conviction for the human trafficking crime which is proved...)

Merit No: 2016/3653

Decision No: 2018/5741

Notification No: 14 - 2013/402006

(...Along with the appeals against the judgements delivered by Courts of First Instance and in line with the duration of the application, nature of the case and date of crime, for incurrence of human trafficking crime which has been regulated in Article 80 of TCC, the perpetrator has to get into action “by the use of threat, pressure, force or violence, employing deceit, abusing his influence, or obtaining a consent by exploiting control over another or the desperation of such other” and while and after doing his/her actions the perpetrator has to procure, kidnap, harbour or transport the victim from one place to another or bring him/her into the country or take him/her out of the country. At least one of the means and the purpose have to be performed for occurrence of that crime. The means are required to be done before or at the latest simultaneously with the purpose. Therefore, firstly the will of the victim should be sapped with the mean actions and his/her consent should be obtained in appearance, and then by benefitting from this issue the main purpose actions should be carried out. Considering this explanation.

The sole exception is the paragraph set forth in Article 80/3 of TCC “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 paragraph one, notwithstanding the fact that no act instrumental to the offence has been resorted to”.

In the light of those information, due to the actions of the accused who encouraged the victim to engage in acts of prostitution who was under 18 at the date of offence and considered as child and due to the fact that the Conceptual Aggregation set forth in Article 44 of Turkish Panel Code cannot be referred pursuant to the amendment on Article 80/3 of Turkish Panel Code, it is stated that a legal action should be taken against the accused for the offence of human trafficking as well.

As regards the appeal of absolution of the accused A.A. for the offences of violation of privacy and deprivation of liberty;

Under the Article 226/3-1 of TCC, using children in the production of obscene written or audio-visual materials is defined as an offence. The lexical meaning of production is to form, create and compose (bkz. http://www.tdk.gov.tr/index.php?option=com_bts). Using an obscene visual-audio material of a child or using a child in the production of obscene written or audio-visual materials is sufficient to constitute a crime.

As emphasised by the decision no 2015/66, merit no 2014/14-603 and dated 24/03/2015 of Supreme Court Assembly of Criminal Chambers, in order for a subject matter to constitute a criminal offence set forth under 226/3-1 of Turkish Criminal Code it is enough to use a child in the production of an obscene material regardless of professionally editing obscene images. There is also not any limitation on formal

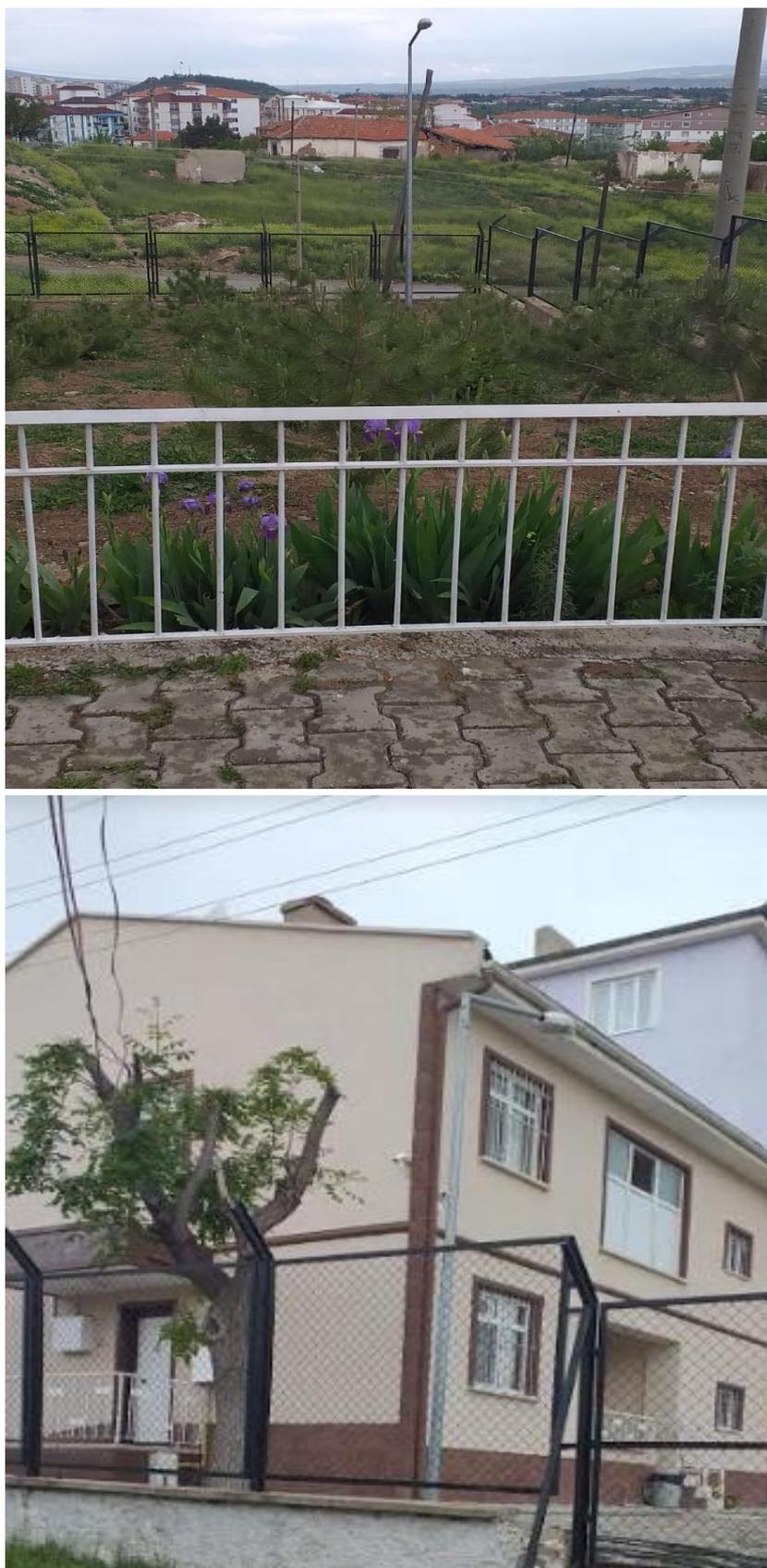
requirements, manufacturing types or aims of obscene materials. For the acts to constitute an offence, it is not compulsory to watch, get someone to watch, sell or distribute the obscene product. Furthermore, unwatched products or those generated for individual supply does not change the result.

In line with information abovementioned, for the act of recording video of child victim during sexual intercourse, acquittal occurred without observing that using children in producing obscene material constitutes a crime in Article 226/3 Turkish Criminal Code. By making mistake on nature of the offense, a case was filed for violation of privacy in accordance with Article 134 of Turkish Criminal Code and it did not constitute a crime as the act was considered to occur upon child victim's free will.

According to information on personal register in the case, Afyonkarahisar State Hospital stated that the victim was 18 radiologically but her physical and psychologic age was under 18 in its report on 01/10/2010. İstanbul Forensic Medicine Institute 2nd Specialized Board considered that the victim turned 14 and at the age of 15; but she did not turn 15 as of the date of crime in its report on 30/05/2011. In order to eliminate contradiction among reports, İstanbul Forensic Medicine Institute General Board stated that the victim developed in appropriately for birth record; she turned 14 and at the age of 15 in its report on 14/06/2012. According to witness named İ.Ö, even though victims told to perpetrator that she was 17, he told her lying. It has been considered that the perpetrator had time to observe the victim for a long time; his lapse was not appropriate to the usual flow of life in her age; she was under 15 in both age and appearance in the case. It has been decided that claim of the perpetrator named A. was invalid for victim's free will and therefore it is considered that his acquittal occurred insufficient reasons by based on Article 30 of Turkish Criminal Code for mistake without observing that the perpetrator named A. caused deprivation of liberty of the victim.

ANNEX 2

Kırıkkale Human Trafficking Shelter View



ANNEX 3
Ankara Human Trafficking Shelter
Living Rooms



Victim Rooms





									50/1-a of TCC)						
Human Trafficki ng	91	38	295	62	4		34					9	37	32	336

									50/1-a of TCC)					
Human Trafficki ng	115	56	317	108	2		54				9	19	28	451

Criminal Proceedings for human trafficking 2017				
Criminal Proceedings for human trafficking		Number of Cases	Number of accused person	Number of Victim (Plaintiff)
RECEIVED	Remained from previous period	165	1484	1936
	Received in current period	55	366	319
	Reversed	2	3	13
COMPLETED		42	185	182
TRANSFERRED TO FOLLOWING PERIOD		181	1669	2087

Human Trafficking	72	42	266	29	8		32			2		17	5	16	358
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ffense charged	Type of Judgement for the accused person	For the people convicted		Gender and age of victims	
				Male	Female

	Number of Cases	Number of people convicted	Number of people acquitted	Number of people imposed other judgments	Number of people sentenced to imprisonment	Number of people punished with judicial fine	Number of people sentenced to imprisonment and punished with judicial fine	Number of people whose imprisonment were converted to judicial fine (in accordance with TCC 50/1-a)	Number of people whose imprisonment were converted to precaution (in accordance with the subparagraphs except 50/1-a of TCC)	Number of people whose imprisonment were suspended	Number of people imposed security sanctions	Younger than 18	Older than 18	Younger than 18	Older than 18
Human Trafficking	42	45	96	44	2		43					22	1	14	145

									50/1-a of TCC)						
Human Trafficki ng	82	77	305	40	7		70					6	32	50	348

