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GRETA(2018)5

# **GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS (GRETA)**

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## **Reply to the Questionnaire from Turkey**

Reply submitted 5 February 2018

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## **Council of Europe Convention on Action against Trafficking in Human Beings**

The *Council of Europe Convention on Action against Trafficking in Human Beings [CETS No. 197]* was opened for signature in Warsaw on 16 May 2005, on the occasion of the Third Summit of Heads of State and Government of the Council of Europe member states and entered into force on 1 February 2008.

This Convention is considered to be one of the Council of Europe's most important achievements and the most important human rights treaty of the last decade. The first European treaty in this field, it is a comprehensive instrument focusing mainly on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent trafficking and to prosecute traffickers. In addition, it provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention.

### **Monitoring mechanism of the Convention**

The monitoring mechanism of the Convention consists of two pillars: the *Group of Experts on Action against Trafficking in Human Beings (GRETA)*, a technical body, composed of independent and highly qualified experts, and the *Committee of the Parties*, a more political body, 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.

GRETA is responsible for monitoring implementation of the Convention by the Parties. GRETA will regularly publish reports evaluating the measures taken by the parties and those Parties which do not fully respect the measures contained in the Convention will be required to step up their action.

The Committee of the Parties may also, on the basis of GRETA's report and conclusions, make recommendations to a Party concerning the measures to be taken to follow up GRETA's conclusions.

For further information please consult our website: [www.coe.int/trafficking](http://www.coe.int/trafficking)

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## **Introduction**

In accordance with Article 36, paragraph 1, of the *Council of Europe Convention on Action against Trafficking in Human Beings* (hereinafter "the Convention"), the *Group of Experts on Action against Trafficking in Human Beings (GRETA)* "shall monitor the implementation of this Convention by the Parties".

Pursuant to Article 38, paragraph 1, of the Convention and Rules 1 and 2 of the *Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties* (hereinafter "the Rules on the Evaluation Procedure"), GRETA will evaluate the implementation of the Convention following a procedure divided in rounds. GRETA decided that the duration of the first evaluation round should be four years, starting at the beginning of 2010 and finishing at the end of 2013.

The first evaluation round with regard to a Party is initiated by sending the questionnaire the earliest one year and at the latest two years following the entry into force of the Convention for the Party concerned (Rule 3 of the Rules on the Evaluation Procedure).

For the first evaluation round, GRETA has selected the provisions of the Convention which will provide an overview of the implementation of the Convention by each Party (Rule 4, second paragraph, of the Rules on the Evaluation Procedure).

For each evaluation round, GRETA will prepare a questionnaire on the implementation by the Parties of the specific provisions of the Convention on which the evaluation is based. The questionnaire will be public (Rule 5, first paragraph, of the Rules on the Evaluation Procedure).

In conformity with Rule 11 of the Rules on the Evaluation Procedure, replies to the questionnaire should be submitted in one of the official languages of the Council of Europe, which are English and French. Replies in other languages will not be taken into consideration. Replies should be detailed, answer all questions and reference texts should be attached when requested by GRETA.

## Preliminary Questions

- *Question 1:* Please specify which State body/agency was responsible for coordinating and collecting the replies to this questionnaire. Please specify the name and professional title of the person heading this State body/agency. Please indicate if this person is the "contact person" appointed by your country to liaise with GRETA or a different person.

Directorate General of Migration Management is responsible for coordination on combating human trafficking and protecting victims in Turkey. Actions and procedures for human trafficking are carried out by the Department of the Protection of Victims of Human Trafficking under Directorate General of Migration Management.

Head of the Daprtment: Osman KORAMAZ

GRETA Contact point: Ebubekir KURT

- *Question 2:* Which State bodies/agencies contributed to responding to this questionnaire? Please indicate the main responsibilities and/or fields of competence of each of these bodies/agencies.

Directorate General of Migration Management, the coordinator of combating human trafficking and of protecting victims; The Court of Cassation and Ministry of Justice, the responsible institutions for trials of human trafficking crimes; Directorate General of Security, General Command of Gendarmerie, Command of Coast Guard the responsible institutions for combating dimension human trafficking; Ministry of Family and Social Policies and Ministry of Labor and Social Security providing services in the field of protection of victims of human trafficking contributed to respond this questionnaire in cooperation with public institutions and civil society organizations.

- *Question 3:* Did any non-governmental organisations (NGOs) or other entities of civil society contribute to responding to this questionnaire? If so, please indicate the main activities of each of the NGOs and/or other entities of civil society which contributed.

Family Consultant Association (Aile Danışmanları Derneği) and Human Resource Development Foundation providing services for protecting of victims of human trafficking contributed to respond this questionnaire.

## **I. Integration of the core concepts and definitions contained in the Convention in the internal law of the parties**

### **Section I.1. Integration of the Human Rights approach to action against trafficking in human beings**

As stipulated in the Convention, trafficking in human beings (hereinafter "THB") "constitutes a violation of human rights and an offence to the dignity and the integrity of the human being" (third paragraph of the Preamble of the Convention). Therefore in the

letter and in the spirit of the Convention, THB is a violation of human rights and not just a criminal offence.

- *Question 4:* Please indicate if, in your internal law, THB is considered as a human rights violation (or only a criminal offence, see Section II.3. below).

Human trafficking, called slavery as its modern means, is considered to be violation of fundamental human rights in Turkey and preventive measures are taken against those violations and criminal sanctions are stipulated for criminal acts.

- *Question 5:* Please indicate what special legal protection exists under your internal law (including case law, if any) in cases of violations of human rights, which would apply in cases of THB (for example, constitutional protection, positive obligation of the state, priority examination, etc.).

Relevant legislations in the field of combating human trafficking and protecting victims in Turkey;

- Personal inviolability, corporeal and spiritual existence of the individual have been regulated by the Article 17 of Constitution of the Republic of Turkey. According to Article 18 of the Constitution, no one shall be forced to work and forced labour is prohibited.
- Human trafficking is stipulated as an offense by the Article 80 of Turkish Penal Code No. 5237 and the persons committing this crime are sentenced to imprisonment from 8 years to 12 years and punished with punitive fine up to ten thousand days in accordance with the Article.
- By the Articles 135, 140, 202 and 234 of Turkish Criminal Procedure Code No. 5271, procedures in the trial process have been described.
- In the Articles 7 and 13 of Regulation on the Implementation on Work Permits of Foreigners issued on basis of Law on Work Permits of Foreigners No. 4817, it is regulated in favour of victims of human trafficking to access labour market.
- In the Article 16 of Turkish Citizenship Law No. 5901, preventive measures have been taken on human trafficking by acquiring Turkish Citizenship through marriages.
- By the Regulation on Road Transport issued on the basis of Highway Law No. 4925, certificate of authorisation of vehicles shall be cancelled where those vehicles have been used for human trafficking crime.
- In accordance with the Law No. 6458 on Foreigners and International Protection, residence permits for victims of human trafficking have been regulated and the victims shall not be deported and responsibilities of Department of the Protection of Victims of Human Trafficking have been specified.
- Within the scope of Law No. 6284 on Protection Family and Prevention Violence Against Woman, there are provisions in order to protect the women, the

children, the family members and the victims of stalking, who have been subject to the violence or at the risk of violence, and to provide services for those people.

➤ Within the scope of Juvenile Protection Law No. 5395, protective and supportive services are provided for the child victims of human trafficking as a requirement of best of benefit of juvenile.

➤ Pursuant to the Article 88 of Act of Fees No. 492, it is ruled that victims of human trafficking are exempted from residence permit fees.

➤ By Regulation on Combating Human Trafficking and the Protection of Victims, the issues are regulated for cooperation in field of human trafficking, providing coordination, victim identification system, referral to support services, activities on awareness and training in detail.

### **Section I.2. Comprehensive approach to THB, co-ordination of all actors and actions to prevent and combat THB and to protect its victims, and international co-operation**

Questions in this section aim to obtain information concerning the comprehensive nature of the legal framework and policies on action against THB established by the parties to the Convention covering measures on prevention, protection and prosecution (Article 1) as well as on partnerships (Articles 29, 32 and 35).

These partnerships should comprise:

- national co-ordination and co-operation among all national actors involved in action against THB (Article 29-2). Any national action to combat THB must be comprehensive and multi-sectorial, and take on board the required multidisciplinary expertise. This comprehensive national action must be co-ordinated through a specific governmental body or entity. These are the "co-ordinating bodies" referred to in Article 29 of the Convention which are distinct from "National Rapporteurs". In accordance with the Convention it is compulsory to ensure co-ordination of the national policies and actions ("shall"), whereas the appointment of National Rapporteurs is optional ("shall consider appointing ...").

- international co-operation among all actors from different parties (Chapter VI of the Convention). Article 32 sets out the general principles which are to govern international co-operation. Firstly the parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. Article 32 contains the general part of the obligation to co-operate: co-operation must include the prevention of and combat against THB (first indent), the protection of and assistance to victims (second indent) and to investigations or proceedings concerning criminal offences established in accordance with the

Convention (third indent), i.e. the offences established in conformity with Articles 18, 20 and 21.

- co-operation and partnership with civil society (Article 35). The strategic partnership referred to in Article 35 between State authorities and public officials and civil society means the setting-up of co-operative frameworks through which state actors fulfil their obligations under the Convention, by co-ordinating their efforts with civil society. Co-operation with international non-governmental organisations active in the field of prevention and protection of the victims of THB is also needed.

Questions concerning the comprehensive approach to THB (Article 1):

- *Question 6:* Please indicate the titles of the main internal legal provisions and/or regulations containing measures to prevent THB, to protect and assist its victims, and to criminalise THB and prosecute traffickers.

Relevant legislations in the field of combating human trafficking and protecting victims in Turkey are as follows;

- Constitution of the Republic of Turkey,
- Act of Fees No. 492,
- Anti-Terror Law No. 3713,
- Law No. 4904 on Turkish Employment Agency,
- Turkish Penal Code No. 5237,
- Turkish Criminal Procedure Code No. 5271,
- The Law No. 5275 on Execution of Penalties and Security Measures,
- Juvenile Protection Law No. 5395,
- Turkish Passport Law No. 5682,
- Turkish Citizenship Law No. 5901,
- Law No. 6004 on Establishment and Duties of Ministry of Foreign Affairs,
- Law No. 6458 on Foreigners and International Protection,
- International Labour Force Law No. 6735,
- Legislative Decree No. 655 on Organization and Duties of the Ministry of Transport, Maritime Affairs and Communication,
- Regulation on Combating Human Trafficking and the Protection of Victims,
- Regulation on Organization, Duties and Authorities of Command of Coast Guard,
- Regulation on the Implementation of the Law on Foreigners and International Protection,
- Private Employment Agencies Regulation,
- Regulation on Occupational Competency Training on Activities of Road Transport,
- Regulation on Firearms, Knives and Other Tools
- Regulation on Cooperation and Coordination in the Field of Border Management Between
- Agencies,

- Regulation on Supervision of Communication Over Telecommunication Means Stipulated in Criminal Procedure Code and Implementation of the Monitoring Measures by Confidential Investigator and Technical Means
  - Monitoring Measures by the Secret Investigator and Technical Instruments,
  - Regulation on Emergency Service Call in Electronic Communications Sector;
  - Regulation on Radio Operator Qualifications and Examination;
  - Regulation on Establishment, Duty and Functioning of Provincial Organization of Directorate General of Migration Management,
  - Temporary Protection Regulation.

- *Question 7:* Does your country have a comprehensive national policy and/or a National Action Plan to combat THB? If so, please indicate its title, date of adoption and duration, main fields of action and the body/bodies responsible for its implementation.

Prime Ministry published two different National Action Plans on Combating Human Trafficking and Protection of Victims in 2003 and 2009.

In the national action plan published in 2003, it has been foreseen to amend the legislation for regulating procedures and principles for punishing acts of human trafficking, to establish hotline for protecting victims and preventing human trafficking crime and to amend the required legislation in order for Turkey to fulfill its obligation arising from Palermo Convention.

In the national action plan published in 2009, there have been provisions on required measures to be taken and access of victims to support services under the titles of prevention, protection and prosecution for victims of human trafficking

Coordination Committee on Combating Human Trafficking took the decision on drawing up 3. National Action Plan in the meeting in 2017.

Questions concerning specialised authorities, co-ordination of actors and actions against THB and international co-operation (Articles 29, 32 to 35):

- *Question 8:* In your country are there persons or entities specialised in the fight against THB and the protection of victims? If so, please describe the type and the periodicity of the training provided for these persons or the staff of these entities? Please specify the financial resources (in euros) allocated to this training.

Pursuant to Law No. 6458 on Foreigners and International Protection, Department of Protection of Victims of Human Trafficking has been established under Directorate General of Migration Management and the Department has been specified as authorised and responsible unit for combating human trafficking and protecting the victims.



In the sphere of combating human trafficking, Departments of Combating Migrant Smuggling and Human Trafficking under Directorate General of Security and General Command of Gendarmerie were established in 2016.

Furthermore, services are provided for victims 136 sheltering houses in total; 102 of which operate under Ministry of Family and Social Policies, 32 of which operate under local administrations and 1 of which operates under Directorate General of Migration Management, 1 of which operates under a civil society organization.

Directorate General of Migration Management has arranged a lot of training programs in the field of human trafficking and carried out works on awareness and workshops in recent years.

From national budget and project budgets in 2016 and 2017, contact meetings, workshops and study visits were arranged for provincial assistant migration experts, staff of Ministry of Justice, Ministry of Family and Social Policies, Directorate General of Security, General Command of Gendarmerie, Ministry of Labour and Social Security in particular, personnel of institutions and organizations that DGMM is in cooperation with, civil society organizations, municipalities as well as the persons working in different fields such as taxi drivers, hotelkeepers and tour operators.

In 2016, 725.000 € was totally allocated for trainings from the budget of public institutions and organizations and project budgets. Within 2017, 1.025.000 € was allocated for trainings.

- Question 9: Is there, within your governmental structure, a national body responsible for co-ordinating all national actors and actions against THB (regardless of the denomination and whether it was set up for this specific purpose or whether this responsibility was assigned to an already existing governmental body)? If so, please specify its name, administrative status, annual budget (in euros), human resources, composition and competences. If there is currently no such co-ordinating body, are there any plans to set one up in the near future? If so, please give details.

Department of Protection of Victims of Human Trafficking under Directorate General of Migration Management is responsible for carrying out and coordinating activities and actions related combating human trafficking and protecting the victims in Turkey. Furthermore, *Coordination Committee on Combating Human Trafficking* was established by the Regulation on Combating Human Trafficking and the Protection of Victims.

The budgets allocated for Department of Protection of Victims of Human Trafficking were 4.491.000 € and 2.919.000 € respectively in 2016 and 2017.

- Question 10: Is this co-ordinating body also responsible for the co-ordination of the collection of administrative data or population survey data on THB? If not, please specify which body/entity has this responsibility.

Department of Protection of Victims of Human Trafficking collects the statistical data for victims of human trafficking while Directorate General of Criminal Records and Statistics, Ministry of Justice collects data for trials.

- *Question 11:* Do NGOs have full membership status in your national co-ordinating body? If so, how many? Please describe the criteria for NGO membership.

Civil society organizations participates in coordination committee on combating human trafficking. There was no sharp distinction between civil society organizations for the participation. The civil society organizations working in the field of combating human trafficking and human rights may participate in the committee. Two civil society organizations participated in the committee meeting held in 2017.

- *Question 12:* Are there any other national or international entities or bodies participating in your national co-ordinating body? If so, please specify.

Members of Coordination Committee on Combating Human Trafficking are as follows:

representatives of Court of Cassation or Office of Chief Public Prosecutor, representatives of Ministry of Justice, Ministry of Family and Social Policy, Ministry for EU Affairs, Ministry of Labour and Social Security, Ministry of National Education, Ministry of Culture and Tourism, Ministry of Foreign Affairs, Ministry of Health, Ministry of Customs and Trade, Human Rights and Equality Institution of Turkey, Turkish Employment Agency National Intelligence Organization, Directorate General of Health Services for Borders and Coasts of Turkey, Directorate General of Security, Directorate General of Local Administrations, General Command of Gendarmerie, Command of Coast Guard, Union of Turkish Bar Associations and Directorate General of Migration Management. Furthermore, international organizations, trade associations and civil society organizations may be invited to committee meetings.

- *Question 13:* Please describe the legal basis for international co-operation between your country and other countries in the fight against THB:

- national legislation;
- international instruments/agreements (bilateral and/or multilateral).

Please indicate the title of the legal instruments.

Turkey is a party to European Convention on Extradition dated 13 December 1957. Turkey has put European Convention on Extradition into practice since 18 April 1960. The Convention aforementioned was put into practice by 47 Members of Council of Europe and Israel, Republic of Korea and South Africa.

Turkey is party to European Convention on Mutual Assistance in Criminal Matters of 20.04.1959 and First Additional Protocol thereto.

European Convention on Extradition is the main legal basis for extradition procedures. Turkey signed the Convention on 13.12.1957. Extradition is regulated in details in the Articles 10-22 of the Law on International Judicial Cooperation in Criminal Matters which was put into effect on 05.05.2016.

Convention on the Transfer of Sentenced Persons is the main legal foundation for the transfer of sentenced persons. Turkey signed the Convention in 1985 and it became effective in 1988.

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Law No. 5717 on the Legal Aspects and Scope of International Child Abduction, United Nations Convention against Transnational Organized Crime (Palermo Convention),

Palermo Convention's Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,

Council of Europe Convention against Trafficking in Human Being,

European Convention on the Exercise of Children's Rights was signed on 25.01.1996 in Strasbourg and entered into force on 01.07.2000 in compliance with the Article 21. Turkey signed the Convention on 09.06.1999 and ratified it on 18.01.2001. The Ratification Law No. 4620 was published in the Official Gazette No. 24305 of 01.02.2001.

### **Setting up Joint Investigation Team**

There is no provision on setting up a joint investigation team in the Law No. 6706 on International Judicial Cooperation in Criminal Matters which was adopted on 23.04.2016 and entered into force on 05.05.2016 with the aim of regulating the procedures and principles of judicial cooperation in criminal matters. However, Paragraph 3 of the Article 1 of the mentioned Law stipulates 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 of the European Convention on Mutual Assistance in Criminal Matters signed by Turkey on 22.03.2016, ratified on 11.02.2016 and entered into force on 01.11.2016 regulates setting up a joint investigation team in details and the provision in Paragraph 1 of this Article is as follows:

"1. 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.

A request for the setting up of a joint investigation team may be made by any of the Parties concerned. The team shall be set up in one of the Parties in which the investigations are expected to be carried out."

European Judicial Network (EJN)

Judges working in Ministry of Justice are selected as contact points at EJM to follow up the judicial cooperation requests and ensure required coordination and judges who are the contact points regularly attend the general assembly and EJM meetings.

The last paragraph of the Constitution of the Republic of Turkey stipulates that "International agreements duly put into effect have the force of law."

Paragraph 3, Article 1 of the Law No. 6706 on International Judicial Cooperation in Criminal Matters of 23.04.2016, lays down that the international agreements on judicial cooperation to which Turkey is a party shall be reserved.

Article 2 of the same Law sets out that the central authority is Ministry of Justice and in the Article 3 the duties and competences of the central authority are listed as follows:

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.

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 the Article 8 of Turkish Penal Code No. 5237 titled as "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.”

In the Article 11 titled as “Offences Committed by Citizens”:

“(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 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.”

In the Article 12 titled as “Offences Committed by Non-Citizens”:

“(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 the Article 13 titled as “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, 4, 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.

- *Question 14:* What steps have been taken by your country to ensure that the requesting party is promptly informed of the final results of action taken in the framework of international co-operation on action against THB, as provided for in Article 34 of the Convention?

International cooperation on combatting human trafficking and protection of victim are conducted within the framework of international agreements and national legislation mentioned in the answer of Question 13. Additionally agreements on cooperation in combatting human trafficking are signed with 5 countries directly and security cooperation agreements are signed with 96 countries by the end of 2017.

- *Question 15:* Do the relevant authorities of your country have the possibility to spontaneously provide information, without prior request, to authorities of another country if the disclosure of such information might assist the receiving country in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with the Convention? If so, please indicate how such information is transmitted and which authorities are involved.

Within the scope of combatting human trafficking, information is exchanged with countries through contact points.

- *Question 16:* Do your police forces carry out joint actions, on a bilateral and/or a multilateral legal basis, with the police forces from other parties to fight THB? If so, please describe the action taken and provide an assessment of its impact. If not, please describe any plans for joint action or obstacles to joint action.

Combatting human trafficking requires implementation of multi-dimensional combatting strategy. It is seen that international crime rings are actively involved in the organized human trafficking crime. In this respect, when international connection of the crime rings in Turkey is found as a result of investigations, cooperation is made with the law enforcement units of the concerned countries and the issue is internationally handled. Additionally, fight against the crime is conducted by means of communication and coordination with INTERPOL and EUROPOL.

### **Section I.3. Definition of "THB" and of "victim" in the internal law of the parties**

In accordance with Article 4a of the Convention, trafficking in human beings consists of a combination of three basic components, each to be found in a list given in the definition:

- the action of: "recruitment, transportation, transfer, harbouring or receipt of persons";
- by means of: "the 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";
- for the purpose of exploitation, which includes "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".

Article 4b of the Convention follows European Court of Human Rights case-law in that it states that the consent of a victim of THB to a form of exploitation listed in Article 4a is irrelevant if any of the means referred to in Article 4a has been used.

Under Article 4c recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is to be regarded as trafficking in human beings even if it does not involve any of the means listed in Article 4a. It is also immaterial whether or not

the child consents to be exploited. Under Article 4d the word "child" means any person under 18 years of age.

Article 4e defines "victim" as "any natural person who is subject to trafficking in human beings as defined in this article". A victim is anyone subjected to a combination of components (action – means – purpose) specified in Article 4a of the Convention.

Questions:

- *Question 17:* Are all the elements of the three components (action, means and purpose) contained in Article 4a of the Convention included in the legal definition of THB established by your internal law? Please describe how they have been integrated in your internal law.

Firstly the definition of human trafficking is procuring, kidnapping, harbouring or transporting a person from one place to another or bringing a person into the country or taking 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, 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.

In the Article 80 of the Turkish Penal Code No. 5237 titled as "Human Trafficking"

"(1) (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."

In the Article 117 titled as "Violation of Freedom of Work and Labour":



“(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.”

In the Article 229 titled as “Begging”:

“(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.”

In the Article 232 titled as “Ill Treatment”:

“(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.”

In the Article 233 titled as “Breach of Obligations Derived from Family Law”:

“(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."

In the Article 1 of Juvenile Protection Law No.5395, it has been regulated that "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."

In Article 3 titled as "Definitions", it has been defined that "(1) For the purposes of this Law;

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."

It has been defined in the Article 71 titled as "Working Age and Restrictions on The Employment of Children" of the Law on Labour No.4857 that "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 may be employed 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. 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.

In Turkish laws, three criminal provisions of human trafficking have been included as follows:

a) Action: (procuring, kidnapping, harbouring, transporting from one place to another, bringing into the country, taking out of the country)

b) Means: (threat, pressure, force, violence, abuse influence, making use of persons' despair or exploring control over another)

c) Objective: (forcing to work, providing a service, forcing to prostitute, subjecting to slavery, harvesting organs)

• *Question 18:* Please indicate which of the following forms of THB are recognised under your internal law:

- national;
- transnational;
- linked to organised crime;
- not linked to organised crime.

In the first paragraph of the Article 80 titled as "Human Trafficking Offense" of Turkish Penal Code No.5237, it has been defined that persons who provide, kidnap or shelter or transfer a person (s) from one place to another unlawfully and by force, threat or violence or misconduct of power or by executing acts of enticement or taking advantage of control power on helpless persons in order to force them to work or serve for others or to send them away where he is treated almost like a slave, are sentenced to imprisonment from eight years to twelve years and punished with punitive fine up to ten thousand days.

In the first paragraph of the Article 220 titled as "Establishing Organisations for The Purpose of Committing Crimes", it has been regulated that any person who establishes or manages an organisation for the purposes of committing offences proscribed by law shall be sentenced to imprisonment for a term of two to six years provided the structure of the organisation, number of members and equipment and supplies are sufficient to commit the offences intended.

In subparagraph(a) of the Article 4 titled as "Offenses Committed for Terrorist Purposes" of Anti-Terror Law No.3713; it has been regulated that the offenses defined in Articles 79, 80, 81, 82, 84, 86, 87, 96, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, 118, 142, 148, 149, 151, 152, 170, 172, 173, 174, 185, 188, 199, 200, 202, 204, 210, 213, 214, 215, 223, 224, 243, 244, 265, 294, 300, 316, 317, 318 and the second paragraph of Article 310 of the Turkish Penal Code are terrorist offenses if they are committed for terrorist purposes.

As per the terms of the provision; all forms of human trafficking offense have been acknowledged by the Turkish law.

- Question 19: Under your internal law, is a "victim of THB" any natural person who is subject to THB as defined in Article 4e of the Convention? Please provide the definition of a "victim of THB" under your internal law. Please provide (a translation of) the legal text(s) in English or in French.

Victim" shall mean any natural person who is subject to trafficking in human beings as defined in Article 4 of the Convention.

Article 80 of the Turkish Penal Code No. 5237 defines the victim of human trafficking offense as " a person who is procured, kidnapped, harboured or transported from one place to another or brought into the country or taken 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, 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."

- Question 20: Does your internal law recognise as victims of THB:
  - women;
  - men;
  - children?

Women, men and children are recognised as the victims of human trafficking in our internal law.

- *Question 21:* To what extent does the consent of a person to intended or actual exploitation determine if that person will be recognised as a victim of THB under your internal law? Please specify if your internal law contemplates the consent of the three categories of victims: women, men, children. Please provide examples.

Human trafficking offense has been regulated in Turkish legislation and consent requirement for constituting a crime has not been stipulated. Namely, the consent of person is declared null and void.

## **II. Implementation by the parties of measures aimed to prevent THB, protect and promote the rights of victims of THB and prosecute traffickers**

### **Section II.1. Implementation of measures to prevent THB**

Questions in this section aim to obtain information on the implementation by the parties of the preventive measures contained in Chapter II of the Convention (Articles 5 to 9). Implementation of preventive measures concerns all countries: countries of origin, transit and destination. Preventive measures to be implemented can vary depending on the type of country, but all countries should implement measures to prevent THB.

Questions:

- *Question 22:* Has a national/regional/local campaign or programme to alert the potential victims of THB to the various forms of exploitation been carried out in your country during the last two years? If so, was it based on research for determining effective prevention methods? Was it addressed to a particular group of potential victims? Which bodies, governmental or non-governmental, were in charge of implementing it? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If more than one campaign or programme was carried out please provide the details for each of them. If there are currently plans for launching a new campaign or programme, please provide details.

Such preventive measures within the scope of fight against human trafficking as short films, 500.000 leaflets and 2000 posters have been delivered to the relevant public institutions as well as the regions where the potential victims densely live. Designed information campaigns under the development of preventive measures have been created on child begging, forced labor of men and sexual abuse of women. Guideline on Fight against Human Trafficking and 6.000 "Visual Communication

Brochures” have been published and delivered to the competent units of General Command of Gendarmerie.

A substantial increase in identifying the victims of human trafficking has been experienced as a result of raising-awareness activities. A number of identified victims increased to 181 in 2016 which was 108 in 2015. Potential victims of human trafficking over 5000 were identified in 2017 and 303 persons were identified as victims and referred to the support services.

- Question 23: Please describe the social and economic empowerment measures for disadvantaged groups vulnerable to THB which have been implemented or are planned.

Social and economic assistance have been given to the victims under victim support program. Therefore, they have been provided a psycho-social support for the re-integration to the society and recovery from what they have experienced. Additionally, the victims whose income level is below the minimum standards are provided support from social assistance and solidarity foundation. One-off financial support is given to the victims who have returned to their country within the project. A delivery of weekly financial support for the victims has been planned under the project in 2018.

- Question 24: What preventive measures to discourage demand leading to THB, as provided for in Article 6 of the Convention, has your country adopted or is considering adopting?

It has been resolved in the Article 11 of the Regulation on Combating Human Trafficking and the Protection of Victims that information and awareness-raising activities in educative, social and cultural areas shall be undertaken in order to prevent the demand that leads to human trafficking and all types of exploitation of individuals; primarily women and children. In this regard, information campaigns and awareness-raising activities have been performed.

- Question 25: Please specify the measures taken by your country to ensure quality, security and integrity of travel and identity documents in order to prevent their unlawful creation and issuance as well as to ensure that they cannot easily forged.

A specific units have been created by law enforcement units for ensuring quality, security and accuracy of travel documents and experts in this field have been conducting surveillance particularly at border gates. Moreover, trainings on “forgery of documents” were provided for law enforcement units and DGMM’s staff.

- Question 26: Please specify the measures taken by your country to detect cases of THB at its borders, *inter alia* by means of border surveillance teams and intelligence measures.

When encountering the indicators on human trafficking offense during the surveillances by law enforcement units, they are referred to the relevant competent units. Moreover, in case of the exchange of intelligence by other countries on human trafficking, a research about the issue is made and if there is a reasonable ground, action of "inadmissible passenger" is taken.

- Question 27: Please describe any measures taken to provide information, through consulates and embassies, about legal entry and stay on the territory of your country in order to ensure informed and legal immigration.

New measures for promoting legal immigration in Turkey have been developed with the Law on Foreigners and International Protection No.6458. Particularly regular migration phenomenon has been utilised as an instrument for the fight against irregular migration.

Contacting with the embassy or consulates within the consent of victim has been made under the victim support programme.

- Question 28: Please describe any measures taken to avoid issuing visas (tourist, working, student visas, etc.) when there are reasonable grounds to believe that a person may be a victim of THB or implicated in THB. In such cases, please describe any specific measures which your law enforcement authorities have instructions to apply.

Indicators of human trafficking in residence permit applications have been reviewed on files. If there is a reasonable ground that the persons holding transit visa may be the subject of human trafficking, actions on transit shall not be permitted under "inadmissible passenger".

An investigation on the offense shall be launched and the permits cancelled when encountering indicators of human trafficking offense in security investigations by law enforcement units.

- Question 29: Do any specific measures exist for preventing national THB, including THB taking place on the territory of parties with special agreements establishing common borders (Schengen Agreement for example)? If so, please specify.

When identifying international connections of criminal networks in Turkey, we work together with the law enforcement units of the relevant countries.

- *Question 30:* What funds have been allocated to the above-mentioned preventive measures in the state budget (central and/or regional/local)? Please specify amounts in euros.
- *Question 31:* Has an assessment of the impact of the above-mentioned preventive measures taken by your country been carried out? If so, please specify the results of the assessment.

Access to potential victims of human trafficking has been eased as a result of particularly raising-awareness activities within the preventive measures. Developing denouncement mechanisms has been accomplished. Additionally, criminal formation has been disrupted in source country as a result of the works carried out with source countries.

## **Section II.2. Implementation of measures to protect and promote the rights of victims of trafficking in human beings**

Questions in this section aim to obtain information on the implementation by the parties of measures to protect and promote the rights of victims contained in Chapter III of the Convention (Articles 10 to 17). This part of the questionnaire concerns the ways and procedures to identify victims (Article 10), measures to assist victims (Article 12), the recovery and reflection period (Article 13) and residence permits (Article 14). In addition some questions concerning repatriation and return of victims (Article 16) and reintegration of victims into society (Article 16-5) as well as questions about compensation (Article 15) are addressed.

Questions:

- *Question 32:* At what moment and by whom is the process to identify a potential victim of THB initiated (for example, declaration of the potential victim, statement by a police officer, statement by a NGO etc.)?

Any person who declares that he/she is a victim or who is informed about the offense of human trafficking shall report the case to the prosecution office, law enforcement units, emergency hotline, the relevant directorates and civil society organisations. The person about whom the Ministry of Family and Social Policies, Ministry of Labour and Social Security and Ministry of Health have doubts that he/she is a victim shall be reported to Emergency Aid and Hotline and also urgently to the relevant Directorate, law enforcement unit or chief public prosecutor's office. The law enforcement units urgently contacts with Provincial Directorate of Migration in case of the fact that the acts which may form the offense of human trafficking are available. Any expert assigned by the Directorate interviews with the victim in a convenient

environment by taking into consideration of his/her psychological state and takes his/her statement down. In case of forming an opinion that the person is a victim, victim identification document is issued. After the identification, the victim shall be informed about the support services that will be provided in a language that he/she understands. If he/she is transferred to a shelter, actions on residence permit shall be initiated.

- *Question 33:* Have any common criteria been defined in your internal law for granting the legal status of victim of THB? If so, please specify.

In a process of identifying the victims of human trafficking, the expert shall enjoy the questions in interview report attached in the Regulation on Combating Human Trafficking and the Protection of Victims on purpose to determine whether they are victims or not. However, the expert does not totally depend on such questions. In our internal law, conclusive criteria are not available. Questions which depend on the victims' environment are addressed.

- *Question 34:* Which national authority(ies) grant(s) the legal status of victim of THB (for example, police forces, public prosecutor, judge, etc.)? Can such a decision be appealed?

As a result of the interview made by the expert and the report hereof, identification document for the victim of human trafficking is approved by the Directorate. Then, the person is granted the status of victim of human trafficking. Such a decision is an administrative act and appealing against such a decision is possible.

- *Question 35:* Can a person be removed from your country during the process of identification as a victim of THB (for example, if he/she is present illegally)?

According to the Law numbered 6458, removal decision shall not be issued in respect of those foreigners who are the victims of human trafficking supported by the victim support program.

- *Question 36:* Does your country recognise the status of victim of THB granted by another party when the victim is on your territory?

Which cases shall be ruled according to the principle of territoriality has been specified in Turkish judicial system.

When a victim status issued by other countries is transmitted to Turkey via the relevant units, an interview with him/her shall be made. If a person has been exposed to the offense in Turkey and possesses indicators about the victim, such a person shall be provided support services.



- *Question 37:* Please indicate which types of assistance described in Article 12 of the Convention are provided to victims of THB in your country. Please specify who provides the different types of assistance.

Taking into consideration of the victim's health, security and exception, a victim support program is given based on information and principle of consent. Such programs include:

- a) accommodation in shelters or a safe place,
- b) access to health services,
- c) psycho-social assistance,
- ç) access to social services and aids
- d) Access to legal aid and consultancy services as well as information,
- e) guidance on Access to educational services,
- f) support to receive vocational training and access to labour market,
- g) guidance on financial support with regards to the provisions of the Law on Social

Assistance and Solidarity No.3294 and dated 29/5/1986 for the delivery of a temporal financial support at a sufficient level,

- ğ) access to consultancy services to be provided by the relevant civil society organisations as well as international and intra-governmental institutions,
- h) interpretation service,
- ı) giving information to the embassy or consulates of the country of nationality with his/her consent,
- i) enabling to interview with the embassy or consulates of the country of nationality,
- j) support for identification and delivery of travel documents.

If the victim demands that he/she does not want to benefit from support program, the victim shall be returned to his/her country under the voluntary and safe return program in coordination with the Directorate General.

Cooperation with civil society organisations has been made on the accommodation in a safe place and support program provided in shelters. During investigation and prosecution, a lawyer shall be assigned for the victim.

- *Question 38:* Please describe the differences in the assistance and protection measures envisaged for victims of transnational trafficking and those envisaged for victims of national trafficking.

Regulation on Combating Human Trafficking and The Protection of Victims has been issued to identify the procedures and principles regarding protection of victims of human trafficking, issuance of residence permits to foreign victims of trafficking and provision of support services for victims of trafficking within the scope of prevention of crime of human trafficking and fight against human trafficking on the basis of human rights without discriminating between the Turkish nationals and

foreign victims. In terms of the services provided within the scope of this regulation, there is no discrimination between the foreigner and Turkish citizen.

The actions and procedures of the Turkish citizens, who have been exposed to human trafficking offense in abroad and; the family members, women and accompanying children who hold the citizenship of the Republic of Turkey and are considered victims, have been carried out in line with the provisions of the Law on the Protection of the Family and the Prevention of Violence against Women No.6284 and dated 8/3/2012.

- Question 39: Does your state budget allocate specific funding for these assistance and protection measures? Please indicate the amount (in euros), the criteria for receiving such funding and who receives it. Please specify the bodies/agencies/NGOs which actually cover the costs of the different types of assistance?

4.491.000 Euro for the year 2016 and 2.919.000 Euro for 2017 have been allocated to the Department of Protection of the Victims of Human Trafficking from the national budget. Assistance and protection measures over the specified amounts have been carried out.

An assistance in the national budget oriented directly to civil society organisations has not been available, yet a financial support has been delivered for the operation of shelters. Such organisations' actions on human trafficking have been supported through the budget of projects.

- Question 40: Please describe how the recovery and reflection period provided for in Article 13 of the Convention is defined in your internal law. Please indicate the minimum and maximum duration of the recovery and reflection period and how your internal law foresees it being adapted to the particular circumstances of victims.

Reflection and residence permit have been regulated in Articles 48 and 49 of the Law numbered 6458. Accordingly:

A residence permit valid for thirty days shall be granted, by the governorates, to foreigners who are the 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.

In order to renew a residence permit for 30 days, "residence permit evaluation report" attached in the Regulation shall be prepared by the expert from the Provincial Directorate in which the victim is accommodated.

With regard to the evaluation report, the residence permit may be renewed for maximum six months periods up to 3 years.

- *Question 41:* What are the grounds (personal situation and/or co-operation with the law enforcement authorities) for issuing residence permits to victims of THB provided for in Article 14 of the Convention? Please indicate the different types of residence permits which can be issued to victims of THB, their minimum and maximum duration, if any, and the grounds for their renewal.

30 days period of reflection shall be allowed for the persons who have been convicted of being victims regardless of the victim identified. The residence permit granted to allow for recovery and reflection may be renewed for six months periods for reasons of safety, health or special circumstances of the victim. However, the total duration shall not exceed three years under any circumstances whatsoever.

- *Question 42:* Please describe how your internal law provides for the right of victims of THB to compensation. Please specify if your country has adopted any specific measures to guarantee compensation for victims of THB as provided for in Article 15 of the Convention.

It has been regulated in the Article 49 and cont. of the Turkish Code of Obligations No.6098 that the victims of human trafficking may claim for damages against the persons responsible for the wrongful acts, pursuant to general provisions.

Additionally, the provisions on giving financial assistance by the state to the victims of serious violence have been included in the Draft Law on Victim Rights.

Accordingly, the conditions for demanding financial assistance have been regulated as follows:

In the first paragraph, the general condition for demanding assistance has been established as being a victim of offense or being a person who is obliged to look after at the point of death. It has been defined that Turkish citizens may demand for assistance. On the other hand, the principle of reciprocity has been adopted for the foreigners.

It has been ruled that the persons whose countries' legislation regulates the similar assistance for Turkish citizens in their national legislation through Conventions or the persons residing in Turkey for minimum 3 years shall apply for assistance where the victim is a foreign national.

In the second paragraph, it has been regulated that for whom the financial assistance shall be made.

In the third paragraph, exceptional cases for the citizenship, reciprocity or the rule of residence for 3 years have been regulated. Accordingly, the condition in (b) subparagraph of the first paragraph shall not be sought for the foreigners who are the victims of migrant smuggling or human trafficking, the children who have been granted asylum status or applied for such a status as well as the children who have applied for Turkish citizenship.

In line with the Draft Law on Victim Rights, the child victims holding foreign nationalities will be provided all kind of assistance except from financial aids. Financial aids will be given such victims in accordance with the principle of reciprocity or on the basis of residing for three years in Turkey. However, to particularly protect children without any condition and reservation is one of the fundamental principles of national and international juvenile law. For that reason, it has been ruled that such conditions shall not be a requirement for the child victims of migrant smuggling or human trafficking who don't hold Turkish citizenship and the who have been granted asylum status or applied for such a status as well as the children who have applied for Turkish citizenship. Where such a child victim dies, the persons who may benefit from the assistance pursuant to the Law have been excluded from this article.

Where an offender cannot be arrested or identified or prosecuted or investigated for any reason, it has been clearly specified that it shall not affect the request for assistance of the victims of offense or the persons to whom the victims of offense are liable to look after when the victims of offense die in the fourth paragraph

- *Question 43:* Please describe the procedure established under your internal law for the repatriation and return of victims of THB.

The Directorate shall inform the Directorate General for ensuring a safe exit and taking security measures in case of the fact that the victim wishes to return his/her country or any third country.

In order to ensure a voluntary and safe return to their countries at the end of the support program in shelters, the victims' referral to airports shall be carried out by the shelter's staff and, in other cases, it shall be carried out by the governate's staff or the authorities of the institutions with whom a protocol has been made.

Escorting by law enforcement units may be requested if there is an imminent danger with regards to the person's life or physical integrity.

Expenditures on transportation and other items shall be met by the Directorate or respective institutions in line with the protocol's provisions.

Operations on the victims' document check and exit from Turkey shall be completed through documents without taken to passport control points and so, the persons shall be taken directly to the gates.

For the victims' exit from Turkey, operations on exit shall be carried out unpenalised and without fee in accordance with Article 88 of the Law No. 492 in cases where there are fines arising from the violations on visa and time.

The authorities of the victim's country of nationality shall be informed with the consent of the victim about his/her return date and the case of human trafficking which the victim is subject to.

- *Question 44:* Does a person, repatriated to your country as a victim of THB, continue having victim status? If so, please specify on which grounds such recognition is made (for example, declaration of the victim). What assistance measures are envisaged for such persons after repatriation?

Support services haven't been offered to the foreigners arriving in Turkey within the victim identification by the other states.

- *Question 45:* What are the grounds for the victim status to come to an end:
  - victim status claimed improperly;
  - victim's refusal to co-operate with the authorities;
  - return to the country of origin;
  - request of the victim;
  - other, please specify.

In Article 46 of the Regulation on the Implementation of the Law on Foreigners and International Protection No.6458, expiry of trafficking victim support program and cancellation of residence permit have been regulated. The victim support program shall be terminated and residence permit be cancelled in the following cases:

a) where it is found out that the foreigner re-establishes ties with the perpetrators of the offense on his / her own initiative.

b) where the victim fails to observe the obligations imposed.

c) where it is understood that the foreigner is not actually a victim

Residence permit is not cancelled in cases where it is found out that that the victim committed the misdemeanors in Paragraphs (a) and (b) of Sub-Clause one unwillingly due to reasons such as forcing, coercion, intimidation, violence and threat.

### **Section II.3. Implementation of measures concerning substantive criminal law, investigation, prosecution and procedural law**

Questions in this section aim to obtain information on the implementation by parties of measures concerning substantive criminal law contained in Chapter IV of the Convention (Articles 18 to 26) as well as measures concerning investigation, prosecution and procedural law contained in Chapter V of the Convention (Articles 27 to 31).

Questions:

- *Question 46:* Is THB subject to a single criminal offence in your internal law? If so, please provide (a translation of) the legal text(s) in English or French. If not, please specify the combination of criminal offences, covering as minimum all conducts falling within the definition of THB as contained in Article 4 of the Convention, used under your internal law to prosecute for THB.

The human trafficking offense has been defined in the first paragraph of the Article 80 of the Turkish Penal Code as: "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."

In the second paragraph of the same article, it has been stated that "Where an act is undertaken for the purposes referred to in paragraph one and such act constitutes an offense, the consent of the victim shall be presumed to be invalid."

In the third paragraph, the formation of an offense has been established as "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 offense has been resorted to."

It has been included in the fourth paragraph that "Security measures shall be imposed upon legal entities in respect of the aforementioned offenses."

In Turkish law, human trafficking offense is considered in line with heavy punishment. Where different type of offenses is constituted besides human trafficking offense, criminal sanction shall be applied to such kind of offenses. Other relevant offenses:

#### **Intentional Killing**

**Article 81-** (1) Any person who intentionally kills another shall be sentenced to life imprisonment.

#### **Qualified cases**

**Article 82-** (1) If the act of intentional killing is committed:

- a) With premeditation,
- b) Brutally or through torment;
- c) By causing fire, flood, destruction, sinking, bombing or by using nuclear, biological or chemical weapons;
- d) Against a direct ascendant, direct descendant, spouse or sibling;
- e) Against a child or against somebody who cannot protect himself physically or mentally;
- f) Against a pregnant woman, in knowledge of such pregnancy;
- g) Against a person because of the public service he performs;
- h) In order to conceal an offense, destroy evidence, facilitate the Commission of another offense or prevent apprehension;
- i) Out of frustration for not being able to commit another offense;
- j) With the motive of a blood feud;
- k) With the motive of tradition

The offender shall be sentenced to aggravated life imprisonment.

### **Intentional Injury**

**Article 86-** (1) Any person who intentionally causes another person physical pain or who impairs another person's health, or ability to perceive, shall be sentenced to a penalty of imprisonment for a term of one to three years.

(2) Where the effect of an intentional injury upon a person is minor and can be cured by a simple medical treatment then, upon the complaint of the victim, a penalty of imprisonment for a term of four months to one year, or a judicial fine shall be imposed.

(3) Where an intentional injury is committed:

- a) against a direct antecedent, direct descendent, spouse or sibling;
- b) against a person who cannot defend himself physically or mentally
- c) against a person because of his duties as a public officer;
- d) on account of a public officer misusing his influence; or
- e) by using a weapon,

the penalty to be given shall be increased by one half and shall not require a complaint.

### **Aggravated injury on account of its consequences**

**ARTICLE 87-** (1) If the act of intentional injury results in:

a) the permanent impairment of the functioning of any one of the senses or organs of the victim;

b) a permanent speech defect;

c) a distinct and permanent scar on the face;

d) a situation which endangers a person's life; or

e) the premature birth of a child, where the victim is a pregnant women,

then the penalty to be determined according to the above article shall be doubled. However, the penalty of imprisonment to be imposed shall not be for a term of less than three years for offences defined in paragraph one and the penalty to be imposed shall not be for a term of less than five years imprisonment for offences defined in paragraph three,

(2) If the act of intentional injury results in:

a) An incurable illness or causes a vegetative state in the victim;

b) The complete loss of functioning of one of the senses or organs;

c) The loss of the ability to speak or the loss of fertility;

d) A permanent disfigurement to the face;

e) The loss of an unborn child, where the victim is a pregnant woman,

then the penalty to be determined according to the aforementioned article shall be doubled. However, the penalty of imprisonment to be imposed shall not be for a term of less than five years imprisonment for offences defined in paragraph one or not be for a term of less than eight years for offences defined in paragraph three.

(3) (Amended on 6 December 2006 – By Article 4 of the Law no. 5560) Where the intentional injury results in the fracture or dislocation of a bone, the penalty to be imposed according the aforementioned article shall be increased by one half according to the effect of the fractured or dislocated bone on his ability to function in life.

(4) Where the intentional injury results in the death of a person, the offender shall be sentenced to a penalty of imprisonment for a term of eight to twelve years for offences defined in paragraph one and twelve to sixteen years for offences defined in paragraph three.

### **Experimentation of human beings**

**ARTICLE 90-** (1) Any person who carries out a scientific experiment on a human being shall be sentenced to a penalty of imprisonment for a term of one to three years.

(2) The following conditions must be satisfied to avoid criminal culpability in respect of consensual experimentation on a human being:

a) authorisation from the relevant council or body shall be received;

b) the experiment shall first be conducted in an experimental environment



(other than the human body) or on a sufficient number of animals,

c) the scientific data obtained through an experiment conducted in an experimental environment (other than the human body), or on animals, should necessitate the experiment then being performed on human beings in order to attain its objectives,

d) the experiment should not foreseeably damage, or have a permanent effect upon, human health;

e) no method should be employed that might result in the test subject suffering to a degree unacceptable to human dignity;

f) The objective of the experiment should outweigh any danger to the person's health or burden placed upon him; and

g) The consent of the test subject should be in writing and based on sufficient information about the content and consequences of the experiment, and should not be dependent upon securing any gain.

(3) In addition to the conditions specified in paragraph two, the following conditions must be satisfied to avoid criminal liability for the experimentation on children:

a) the scientific data obtained through an experiment that has been conducted in an experimental environment should necessitate the experiment then being performed on a child, in order to attain its objectives;

b) written consent of the mother and father, or legal guardian, and the consent of the child, where he has the capacity to give consent; and

c) the presence of a child health and illness expert from an authorised body (which has the capacity to give permission for the experiment).

(4) Any person who conducts a test upon a patient, for the purposes of medical treatment (without receiving the patient's consent), shall be sentenced to a penalty of imprisonment for a term of up to one year. However, where it is understood that existing methods of known treatment shall not yield any positive results, conducting an experiment, while using known scientific methods, upon a person who has consented to such, with the aim of treating such person, shall not incur criminal responsibility. The consent should be in writing and be based on sufficient information about the content and consequences of the experiment, and the medical treatment should be conducted by an expert physician in a hospital.

(5) The provisions pertaining to intentional injury or intentional killing shall be applicable if the victim is injured or dies due to the offence described in paragraph one.

(6) Any offence contained within this article that is carried out within the activities of a legal entity shall result in security measure being imposed upon that legal entity.

### **Trading of organs and tissues**

**ARTICLE 91-**(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 organization 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 measure 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.

### **Torment**

**ARTICLE 96-** (1) Any person who performs any act which results in the torment of another person shall be sentenced to a penalty of imprisonment for a term of two to five years.

(2) Where the acts falling under the above paragraph are committed against:

a) a child, a person who is physically or mentally incapable of defending himself or a pregnant woman; or

b) a direct ascendant, direct descendant, adoptive parent or spouse, a penalty of imprisonment for a term of three to eight years shall be imposed.

### **Failure in the duty of assistance or notification**

**ARTICLE 98-**(1) Any person who fails to assist, taking into account his position and circumstances, an individual who is incapable of caring for themselves (on account of age, illness, injury or any other reason), or immediately notify the relevant authority of the circumstances of such individual, shall be sentenced to a penalty of imprisonment for a term of up to one year, or a judicial fine.

(2) Where an individual dies due to the failure of a person to perform in his duty to assist or to notify, a penalty of imprisonment for a term of one to three years shall be imposed.

### **Illegal Abortion**

**ARTICLE 99**-(1) Any person who performs an abortion of a child upon a woman without her consent shall be sentenced to a penalty of imprisonment for a term of five to ten years.

(2) A person who, in the absence of medical necessity, performs an abortion of a child, upon a woman, who is more than ten weeks pregnant and with her consent, shall be sentenced to imprisonment for a term of two to four years. The woman who consents to the abortion in these circumstances shall be sentenced to a penalty of imprisonment for a term of up to one year and a judicial fine.

(3) Where the act referred to in the paragraph one causes damage to the physical or mental health of the woman, the person shall be sentenced to a penalty of imprisonment for a term of six to twelve years. Where the act results in the death of the woman, a penalty of imprisonment for a term of fifteen to twenty years shall be imposed.

(4) Where the act referred to in paragraph two causes damage to the physical or mental health of the woman, the person shall be sentenced to a penalty of imprisonment for a term of three to six years. Where the act results in the death of the woman, a penalty of imprisonment for a term of four to eight years shall be imposed.

(5) Irrespective of the consent of the woman; if an unauthorized person performs the abortion of a child, upon a woman, who is less than ten weeks pregnant; a penalty of imprisonment for a term of two to four years shall be imposed. If any of the offences listed in the above paragraphs are committed by an unauthorized person the penalties shall be increased by one half.

(6) Where a woman is pregnant due to an offence that she was a victim of, no penalty shall be imposed upon any person who terminates such pregnancy, where the term of pregnancy is not more than 20 weeks and there is consent from the woman. However this requires the termination of a pregnancy by expert doctors in a hospital environment.

### **Sterilization**

**ARTICLE 101**-(1) Any person who sterilises a man or woman, without their consent, shall be sentenced to a penalty of imprisonment for a term of three to six years. If the act is performed by a person who is unauthorized to sterilise, then the penalty shall be increased by one third.

(2) Where the sterilisation is performed by an unauthorized person, even with the person's consent, a penalty of imprisonment for a term of one to three years shall be imposed.

### **Sexual assault**

**ARTICLE 102-** (1) Any person who violates the physical integrity of another person, by means of sexual conduct, shall be sentenced to a penalty of imprisonment for a term of five to ten years, upon the complaint of the victim. If the said sexual behaviour ceases at the level of sexual importunity, the term of imprisonment shall be from two years to five years.

(2) Where the act is committed by means of inserting an organ, or other object, into the body, the offender shall be punished with a term of imprisonment no less than twelve years. If the act is committed against the offender's spouse, conducting an investigation and prosecution shall be subject to a complaint by the victim.

(3) Where the offence is committed:

- a) against a person who is physically or mentally incapable of defending themselves;
- b) by misusing the influence derived from a position in public office or a private working relationship;
- c) against a person with whom he has third degree blood relation or kinship, or by stepfather, stepmother, half-sibling, adopter or adopted child,
- d) by using weapons or together with the cooperation of more than one person,
- e) by using the advantage of environment where people have to live together collectively, the punishments imposed according to above paragraphs are increased by one half.

(4) Where greater force than is necessary to suppress the resistance of the victim is used during the commission of the offence the offender shall also be sentenced to a penalty for intentional injury in addition.

(5) Where, as a result of the offence, the victim enters a vegetative state, or dies, a penalty of aggravated life imprisonment shall be imposed.

### **Child molestation**

**ARTICLE 103-**(1) Any person who abuses a child sexually is sentenced to an imprisonment from eight years to fifteen years. If the said sexual abuse ceases at the level of sexual importunity, the term of imprisonment shall be from three years to eight years. If offender of the offence ceased at the level of importunity is a child, commencement of an investigation and prosecution depends on the complaint of the victim's parents or guardian.

Sexual molestation covers the following acts;

- a) All kinds of sexual attempt against children who are under the age of fifteen or against those attained the age of fifteen but lack the ability to understand the legal consequences of such act,
- b) Sexual behaviours committed against other children by force, threat, fraud or another reason affecting the willpower.

(2) In case of performance of sexual abuse by inserting an organ or instrument into a body, the offender is sentenced to a term of imprisonment no less than sixteen years. If the victim is under the age of twelve, the punishment to be imposed cannot be less than eight years.

(3) If the offense is committed;

a) by participation of more than one person in the offense,

b) by using the advantage of the environment where people have to live together collectively,

c) against a person with whom he or she has third degree blood relation or kinship, or by stepfather, stepmother, half-sibling or adopter,

d) by his/her guardian, tutor, instructor, caregiver, custodial parents or by those who provide him/her with health care or are under an obligation to protect, look after or supervise him/her,

e) by undue influence based on public office or employment relationship, the punishment to be imposed according to the above subparagraphs is increased by one half.

(4) In cases where the sexual abuse is conducted against the children identified under sub-paragraph (a) of the first paragraph by use of force or threat, or against the children identified under sub-paragraph (b) therein by use of arms, the punishment to be imposed according to the above paragraphs is increased by one half.

(5) In case of use of force and violence during sexual assault in such a way to result in serious consequences of intentional injury, the offender is additionally punished for intentional injury.

(6) In case of vegetative state or death of a person as a result of the offense, the offender is sentenced to aggravated life imprisonment.

### **Sexual intercourse between/with persons not attained the lawful age**

**ARTICLE 104** – (1) Any person who had a sexual intercourse with a child who completed the age of fifteen, without using force, threat and fraud, is sentenced to a term of imprisonment from two years to five years upon filing of a complaint.

(2) If the offence is committed by a person who is under a restraint of marriage with the victim, the offender is sentenced to a term of imprisonment from ten years to fifteen years without a complaint being filed.

(3) If the offence is committed by a person providing care for a child prior to adopting the child or by a person who is under an obligation to protect, look after or supervise the child under custodial relationship, the offender is sentenced to a punishment under the second paragraph without a complaint being filed.

### **Sexual harassment**

**ARTICLE 105-**(1) If a person is subject to sexual harassment by another person, the person performing such act is sentenced to a term of imprisonment from three months to two years or to a judicial fine; and if the act of sexual harassment is committed against a child, the offender is sentenced to imprisonment from six months to three years upon complaint of the victim.

(2) If the act of offence is committed:

a) by undue influence based on public office or employment relationship or by using the advantage of intrafamilial relationships,

b) by his/her guardian, tutor, instructor, caregiver, custodial parents or by those who provide him/her with health care or are under an obligation to protect, look after or supervise him/her,

c) by using the advantage of working in the same workplace with the victim,

d) by using the advantage provided by mail or electronic communication instruments

e) by the act of exposing, the punishment to be imposed according to the above paragraph is increased by one half. If the victim was obliged to quit his/her job or leave his/her school or family for this reason, the punishment to be imposed cannot be less than one year.

### **Threat**

**ARTICLE 106-** (1) Any person who threatens another individual by stating that he will attack the individual's, or his relative's, life or physical or sexual immunity shall be subject to a penalty of imprisonment for a term of six months to two years. Where the threat relates to causing extensive loss of economic assets or other related harms, there shall be a penalty of imprisonment for a term of up to six months or a judicial fine, upon the complaint of the victim.

(2) Where the threat is carried out:

a) with the use of a weapon;

b) while concealing his identity or with an unsigned letter or by using a particular symbol;

c) jointly with more than one person;

d) by taking advantage of the power to invoke fear derived from a criminal organisation which exists, or is assumed to exist;

the offender shall be sentenced to a penalty of imprisonment for a term of two to five years.

(3) Where the offences of intentional killing, intentional injury or damaging property are committed with the aim to threaten, the penalties for such offences shall be imposed in addition.

### **Force**

**ARTICLE 108**-(1) Any person who uses force against an individual in order to compel such individual to carry out, or fail to carry out, an act, or to enable himself to carry out a particular act, the penalty that would be imposed under the offence of intentional injury shall be increased by one third to one half.

### **Deprivation of Liberty**

**ARTICLE 109** (1) Any person who unlawfully restricts the freedom of a person to move, or to remain, in a particular place shall be sentenced to a penalty of imprisonment for a term of one to five years.

(2) Where a person, uses force, threats or deception in order to commit an offence (or during the commission of the offence) then a penalty of imprisonment for a term of two to seven years shall be imposed.

(3) Where this offence is committed:

- a) with use of a weapon,
- b) together with more than one person,
- c) against a public officer as a result of the performance of his public duty,
- d) by misusing the influence derived from public office,
- e) against a direct antecedent, direct descendants or spouse,
- f) against a child or a person who cannot defend himself physically or mentally,

the penalty to imposed according to the above paragraphs shall be doubled.

(4) Where this offence results in the significant economic loss to the victim, an additional penalty of a judicial fine up to one thousand days shall be imposed.

(5) Where the offence is committed with a sexual purpose, the penalty to be imposed in accordance with the above paragraphs shall be increased by one half.

(6) Where an aggravated injury on account of its consequences is committed in order to commit this offence (or during the commission of this offence), then the provisions relating to intentional injury shall be additionally applied.

### **Violation of freedom of work and labour**

**ARTICLE 117**-(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.

### **Insult**

**ARTICLE 125-** (1) Any person who attributes an act, or fact, to a person in a manner that may impugn that person's honour, dignity or prestige, or attacks someone's honour, dignity or prestige by swearing shall be sentenced to a penalty of imprisonment for a term of three months to two years or a judicial fine. To be culpable for an insult made in the absence of the victim, the act should be committed in the presence of at least three further people.

(2) Where the act is committed by means of an oral, written or visual medium message, addressing the victim, the penalty stated in the above paragraph shall be imposed.

(3) Where the insult is committed:

a) against a public officer due to the performance of his public duty;

b) because of declaring, altering or disseminating, his religious, political, social or philosophical beliefs, thoughts, or convictions, or practising in accordance with the requirements and prohibitions of a religion he belongs to; or

c) where the subject matter is deemed sacred to the religion the person belongs to the penalty to be imposed shall not be less than one year.

(4) Where the insult is committed in public, the penalty to be imposed shall be increased by one sixth.

(5) Where an insult is made which arises from the duties of public officials who are working as a committee, the offence shall be deemed to have been committed against the all members of that committee. In these circumstances the provisions of the article concerning successive offences shall be applied.

### **Violation of Privacy**

**ARTICLE 134-** (1) Any person who violates the privacy of another person's personal life shall be sentenced to a penalty of imprisonment for a term of one year to three years. Where the violation of privacy occurs as a result of recording images or sound, the penalty to be imposed shall be increased by one fold



(2) Any person who unlawfully discloses the images or sounds of another person's private life shall be sentenced to a penalty of imprisonment for a term of two to five years. Where the offence is committed through the press or broadcasting, the penalty shall be the same.

### **Robbery**

**ARTICLE 148-**(1) Any person who compels an individual to provide property or acquiesce in the taking of any property, by using force or threatening the life, physical or sexual integrity of the individual (or his acquaintances) or threatening to seriously damage the financial position of such individual (or his acquaintances), shall be sentenced to a penalty of imprisonment for a term of six to ten years.

(2) The same penalty is to be imposed if a victim is compelled, by the use of force or threats, to give a bond which will place him, or another, under an obligation to issue a document declaring the invalidity of a bond, to acquiesce in the taking of a bond, to sign a document which has the capacity of being transformed into a bond in the future, to destroy an existing bond or to acquiesce during the destruction of a bond.

(3) If the victim is rendered unconscious and unable to defend himself as a result of any means employed, this is to be considered as a use of force in relation to the offence of robbery.

### **Qualified robbery**

**ARTICLE 149-**(1) Where the offence of robbery is committed:

- a) with the use of a weapon;
- b) by concealing one's identity;
- c) jointly, by more than one person;
- d) in a residence, workplace and their extensions or by interception;
- e) against a person who cannot protect himself physically or mentally;
- f) by taking advantage of the power to invoke fear derived from a criminal organization which exists, or is assumed to exist,
- g) in order to secure a benefit for a criminal organization;
- h) at night,

the offender shall be sentenced to a penalty of imprisonment for a term of ten to fifteen years.

(2) If, during the commission of the offence of robbery, there is an Aggravated Injury on Account of its Consequences then the provisions relating to intentional injury shall be applied in addition.

### **Damage to property**

**ARTICLE 151-**(1) Any person who, partially or completely, destroys, demolishes, eliminates, damages, renders unusable or soils another person's movable or immovable property shall be sentenced to a penalty of imprisonment for a term of four months to three years, or a judicial fine, upon complaint.

(2) Any person who, without reasonable excuse, kills or harms an animal in such a way as to render it unusable or as to lower its value, the provisions of the above paragraph shall be applied.

### **Counterfeiting official documents**

**ARTICLE 204-**(1) Any person who issues, or uses, a counterfeit official document, or who alters a genuine official document in order to deceive others shall be sentenced to a penalty of imprisonment for a period of two to five years.

(2) Any public officer, authorized to issue official documents, who issues or uses counterfeit official document, or alters a genuine official document in such a way which is capable of deceiving others, or prepares a document unreflective of the truth, shall be sentenced to a penalty of imprisonment for a term of three to eight years.

(3) If the official document is of a type which is presumed, by law, to be valid until proven otherwise, the penalty to be imposed shall be increased by one half.

### **Damage, destruction or concealment of an official document**

**ARTICLE 205-**(1) Any person who damages, destroys or conceals a genuine official document shall be sentenced to a penalty of imprisonment for a term of two to five years. Where such an offence is committed by a public officer, the penalty to be imposed shall be increased by one half.

### **Providing false information in the course of issuing an official document**

**ARTICLE 206-**(1) Any person who provides false information to a public officer who has the authority to issue an official document shall be sentenced to a penalty of imprisonment for a term of three months to two years or a judicial fine.

### **Establishing organisations for the purpose of committing crimes**

**ARTICLE 220-**(1) Any person who establishes or manages an organisation for the purposes of committing offences proscribed by law shall be sentenced to imprisonment for a term of two to six years provided the structure of the organisation, number of members and equipment and supplies are sufficient to commit the offences intended. However, a minimum number of three persons is required for the existence of an organisation.

(2) Any person who becomes a member of an organisation established to commit offences shall be sentenced to a penalty of imprisonment for a term of one to three years.

(3) If the organisation is armed, the penalty stated in aforementioned paragraphs will be increased from one fourth to one half.

(4) If an offence is committed in the course of the organisation's activities, then an additional penalty shall be imposed for such offences.

(5) Any leaders of such organisations shall also be sentenced as if they were the offenders in respect of any offence committed in the course of the organisation's activities.

(6) Any person who commits an offence on behalf of an organisation, although he is not a member of that organisation, shall also be sentenced for the offence of being a member of that organisation. The sentence to be imposed for being a member of that organization may be decreased by half. This provision shall only be applied in respect of armed organizations.

(7) Any person who aids and abets an organisation knowingly and willingly, although he does not belong to the structure of that organisation, shall also be sentenced for the offence of being a member of that organisation. The sentence to be imposed for being a member of that organization may be decreased by one-third according to the assistance provided.

(8) A person who makes propaganda for an organization in a manner which would legitimize or praise the terror organization's methods including force, violence or threats or in a manner which would incite use of these methods shall be sentenced to a penalty of imprisonment for a term of one to three years. If the said crime is committed through the press or broadcasting the penalty to be given shall be increased by half.

### **Prostitution**

**ARTICLE 227-(1)** Any person who encourages a child to become a prostitute, facilitates a child becoming such or supplies or accommodates a child for such purpose, or acts as an intermediary for the prostitution of a child, shall be sentenced to a penalty of imprisonment for a term of four to ten years and judicial fine up to five thousand days. Preparatory acts and activities for commission of this offence shall be punished as a completed offence.

(2) Any person who encourages another to become a prostitute or who facilitates or acts as an intermediary for such or who provides an environment for such purpose shall be sentenced to a penalty of imprisonment for a term of two to four years and a judicial fine up to three thousand days. Earning a living, totally or partially, from the proceeds of prostitution shall be presumed to be an encouragement to prostitution.

(3) Any person who gives, distributes or disseminates products containing images, texts or statements prepared for the purpose of facilitating prostitution or acting as an intermediary shall be sentenced to a penalty of imprisonment for a term of one to three years and a judicial fine from two hundred up to two thousand days.

(4) The penalty to be imposed according to the aforementioned paragraphs shall be increased by one half to two folds where a person is encouraged to engage in acts of

prostitution or secures an individual to engage in prostitution through the use of threat, violence, deceit, or by taking advantage of another's desperation.

(5) The penalty to be imposed according to aforementioned paragraphs shall be increased by one half where the offence is committed by a spouse, direct-antecedents, direct antecedents-in-law, sibling, adopting parent, guardian, trainer, educator, nurse or any other person responsible for the protection and supervision of a person; or by a public officer or employee who misuses the influence derived from their positions.

(6) The penalty to be imposed according to aforementioned paragraphs shall be increased by one half where the offence is committed within the framework of the activities of a criminal organisation.

(7) Legal entities shall be subject to security measures for involvement in these offences.

(8) Any person who has been forced into prostitution may be given treatment or psychological therapy.

- *Question 47:* Does your internal law establish as a criminal offence the use of services of a victim of THB with the knowledge that the person is a victim of THB as provided for in Article 19 of the Convention?<sup>1</sup>

Article 80 of the Turkish Penal Code No. 5237 defines human trafficking as follows: "Procuring, kidnapping, harbouring or transporting a person from one place to another or bringing a person into the country or taking 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, 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."

For example, enabling a foreigner to stay in the country for the purpose of obtaining material gains indirectly through acting as an intermediary for the prostitution and encouraging to become a prostitute and accomodating the foreigner for such purpose for a period of time in order to benefit from the gain is within the scope of this offense.

The act of forced labor and employment on purpose may also be regarded as the principal offender or the accessory who help for the offence in Article 80 of the Penal Code.

For this reason benefiting from the service of the victim on purpose may be regarded as the offence of human trafficking depending on the circumstances and the gravity of the crime.

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<sup>1</sup> Article 19 of the Convention does not concern using the services of a prostitute as such and the criminalisation of her/his client (see paragraphs 229 to 236 of the Explanatory Report of the Convention).

- *Question 48:* Does your internal law establish as a specific criminal offence retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB as provided for in Article 20c of the Convention?

The human trafficking offence as set out in the Article 80 of the Law no 5237 of Turkish Penal Code is subject to actions primarily affecting the will of the victim or taking advantage of the victim's difficult situation. First of all the offender needs to take action against the victim such as threat or violence or misconduct of power or by executing acts of enticement or taking advantage of control power on helpless persons. By confiscating the victim's passport or id document and by taking advantage of his/her helplessness the offender makes the victim work by use of threat or force and procure and shelter the victim in order to facilitate prostitution; by this way, the acts of the offender constitutes the offence of human trafficking and prostitution. That is to say, confiscation of the victim's passport by use of force or deceit is one of the most significant factors that drives the person to despair.

Destruction of the original official passport or id document constitutes the offence of destruction of an official document. That offence is regulated by the Article 205/1 of the Law no 5237 on Turkish Penal Code. The Offence of Destruction of an Official Document may occur by grabbing the document away from the victim, burning it or stealing from the person that he/she is working for or the institution. Destruction of an official document is destroying its physical appearance. For that reason, according to Article 212 of the Turkish Penal Code the offender is punished separately both from the offence of human trafficking and the subsequent offense.

- *Question 49:* Does your internal law ensure that a legal person can be held liable for criminal offences established in accordance with the Convention as provided for in its Article 22? What types of legal persons are subject to corporate liability for such offences?

Criminal responsibility of legal entities and the precaution to be implemented for them are regulated by the Article 20 and Article 60 of the law no 5237 of Turkish Penal Code respectively. Article 169 of the Part 10, Chapter II, Volume II sets forth that the legal entities shall also be responsible for the offence described in this section

Article 60 of the Law no 5237 of Turkish Penal Code indicates three different security precaution for the legal entities who commit an offence. Those are;

1. Cancellation of this license,
2. Seizure of Property
3. Confiscation of Income

Legal entities have no capacity to act. Although the Article 48 of Turkish Civil Code states the will of legal entities, it means the will which is declared on behalf of the legal

entity and bears legal consequences for the legal entity. As the legal entities have no capacity to act, they also have no defect liability. In order to have defect liability you need first to have the capacity to act.

It is understood from the current arrangements that the legal entities are subjected to administrative sanctions in the cases of certain circumstances and some certain offences defined by the law. For this liability, natural persons, who are the organs or representatives of the legal entities, shall commit the offence which is clearly specified by the law that the offence may also be committed by the legal entity. In that case, apart from the criminal responsibility of the natural person who committed the offence, the legal entities are subject to security measures such as administrative fine, confiscation, cancellation of license, termination or closure, operate in law enforcement custody.

It is crucial to state that administrative fine is not an offence which requires legal sanction; as the decision is given by the administrative authority it is an administrative sanction. Furthermore, the conviction of legal entity is subject to the conviction of natural person. The most effective measure for the prevention of financial crime, in particular, is to hold the legal entities as well as the natural persons liable for the act.

- *Question 50:* Which sanctions does your internal law provide for criminal offences established in accordance with the Convention? Please specify the criminal, civil and administrative sanctions.

I) In accordance with Turkish Penal Code

A) For the offence of human trafficking persons are sentenced to imprisonment from eight years to twelve years and punished with punitive fine up to ten thousand days.

B) In accordance with the Article 53 of Turkish Penal Code;

1) Where a person is sentenced to a penalty of imprisonment for an intentional offence the legal consequence of such shall be his prohibition from:

a) becoming a member of the Turkish Grand National Assembly or undertaking employment as, or in the service of, an appointed or elected public officer permanently, temporarily or for a fixed period of time within the administration of the state, a province,

b) voting or being elected and exercising other political rights;

c) acting as a guardian or being appointed in the role of guardianship and trustee;

d) being the administrator or inspector of a legal entity namely, foundation, association, labor union, company, cooperative or political party;

e) conducting any profession or trade, which is subject to the permission of a professional organization (which is in the nature of a public institution or organization), under his own responsibility as a professional or a tradesman.

2) A person shall not exercise these rights until the completion of the term of his penalty of imprisonment.

3) The provisions in the above paragraph shall not be applicable to an offender whose sentence of imprisonment has been suspended, or who has been conditionally released, in respect of acting as a guardian or being appointed in the role of guardianship and

trustee. Where an offender has been subject to a suspended prison sentence the prohibition defined in paragraph 1(e) may not apply.

4) Where a sentence of imprisonment has been imposed for an offence related to the of abuse one of the rights or authority defined in paragraph one, the offender shall be prohibited from exercising such right for a period of one half to two times the length of imprisonment imposed, such to come into effect after the prison term is served.

C) In Turkish Penal Code

I) Article 54 stipulates that;

a) On the condition that the property does not belong to any third party acting in good faith, property that is used for committing an intentional offence or is allocated for the purpose of committing an offence, or property that has emerged as a result of an offence shall be confiscated. If there is a limited real right on the property for the sake of third party acting in good faith, the decision for confiscation shall be given by reserving this right.

b) Where the property defined in paragraph one cannot be confiscated because it has been destroyed, given to another, consumed, or, for any other reason, an amount of money equal to the value of this particular property shall be confiscated.

2) Article 55 stipulates that;

a) Material gain obtained through the commission of an offence, or forming the subject of an offence or obtained for the commission of an offence and the economic earnings obtained as a result of its investment or conversion, shall be confiscated. Confiscation under this paragraph should only be ordered where it is impossible to return the material gain to the victim of the offence.

b) Where property and material gain which is subject to confiscation cannot be seized or provided to the authorities then value corresponding to such property and gains shall be confiscated.

II) In accordance with Article 60 and with reference to Paragraph 4 of Article 80 of Turkish Penal Code, following provisions shall apply to legal entities for these offences:

A) Where there has been a conviction in relation to an intentional offence committed for the benefit of a legal entity, which is subject to civil law and operating under the license granted by a public institution, by misusing the permission conferred by such license and through the participation of the organs or representatives of the legal entity it shall cancel this license.

B) The provisions relating to confiscation shall also be applicable to civil legal entities in relation to offences committed for the benefit of such entities.

III) Article 59 stipulates that;

A) The circumstances of a non-citizen who has been sentenced to a period of imprisonment, after benefiting from conditional release and, in any event, after completing his sentence, must be immediately communicated to the Ministry of Interior so the circumstances can be evaluated with respect to possible deportation.

IV) For the compensation of pecuniary and non-pecuniary damages of the victim of the offence, the victim has the right to suit for pecuniary and non-pecuniary damages against the perpetrator to civil courts.

- *Question 51:* Does your internal law provide for the possibility to take into account previous convictions in another party when determining the penalty in relation to offences established in accordance with the Convention?

Article 9 of Turkish Penal Code with the title "Conviction in a Foreign Country" stipulates that any person who is convicted in a foreign country for an offence committed in Turkey shall be subject to retrial in Turkey,

Point (a) of paragraph 1 of Article 13 with the title "Miscellaneous Offences" stipulates that Turkish law shall apply to the Offences defined in Chapter I, Volume II (International Crimes, Migrant Smuggling, Human Trafficking) committed in a foreign country whether or not committed by a citizen or non-citizen of Turkey; subparagraph 3 stipulates that even where a conviction or acquittal pursuant to the offences listed in paragraph one subparagraphs (a) have occurred in a foreign country, criminal proceedings in Turkey shall be conducted upon the request of the Ministry of Justice,

Subparagraph 1 of Article 16 with the title "Deduction from the Penalty" stipulates that Any time spent in custody, detention, under arrest or serving a prison sentence in a foreign country in respect of an offence, irrespective of where the offence was committed, shall be deducted from the penalty to be given for the same criminal offence in Turkey,

Subparagraph 1 of Article 17 with the title "Deprivation of Rights" stipulates that a judgement (that is not contrary to the Turkish Legal System) is given by a foreign Court, which requires the deprivation of a right in Turkish law the Court shall, upon the request of the public prosecutor, require the enforcement of the consequences under Turkish law.

Subparagraph 1 of Article 19 with the title "Consideration of Foreign Law" stipulates that During criminal proceedings in Turkey, the penalty given under Turkish law to a person who is convicted of an offence committed outside the sovereign territory of Turkey, may not be more than the maximum limit of the penalty stipulated in the laws of the country where the offence was committed; subparagraph 2 stipulates that the provisions in the aforementioned paragraph shall not be applied if the offence is committed against the security of, or is damaging to, Turkey and against a Turkish citizen, or damaging to a private legal entity established under Turkish law.

When determining the punishment for offences set out in compliance with the Agreement, it is thought that the previous conviction given by another party is taken into consideration.

- *Question 52:* Please describe how your internal law provides for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as provided for in Article 26 of the Convention.



Articles 24 and 34 of Turkish Penal Code regulate the reasons for setting aside or reducing criminal liability. Any act bearing criminal responsibility is an offence. However, any offence does not bear criminal responsibility. In another saying, if an offender has no fault while committing an offence (unjust) the criminal responsibility is set aside. In some cases, the criminal responsibility may be reduced due to the offender or the offence.

In this context, it is beneficial to mention the implementation defined in the Article 25/2 with the title "Necessity".

Necessity is not a reason for lawfulness. Because in that case, the act of the offender keeps its unlawful nature. However, in this case it is a matter of fact to accept that the offender is not unlawful. Necessity is an act of the offender committed 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. It is possible to give a damage to third party due to this danger. The fact that the danger comes from the acts of human or animal or natural event does not change the result. Besides the existing danger, the highly possible danger is also enough. Assessment on this matter belongs to judicial authorities. If the circumstances exist, penalty might be reduced or not imposed at all pursuant to this Law.

For example; a penalty may be reduced (or not imposed at all) by the discretion of judge, after considering the social and economic conditions of the person selling his own organs or tissue (Turkish Penal Code, Article 92). The judge also has a power of discretion where the offence of theft is committed as a result of an urgent and serious need (Turkish Penal Code, Article 147).

In addition to those, Article 28- (1) with the title "Force and Violence, Menace and Threat" states that "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." In this context the force and violence mean material (physical) force. When an offence is committed directly on another person's body by force, the matter of force and violence is in question. The person who materially commits the crime as a result of force has no will. In case of force, the person does not act by his/her own will, he/she is made to act. No penalty shall be imposed upon a person who commits a criminal offence as a result of intolerable or inevitable violence.

In the light of aforementioned articles and by the discretion of judge, no penalty may be imposed upon the victim due to a criminal offence committed as a result of necessity and the penalty to be imposed may also be reduced.

- *Question 53:* Does your internal law provide for the initiation of legal proceedings by the victim and/or *ex officio* (for example, by the public prosecutor)?

Duty of public prosecutor on all offences including human trafficking and migrant smuggling are regulated by the Article 160 and 161 of the Law no 5271 of Criminal Procedure Code. According to those Articles:

## INTERACTIONS RELATED TO THE INVESTIGATION

### DUTY OF PUBLIC PROSECUTOR INFORMED OF AN OFFENSE

Article 160 - (1) As soon as the public prosecutor 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, he shall immediately investigate the factual truth, in order to make a decision on whether to file public charges or not.

(2) In order to investigate the factual truth and to secure a fair trial, the public prosecutor is obliged, through the judicial security forces, who are under his command, to collect and secure evidence in favor and in disfavor of the suspect, and to protect the rights of the suspect.

### DUTIES AND POWERS OF THE PUBLIC PROSECUTOR

Article 161 - (1) The public prosecutor may conduct any kind of exploration either directly or through the judicial security forces under his command; in order to achieve the outcomes mentioned in the above Article, he may demand all kinds of information from all public servants. In cases where there is a need to make a judicial interaction outside of his judicial district in the course of his judicial duties, the Public prosecutor shall ask the public prosecutor at an other district to conduct that interaction.

(2) The members of the judicial security forces are obliged to notify immediately the incidences they have started to handle, the individuals who have been arrested without a warrant, and the initiated measures to the public prosecutor under whose command they perform their duties, and are obliged to execute all orders of this public prosecutor related to the administration of justice without any delay.

(3) The public prosecutor shall deliver the orders to the members of the judicial security forces in written form and in exigent cases orally. The oral order shall be notified in written form as well, within the shortest period possible.

(4) The other public employees are also obliged to supply the information and documents that are needed during a pending investigation to the requiring public prosecutor without any delay.

(5) Public employees who misuse or neglect their duties stemming from the statute, or duties required of them according to provisions in the statute, as well as superiors and officers of the security forces who misuse or neglect to execute the oral or written demands or orders of the public prosecutors, shall be prosecuted by the public prosecutors in a direct way. Governors and administrative chiefs of districts shall be subject to provisions of the Act on Adjudication of Civil Servants and Other Public Employees, dated 2 December 1999, No. 4483, and the highest degree superiors of the security forces shall be subject to the provisions of adjudication, which are applicable for judges while they are under adjudication for crimes related to their offices.

(6) In cases where the crime requiring heavy imprisonment is detected in the act, under the requirement that the provisions of this Code be applied, the investigation of crimes committed for personal reasons by the administrative chief of district shall be conducted by the public prosecutor at that city, and investigation of crimes committed by the governor, by the chief public prosecutor at the nearest court district, applying the general provisions. The prosecution of the above mentioned crimes shall be conducted at

the court that has subject matter jurisdiction where the investigation had been conducted.

Public prosecutor may ex officio initiate investigation on these offences. He is also entitled to initiate investigation upon the report or complaint of the victim.

- *Question 54:* Please describe how your internal law allows for NGOs or associations/groups assisting or supporting victims to participate in legal proceedings (for example, as third parties)? Please specify the conditions for this participation as well as their legal status during these proceedings.

In human trafficking cases, legal counselling is given by civil society organisations. Additionally, if the civil society organisation is the victim of the crime, it may take part in the case.

- *Question 55:* Please describe the measures taken in your internal law to protect the identity and safety of victims before, during and after investigations and legal proceedings.

By being a party to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, this convention is included in domestic law and personal data of the victims are protected according to the provisions of the convention.

In addition to those;

The Law No 5726 on Witness Protection Act shall be implemented in the following offences (Article.3):

- The following offences in the Law no 5237 of Turkish Penal Code of 26.09.2004 and private laws which involve criminal sentence,
  - Aggravated life imprisonment,
  - Life imprisonment and
  - An offence which carries a minimum penalty of ten years imprisonment,
  - An offence committed within the framework of activities of an organization which carries a minimum penalty of two years imprisonment,
  - An offence committed within the framework of activities of terrorist organisation.

Witnessing of human trafficking victims has come to the agenda under organized crime, in particular, and if the secret witness procedure is applied to them, protection is provided by the relevant legislation.

Relevant provisions for witness protection measures are as follows:

ARTICLE 5 – (1) Witness protection measures which may be implemented for those who are within the scope of this law are as follows:

a) registering the data on identification and address and keeping them secret and determining another address for notifications to be sent to him/her,

b) hearing without those who have the right to appear before the court or hearing in a private environment by changing his/her voice or appearance,

c) putting the prisoner or convicted persons into prison and jail according to their situations,

ç) providing physical protection,

d) changing and issuing id documents and other relevant data and documents:

1) Changing and issuing the data and records including criminal records, military service, tax, gister, social security and etc.,

2) Changing and issuing official documents such as identity card, driving licence, pasaport, marriage certificate, diploma and all kinds of licences,

3) Carrying out actions so that he/she can exercise the rights on movable and immovable property.

e) providing financial assistance so that he/she can earn his/her living temporarily,

f) changing the workplace or the area of job of an employee or changing all kinds of educational institution of a student that he/she is still continuing,

g) enabling him/her to live in another accomodation unit within the country,

ğ) in compliance with international agreements and principle of reciprocity, settling him/her to another country temporarily,

h) Transforming his/her physiological appearance with or without plastic surgery and rearranging his/her identity information accordingly.

(2) One or many of the measures written in this Article may be implemented simultaneously. Furthermore, if the same result may be received through a lighter measure, the situation is also taken into consideration.

(3) The procedures and principles of protection measures to be applied in accordance with the provisions of this article are regulated by a regulation.

### III. Statistics on THB

Question	Table 1: Victims of THB	2014				2015				2016			
		women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total
	<b>Article 10 – Identification of the victims</b>												
T1	Number of victims identified <sup>2</sup> during the year				50				108				181
T2	Types of exploitation identified victims of THB were subject to:												
	- sexual exploitation				43				88				143
	- forced labour or services				7				19				30
	- slavery or practices similar to slavery												
	- servitude												
	- removal of organs												
	- other, please specify								1 <sup>3</sup>				8 <sup>4</sup>
T3	Number of persons whom the competent authorities had reasonable grounds to believe were victims of:												
	- national trafficking												
	- transnational trafficking												
	<b>Article 12 – Assistance to victims</b>												
T4	Number of victims of THB who received assistance of any type				50				98				143
T5	Number of victims of THB who refused assistance which was								10				38

<sup>1</sup> "Child" shall mean any person under eighteen years of age (Article 4-d of the Convention).

<sup>2</sup> "Identified" within the meaning of the Convention.

<sup>3</sup> Forced begging

<sup>4</sup> Forced begging

	offered to them											
T6	Number of shelters for victims of THB in your country				3				3			2
T7	Total number of places in shelters for victims of THB				30				30			24
T8	Number of victims of THB accommodated in shelters				50				68			81

Question	<b>Table 1: Victims of THB (continued)</b>	<b>2014</b>				<b>2015</b>				<b>2016</b>			
		women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total	women	men	children <sup>1</sup>	total
	<b><u>Article 13 – Recovery and reflection period</u></b>												
T9	Number of victims of THB (including persons whom the competent authorities had reasonable grounds to believe were victims of THB) who were granted a recovery and reflection period				50				108	163	18	29	181
	<b><u>Article 14 – Residence permit</u></b>												
T10	Number of victims of THB who were issued a residence permit												
	- owing to their personal situation				27				71				123
	- for the purpose of their co-operation with the competent authorities												
	<b><u>Article 15 – Compensation and legal redress</u></b>												
T11	Number of victims of THB who obtained compensation												
T12	Compensation awarded to victims of THB:												
	- minimum amount awarded to a victim (in euros)												
	- maximum amount awarded to a victim (in euros)												
	<b><u>Article 16 – Repatriation and return of victims</u></b>												

<sup>1</sup> "Child" shall mean any person under eighteen years of age (Article 4-d of the Convention).

T13	Number victims of THB who were repatriated to your country											
T14	Number of victims of THB who were repatriated from your country to another country				50				97			141

Question	<b>Table 2: Criminal Proceedings and Sanctions</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
	<b><u>Article 18 – Criminalisation of trafficking in human beings</u></b>			
T15	Number of criminal proceedings initiated on grounds of THB	92	117	73
T16	Number of convictions for THB	38	56	48
	<b><u>Article 19 – Criminalisation of the use of services of a victim</u></b>			
T17	Number of convictions for the use of services of a victim of THB			
	<b><u>Article 23 – Sanctions and measures</u></b>			
T18	Number of convictions for THB resulting in penalties involving deprivation of liberty	38	56	48
T19	Duration of penalties on grounds of THB involving deprivation of liberty			
	- minimum duration	8	8	8
	- maximum duration	21+	21+	21+



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T20	Number of judgements resulting in the confiscation of assets			
T21	Number of judgements resulting in the closure of a business or an establishment which was being used to carry out THB			
	<b><u>Article 26 – Non-punishment provision</u></b>			
T22	Number of victims of THB who benefitted from the non-punishment provision			

Questi	Table 3: Country of origin of victims of THB	2014	2015	2016
T23	<b>Number of victims of THB originating from:</b>			
	<b>- Council of Europe Member States:</b>			
	Albania			
	Andorra			
	Armenia	1		
	Austria			
	Azerbaijan	2	4	4
	Belgium			
	Bosnia and Herzegovina			
	Bulgaria			
	Croatia			
	Cyprus			
	Czech Republic			
	Denmark			
	Estonia			
	Finland			
	France			
	Georgia	4		23
	Germany		1	
	Greece			
	Hungary			
	Iceland			
	Ireland			
	Italy			
	Latvia			
	Liechtenstein			
	Lithuania			
	Luxembourg			
	Malta			
	Republic of Moldova	4	5	8
	Monaco			
	Montenegro			
	Netherlands			
	Norway			
	Poland			
	Portugal			
	Romania			
	Russian Federation	1	3	6
	San Marino			

	Serbia			
	Slovak Republic			
	Slovenia			
	Spain			
	Sweden			
	Switzerland			
	"the former Yugoslav Republic of Macedonia"			
	Turkey		2	2
	Ukraine	4	4	7
	United Kingdom			
	<b>- other, please specify</b>	34	89	131