

TRENDS IN TRAFFICKING IN HUMAN BEINGS IN TÜRKİYE:

Analysis and Action Proposals



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All other correspondence concerning this document should be addressed to the Directorate of Human Dignity, Equality and Governance, Avenue de l'Europe F-67075 Strasbourg Cedex, France, Tel. +33 (0)3 88 41 20 00 23 E-mail: horizontal.facility@coe.int.

Cover design, layout:
Kurtulus Karasin Graphic Design

Print:
Matbuu Printing and Internet Services

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List of Abbreviations

ASRA/MSYD	Association of Assistance Solidarity and Support for Refugees and Asylum Seekers
CC	Criminal Code
CoE	Council of Europe
CoE	Anti-Trafficking
Convention	Council of Europe Convention on Action against Trafficking in Human Beings
PMM	Presidency of Migration Management
DVR	Department of Victims' Rights
ECPAT Türkiye	End Commercial Sexual Exploitation of Children Association
EC	European Commission
EGM	General Directorate of Security
EU	European Union
EUROPOL	European Police Office
EUROSTAT	Statistical Office of the European Communities
Gov.Tr	Government of Türkiye
GRETA	Group of Experts on Action against Trafficking in Human Beings
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
HASUDER	Public Health Specialists Association
HREIT	Human Rights and Equality Institution of Türkiye
ICC	International Children's Centre
ICMPD	International Centre for Migration Policy Development
İKGV	Human Resource Development Foundation
ILO	International Labour Organisation
IO	International Organisation
INTERPOL	International Criminal Police Organisation
IOM	International Organisation for Migration
KİKAP Trabzon	Trabzon Black Sea provinces platform association
LEAs	Law Enforcement Agencies
LFIP	Law No. 6458 on Foreigners and International Protection of 4/4/2013

LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex
MOKİD	Mardin Joint Women's Cooperation Association
MoFSS	Ministry of Family and Social Services
MoLSS	Ministry of Labour and Social Security
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NRM	National Referral Mechanism
ODIHR	Office for Democratic Institutions and Human Rights [the principal institution of the OSCE dealing with the "human dimension" of security]
OHCHR	Office for the High Commissioner for Human Rights
OSCE	Organisation for Security and Co-operation in Europe
PMM	Presidency of Migration Management
PPT	Power Point Presentation
SHUDER	National Social Workers Association
SOPs	Standard Operating Procedures
SWOT	Strengths/Weaknesses/Opportunity/Threats
TCC	Turkish Criminal Code
THB	Trafficking in Human Beings
TiP	Trafficking in Persons
ToT	Training of Trainers
TRC	Turkish Red Crescent
TRM	Transnational Referral Mechanism
TURKSTAT	Turkish Statistical Institute
UASC	Unaccompanied and Separated Children
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund [formerly, United Nations International Children's Emergency Fund]
UNODC	United Nations Office on Drugs and Crime
VoT	Victim of Trafficking
YİMER	The Communication Centre for Foreigners

Foreword

This report has been commissioned as part of the Action on “Strengthening the human rights protection of migrants and victims of trafficking in human beings in Türkiye”, implemented within the framework of the joint Council of Europe and the European Union Horizontal Facility (HF) Programme II for the Western Balkans and Türkiye (2019 – 2022). This Programme aims at assisting beneficiary countries in South-East Europe to comply with the Council of Europe standards and the European Union acquis in the framework of the enlargement process. The Action draws on the recommendations made by the Group of Experts on Action against Trafficking in Human Beings (GRETA) in its first evaluation report on Türkiye (GRETA 2019:11).

One of the main components of this Action aims to support the Turkish authorities in adopting a comprehensive and integrated approach to addressing trafficking in human beings (THB), in the light of the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter referred to as the CoE Anti-Trafficking Convention) and GRETA’s report, including through improved detection and identification of, and assistance to, victims of THB and taking due account of both internal and cross-border trafficking:

- THB for the purpose of sexual exploitation;
- THB for the purpose of labour exploitation;
- Child trafficking.

To achieve this aim, a team of national experts conducted research, in cooperation with Turkish anti-trafficking stakeholders, and prepared reports focusing on the above-mentioned areas.

This report presents the outcomes of the research on THB for the purpose of sexual exploitation and for the purpose of labour exploitation, whereas a separate report has been published on child trafficking. Each of the following parts of the report provides a general overview and specific elements for these two forms of human trafficking in Türkiye: their occurrence; the legal framework; policies and intervention systems, the national referral system and the related gaps. The final part of the report presents a summary analysis and proposals for action.

The findings and the action proposals, which derive from the exchange with the national anti-trafficking actors, are in line with the GRETA recommendations and are meant to provide the Turkish authorities with a tool for improving anti-trafficking responses by strengthening the comprehensive, human rights-based and multi-agency approach to combating THB.

The report is also intended as a reference document for professionals of the anti-trafficking and the victim protection system, and to some extent as a guide to action, helping them to enhance the effectiveness of their agency-specific endeavour, while strengthening the overall multi-agency efforts to identify victims of THB, protect and restore their rights, as well as to prevent THB by tackling its root causes.

Introduction

Trafficking in Human Beings: a violation of human rights and a threat for the Turkish society

Trafficking in human beings (THB) is a serious crime and one of the most severe human rights violations. It is a hideous phenomenon which impacts most countries in the world as areas of origin, transit and/or destination and involves the exploitation of individuals in many social and economic sectors in contemporary societies.

Even if THB comprises victims of all genders, age and socio-economic groups, certain groups and persons are more vulnerable to it. Migrants, asylum seekers, victims of natural disasters, persons affected by war and civil conflict, forcibly displaced groups, unaccompanied and separated children are at a greater risk of becoming victims of trafficking in human beings. Among the root causes of human trafficking are poverty, inequality, discrimination, lack of safe migration routes and lack of social support system.

Over the last decade, the conflict in Syria has caused massive loss of life and triggered a complex displacement crisis in the region. Türkiye became the country hosting the largest number of refugees in the world with almost four million Syrian refugees and thousands of refugees from neighbouring countries. At the same time, over this period, almost one and a half million people originating from a wide range of countries, irregularly entered the EU countries. Most of them took the “Eastern Mediterranean Route”, transiting through Türkiye to Greece, and from there travelled along the “Western Balkan Route” to Germany, Sweden, Austria and other EU countries. Unfortunately, this journey was often unsafe putting migrants and refugees in dangerous situations, sometimes deprivation of their liberty, or exploitation as victims of trafficking. Thereby, trafficking in human beings became a major problem in the EU and neighbouring countries during the last decade (Forin and ICMPD 2018; FRONTEX 2019).

As well as refugees, migrants and asylum seekers, Turkish nationals have increasingly become the target of the traffickers over the last decade due to social and economic hardship.

To analyse more in-depth the phenomenon of human trafficking in Türkiye, the Action partners agreed to conduct research focusing on the two main forms of exploitation, i.e. sexual exploitation and labour exploitation. It was also agreed to examine the situation from the perspective of child victims, considering alarming increase in child trafficking

across Europe and its cross-cutting dimension through different forms of exploitation. This attempt might give some insight into other forms of exploitation, which are not prevalent but, often neglected, with victims remaining unidentified or unrecognised: exploitation in forced illegal activities, in begging, domestic servitude, forced marriage, organ or tissue removal, use in armed conflicts or others. These forms of trafficking certainly deserve a special attention and specific analysis, as well as better awareness of the anti-trafficking stakeholders. Given that in most cases THB is an undertaking of criminal groups, often operating across borders and able to sustain through human trafficking, other illegal activities as well as legal business, THB represents a threat to the State and to the society at large.

Türkiye has made significant progress in the last decade in designing and implementing anti-trafficking responses. Such responses are described and analysed in the following pages, highlighting possibilities for improvement.

Studies on human trafficking for different forms of exploitation in Türkiye

In order to support the Turkish authorities in adopting a comprehensive and integrated approach to addressing trafficking in human beings (THB) and enhance the effectiveness of measures taken to identify and support victims of trafficking, the Action commissioned research on the current situation in the country, through interviews with the main Turkish anti-trafficking stakeholders. Complemented by a review of available data and analysis, the research focused on: 1) THB for the purpose of sexual exploitation; 2) THB for the purpose of labour exploitation; and 3) Child trafficking.

The aim of the reports resulting from the research (one comprising the first two subjects, and one on child trafficking) is to further clarify the roles and responsibilities of the stakeholders in the field of anti-trafficking in Türkiye, and to offer suggestions for improved action, focusing on:

- the victim identification and referral process,
- the indicators used to identify the victims of different types of exploitation,

- the scope and process of victim assistance services,
- multidisciplinary and multi-stakeholder cooperation and coordination,
- prevention and awareness-raising measures,
- the strengths, weaknesses, opportunities and threats (SWOT) in the processes of victim identification, referral, and assistance.

The reports also seek to analyse the links of the current anti-trafficking responses with other related systems (child protection, labour and social protection, migration management) in Türkiye.

The studies are based on:

- a desktop review of previous studies as well as reports, related documents and regulations, interviews with key actors and experts working in the related fields from public bodies, international and civil society organisations.

The outcomes will be used:

- to provide policy recommendations in the form of action proposals to support the Turkish authorities in enhancing a comprehensive and integrated approach to addressing THB;
- to develop future training materials for practitioners in the field of anti-trafficking in Türkiye.

Over a three-month period, between August and October 2020, interviews were conducted with key experts from 45 stakeholder bodies as follows:

- nine public institutions
- two university hospital child protection centres
- five municipalities and three municipality organisations
- four international organisations
- eleven NGOs and a local initiative
- the Union of Turkish Bar Associations and seven Provincial Bar Associations
- two professional organisations.

There are no direct quotations from the key experts. Findings are provided as a general summary under the relevant headings of each report. The list of institutions and organisations represented by the key expert interviewees is presented below.

List of institutions and organisations represented by the key expert/official interviewees

Public institutions	NGOs
<ul style="list-style-type: none"> ▪ The Presidency of Migration Management (PMM), ▪ The Presidency of the Court of Cassation or the Court of Cassation's Chief Public Prosecutor's Office, ▪ The Ministry of Justice ▪ Human Rights and Equality Institution of Türkiye, ▪ The Ministry of Justice Department of Victim Rights ▪ The Ministry of Labour and Social Security: Directorate General of Labour and Inspection ▪ The Ministry of Family and Social Services Directorate General of Women's Status, ▪ The Ministry of Interior Directorate General of Security, ▪ The Ministry of Interior Gendarmerie General Command, ▪ The Ministry of Interior Coast Guard Command, ▪ Two University Hospitals Child Protection Centres 	<ul style="list-style-type: none"> ▪ Association for Solidarity with Asylum Seekers and Migrants (ASAM) ▪ ECPAT Türkiye (End Commercial Sexual Exploitation of Children Association) ▪ Turkish Red Crescent (TRC) ▪ Association of Assistance Solidarity and Support for Refugees and Asylum Seekers (ASRA/MSYD) ▪ Support to Life Association ▪ Flying Broom - Communication and Research Association for Women ▪ KAOS-GL ▪ International Children's Centre (ICC) ▪ Association of Adolescent Health ▪ Association of Women Platform for Black Sea Provinces (KİKAP Trabzon) ▪ Association for Joint Cooperation of Women (MOKİD)
Municipalities and municipality organisations	International organisations
<ul style="list-style-type: none"> ▪ Municipality of Hatay, ▪ Municipality of Esenyurt, ▪ Municipality of Beşiktaş, ▪ Municipality of İzmir, ▪ Municipality of Sultanbeyli ▪ Local Administrative Units ▪ Turkish Association of Municipalities ▪ Association of Municipalities in Marmara 	<ul style="list-style-type: none"> ▪ United Nations High Commissioner for Refugees (UNHCR) ▪ International Centre for Migration Policy Development (ICMPD) ▪ International Organisation for Migration (IOM) ▪ Vatan Foundation
Professional organisations	Local initiative
<ul style="list-style-type: none"> ▪ Union of Turkish Bar Associations ▪ Provincial Bar Associations: Van, Ankara, Çanakkale, Aydın, Edirne, İstanbul, İzmir, ▪ National Association for Social Workers (SHUDER) ▪ Association of Public Health Specialists (HASUDER) 	<ul style="list-style-type: none"> ▪ Tarlabası Community Centre

The significance of the sample of Turkish governmental and non-governmental stakeholders interviewed, together with the assessments contained in a series of reports allow us to highlight strengths, gaps and proposals for further action aimed at providing the Turkish anti-trafficking stakeholders with tools for enhancing the overall anti-trafficking response, and in particular for improving the identification of, and support measures for trafficked persons.

1.

THE PHENOMENON OF HUMAN TRAFFICKING IN TÜRKİYE

Overview

Due to its geographical position bridging Europe, Asia, and the Middle East and bordering states in Eastern Europe and Southern Europe, Türkiye has emerged as a regional migration hub, with multifaceted migration movements into and through country, before becoming the gate for massive migration flows towards the EU. For many years, it has already been a popular destination for labour migration from neighbouring countries as its large informal sector offers different opportunities for irregular migrants to stay for a while than travelling further or returning to their countries of origin. This also makes Türkiye a destination and transit country for victims of trafficking.

Traffickers exploit domestic and foreign victims in Türkiye, while victims from Türkiye are taken abroad [TIP Report 2020]. According to statistical information collected by the Presidency of Migration Management (PMM) there were 50 formally identified victims of trafficking in human beings in 2014, 108 victims of THB in 2015, 181 in 2016, 303 in 2017, 134 in 2018, 215 in 2019 and 94 in 2020 (until August 2020).

Most of the identified victims of THB are women. While 80% of the identified victims were women between 2014-2018, in the period of 2019-2020 the figure increased to 88%. There were 170 children among the victims identified during the period of 2014-2018 (i.e. 22% of all victims) and 47 children during the period of 2019-2020 (i.e. 17% of all victims). The number of Turkish citizens identified as victims of trafficking has been quite low, most of the victims being foreign nationals, mostly from Eastern Europe and Central Asia (see table 4). In addition, refugees and people under temporary protection¹ might be vulnerable to THB, and the number of victims of trafficking identified amongst them has increased over the years. According to the UNHCR, Türkiye hosts the largest

¹ Syrian nationals, as well as stateless persons and refugees from Syria, who came to Türkiye due to events in Syria after 28 April 2011 are provided with temporary protection [TP] status by the Government of Türkiye.

number of refugees in the world; over 3.5 million registered Syrian refugees along with 370,000 refugees of other nationalities [mainly from Iraq and Afghanistan].

As shown in table 1, during the period of 2014-2020, sexual exploitation was the most commonly detected type of THB, while the second was labour exploitation and the third was forced begging. In 2019, though sexual exploitation remaining predominant [134 victims], followed by labour exploitation [35 victims], the disaggregation of identified victims captures other forms of exploitation: There could be three reasons for this: increased knowledge of the experts working in the field, more detailed statistics being kept, and new methods, markets and demand being created by the traffickers. According to the statistics of PMM, the number of identified victims of THB in Türkiye has increased over the last five years. THB for sexual exploitation, which mainly affects women and girls, has continued to be prevalent. However, the number of victims of THB for labour exploitation has increased, accounting for 19% of all victims in 2014-2018, 16.67% of all victims in 2019 and 20.21% of all victims in 2020. Further, in recent years, victims of exploitation for begging have started to emerge, and all of the victims concerned were Syrian [with a peak of 65 victims identified in 2017].

Table 1. Main forms of exploitation and the identified victims of THB in Türkiye (2014-2020)

Year	Sexual exploitation	Labour exploitation	Forced begging	Total
2014	43	7	-	50
2015	88	19	1	108
2016	143	30	8	181
2017	186	52	65	303
2018	95	39	-	134
2019	134	35	4	215
2020	59	19	1	94
Total	748	201	79	1.028

Source: PMM

The table below shows the total number of identified victims of trafficking between 2010 and August 2020. It can be observed that the number is disaggregated into different forms of exploitation starting from 2014. Initially, only sexual exploitation, labour exploitation and forced begging were reported, while other forms of exploitation have also appeared in the records since 2019. The total number of identified children between 2014 and 2020 is 199, with a yearly percentage ranging from 4 to 32%, while the average over the whole period is 17%.

Identified trafficked persons are predominantly female, as shown in the following table: 73,3% for the whole period of 2014-2020. Unfortunately, data by sex for the different forms of exploitation do not seem to be available.

Table 2. Number of victims of THB by sex (2014-2020)²

Sex	2014	2015	2016	2017	2018	2019	2020	Total	Percentage
Male	1	19	18	91	23	20	6	155	100%
Female	49	89	163	212	111	195	88	796	26,64%
Total	50	108	181	303	134	215	94	1.085	73,36%

Source: PMM unpublished; PMM 2021a; PMM 2021b.

As shown in table 3, the main five countries of origin of the victims over the period of 2014-2018 were Syria, Kyrgyzstan, Uzbekistan, Afghanistan and Morocco. Over the past two years, this trend has not changed drastically, but victims have been identified from some new countries of origin such as Kenya, Zambia, Namibia, Uganda, Ivory Coast and Colombia. The colours in the table are used to group most of the countries of origin in three areas: Central Asia (Uzbekistan, Kyrgyzstan etc.); the Middle East (Syria, Afghanistan), which represents, including Iraq, the countries of origin of refugees and people under temporary protection in Türkiye; Eastern Europe (Ukraine, Moldova).

The number of Turkish nationals identified as victims of THB is extremely low (two in 2015, two in 2016, nine in 2017, two in 2019), but this could be a reflection of newly increasing attention paid to the identification of national victims.

As regards the provinces where the victims were identified, the most were identified in Antalya (166) and Istanbul (172) over the period of 2014-2018. In the last two years, the provinces where the highest numbers of victims were identified were Istanbul (48), Antalya (30), Izmir (28), Hatay (19), Gaziantep (17) and Konya (13).

² Bu veriler, GİB tarafından 28 Ağustos 2020 tarihine kadar tutulan kayıtları içermektedir.

Table 3. The nationalities of identified victims of THB in Türkiye (2014-2020)

Nationality	2014	2015	2016	2017	2018	2019	2020	Total
Syria	4	9	36	86	15	37	17	204
Uzbekistan	8	34	16	19	29	44	24	174
Kyrgyzstan	17	17	33	31	14	32	10	154
Morocco	2	6	10	26	18	28	5	96
Afghanistan	-	15	7	21	21	14	5	83
Ukraine	4	4	7	16	3	10	1	45
Moldova	4	5	8	20	1	4	1	43
Georgia	4	-	23	10	1	2	2	42
Indonesia	-	-	14	3	6	11	2	36
Azerbaijan	2	4	4	11	3	6	4	34
Russia	1	3	6	16	1	4	1	32
Kazakhstan	2	2	4	9	7	4	3	31
Turkmenistan	-	2	3	11	3	5	1	25
Türkiye	-	2	2	9	-	2	7	22
Belarus	-	1	-	10	3	-	-	14
Other	2	4	8	5	9	12	11	51
Total	50	108	181	303	134	215	94	1.085

Trafficking in human beings for the purpose of sexual exploitation

Trafficking in human beings for the purpose of sexual exploitation has been the most identified form of THB in Türkiye, with 748 identified victims between 2014 and 2020 [see tables 2 and 5]. This represents 57% of the total number of identified victims over the reference period.

Table 4. Identified victims of THB for the purpose of sexual exploitation in Türkiye by year (2014-2020)*

Year	THB for sexual exploitation, number of identified victims
2014	43
2015	88
2016	143
2017	186
2018	95
2019	134
2020	59
Total	748

Source: PMM unpublished; PMM 2021a; PMM 2021b.

Table 5. Distribution of identified victims of THB for the purpose of sexual exploitation by nationality (in 2014-2020)*

Nationality	Victims of THB for sexual exploitation
Syria	165
Uzbekistan	164
Kyrgyzstan	148
Morocco	88
Afghanistan	68
Moldova	43
Ukraine	43
Russia	31
Azerbaijan	31
Turkmenistan	23
Belarus	15
Türkiye	20
Other	41
Total	880

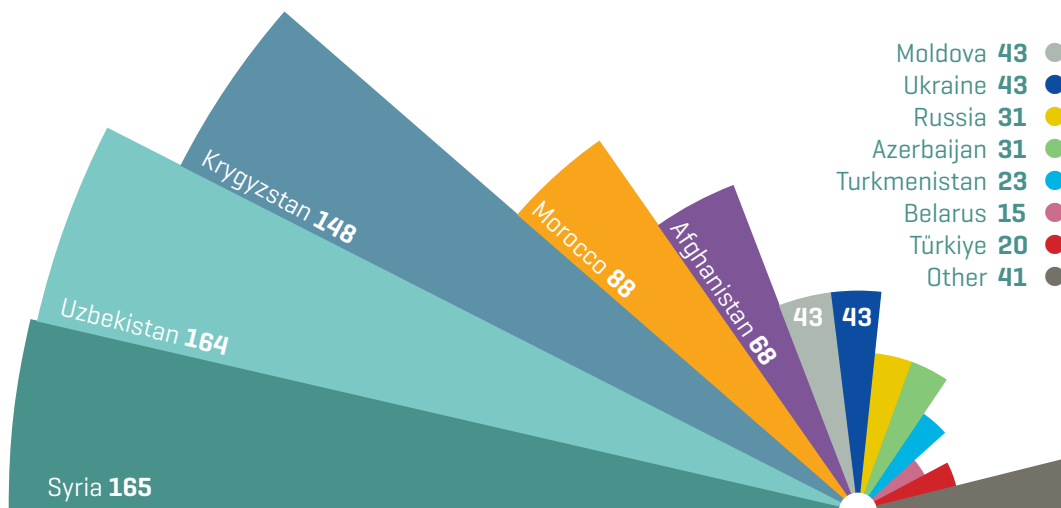
Source: PMM unpublished; PMM 2021a; PMM 2021b.

* For 2020 data available at the time of the study until the end of August.

THB for the purpose of sexual exploitation is a gender-specific phenomenon that disproportionately affects women and girls. Females are often trafficked for the purpose of sexual exploitation, but also for sham or forced marriages which might entail a sexual exploitation component. This situation makes it difficult to assess the real number of THB cases, as many cases remain hidden behind religious and cultural norms. Specific forms of sexual exploitation such as forced pornography and online sexual exploitation are difficult to detect as well.

As seen in the graph below, the countries with the highest number of victims of THB for sexual exploitation between 2014 and 2020 were Syria, Uzbekistan, Kryrgyzstan, Morocco, and Afghanistan (PMM unpublished; PMM 2021a; PMM 2021b).

Graph 1 . Identified victims of THB for the purpose of sexual exploitation by nationality [2014/2020]



Source: PMM

According to the statements of the key actors interviewed in the research, some highlights on the profile of the victims of THB for the purpose of sexual exploitation can be provided as follows:

- The most common cases in sexual exploitation are forced prostitution [of Syrian women as well as of women from the other countries mentioned in the graph above [Central Asian countries, Moldova, Ukraine, Russia].
- Some Moroccan women are forced to marry Turkish men, after which they are forced into prostitution.
- The most important reason is economic deprivation and inability to meet even the food expenses of their children.

- The women often have their passports and official documents confiscated which restricts their freedom of travel, and they are forced by traffickers to work and live in extremely poor conditions.

It is worth providing some data and offering some analysis about the geographic distribution of THB for the purpose of sexual exploitation.

Table 6. Distribution of identified victims of THB for the purpose of sexual exploitation by province (2019-2020)³

Province	2019	2020	Total
İstanbul	48	15	63
Antalya	30	13	43
İzmir	28	10	38
Hatay	19	4	23
Gaziantep	17	4	21
Konya	13	5	18
Bursa	3	11	14
Şanlıurfa	3	7	10
Edirne	8	1	9
Adana	3	4	7
Muğla	6	1	7
Denizli	6	-	6

Source: PMM unpublished; PMM 2021b.

As seen in Table 6, cases of THB for sexual exploitation mostly occur in the provinces of İstanbul, Antalya, İzmir, Hatay, Gaziantep, Konya, Bursa, Şanlıurfa, Edirne, Adana, Muğla and Denizli (PMM unpublished; PMM 2021b).

The high numbers in İstanbul, Antalya, İzmir and Muğla can be partly explained by the fact that popular tourist destinations constitute risky areas for THB for the purpose of sexual exploitation.⁴ According to a study conducted by the International Children's Centre (ICC 2015), THB for the purpose of sexual exploitation in the form of prostitution

³ This data includes the records kept until 28 August 2020 by the PMM.

⁴ The travel and tourism sector in Türkiye give a significant contribution to the Turkish economy (the travel and tourism sector represented 12.1% of Turkey's GDP in 2018) [World Travel and Tourism Council 2019]. The Ministry of Culture and Tourism in Türkiye recorded 51,747,199 tourist arrivals in Türkiye in 2019, a 12.22% increase compared to 2018.

often occurs in massage parlours in tourist districts, with some tourists willing to pay thousands of dollars to “spend a night with a young virgin girl”.

Secondly, provinces of Türkiye bordering Syria, such as Gaziantep, Şanlıurfa, Adana and Hatay, have become increasingly prone to sexual exploitation of children and women due to the high concentration of vulnerable Syrian, Iraqi and Afghan refugees.

In the province of Şanlıurfa, criminal networks force into prostitution Syrian women and adolescent girls, who have limited opportunities to generate income (ICG 2019). The networks particularly target vulnerable adolescent girls and widows as they often have limited support from their families.

The province of Edirne having land borders to Greece and Bulgaria is on the irregular transit routes to the EU countries, therefore it hosts a similarly dense population of migrants and refugees. In these provinces, THB for the purpose of sexual exploitation often occurs in the form of forced prostitution.

THB for the purpose of sexual exploitation: an underreported phenomenon

- The study conducted by the Red Umbrella Sexual Health and Human Rights Association in the Southeast of Türkiye in 2017 interviewed 26 Syrian persons engaged in prostitution, as well as 47 representatives from NGOs and public institutions.
- According to the study, all respondents from NGOs and the police raised concerns about Syrian women and underage girls becoming victims of THB for sexual exploitation.
- Despite this, there were no records in the security directorates of many provinces in the Southeast of Türkiye in connection to the exploitation of Syrian women and children for prostitution.
- This seems to indicate that the sexual exploitation of Syrian women and children for the purpose of prostitution in Türkiye is underreported/ completely unreported to the authorities [Red Umbrella 2017].

Forced marriages (including child marriages)⁵

Since 2019, the Turkish authorities have started to disaggregate the data on the number of identified victims of THB into more forms of exploitation, counting victims of “forced marriages” and “child marriages”.

⁵ In-depth analysis on child marriages can be found in the separate report on «Child Trafficking».

Forced marriages often involve payment of money, goods, or services [rent, medical expenses, gifts etc.], can imply sexual violence and rape, and might lead to trafficking or constitute trafficking offence. Through the marriage not only the family obtains material possessions, but also it means that the parents have less children depending on them for basic necessities.

Female citizens of Türkiye [adult women and girls] are significantly exposed to forced marriage⁶, and families [or traffickers when forced marriage amounts to THB] often get money or goods in return. Due to religious and cultural norms these marriages are often perceived as legitimate.

As shown in the table above, according to the Turkish Demographic and Health Survey in 2018 [HU-IPS 2019], 2% of Turkish women aged between 20-24 were married when they were 15 years old, and 1.1% of women aged between 15-19 reported they were married by the age of 15.⁷

Data on Turkish women aligns with UNICEF's estimates based on 2012-2018 data, which revealed that 1% of Turkish women aged 20-24 were married by the age of 15, and 15% were married by the age of 18 [UNICEF 2019].

Aggravated living conditions of forced displacement of the Syrian population in Türkiye contribute to higher numbers of forced marriages and child marriages. Research was conducted on the prevalence of child marriages among Türkiye's Syrian population, with 9.2% of the interviewed Syrian women between the ages of 20-24 responding that they had been married by 15, and 13.4% of Syrian women aged between 15-19 being married by the age of 18 [HU-IPS 2019].

There is no data from either the Turkish Demographic and Health Survey or UNICEF on how boys are affected by forced marriages. While it is a known fact that forced marriages

Table 7. Turkish women married by the age of 15

Age	Married by the age of 15
20-24	2%
15-19	1.1%

Resource: HU-IPS 2019.

Table 8. Syrian women married by the age of 18

Age	Married by the age of 18
20-24	9,2%
15-19	13,4%

Resource: HU-IPS 2019.

⁶ Further and in-depth analysis of forced marriage can be found in GREVIO's [Baseline] Evaluation Report about Türkiye. GREVIO is the Group of Experts on Action against Violence against Women and Domestic Violence, established by the Council of Europe to assess progress concerning the Istanbul Convention. According to the report, "Data provided by the authorities would indicate that efforts to reduce underage and forced marriages in Türkiye have led to a certain progress. Still, underage and forced marriages continue to be widespread. According to the latest prevalence studies, more than 25% of women in Türkiye reported having been married before the age of 18, a percentage which rises to 32% in rural areas" (<https://rm.coe.int/eng-grevio-report-turquie/16808e5283>)

⁷ These figures are not reflected in the statistics, as close to 50% of the female population lived out of wedlock with their partner before this age [including religious informal marriage].

affect boys as well, the issue, both globally and in Türkiye, disproportionately affects girls.

This section could not verify the prevalence of forced marriages among adults either, since the Turkish Demographic and Health Survey did not publish any statistics on the issue. The only data available is the one kept by the PMM in the context of the identification of THB victims.

In 2019-2020, according to the THB statistics of the PMM, 12 persons were identified as victims of forced marriages and 16 as victims of child marriages [PMM unpublished]. Given the higher prevalence of child marriages in the statistics of the Turkish Demographic and Health Survey and UNICEF and considering that forced marriages and child marriages are often hidden behind cultural and religious norms, it is highly likely that the number of identified victims of THB by the PMM does not reflect the full scale of the reality of forced marriages and child marriages.

As mentioned above, forced and child marriages are often hidden behind cultural and religious norms, and it is most likely that the real numbers of victims are much higher than the official statistics suggest. The lack of official data regarding trafficking for the purpose of forced marriage among Turkish nationals strengthens this hypothesis.

NGOs working in the field and key experts participating in the research also confirm this opinion. It is stated that the cases of forced marriage of women for dowry or in exchange of other goods are common, but they do not come before judicial authorities, as the practice is seen as a cultural norm. Victims may also believe that this situation is “normal”. In other words, most victims of forced marriage (especially Turkish women) are not actually aware that they are victims. They often think that they must abide to the traditions and customs of their family and do not oppose the marriage decisions made on them. In addition, honour killings can occur in cases where a woman opposes forced marriage. However, it is often covered up by the local population and these cases often do not come before judicial authorities.

Trafficking in human beings for the purpose of labour exploitation

Trafficking in human beings for the purpose of labour exploitation has been under-reported in official statistics. Rather, the focus of authorities has been on trafficking in human beings for the purpose of sexual exploitation. In this respect, identification of victims of labour exploitation should be improved. As noted by GRETA, the identification

Table 9. Nationality of victims of forced marriages as a form of THB [2019]

Country	Forced marriage
Syria	8
Morocco	2
Afghanistan	1
Ukraine	1
Total	12

Resource: PMM, unpublished.

of victims of THB for the purpose of labour exploitation may be challenging on many accounts. Differences arise in practice in the interpretation and application of labour standards and in defining labour exploitation. Victims, particularly if in an irregular situation, may be reluctant to make complaints or to engage in criminal proceedings because of the fear of deportation or the retaliation from traffickers. Combating trafficking for the purpose of labour exploitation, therefore, requires co-ordinated action between the State, civil society, trade unions and the private sector.⁸

The strategic location of Türkiye coupled with the dramatic increase in irregular migration to and through Türkiye increases the risk of THB for the purpose of labour exploitation.

According to literature and interviews with representatives of responsible institutions, the risk sectors for THB include agriculture, construction, domestic care, restauration and entertainment, apparel industry and garbage collecting.

In many countries, unemployment and a growing informal economy, together with a demand for cheap labour and services, are the factors nurturing trafficking for the purpose of labour exploitation. Victims of trafficking for this form of exploitation are trafficked both transnationally and within their countries of residence. In the light of the high levels of informality of the labour market structure in Türkiye, Turkish citizens can become victims of labour trafficking. In the same context migrant workers, especially seasonal and irregular migrant workers, are particularly vulnerable to human trafficking for the purpose of labour exploitation. Due to their precarious situation, both legally and economically, migrant workers have limited possibilities to realise and report their situation.⁹

Table 10. Levels of informal employment in Türkiye

Year	Agriculture	Non-Agriculture	Industry	Service	Construction	General
2019	86,62	22,96	20,03	22,55	37,74	34,52

Source: TURKSTAT¹⁰

According to TURKSTAT, the average rate of informal employment in Türkiye is 34.5%. Informal employment means that legal instruments do not apply to protect workers and that labour investigations are scarce. This vacuum of authority and investigation creates suitable conditions for traffickers.

⁸ See GRETA's 7th General report on activities, paragraph 70.

⁹ F. David, Labour Trafficking (Research and Policy Series nr 108, Australian Institute of Criminology, Canberra 2010) p. 13.

¹⁰ Social Security Institution of Türkiye, Rates of Unregistered Employment, retrieved from http://www.sgk.gov.tr/wps/portal/sgk/tr/calisan/kayitdisi_istihdam/kayitdisi_istihdam_oranlari/kayitdisi_istihdam_orani

According to May 2019 data of TURKSTAT, the rate of those working “without being bound to any social security institution” i.e. “informally” among active, is 34.52% for working Turkish citizens. That is, more than 10 million Turkish citizens among the “labour force” over the age of 15, comprising 32.3 million workers in total, are working “informally” in Türkiye. Obviously, these figures do not include child workers, which according to several research reports, is not a figure to be ignored.^{11 12}

Adding on the already high levels of informal employment, the large influx of migrants from Syria has escalated the problem. The right to work was issued to the Syrians living in Türkiye under Temporary Protection from 15 January 2016. In line with this regulation, Syrians who are registered in Türkiye for a minimum of 6 months would enjoy the right to work. This was a critical step to ensure formal employment of Syrians, but research shows that there is a minimum of 1.2 million Syrians who are working and only approximately 32.000 of them have been issued a work permit.¹³ More than 95% of the Syrians working at present are working informally.¹⁴ Informal economy creates a significant opportunity and space for Syrians, although it is not sustainable, it hardly promotes social justice, it is very controversial in terms decent work. Though, undoubtedly, it also creates a suitable environment for labour trafficking.¹⁵

Research by the Turkish Red Crescent suggests that 20% of individuals under temporary protection and international protection work in low-skilled jobs, and 19% work in textile, 12% in construction and 10% in handcrafts. They are followed by those working in shoemaking (6%), commercial business (5%) and repair works (5%). However, there are significant differences between provinces and regions. Almost 50% of the individuals who are under temporary protection and international protection and work in Istanbul are employed in textile sector, while 25% of those in Mersin work in agriculture. Research shows that those working in regular jobs based on a long-term contract are about 45% and 54% work in irregular jobs as unqualified workers. There is a considerable space for regular jobs in textile (79%). Those working in daily [irregular] jobs earn 1058 TL as monthly average, which is 1312 TL for regular workers. The highest average income is 1332 TL in textile sector. Unqualified labour (768 TL) and especially the agriculture sector (756 TL) constitute the areas with the lowest income.¹⁶

¹¹ Fair Labour Association, Worker Demographic Profiling Research in Hazelnut Cultivation, 2017.

¹² Child labour is a major concern for Turkish labour market which carries high risks for child trafficking. The phenomenon is analysed in detail in the separate report on child trafficking in Türkiye.

¹³ Erdoğan, M. Murat. Türkiye’deki Suriyeliler: toplumsal kabul ve uyum. İstanbul Bilgi Üniversitesi Yayınları, 2015.

¹⁴ Turkish Red Crescent and World Food Programme (2019) Refugees in Turkey: Livelihoods Survey Findings. Ankara, Turkey.

¹⁵ M. Murat Erdoğan, Syrian Refugees in Turkey, September 2019. Konrad Adenauer Stiftung

¹⁶ Turkish Red Crescent and World Food Programme (2019) Refugees in Turkey: Livelihoods Survey Findings. Ankara, Turkey.

After PMM became operational in 2014 and due to awareness-raising activities increasingly implemented each year, the number of identified victims has steadily increased. Even though human trafficking with the purpose of sexual exploitation is still the predominant type of human trafficking in Türkiye, the number of identified victims of labour exploitation has been on the rise. According to PMM statistics, between 2005-2013, 43 persons and between 2014-2020, 201 persons were identified as victims of THB for labour exploitation.¹⁷ In the period between 2013-2017, the number of Syrians was the highest with 135 persons among the foreigners identified as the victim of human trafficking. Undoubtedly, it is not only the Syrians who are under the risk of labour trafficking. Other nationalities include Afghans, Moroccans, Iraqis, Pakistanis, and Palestinians.¹⁸ Due to the increased number of victims identified as victims of labour exploitation, as well as in forced begging especially since 2016, the number of identified male victims has also increased.

Table 11. Informal employment by economic activity [%]

Economic activity	2011	2012	2013	2014	2015	2016	2017	2018	2019
Agriculture, forestry and fisheries	83,85	83,61	83,28	82,27	81,16	82,09	83,33	82,73	86,62
Manufacturing	24,87	21,47	19,84	20,15	18,85	19,9	19,6	20,26	19,97
Construction	49,88	45,35	40,12	36,61	35,58	35,76	35,8	34,39	37,74
Hospitality industry	40,32	34,91	31,27	24,82	24,55	31,61	30,97	31,1	32,75
Culture, arts, entertainment, leisure and sports	38	37,04	34,71	34,35	31,54	33,33	37,01	36,61	40,12
Other services	56,07	49,06	46,14	47,69	43,38	44,19	43,71	44,11	47,14

Source: TURKSTAT, 2019.

As mentioned above, THB for the purpose of labour exploitation has started to emerge progressively since 2014. In the period January 2014 – August 2020 the victims of THB for labour exploitation identified were 201, representing 18,52% of the total identified cases. It is the second detected form of exploitation in the context of human trafficking.

¹⁷ The figure includes victims identified as of September 2020, which may rise throughout the rest of the year.

¹⁸ <https://www.goc.gov.tr/duzensiz-goc-istatistikler>

Table 12. Identified victims of THB for labour exploitation in Türkiye, compared to other forms, in the period January 2014 – August 2020

Types / Year	2014	2015	2016	2017	2018	2019	2020*	Total	Percentage
Sexual exploitation	43	88	143	186	95	134	59	748	68,94%
Labour exploitation	7	19	30	52	39	35	19	201	18,52%
Forced begging	-	1	8	65	-	4	1	79	7,29%
Other forms of exploitation						42	15	57	5,25%
Total	50	108	181	303	134	215	94	1085	100%

Source: PMM

In the following paragraphs some highlights are offered about the main economic sectors in Türkiye where workers are exposed to exploitation and trafficking.

Agriculture

Agriculture is a high-risk sector for THB. The exposure to infiltration by traffickers is very common because of the need for seasonal workers and the use of worker providers. Of the 16 million victims of forced labour exploitation worldwide, one in 10 worked in the agricultural, forestry or fishing sectors under threat of violence or some other form of coercion, according to the International Labour Organization. The phenomenon occurs in wealthy and poor nations alike.

Turkish agriculture is composed of small and medium-sized family farms that temporarily hire seasonal workers during labour-intensive periods of cultivation. Around 86% of the employees in Türkiye are unregistered informal workers. Labour-intensive production systems increased the demand for hired labour, and obviously cheap labour force. The poorer segment of the labour market fills the demand, and this is not surprising when the world trend is considered. In Türkiye, 6.5 million people are employed in the agricultural sector and approximately half of them are seasonal migrant workers.¹⁹

MSeasonal agricultural labour is a cheap way of satisfying the demand for labour in agricultural production around the world, and Türkiye is no exception to this. There are certain common characteristics among worker households that generate vulnerabi-

¹⁹ TURKSTAT retrieved from http://www.tuik.gov.tr/PreHaberBultenleri.do?id=107616&tb_id=2

lities in the labour market. Household structures and lack of access to basic welfare services point to precariousness.¹⁸ There is also a spatial dimension to this precarity in terms of the origins of migrant workers: according to research, approximately 80% of migrant families come from South-eastern Türkiye—predominantly from Şanlıurfa, Mardin, and Diyarbakır.

Seasonal agricultural workers travel throughout Türkiye to work in farms for short periods of time. Usually, families leave their hometown in the beginning of cultivation season in March and April, and return their homes towards October, November. They migrate with all members of the household, including school-aged children and babies. In some commodities, approximately half of the workers are under the age of 18.²⁰ They stay in tents in unsanitary conditions and work in multiple farms in multiple cities. Obviously, such mobility requires connections and sets of logistic arrangements which are handled by labour intermediaries called *dayıbaşı*, *elçi* or *çavuş*. Labour intermediaries recruit workers in their hometowns and transport them to the farms where they will be working. They are directly in contact with the farmers, negotiate the daily wage [“*yevmiye*”], and handle the payments of the workers. They often lend money to workers in the time of recruitment, pay for the transportation and other possible expenses to be cut from worker’s earnings at the end of the season. This creates a dependency on the employer, which may result in debt bondage. For their services, labour intermediaries get 10% commission over workers’ earnings.

Syrian temporary protection holders have been working in agriculture since the beginning of the civil war, usually for lower wages. Labour contractors are recruiting Syrian migrants because associated profits can become higher, and due to their precarious situation Syrians represent a “docile” labour force who work in more difficult conditions. Dependence on the labour contractors poses risks of forced labour and/or labour trafficking, that needs to be considered in policies to combat THB for labour exploitation. Labour contractors need to be placed at the focus of research on THB for labour exploitation in agriculture.

Issue to consider:

The phenomenon of Syrian brides. Trafficking Syrian women to marry men from Türkiye, is usually evaluated within the framework of trafficking for the purpose of sexual exploitation. However, this research shows that Syrian women are also trafficked for labour exploitation in agriculture. Through marriage with Syrian women, some men aim at recruiting another worker to total household labour force and maximise the household income in seasonal agricultural work.

²⁰ Fair Labour Association, Worker Demographic Profiling Research in Hazelnut Cultivation, 2017.

Weakness in institutional capacity:

The Turkish Labour Code does not apply to workplaces with less than 50 workers in agriculture and forestry sector. In Türkiye, a vast majority of farms employ less than 50 workers. This leaves all farms employing seasonal migrant workers out of the scope of the Labour Code, which aggravates the risks of labour trafficking. Similarly, the Labour Code does not cover domestic and care work, leaving workers unprotected.

Notwithstanding, Article 4857/113 stipulates that Articles 32, 35, 37 and 38 of the Labour Law numbered 4857, which regulate the matters of “payment of wages and salaries, latent parts of wages, pay slips, and wage deduction”, shall apply for the workers working at workplaces or enterprises where agricultural and forestry works are carried out and which are excluded from the scope of the Law numbered 4857.

In addition, despite the fact that “Domestic Services” fall within the scope of the exemption pursuant to Article 4 of the Law No. 4857 and Article 2 of the Law No. 6331, they remain in the scope when it comes to investigation of whether foreigners have a work permit and whether they work in accordance with the International Labour Law No. 6735. Furthermore, since the provisions for job placements through private employment agencies are regulated in Law No. 4904, those employed for “Domestic Services” through private employment agencies fall within the scope of the Law concerned.

Construction

Trafficking for the purpose of labour exploitation is a significant problem in construction, particularly in some North American and Western European countries as well as in Middle East, Asia, and Africa.²¹

Several reports reveal a deepening of informality in the labour market in the construction sector, with a diminishing number of permanent employees and a much larger number of temporary workers who are employed on short term contracts, are self-employed or work for subcontractors.

In Türkiye, the construction sector has been experiencing a boom for over a decade, ranging from small scale housing constructions to large scale construction projects including highways, bridges, dams, airports, and urban transformation projects. Especially in large-scale projects, subcontracting is a common practice and migrants tend to be disproportionately represented. Construction offers a crucial form of ‘survival’ work, especially for male migrants and economically deprived Turkish citizens.

²¹ Buckley, Michelle; Zendei, Adam; Biggar, Jeff; Frederiksen, Lia; Wells, Jill. Migrant work and employment in the construction sector / International Labour Office, Sectoral Policies Department, Conditions of Work and Equality Department. – Geneva: ILO, 2016.

During the interviews, respondents listed construction as one of the high-risk sectors for labour trafficking. According to 2019 TURSTAT statistics, 37.5 % of the overall employment in construction sector is informal and migrants heavily work in the construction sector. Especially Afghan and Syrian workers work informally in the construction sector for lower wages and for longer hours. This creates a profitable business and favourable conditions for traffickers since there is room for unregistered employment.

Tourism and entertainment

Interviews showed that tourism and entertainment, including hotels and restaurants, are among the top economic sectors where victims of labour trafficking are identified. These are also sectors where both sexual and labour exploitation occur. Tourism is characterised by labour-intensive and seasonal jobs. Work in the tourism and entertainment industries is varied, involving cleaners, waiters, cooks, animation jobs and other. In this regard, tourism is a risky sector in terms of labour trafficking with high numbers of migrant workers. The demand for work in the tourism sector, and the general low awareness amongst the population about labour rights as well as the active part that intermediaries play in job facilitation, contribute to the risk factors.

“The demand for work abroad and the general low awareness amongst the population about labour rights as well as the active part that middlemen play in job facilitation abroad contribute to the risk factors. For example, animation jobs in the entertainment industry in Türkiye are commonly facilitated by unregistered agents. Established agencies charge high fees 300-1,000 Euros for job facilitation [despite the fact that in a number of EU countries fee charging for job facilitation is illegal].”²²

Informal employment in the hospitality sector [hotels and restaurants] is around 33% and in leisure and entertainment, the number reaches to 40%. Alongside informality, in these sectors, working conditions are hard. Employees work six days a week, between 12-16 hours a day without receiving over-time payments.²³ Migrants work extensively in tourism sector and especially women from Eastern European and Central Asia countries face risks of labour trafficking.

Domestic and care work

Across countries, domestic and care workers are particularly vulnerable to exploitation, taking into consideration the uncontrolled development of the private domestic and care market, the matter of immunity of domicile, and the households being private

²² Klara Skrivankova, Lazar Jovevski, Report on Trafficking for the Purpose of Labour Exploitation in North Macedonia, Council of Europe, 2017 p.45

²³ Lordoğlu, K. [2009] Türkiye’de Turizmde Çalışan Göçmenler ve İşgücü Piyasasında Oluşan Yeni Sorunlar.

places.²⁴ Furthermore, in Türkiye, domestic services are not fully covered by the Labour Law and hence not subject to labour inspections in private households. Despite the fact that “Domestic Services” fall within the scope of the exemption pursuant to Article 4 of the Law No. 4857 and Article 2 of the Law No. 6331, they remain in the scope when it comes to investigation of whether foreigners have a work permit and whether they work in accordance with the International Labour Law No. 6735. Furthermore, since the provisions for job placements through private employment agencies are regulated in Law No. 4904, those employed for “Domestic Services” through private employment agencies fall within the scope of the Law concerned and inspections can be carried out by labour inspectors in this respect.

It is a predominantly feminised labour sector where undocumented migrant women work in domestic households as cleaners, cooks, child-minders, carers for the elderly or persons with special needs. They often live at the employer’s house, without any formal contract defining the scope of the work, and without social security registration. Their travel documents may be confiscated, their mobility and freedom of movement may be restricted, and their vulnerable position may be abused by the traffickers.

Waste picking and recycling

There are approximately 500 thousand waste pickers in Türkiye, and approximately 2 million people earn their living through waste picking.²⁵ Waste picking and recycling is a highly informal sector that resists registration attempts by the government and municipalities. Estimates show that half of the packing waste and papers that are processed in recycling facilities in Türkiye are collected by waste pickers in the streets.

Waste pickers work for up to 15 hours a day, selling the packing materials and paper they collected to small warehouses, who sell them on to bigger warehouses and/or recycling facilities. There is a deep polarisation in the sector. While it is a profitable business for warehouse owners, it is only a survival activity for the waste pickers, who do not have any other source of income or any other option to earn their living.

There are media reports indicating highlighting systemic weaknesses that aggravate the risks of labour trafficking in the waste picking and recycling sector. In 2018, media reported that 15 Afghan waste pickers and five traffickers had been apprehended by the police. The waste pickers had been brought to Türkiye to pick waste for the recycling industry and were in an irregular situation and debt bondage.²⁶ Media coverage on a fire set off in Ankara in March 2019 revealed that 5 Afghan waste pickers died and 11 were injured, including two Turkish citizens from Şanlıurfa.²⁷

²⁴ GRETA’s 7th General report [2017], para 121.

²⁵ <https://www.haberturk.com/gundem/haber/1187912-adan-zye-kagit-toplama-krizi>

²⁶ <https://www.aa.com.tr/tr/turkiye/duzensiz-gocmenlere-hurdacilik-yaptirmislar/1310302>

²⁷ <https://gazete.alinteri1.org/oturumlari-olsaydi-simdi-kimlikleri-de-tespit-edilebilirdi>

Textile sector

Research indicates that there is a large demand for cheap labour in the textile industry due to intense competition worldwide and low production costs in China and Bangladesh. Subcontracting is the way to decrease production costs, but it increases vulnerability of the workers. Major apparel companies run decent work programmes and impose decent work standards and formal employment among their suppliers. However, these measures are far from being effective, since the suppliers of the companies also subcontract some of the work to smaller workshops, which are harder to reach for inspection.

Türkiye ranks as the seventh largest apparel supplier in the textile sector globally, and the third biggest apparel supplier to the EU following China and Bangladesh.²⁸ The textile and apparel sectors in Türkiye contribute substantially to the Turkish economy by exporting extensively to the rest of the world.

Interviewees stated that unregistered textile workshops are high-risk workplaces in terms of labour trafficking, especially for Syrian migrants. As an example, the representative on an NGO mentioned a call they received from a group of Syrian migrants, reporting that they had been forced to work in a textile workshop and were not allowed to leave the premises for 1,5 months.

Research by Gökçe Uysal and Engin Volkan²⁹ gives important insights:

“The interviews also offered a glimpse into the tactics that companies use to avoid being caught and fined for generating informal employment. One of the most common strategies is hiding Syrian workers during inspections by authorities: When [I was working] in textile, the boss would take all the Syrians out when the inspectors arrived. [15, female, employed]

Sometimes inspectors come. The firm owner fired us until the inspection is over, and then they call us back to say, ‘come and continue working.’ [16, male, employed]”

The quotation clearly points to child labour in apparel industry, which is also documented by a myriad of research reports and news coverage.

Trafficking in human beings for the purpose of labour exploitation is happening more in ateliers and small business enterprises which are very difficult to reach out. Many of the workers are working irregularly, many of them do not have official permits. Interviewees stated that especially in the Southeast of Türkiye, there is a high risk of trafficking in human beings in the sector.

²⁸ İTKİB, “The Role of Turkey in European Union’s Apparel Import,” 2016, <https://www.ihkib.org.tr/fp-icerik/ia/d/2016/09/29/>

²⁹ Gökçe Uysal, Engin Volkan. Syrian Workers and Informality in the Textile Sector in Istanbul, IPC Merkator Policy Brief, May 2020, p.9.

2.

LEGAL FRAMEWORK RELEVANT TO COMBATING HUMAN TRAFFICKING

International legal instruments

In the last almost 20 years Türkiye has progressively set up its anti-trafficking legal framework, from the definition of the crime to the structure of the coordination and the referral system.

Türkiye is a party to two main legal instruments for combating trafficking in human beings at the international level. In addition to the United Nations Convention against Transnational Organised Crime [ratified in 2003] and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children [the Palermo Protocol, ratified in 2004], Türkiye is also party to the Council of Europe Convention on Action against Trafficking in Human Beings [ratified in 2016].

Moreover, as a candidate country to join the EU, Türkiye has undertaken to make its legislation compliant with the EU *acquis communautaire*, which includes the EU legal instruments aimed at combating THB and protecting and assisting victims of crime, above all the Directive 2011/36/EU of the European Parliament and of the Council of the EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.³⁰

Türkiye has also ratified a series of other international instruments relevant to combating human trafficking [see annexe 2].

³⁰ In addition to the Directive 2011/36/EU, Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, and Directive 2012/29/EU of the European Parliament and the Council of the EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

Table 13. International instruments related to THB in effect in or relevant for Türkiye

Regional instruments [European level]	Date of ratification/accession by Türkiye
Council of Europe Convention on Action against Trafficking in Human Beings – 2005	2 May 2016
EU Directive on preventing and combating THB and protecting its victims – 2011	Relevant to be taken into account in the framework of accession to the EU
Council of Europe Convention on Cybercrime (“Budapest Convention”) – 2001	29 September 2014
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“Lanzarote Convention”) – 2007	7 December 2011
European Convention on the Exercise of Children’s Rights – 2000	1 October 2002
International instruments	Date of ratification/accession by Türkiye
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children [supplementing the UN Convention against Transnational Organised Crime] – 2000	25 March 2003
UNHCR Guidelines on International Protection: The application of Article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the status of Refugees to victims of trafficking and persons at risk of being trafficked. - HCR/GIP/06/07 – 2006	Türkiye maintains a geographical limitation to the 1951 Refugee Convention and only applies it to refugees originating from European countries. ³¹ That said, in April 2013 Türkiye adopted a comprehensive, EU-inspired Law on Foreigners and International Protection [LFIP], which establishes a dedicated legal framework for asylum in Türkiye and affirms Türkiye’s obligations towards all persons in need of international protection, regardless of country of origin. Potential or actual victims of human trafficking might have a “well-founded fear of persecution” and would therefore be entitled to the rights granted under international protection.
UN Optional Protocol to the CRC on the Involvement of Children in Armed Conflict – 2000	16 October 2003
UN Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography – 2000	19 August 2002

³¹ For the purpose of “geographical limitation” in regard to the interpretation of the 1951 Convention, Government of Türkiye considers Council of Europe member states as ‘European countries of origin’.

International instruments	Date of ratification/accession by Türkiye
ILO Convention on the Worst Forms of Child Labour (No.182) – 1999	2 August 2001
UN Convention on the Rights of the Child – 1989	27 January 1995
ILO Convention 105, Abolition of Forced Labour Convention – 1957	29 March 1961
UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – 1979	14 October 1985
ILO Convention concerning Forced or Compulsory Labour (No. 29) – 1930	30 October 1998

Domestic legislation

The international legal instruments constitute the basis for the following main national legal provisions in relation to trafficking in human beings, from the definition of the crime to the various support measures for foreign, national, adult and child victims of THB.

Table 14. Domestic legislation and secondary legislation related to THB

Domestic instruments	Date of promulgation	Provisions
Turkish Criminal Code » <i>THB crime and definition</i>	1 June 2005	Trafficking in human beings is criminalised in Article 80, Chapter "International Offences", Volume II "Special Provisions"
Regulation No. 29656 on Combating Human Trafficking and the Protection of Victims » <i>Coordination system</i> » <i>Referral system</i>	17 March 2016	Lays down the rules and procedures concerning the identification of victims of THB, victim support programmes, voluntary and safe return programmes, and residency permits for foreign victims. It also defines the national anti-trafficking coordination system.
Law No. 6458 on Foreigners and International Protection » <i>Recovery and reflection period</i> » <i>Residence permits</i>	11 April 2013	For victims of trafficking, the law provides for: - a recovery and reflection period [Article 48] - renewable residence permits [Article 49] It also stipulates that the victims of THB included in the victim support programme shall not be removed from the country [Article 55].
Act on Fees No. 492 » <i>No fees for residence permit</i>	2 July 1964	Article 88 provides that victims of THB are exempted from residence permit fees.

Domestic instruments	Date of promulgation	Provisions
Regulation No. 4817 on the Implementation of the Law on Work Permits of Foreigners » <i>Residence permit and access to the labour market</i>	29 August 2003	Entitles victims of THB to have access to the labour market.
Presidential Decree No. 63 on Supporting Victims of Crime » <i>Support to victims during criminal proceedings</i>	10 June 2020	Victims of THB are defined as one of the “vulnerable groups” within the scope of Article 7. They shall be accompanied by a social worker in the judicial processes so that: <ul style="list-style-type: none"> - the victim can express himself/herself comfortably, - the social worker prepares a social investigation report about the victim and determines his/her risks and needs, - victims in need of treatment and rehabilitation are directed to relevant institutions, - the victim is given support during the investigation and prosecution process and the social service case management stages.
International Labour Force Law No. 6735 » <i>Work permit</i>	28 July 2016	Article 16 provides that victims of THB benefiting from victim support programmes may be granted work permits exceptionally
Law on Family Protection and Prevention of Violence against Women No. 6284 » <i>Protection and support to Turkish national victims of THB</i>	20 March 2012	Applies to Turkish citizens who are identified as victims of THB and provides for measures such as shelter and psychosocial rehabilitation, which are implemented by the Ministry of Family and Social Services, Directorate General of Women’s Status.
Child Protection Law No. 5395 » <i>Protection and support to child victims of THB and best interest provision</i>	15 July 2005	Provides protective and supporting measures such as shelter, care, counselling, psychosocial support, training, access to health services and education for child victims of THB and defines the best interests of the child. The measures are implemented by the Ministry of Family and Social Services, General Directorate of Child Services.
Turkish Citizenship Law No. 5901 » <i>Preventing traffickers to acquire Turkish citizenship</i>	12 June 2009	Persons who have committed THB offences are prevented from acquiring Turkish citizenship [Article 16].

The legal definition of THB in Turkish legislation includes the three constitutive elements of THB [action, means and purpose of exploitation] as regards adults, in line with Article 4(a) of the Convention. As regards children, it contains only two of the above elements, i.e. the action and the purpose of exploitation, irrespective of the means used, which is also in line with the Convention's definition.³²

The irrelevance of the victim's consent, as long as any of the illicit means are used, is explicitly stated in Art. 80 of the TCC.

According to Article 80 of the TCC, any natural person [female, male and child] subjected to the offence of THB would be considered as a victim of THB.

The main concern about compliance of the Turkish legislation with the international standards relates to the absence of some forms of exploitation in Art. 80 of the TCC. As stressed by GRETA and reported in table 18, apart from prostitution, other forms of sexual exploitation are not mentioned as well as servitude being missing.

It should be noted that in the Art. 80 formulation it is not specified that the forms of exploitation which are part of the definition constitute an "at a minimum" list, i.e. a non-exhaustive enumeration which leaves room for other forms of exploitation to be considered.

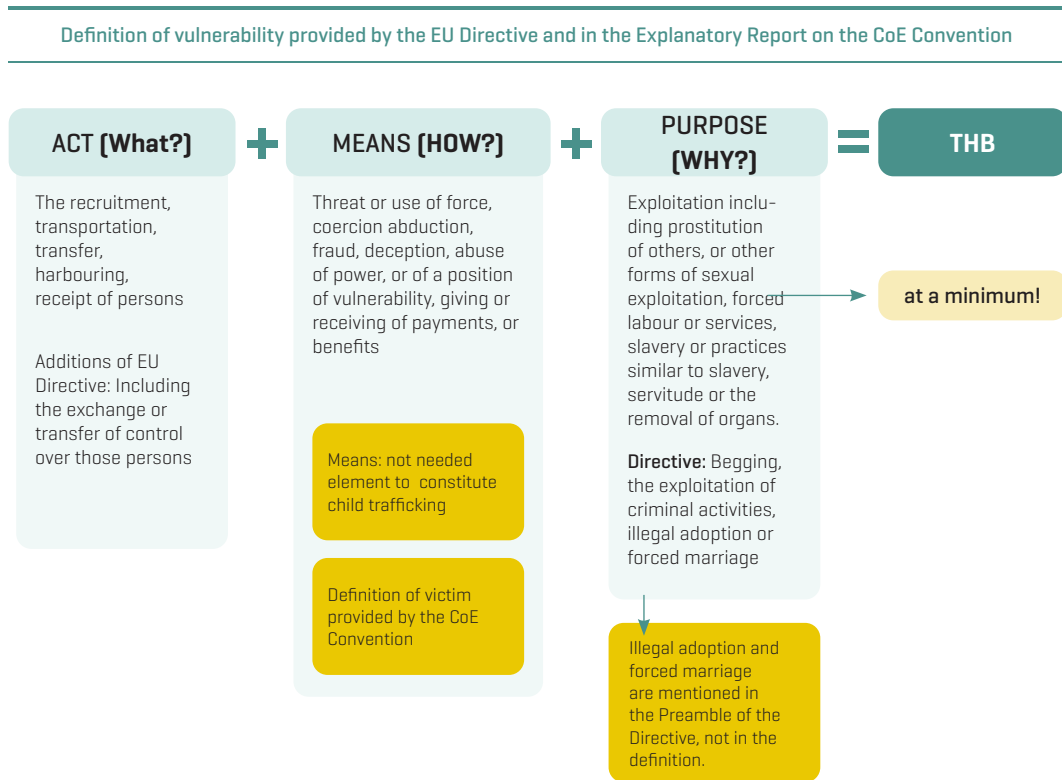
In fact, the way that paragraph 1 of Art. 80 of the TCC is phrased – "for the purpose of forcing them into prostitution or to work, provide a service, harvest their organs or subject them to slavery or any similar practice" – makes this look like a "closed" list - unless "any similar practice" is interpreted as covering other forms of exploitation.

In addition, it is noteworthy that Article 80 of the TCC does not provide in itself for the aggravating circumstances envisaged in Article 24 of the Convention. The general rules of the TCC on aggravating circumstances would apply, but concerning an offence being committed against a child, they would apply only to children who are younger than 12. Therefore, GRETA urged the Turkish authorities to consider trafficking in all children, i.e. all persons under the age of 18, as an aggravating circumstance. Furthermore, it recommended to ensure that all the aggravating circumstances included in the Convention, in accordance with Article 24, are appropriately taken into account.³³

³² See GRETA's first report on Türkiye [2019], paragraph 50.

³³ GRETA's first report on Türkiye [2019], para 202.

Graph 2 . The elements of THB³⁴ as defined in the UN Protocol the CoE Convention and the EU Directive



³⁴ Taken from Marco Bufo, “Train the Trainers – Train the Trainers curriculum to identify and refer human trafficking cases”, published by ICMPD in March 2017, developed in the framework of the project “Preventing, Identifying and Combating Trafficking of Refugees in Turkey- PICTOR”. The chart, present also in other ICMPD publications, has been complemented here with the orange text boxes.

Table 15. Comparison of THB definitions in international legal instruments and the Turkish Criminal Code

	UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children – Art. 3 – Use of terms	Council of Europe Convention on Action against Trafficking in Human Beings Art. 4 – Definitions	DIRECTIVE 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims Art. 2 – Offences concerning trafficking in human beings	Art. 80 of the Turkish Criminal Code
Act	[a] “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons,	a. “Trafficking in human beings” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons,	1. Member States shall take the necessary measures to ensure that the following intentional acts are punishable: 2. The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons,	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. <i>Note: no reference to “transfer” and “receipt”, though covered by: “harbours or transports a person from one place to another”</i>
Means	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.	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.	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.	by (1) the use of threat, pressure, force, or violence, (2) employing deceit, (3) abuse of influence, or (4) obtaining consent by exploiting control over another or the desperation of such other, <i>Note: Missing: “fraud”, “abuse of a position of vulnerability” and “giving or receiving of payments or benefits to achieve the consent of a person having control over another person”.</i> <i>Covered by: “fraud”, “abuse of desperation”, “abuse of influence”.</i>

<p>Purpose</p>	<p>Exploitation shall include, 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.</p>	<p>Exploitation shall include, 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.</p>	<p>4. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery, or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs [in the preamble also illegal adoptions and forced marriage are mentioned].</p>	<p>for the purpose of forcing them into prostitution or to work, provide a service, harvest their organs, or subject them to slavery or any similar practice,</p> <p><i>Note: Reference is made to the exploitation of prostitution, but not to other forms of sexual exploitation. Servitude is not specifically mentioned: Trafficking for the purpose of exploitation of criminal activities and the exploitation of begging are not explicitly mentioned.</i></p>
<p>Consent <i>Irrelevance of consent</i></p>	<p>(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.</p>	<p>b. The consent of a victim of trafficking in human beings to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.</p>	<p>5. The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used.</p>	<p>Where an act is undertaken for the purposes referred to in paragraph one and such an act constitutes an offence, the consent of the victim shall be presumed to be invalid.</p>
<p>Children</p>	<p>(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article; (d) "Child" shall mean any person under eighteen years of age."</p>	<p>c. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article; d. "Child" shall mean any person under eighteen years of age.</p>	<p>6. When the conduct referred to in paragraph 1 involves a child, it shall be a punishable offence of trafficking in human beings even if none of the means set forth in paragraph 1 has been used. 7. For the purpose of this Directive, 'child' shall mean any person below 18 years of age.</p>	<p>Where a person under 18 years of age is procured, kidnapped, harboured, or transported from one place to another for the purposes described in paragraph one, the offender shall be sentenced to the penalty described in paragraph one, notwithstanding the fact that no means instrumental to the offence has been resorted to.</p>
<p>Other</p>	<p>e. "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article [for Türkiye, Art.3 – Regulation].</p>	<p>e. "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article [for Türkiye, Art.3 – Regulation].</p>		

It is also worth mentioning that the difference between trafficking in human beings and smuggling of migrants is of crucial importance. While the distinction is clear from the legal point of view and on paper, applying it in the field might be challenging, especially in certain situations, during the identification process.

The line between migrant smuggling and human trafficking can be blurred. On the one hand, persons might be trafficked through a complete recruitment-transfer-exploitation process, from their place of origin to the place of destination. On the other hand, people leaving their places of origin as irregular migrants might be subjected to abuses which can amount to trafficking along the journey, or upon arrival at destination, because of their vulnerability. Further, refugees and displaced persons might be trafficked or at risk of trafficking, and maybe not recognised in the latter nor in the former condition, and just seen as irregular migrants. Traffickers might abuse the measures in place, for example instructing them to apply for asylum in order to regularise their status in the country of destination.

Table 16. Differences between the crimes of human trafficking and migrant smuggling in the Turkish CC

Element	Human trafficking (Art.80 of the TCC)	Migrant smuggling (Art.79 of the TCC)
Against whom	Individuals	State
Consent	Irrelevant	Relevant
Protected interest	Human rights	State sovereignty
Relationship between the trafficker/smuggler and the migrant/victim	May end after gain is obtained or continue as long as the gain from exploitation continues	Ends after the border crossing is completed and material gain is obtained
Illegal border crossings	Not an absolute element	Absolute element

Many of the offences which constitute forms of exploitation in THB are partly also covered by specific non-THB national legislation in distinct areas. Sentences are normally lower than those foreseen for THB and for this reason, and also in order not to miss the frequent organised crime structure underlying THB, as well as for the purpose of not diminishing the human rights violation dimension which is implied in THB, criminal proceedings should be initiated and continued for THB. Nevertheless, either because better known and in the traditional practice of the law enforcement agencies, or because they might be easier to prove, specific offenses in those areas might be prosecuted instead of THB, such as for example, and typically, “encouragement of prostitution” [CC, Art. 227-[2]-[3]].

Begging ARTICLE 229

(1) Any person who uses children or persons lack of corporal or spiritual ability in begging is punished with imprisonment from one year to three years.

(2) The punishment to be imposed is increased by one half, in case of commission of this offence by third degree blood relations, or affinity relatives, or any one of the spouses.

(3) The punishment to be imposed is increased by one-fold in case of commission of this offence within the frame of activities of an organised criminal group.

Prostitution ARTICLE 227*

(1) Any person who encourages a child to become a prostitute, or facilitates prostitution, or shelters a person for this purpose, or acts as go-between during prostitution of the child, is punished with imprisonment from four years to ten years, and also imposed punitive fine up to ten thousand days.

(2) Any person who encourages another person to become a prostitute, or facilitates prostitution, or acts as go-between or provides place for such purpose is punished with imprisonment from two years up to four years, and also imposed punitive fine up to three thousand days. Any act aimed to benefit from the income of a person engaged in prostitution to earn one's living, totally or partially, is considered encouragement of prostitution.

(3) Any person who brings people into the country or sends groups to abroad for prostitution purposes is punished according to the provisions of above subsection.

(4) The punishment to be imposed according to above subsections is doubled in case a person is encouraged to become a prostitute by use of threat or force, or malice, or taking advantage of one's helplessness.

(5) The punishment to be imposed by one half in case of commission of offenses listed in the above subsections by any one of the spouses, antecedents, descendants, brother/sister, adopter, guardian, trainer, educator, nurse or any other person responsible for protection and control of a person, or by a public officer or employee by due influence.

(6) The punishment to be imposed according to above subsections is increased by one half in case of commission of these offenses within the frame of activities of an organised criminal group.

...

* Unofficial translation.

As far as sexual exploitation and labour exploitation are concerned, the specific criminal conducts foreseen in the TCC beyond THB are mentioned in the next two paragraphs.

The exploitation of begging, while not mentioned in Art. 80 of the TCC as a form of exploitation related to THB, is criminalised separately in Art. 229 of the TCC.

Some legal aspects specific to trafficking in human beings for the purpose of sexual exploitation

In Türkiye prostitution is legal, though some specific conducts in relation to the encouragement, facilitation, exploitation, and organisation of prostitution are punished under Article 227 of the TCC.

On another note, in the following lines reference is made to the ability of traffickers to take advantage of gaps in legislation or even to misuse provisions in place, in order to organise the recruitment, transfer, entry into another country, control and exploitation of their victims.

Some significant examples in the sphere of human trafficking for the purpose of sexual exploitation can be identified:

- forced marriages between Turkish citizens and foreign women are arranged in order to legalise their stay. These arrangements often involve the exchange of money and can lead to sexual or labour exploitation.
- although the legal age of marriage is 18 years for both men and women, exceptions are permitted, with Article 124 of the Civil Code stating that a boy or girl can marry at the age of 17 with parental consent and at 16 with a court decision. However, such exceptional circumstances are not defined and thus full discretion rests with judges. This situation creates a significant gap in practice and can be abused by families and individuals who want to marry their children at an early age.
- in order to cover up illegal child marriages and avoid punishment, families often apply for the court to re-establish the age of their children, claiming that the children are older than their real age. Especially migrants and asylum seekers who came from war and conflict zones and who do not have official documents with them can often abuse this situation by misrepresentation.
- A different case is the work permit for dancers and performers in night clubs. According to article 25 of the Applications Regulation for the Law on Work Permits of Foreigners, “unless the contrary is not stipulated in the bilateral or multilateral agreements to which Türkiye is party, a contract of limited duration is granted in order to work in a specific workplace/business and in a specific profession, for a maximum duration of one year”. By virtue of this article, all applications for a work permit, are submitted by the employer with the condition that the employee will solely work for the specific employer submitting the application.

Given that such a work permit is restricted to that specific employer only, it can expose foreign workers to a high risk, as it gives employers a disproportionate power, which can easily result in abuse and more, especially in certain sectors.

Some legal aspects specific to trafficking in human beings for the purpose of labour exploitation

In the Constitution of the Republic of Türkiye, Article 18 states: “No one shall be forced to work. Forced labour is prohibited.” Besides Article 80 of the Turkish Criminal Code, that defines the crime of THB, Article 117 of the TCC is important in the context of labour exploitation. It reads:

Violation of freedom of work and labour - Article 117*

[1] Any person who violates freedom of work and labour by using violence or threat or performing an act contrary to the law, is sentenced to imprisonment from six months to two years and imposition of punitive fine upon complaint of the victim.

[2] Any person who employs helpless, homeless and dependent person [s] without payment or with a low wage incomparable with the standards or forces him to work and live inhumanly conditions, is sentenced to imprisonment from six months to three years or imposed punitive fine not less than hundred days.

[3] The same punishment is imposed also to a person who provides or transfers a person from one place to another to have him live and work under the above-mentioned conditions.

[4] Any person who unlawfully increases or decreases the wages, or forces employees to work under the conditions different than that of agreed in the contract, or causes suspension, termination or re-start of the works, is sentenced to imprisonment from six months to three years.

* *Unofficial translation.*

In the area of protection of trafficked persons there seems to be a gap in the current legal framework which pertains to Turkish male victims of THB, and which affects the protection of trafficked persons for labour exploitation in particular, as mainly men are involved.

The Regulation for Combating Human Trafficking and the Protection of Victims reads in that regard as follows:

Citizens of the Republic of Türkiye as victims of human trafficking - Article 23

[1] The proceedings and procedures following the identification of family members, women and accompanying children of the citizen of the Republic of Türkiye, who have been identified as victim shall be carried out in accordance with the provisions of the Law on the Protection of Family and Prevention of Violence against Women No. 6284 dated 8/3/2012 and Law on Child Protection No. 5395. The procedures and proceedings pertaining to Turkish citizens, who have been subject to human trafficking abroad, shall be carried out within the scope of the same Law, as well.

The main scope of Law No. 6284 is . the protection of women and within the scope of Law No. 5395, protective and supportive measures are taken to protect the child who

identified as the victim. It could be consequently argued that the current regulations do not cover protection of, and assistance to, Turkish male victims of THB. Nevertheless, the wording “family members” in the article [“The proceedings and procedures following the identification of family members, women and accompanying children of the citizen of the Republic of Türkiye, who have been identified as victim], could be interpreted as also covering men. In this case the question could be: “What if a man is single?”.

Apparent weakness:
support and assistance to Turkish male victims of THB not clearly defined

There is a legal gap with reference to the protection and assistance services for male victims of labour trafficking. Migrant victims fall in the scope of Law No. 6458, children in the scope of Law No. 5395 and Turkish female citizens in the scope of Law No. 6284. However, there is no clear legal provision for support to Turkish male victims.

Another gap in legislation is identified in the scope of the Turkish Labour Code, as it does not apply to enterprises in agriculture and forestry sector with less than 50 workers and as the Code does not apply to domestic and care work, which means that labour inspectors do not access a significant part of the workplaces where THB for labour exploitation can potentially hide: farms and households.

Notwithstanding, Article 4857/113 stipulates that Articles 32, 35, 37 and 38 of the Labour Law numbered 4857, which regulate the matters of “payment of wages and salaries, latent parts of wages, pay slips, and wage deduction”, shall apply for the workers working at workplaces or enterprises where agricultural and forestry works are carried out and which are excluded from the scope of the Law numbered 4857.

3.

POLICIES AND INTERVENTION SYSTEMS

The Council of Europe Convention on Action against Trafficking in Human Beings is of particular significance for the implementation of the legal anti-trafficking framework, including the Regulation on Combating Human Trafficking and the Protection of Victims [adopted on 17 March 2016]. In fact, the Convention is not only a legally binding instrument but also it represents a thorough tool for State Parties to the Convention to set up a comprehensive anti-trafficking response, which is multidisciplinary and victim centred.

March 17, 2016 THURSDAY

Regulation

Official Gazette No. 29656

REGULATION ON COMBATING HUMAN TRAFFICKING AND THE PROTECTION OF VICTIMS

CHAPTER ONE

Purpose, Scope, Legal Basis, Definitions and Basic Principle

Purpose and scope

ARTICLE 1 - The aim and scope of the Regulation herein is 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 the crime of human trafficking and fight against human trafficking on the basis of human rights without discriminating between the Turkish nationals and foreign victims.

[2] The Regulation herein covers real persons, who were subjected to human trafficking, without discriminating between Turkish nationals and foreign victims.

Legal Basis

ARTICLE 2 - [1] The Regulation herein was drafted on the basis of Article 121 of the Law on Foreigners and International Protection No. 6458 dated 4/4/2013 and the Council of Europe Convention on Action against Trafficking in Human Beings endorsed by the Law No. 6667 dated 30/1/2016.

The Regulation provides for the framework for the overall counter-trafficking action, establishing its coordination mechanism and providing guidelines for the different areas of intervention, including Prevention, Protection, Prosecution and the National Cooperation Structure (Partnership), aimed at pursuing the objectives set for each area.

It represents the cornerstone of the national efforts to effectively tackle human trafficking and properly protect the victims of human trafficking.

National anti-trafficking policies and institutional coordination structure

The national anti-trafficking policy-making and implementation framework and the institutional coordination structure are defined in Chapter 2 of the Regulation.

The anti-trafficking policy-making body is the Commission (Coordination Commission for Combating Human Trafficking), mandated “to carry out tasks to draft policies and strategies regarding the prevention of, and combating the crime of, human trafficking, to prepare action plans and to ensure coordination among public institutions and organisations, international organisations and non-governmental organisations” [Art. 5].

The Commission consists of representatives of all relevant ministries and agencies. Representatives of external institutions or organisations (such as NGOs) or experts may be invited to the meetings of the Commission.

The Commission shall also act as national coordinator for combating human trafficking and the president of the Commission shall be the National Coordinator.

Pursuant to Article 9 of the Regulation, Provincial Commissions for Combating Human Trafficking shall be established to follow up the procedures and proceedings with regards to the fight against human trafficking and protection of the victims and to ensure coordination in the provinces deemed appropriate by the Directorate General.

PMM (Presidency of Migration Management), and in particular its Department of the Protection of Victims of Human Trafficking, is the agency in charge of coordinating and implementing the defined anti-trafficking and victim protection strategies and measures.

Graph 3. The Anti-Trafficking Co-ordination System in Türkiye

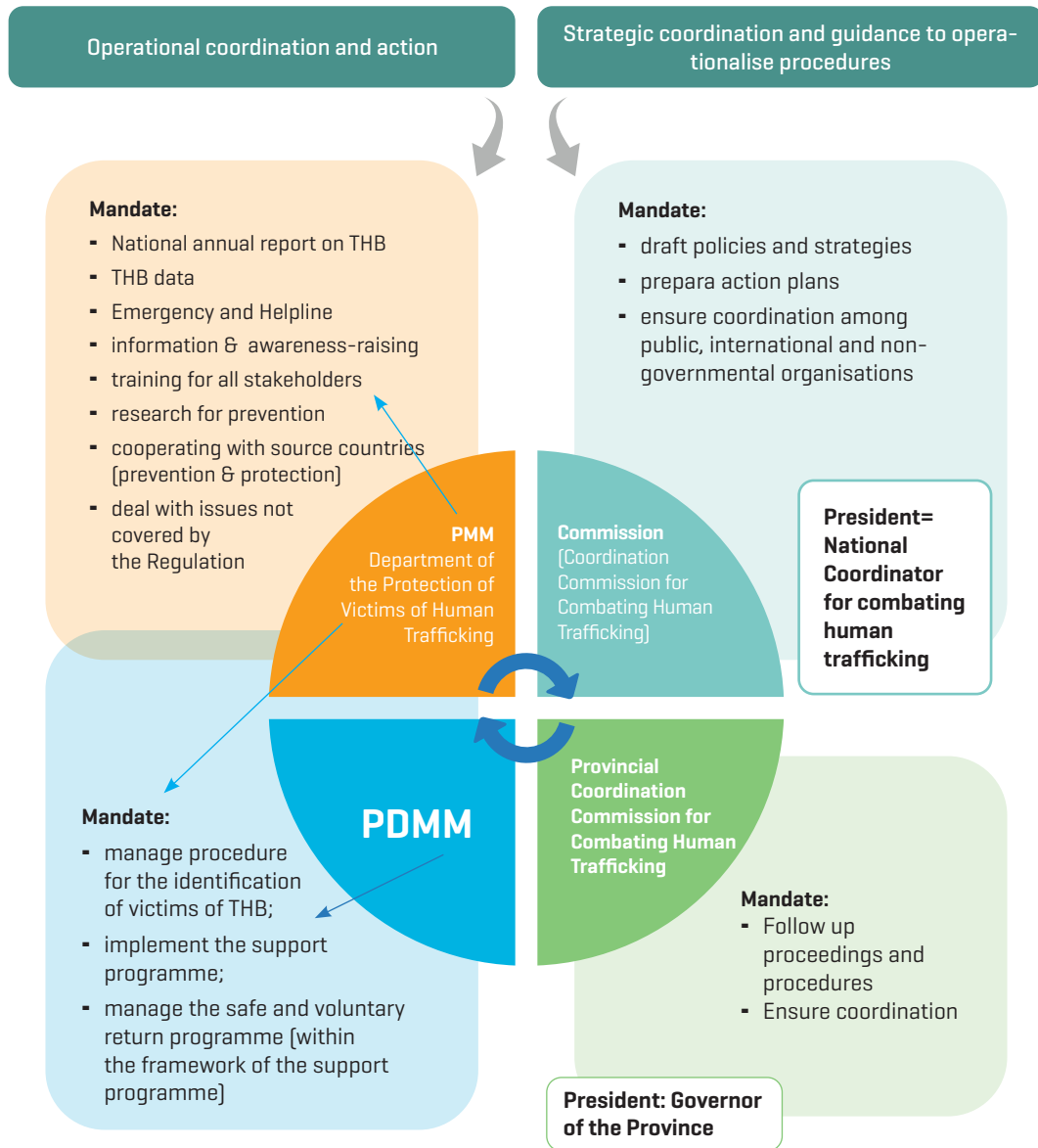


Table 17. Members of the National Coordination Commission and Provincial Commissions

Members of the National Coordination Commission	Members of the Provincial Coordination Commissions
<ul style="list-style-type: none"> ▪ Under the chairmanship of the Undersecretary of the Ministry of Interior or the Deputy Undersecretary 	<ul style="list-style-type: none"> ▪ Under the chairmanship of Governor of the Province
<ul style="list-style-type: none"> ▪ Presidency of Migration Management (PMM) ▪ Presidency of the Court of Cassation or the Presidency of the Court of Cassation's Chief Public Prosecutor's Office ▪ Ministry of Justice ▪ Ministry Family and Social Services ▪ Ministry of Labour and Social Security ▪ Ministry of Foreign Affairs ▪ Ministry of Education ▪ Ministry of Culture and Tourism ▪ Ministry of Health ▪ Ministry of Customs and Trade ▪ Human Rights and Equality Institution of Türkiye ▪ Turkish Employment Agency ▪ National Intelligence Organisation ▪ Directorate General of Health Services for Borders and Coasts of Türkiye ▪ Directorate General of Security ▪ Directorate General of Local Administrations ▪ Gendarmerie General Command ▪ Coast Guard Command ▪ Union of Turkish Bar Associations 	<ul style="list-style-type: none"> ▪ Provincial Directorate of Migration Management (PDMM) ▪ Provincial Public Prosecutor's Office ▪ Provincial Directorate of the Ministry of Family and Social Services ▪ Provincial Directorate of Labour and Employment of the Ministry of Labour and Social Security ▪ Provincial Directorate of the Ministry of Education ▪ Provincial Directorate of the Ministry of Health ▪ Provincial Directorate of the Customs and Trade, ▪ Provincial Command of Gendarmerie ▪ Provincial Command of Coast Guard ▪ Provincial Bar Associations
<p>Other organisations such as NGOs, or experts, may be invited</p>	<p>Other organisations such as NGOs, or experts, may be invited</p>

Other stakeholders in the anti-trafficking system

It is worth listing the other stakeholders in the anti-trafficking system, which were described in GRETA's first report on Türkiye.³⁵

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

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

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

Ministry of Family and Social Services. Pursuant to the Regulation on Combating Human Trafficking and the Protection of Victims, when Turkish nationals are identified as victims of human trafficking, subsequent procedures are carried out in accordance with the Law on Family Protection and Prevention of Violence against Women. In the case of identified child victims of trafficking, procedures are carried out in line with the Child Protection

³⁵ GRETA's first report on Türkiye (2019), paragraph 30 and following.

Law and children are referred to the relevant units of the Ministry of Family and Social Services. The Regulation on Combating Human Trafficking and the Protection of Victims foresees the conclusion of a protocol between the PMM and the Ministry of Family and Social Services, which would set the details of the support programmes involving Turkish victims [including child victims]. However, such a protocol had not yet been concluded.

The Ministry of Family and Social Services has included victims of THB in its National Action Plan on Violence against Women (2016-2020), with specific reference made to refugees, asylum seekers and victims of THB as the beneficiaries of centres to be established pursuant to the Istanbul Convention.

The Ministry of Justice Department of Victims' Rights (DVR) was established in 2013 and reformed through Presidential Decree No. 63 of 10 June 2020. Its aim is to support victims' rights in judicial procedures. There are 105 Directorates of Judicial Support and Victim Services which cover almost all provinces of Türkiye and there are plans to increase this number to 152. Professional staff, such as psychologists and social workers, are employed to assist vulnerable victims. Victims of THB are defined as a vulnerable group in this context. In 2017 the DVR established judicial interview rooms in courthouses to offer vulnerable victims privacy and prevent multiple questioning. Currently, there are such rooms in 77 courthouses and the goal is to expand their presence in all directorates.

The Human Rights and Equality Institution of Türkiye (HREIT) was established in 2016 to protect and promote human rights, to guarantee the right to equal treatment, to prevent discrimination in the enjoyment of legally recognised rights and freedoms, effectively combating torture and maltreatment, and to act as a National Prevention Mechanism. The HREIT prepares annual reports on anti-discrimination and included THB observations in its last two reports. The HREIT also supports the preparation of annual THB reports by the PMM.

NGOs used to play a significant role in the identification of, assistance and support to trafficked persons. In recent years, nevertheless, with the central role assigned to the PMM the role of NGOs is much more limited, as they are not involved in the identification procedures, and they closed, because of lack of resources, the shelters that were in place to accommodate and provide psycho-social support to the victims of trafficking. This was the case, for example, of the Human Resource Development Foundation (İKGV) that had opened the first shelter for victims of THB in 2004 in Istanbul, then closed it down in 2017. The shelter ran by the Antalya Family Counsellors Association (AİLEDER) was also closed, in 2016. The Women's Solidarity Foundation, which has a broader mandate of combating violence against women, has been engaged in the anti-trafficking field since 2005: this NGO was running a shelter for victims of THB within premises provided by Ankara Metropolitan Municipality for a shelter for women victims of violence, but in October 2016 it was closed down. The Association for Solidarity with Asylum Seekers and Migrants, which has 70 field offices across Türkiye, has had a protocol with the PMM since 2018 for the independent monitoring of removal centres. This puts them into contact with presumed victims of THB, though they have no role in the identification process.

The NGOs continue carrying out awareness-raising and training activities on THB, and also, to a limited extent, providing psycho-social support to trafficked persons, though their role has been overall extensively and deeply downsized.

International organisations such as ICMPD, IOM, ILO and UNHCR, implement anti-trafficking projects and initiatives.

Challenges

This overview provides a heterogeneous picture of the anti-trafficking stakeholders landscape in Türkiye, with increasing levels of specialisation on the one hand, and downsized roles on the other (as for the NGOs), and some important areas of underutilised potential as well as still lacking coordination tools, such as the protocol between the PMM and the Ministry of Family and Social Services and the Ministry of Labour and Social Security.

However, the most significant and impactful shortcoming in anti-trafficking in Türkiye is the absence of a shared coordination strategy and plan.

It must in fact be highlighted that a comprehensive strategic anti-trafficking plan is lacking for several years. Türkiye had previously implemented two National Action Plans on combating THB, adopted respectively in 2003 and 2009. As reported by GRETA, according to the authorities, in 2017 it was decided to draft the third National Action Plan on Combating Trafficking in Human Beings. Even though not issued yet, preparations seem to be starting.

Of great concern is also the allocation of financial resources to the anti-trafficking system in general, and to services and shelters for trafficked persons, in particular.

Reference is made to GRETA's first report on Türkiye:

"GRETA was informed that the budget allocated to the Department of Protection of Victims of Human Trafficking was 13 885 000 TRY (approximately 2.1 million euros) in 2016 and 12 621 000 TRY (approximately 1.9 million euros) in 2017 (this budget also covered the activities related to the Working Group on Irregular Migration, which in 2016-2017 carried its activities under the duties of the Department of Protection of Victims of Human Trafficking). Out of this budget, the Department of Protection of Victims of Human Trafficking spent 184 000 TRY (approximately 19800 euros) in 2016 and 209 000 TRY (approximately 32600 euros) in 2017 on activities related to victims of trafficking. Additionally, the PMM spent 123 180 TRY in 2016 and 236 213 TRY in 2017 on the running of the shelter for victims of THB, including for security staff, renovation, maintenance and utility bills. The Turkish authorities have stated that additional funding for training and other activities was provided through projects." ³⁶

³⁶ GRETA's first report on Türkiye (2019), paragraph 26.

National Referral Mechanism

The identification and support procedures for trafficked persons are defined in the Regulation on Combating Human Trafficking and the Protection of Victims, under chapters 3 [“Victim Identification and Residence Permit”] and 4 [“Protection and Accommodation of Victims, Support Services”].

In fact, the coordination structure and mechanisms/procedures are not defined as a Referral Mechanism in the Regulation, however they can be defined as such, even though with a need to be complemented as we will see later in this report.

It is worth recalling here the definition of National Referral Mechanism or System:

National referral mechanism [NRM]

“It is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of victims of trafficking, co-ordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of victims of trafficking are respected and provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help to improve national policy and procedures on a broad range of victim-related issues such as residence and return regulations, victim compensation, and witness protection. NRMs can establish national plans of action and can set benchmarks to assess whether goals are being met. The structure of an NRM will vary in each country; however, NRMs should be designed to formalise co-operation among government agencies and non-governmental groups dealing with victims of trafficking.”³⁷

³⁷ T. Kröger, J. Malkoc, B.H. Uhl, National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook, OSCE/ODIHR, Warsaw, 2004, p. 15.

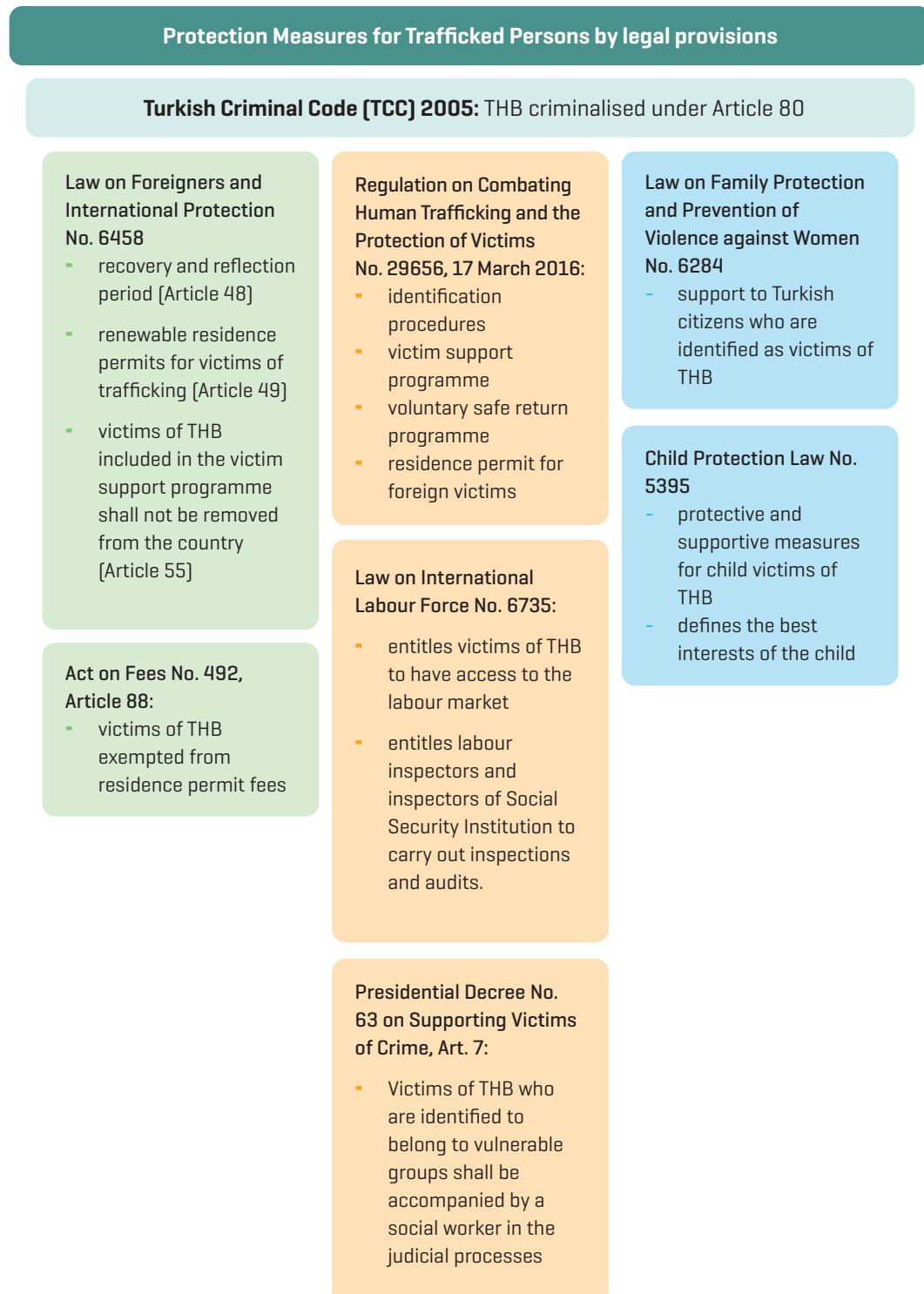
As already mentioned, the Department of the Protection of Victims of Human Trafficking of PMM, and the respective Provincial or District Directorates of Migration Management, are the key operational organisations in the Referral System, as they have the roles of:

- managing the administrative procedure for the identification of victims of human trafficking;
- implementing the support programme;
- initiating a safe and voluntary return programme within the framework of the support programme.

The Regulation includes provisions on the different phases of victim identification and support, as follows:

- notice, complaint, and notification
- preliminary identification
- formal identification
- recovery and reflection period, and residence permit
- protection and accommodation of victims, support services: the support programme
- safe and voluntary return
- case management

These different phases are analysed hereinafter, providing some visual description of their functioning, and highlighting challenges identified by stakeholders interviewed in the research.

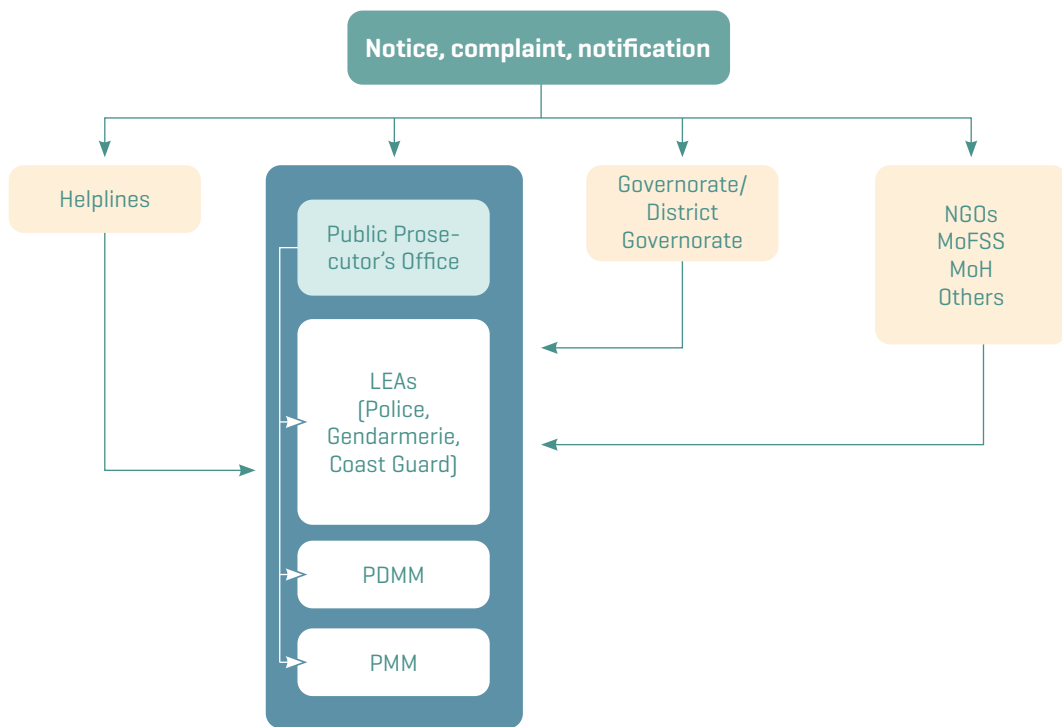
Graph 4. Protection measures for trafficked persons by legal provisions

Notice, complaint and notification

Notice, complaint and notification [Article 16 of the Regulation]³⁸

Relevant agencies might receive notification of a presumed trafficking case, directly by a person declaring him/herself a victim or someone reporting about a person or people supposedly being subjected to trafficking. The Chief Prosecutor’s Office, law enforcement agencies (LEAs), and the PMM are the agencies that must be notified about the case and should interact with each other. It is also an obligation for the PMM and the LEAs to notify the Chief Public Prosecutor’s Office.³⁹

Graph 5. Information flow of complaint/notification or self-referral of THB cases



³⁸ Some parts of the proposed summary descriptions are taken from Marco Bufo, “Train the Trainers – Train the Trainers curriculum to identify and refer human trafficking cases”, published by ICMPD in March 2017, developed in the framework of the project “Preventing, Identifying and Combating Trafficking of Refugees in Turkey- PICTOR”, including the chart on the Helplines in the following page.

³⁹ As highlighted in the chapter about the legal framework, the obligation of giving immediate notice to the Chief Public Prosecutor’s Office, appears to be too strong if interpreted as necessary as soon as there is the slightest suspicion of trafficking. This might overwhelm the Chief Prosecutor’s Office with no benefits. On the other hand, notifying the Chief Prosecutor’s Office once initial screening of the case has been conducted and grounds are there to start an investigation, is an important procedure ensuring prosecution-led investigation is carried out.

Helplines are mentioned as one of the points of notification, and the following is foreseen under Art. 10 of the Regulation:

Emergency and helpline - ARTICLE 10

[1] The Directorate General shall establish and operate an Emergency and Helpline or have such a Helpline operated. The call centres established by the Directorate General for this purpose may also be used as an Emergency and Helpline.

Several Helplines are active in Türkiye and can potentially receive THB notifications:

Helplines in Türkiye

ALO 157 - The Communication Centre for Foreigners (YIMER) of the Turkish Directorate General for Migration Management: any time of the day or night in Arabic, English, Turkish, Russian, Farsi, or German language. From outside Türkiye: +90 312 157 1122.

ALO 170 - The Support Hotline of the Ministry of Labour and Social Security (and the Turkish Employment Agency): in Turkish, English and Arabic, From outside Türkiye: +90 216 170 1122.

ALO 183 - Is a general support line for all women, children, disabled and elderly who is in need: provides services in Turkish.

155 [in Turkish only] **Turkish Police**

156 [in Turkish only] **Gendarmerie**

158 [in Turkish only] **Coast Guard**

To submit a complaint/query/request ONLINE:

The Communication Centre for Foreigners (YIMER): At www.yimer.gov.tr in Arabic, English, Turkish, Russian, Farsi, or German.

The Support Hotline of the Ministry of Labour and Social Security (and the Turkish Employment Agency): At www.alo170.gov.tr in Turkish.

Challenges

It has been pointed out by stakeholders that YIMER as well as the other helplines receive very few calls concerning human trafficking cases.

Also, these helplines are not specific to human trafficking and serve other purposes as well. For example, the YIMER helpline also provides information to migrants and refugees concerning visas, residence permits, international protection and temporary protection procedures, as well as notifications of irregular immigrants detected at sea.

Furthermore, the action of the different helplines does not seem to be coordinated and the responses they can provide in terms of language availability as well as specialisation on human trafficking-related issues vary significantly.

Identification

Preliminary Identification

When a presumed victim is referred to, or is first contacted by LEAs, according to Article 17 [1] of the Regulation, the LEAs shall contact the PMM or its provincial directorates in all cases which may be evaluated to fall within the scope of human trafficking. These include forced labour, prostitution, forced services, forced marriage, organ and tissue removal, child labour, use of children in crimes, begging, and adoption.⁴⁰

In the phase of preliminary identification, interaction between LEAs, the Chief Prosecutor's Office and the PMM is foreseen in Article 17:

[4] Victims of human trafficking or individuals strongly suspected of being victims of human trafficking shall be referred to the Directorate of Migration Management by law enforcement along with a general judicial examination report and the related documents.

[5] Upon demand of law enforcement units, a minimum of one expert working at the Directorate shall be assigned to conduct a detailed examination regarding the indicators of the crime of human trafficking and shall be present during the interview.

[6] The expert assigned by the Directorate shall conduct an interview with the victim in an appropriate location considering the psychological status of the victim or in the facility the victim is accommodated in accordance with the report in Annex 1.

[7] During the interviews conducted with a possible victim of human trafficking by the personnel of the Directorate, if information which can enlighten the criminal investigation, but which does not exist in the statement taken by the law enforcement is obtained, such information shall be notified to the law enforcement or the Chief Public Prosecutor's Office.

[11] During the procedures and proceedings concerning the victim, if deemed necessary for the security of the victim, the Directorate may request the presence of law enforcement."

⁴⁰ As highlighted in the legal framework analysis, in the Regulation the list of forms of exploitation provided in Art. 80 of the CC is broadened, but is still limited. Forced begging and forced criminal activities considered only for children for instance, other sexual services not mentioned and, most important, the "at a minimum" formula is absent, which is crucial to specify and make aware about the fact that the list is not exhaustive and that other and new forms of exploitation might needed to be considered.

Formal Identification

The formal identification process entails various steps, provisions, and support measures to be implemented for the presumed victim of human trafficking.

The main general provision is contained in the first paragraph of Article 18:

“[1] Victims of human trafficking or individuals strongly suspected of being victims of human trafficking shall be identified as victims through an administrative proceeding, without awaiting the results of the investigation or prosecution, regardless of the existence of a complaint by these individuals.”

Special attention is given to children in Article 24, also in relation to the identification process:

“[1] Victims subject to age determination shall be accepted as minor until the completion of the age assessment.

[2] The best interests of the child shall be considered in the identification process of the child victim. A psychologist or a social worker shall be present in the interviews conducted with all child victims.”

Also, it is specified in Article 22 that

“[1] The provisions pertaining to the victims of human trafficking shall be applicable for individuals who have been or are suspected of being victims from among the holders or applicants of international protection status and those under temporary protection and other foreigners.”

In Article 17 the further procedural steps of formal identification are set out:

“[8] Pursuant to the detailed examination with regard to the indicators of the crime of human trafficking and interview conducted with the victim, the expert of the Directorate shall draft a report about the status of the victim on identification of the person as a victim or not, without prejudice to the confidentiality of the investigation.

[9] A human trafficking victim Identification form drafted on the basis of the report drafted by expert I and included in Annex 2 shall be approved by the Directorate.

[10] The procedures related to registration of the individual, whose Human Trafficking Victim Identification Form has been approved, shall be carried out by the Directorate.

[12] A foreigner identified as the victim shall be informed about the support services in his/her own language or another language that he/she understands and after referral to the shelter; residence permit procedures shall be initiated if the victim is a foreigner.”

In Article 18, other “Principles of Victim Identification” are outlined, applicable both to preliminary and formal identification:

Principles of Victim Identification - ARTICLE 18

[1] Victims of human trafficking or individuals strongly suspected of being victims of human trafficking shall be identified as victims through an administrative proceeding, without awaiting the results of the investigation or prosecution, regardless of the existence of a complaint by these individuals.

[2] Victims in the process of identification shall be provided with psychosocial support by the Directorate in case of necessity.

[3] If a medical report points out to the need of mental treatment or observation for the victim, then the victim shall be referred to hospitals with specialists in mental health and mental illnesses for his/her mental treatment.

[4] If the foreigner identified as victim has been re-victimised after her/his safe and voluntary return to his/her country of origin, the second victim identification shall be conducted in accordance with the opinions of the Directorate General.

Principles of Victim Identification ARTICLE 18

[5] Victims of human trafficking or individuals strongly suspected of being victims of human trafficking, who could not be interviewed due to their psychological and/or physical problems during the identification process, shall be interviewed during or after the recovery period.

[6] Hearing or audio visually recording the victims at the stages of investigation and prosecution shall be conducted in accordance with the third paragraph of Article 52 of the Turkish Criminal Procedure Law No. 5271.

[7] Victims of human trafficking or individuals strongly suspected of being victims of human trafficking shall not be subject to deportation during the identification process.

[8] Individuals shall be informed about the crime of human trafficking and the rights of individuals, who might have been subject to this crime, prior to the interview.

[9] In the interviews conducted with the individuals; demographic features such as age, gender, nationality, and residence shall be evaluated together with the symptoms of exploitation, body language, living conditions and relations of the individual with his/her environment.

[10] In the procedures and proceedings carried out during the identification process, if the victim is a foreigner an interpreter shall be provided upon his/her request or ex officio by the Directorate. If the victim is a woman then it is preferred to have a female interpreter.

[11] Foreigners decided to be deported pursuant to the subparagraphs (ç) and (ğ) of the first paragraph of Article 54 of the Law, shall be subject to interviews by the Directorate on the basis of the indicators of human trafficking.

[12] Individuals making misleading declarations and presenting false documents at the interviews, aiming to obtain residence and work permits, shall not be identified as victims of human trafficking.

An important indication for LEA first responders. See also Art. 20 par. 5: Existence of fines from a previous violation of visa or residence period shall not hinder issuance of a residence permit to the foreign victim. Though, a full non-punishment provision is needed.

Guidance for the interviewer

This is an understandable precautionary provision, in case individuals attempt to abuse the system only to obtain a residence permit. Though it should be considered that trafficked persons might omit information, or deny occurrences or make false statements, or provide false documents, especially at the early stages of preliminary identification. Therefore, careful assessment and weighed decisions are needed in such cases.

Is the presumed victim fit for the interview?

Important for evidence but also to avoid repeated interviews (provided it is done when the person is fit for it)

Awareness that irregular migrants might be unidentified victims of THB!

Recovery and reflection period, and residence permit

The last paragraph of Article 17 and most of the paragraphs of Article 18 deal with the support measures and services the presumed victims have to be granted during the identification process and interviews, which take into consideration their physical and psychological condition.

Conditions and modalities for the issuance and extension, denial, or cancellation of the residence permit to allow for a recovery and reflection period in case identification relates to foreigners presumed as victims of human trafficking, are set under Articles 20 and 21.

Article 20 states that:

“[1] Victims of human trafficking or individuals strongly suspected of being victims of human trafficking shall be granted a residence permit of 30 days, such that they can be relieved from the trauma and decide on whether to cooperate with the authorities or not.

[2] Considering the safety and special status of the victim, it is essential to accommodate the victim in a shelter during the thirty-day residence period in case he/she wants to stay in Türkiye.”

Here, of particular importance, given the frequent irregularity of conditions victims of trafficking end up in, is the specification in paragraph 5 that *“existence of fines from a previous violation of visa or residence period shall not hinder issuance of a residence permit to the foreign victim”*.

Cooperation by the presumed victim with the authorities is mandatory⁴¹; nevertheless, there are some mitigating measures if the person does not cooperate but is anyway considered a victim:

“Article 20 [6]: The individual, who clearly declares in writing that he/she does not want to make use of the support programme or does not cooperate with the authorities during or at the end of the reflection period granted to the individual, who has been or is strongly suspected of being a victim shall also be identified as a victim. In such cases, general provisions applicable to foreigners shall be implemented for the victim.”

Among the provisions for the extension or cancellation of the residence permit contained in Article 21, it is important to note its possible duration, described in paragraph 2:

⁴¹ Even if at Art. 18 [1] it is stated that identification is an administrative procedure to be carried out without awaiting the results of the investigation or prosecution, cooperation with the authorities seems to be mandatory. See in this regard art. 29 [1 d.] of the Regulation and for a more in-depth analysis, go to chapter 4.

“[2] The victim, whose residence permit was found admissible for extension on the basis of the assessment report, shall be granted extension periods of a maximum of six months. The total extension period shall not exceed three years.”

Protection and accommodation of victims, support services: the support programme

Chapter 4 of the Regulation deals with “Protection and Accommodation of Victims, Support Services”.

Article 25 states:

“[1] The Directorate General shall establish and operate shelters or have such shelters fully or partially operated by including protocols to provide support and monitoring services seven days/twenty-four hours by expert personnel in order to ensure access to physical, psychological treatment by the victims and for efficient implementation of protective and preventive measures.”

The support programme is described in Article 28:

“[1] A victim support programme shall be provided for the victim on the basis of informed consent during the reflection period, at the stages of investigation and prosecution and thereafter, considering the safety, health and special status of the victim.

[2] Victim support programme provided at a minimum within the bounds of possibility shall include:

- a) Accommodation in shelters or safe locations,*
- b) Ensuring access to healthcare services,*
- c) Ensuring psychosocial support,*
- ç) Access to social services and assistance,*
- d) Access to legal assistance and providing counselling and information about the legal rights of the victims,*
- e) Guidance on access to education and training services,*
- f) Providing vocational education and supporting access to the labour market,*
- g) Providing necessary guidance about financial support in accordance with the provisions of the Law on the Encouragement of Social Solidarity and Assistance No. 3294 dated 29/5/1986 [...].”*

Other services listed from point ğ) to k) include counselling and support to be provided by relevant non-governmental organisations, international organisations and intergovernmental organisations, as well as by embassies.

Residential services victims of THB can be provided by three different institutions. According to the Social Services Law No 2828 [Art.3], it is the responsibility of the Ministry of Family and Social Services to establish and operate institutions that will provide care and residential services for children and adults in need of protection. According to the Municipalities Law [Art.14.a], residential institutions can also be established and run by the municipalities. The establishment of shelters for non-Turkish citizens, on the other hand, is under the responsibility of the PMM. PMM can either establish and run these centres directly, or have other public institutions, Turkish Red Crescent or specialised NGOs run them.

Currently, there are two shelters for victims of trafficking run by the PMM, in the provinces of Kırıkkale and Ankara, with a total capacity of 42 victims, and a new shelter of 40 capacity is under construction in Aydın.

According to the strategic plan of Ministry of Family and Social Services [2019-2023] “There is a need to develop and diversify the specialized structures of existing institutions for children with different profiles and needs” and “In line with emerging needs, child care institutions should be opened and the effectiveness of existing centres should be increased.” In this respect, children who are victims of human trafficking and who are in need of protection can receive services in the existing specialized child institutions according to the type of victimization. In the national action plan to combat violence against women [2016-2020]⁴², the Ministry of Family and Social Services has also set a target of developing special service models/centres for victims of sexual violence, which can also be used to for female victims of THB.

Turkish male victims of THB also can benefit from the measures under the Law on Family Protection and Prevention of Violence against Women No. 6284. However, they are directed to guesthouses or different accommodation conditions paid by the state instead of a shelter. The fact that there are no shelters for male victims of THB represents an important gap in the system, as highlighted by the stakeholders interviewed in the research.

⁴² Available in Turkish at www.ailevecalisma.gov.tr/uploads/ksgm/uploads/pages/kadina-yonelik-siddetle-mucadele-ulusal-eylem-plani/kadina-yonelik-siddetle-mucadele-ulusal-eylem-plani-2016-2020-icin-tiklayiniz.pdf [accessed 20 October 2020]

Safe and voluntary return programme

Safe and Voluntary Return Programme for presumed and identified victims of human trafficking is available, as defined in Article 30, of which the first paragraph is reported below:

“(1) Voluntary and safe return programme shall be operated by the Directorate under the coordination of the Directorate General if the victim requests to leave the support programme during or at the end of the support programme.” For the correct implementation of such provision structural relationships with relevant agencies in the countries of origin should be in place and multi-dimensional, multi-lateral risk assessment should be conducted and consequent risk management plan should be designed and implemented, as well as a first assistance and longer-term reintegration plan made available in the return country. Those measures do not seem to be implemented on a regular basis and need to be improved.

Case management

It is worth noting that in Article 19 of Chapter 3 of the Regulation, the case management approach is envisaged as a possible way of handling the whole identification and support process a victim of human trafficking goes through:

“(1) The Directorate General may identify a case manager in order to follow up the entire process of human trafficking cases in the provinces deemed necessary.

[2] The procedures and principles regarding case management shall be determined by the Directorate General.”

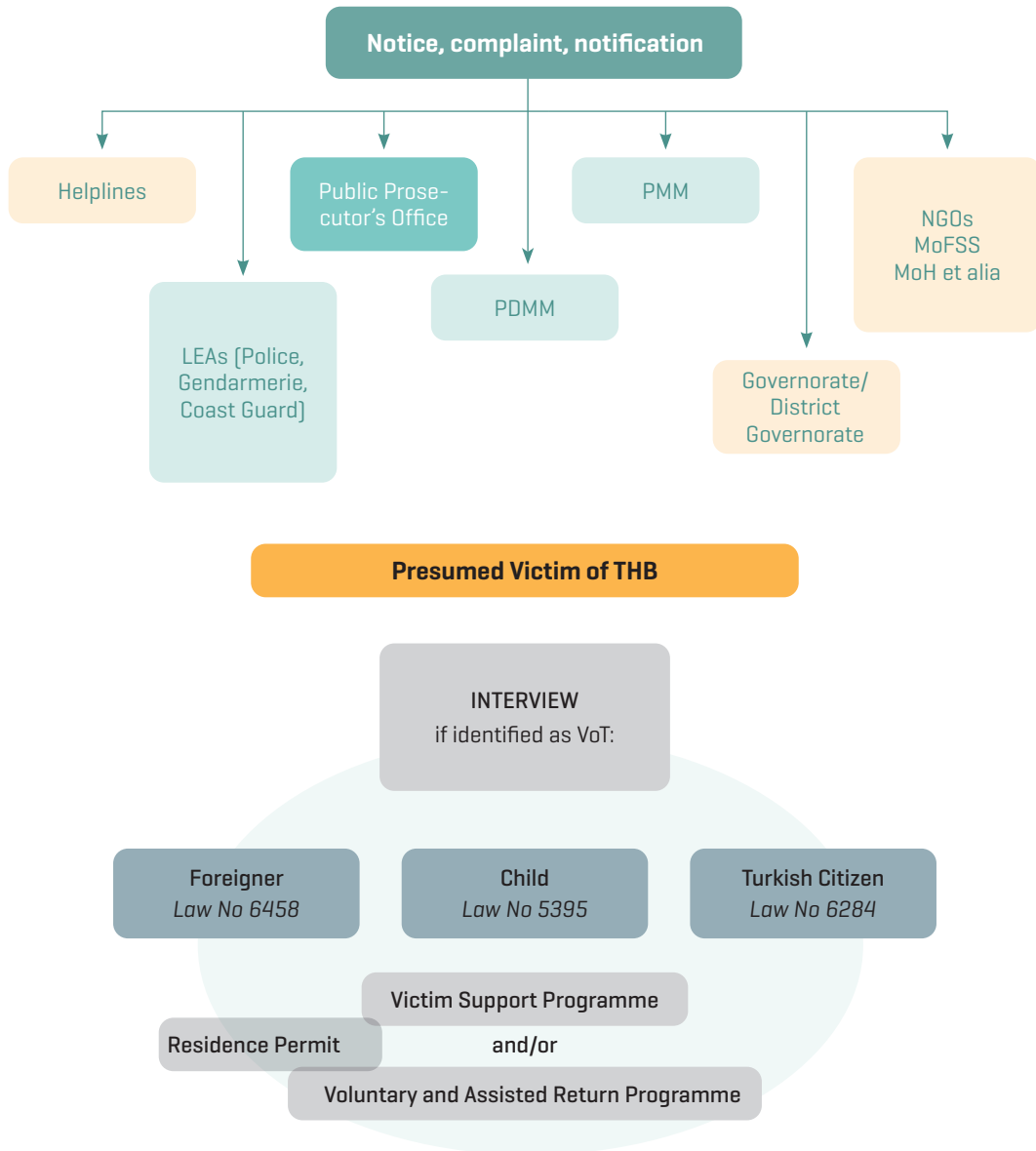
As the case management approach could further enhance the offer of a comprehensive and consistent identification and support process to victims of trafficking, it will be interesting to follow the possible implementation of such methodology inside the Turkish NRM, applying a multidisciplinary and multi-agency cooperation framework.

In conclusion, Identification, protection, assistance, and social inclusion are enshrined in a structure that can lead to a fully-fledged NRM.

Table 19. Identification procedures as per the Regulation

Procedures	Services to be provided	Institution providing the service	Responsible institution
Procedures at law enforcement and Interview / assessment [preliminary identification]	Legal assistance	Bar Association	Security General Directorate
	Psychologist / social worker accompany	PMM	
	Audio-visual recording	Security Gen. Dir.	
	Expert presence at the interview to assess risk of THB	PMM	
Recovery and reflection period	Medical assistance	Ministry of Health	PMM
	Residence permit	Local governor	
	Accommodation	Ministry of Family and Social Services PMM	
	Access to education	Ministry of National Education	
Identification	Reporting	PMM	
	Approval		
	Registration		

Graph 6. Referral and support services for victims of THB



Child victims

Specific procedures are foreseen for child victims of trafficking [fully detailed in the child trafficking report].

Several measures are foreseen [in particular in art. 17 of the Regulation], aimed at ensuring that the child is provided with necessary psychological and legal support, and secondary victimisation [due to repetitions and/or delays] of the child is prevented with involving a migration expert in the workflow at the very early stage.

However, as specified in the dedicated report, it was stated during the interviews that the migration experts are not involved into the workflow at this early stage in practice, but appointed only after the child is referred to the provincial directorate of migration management upon completion of the law enforcement procedures. It was also mentioned during the interviews that the psychological or legal support provided is not always of sufficient quality as the appointed staff usually are not specialised in such cases, which in fact is a problem that affects adult victims as well.

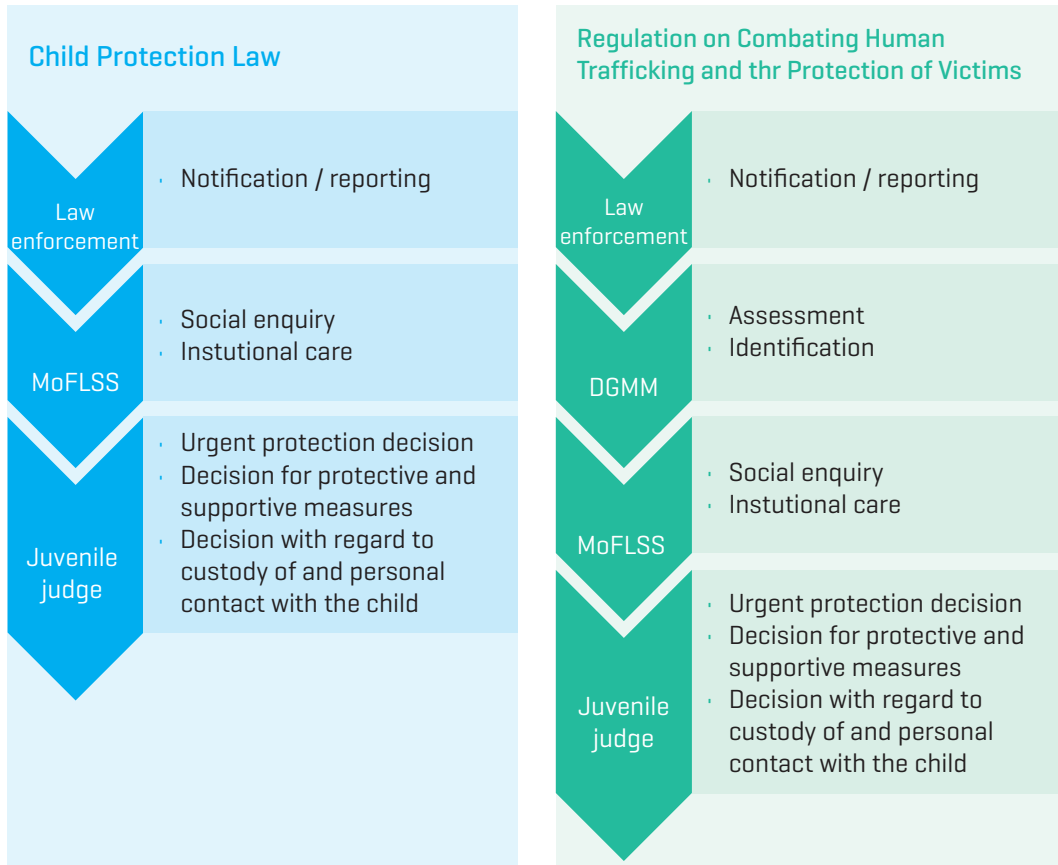
The workflow of the identification and referral procedure of child victims is represented in the graph below.

A comprehensive assessment should be conducted by the appointed experts taking into account the indicators and in line with the format annexed to the Regulation and a report should be prepared [art.17,18.11].

There is a high risk of repeated interviews and re-victimisation of the child, as well as not collecting the information in the proper way or missing some important elements that can be provided in the interview. When multiple actors are involved, joint preparation of the interview and joint assessment after the interviews is crucial, and in that way the interview can be conducted by appropriate professionals in the most limited number possible, and repetitions, as well as gaps in the collection or organisation of the information collected can be avoided.

The Ministry of Family and Social Services places all children who are victims of human trafficking, whether they are Turkish or not, in different types of institutions based on their age. In the current circumstances, Child Protection First Response and Evaluation Units [COKIM] provide the required services until a care measure decision or a suitable service model is determined for children who are victims of human trafficking and in need of protection.

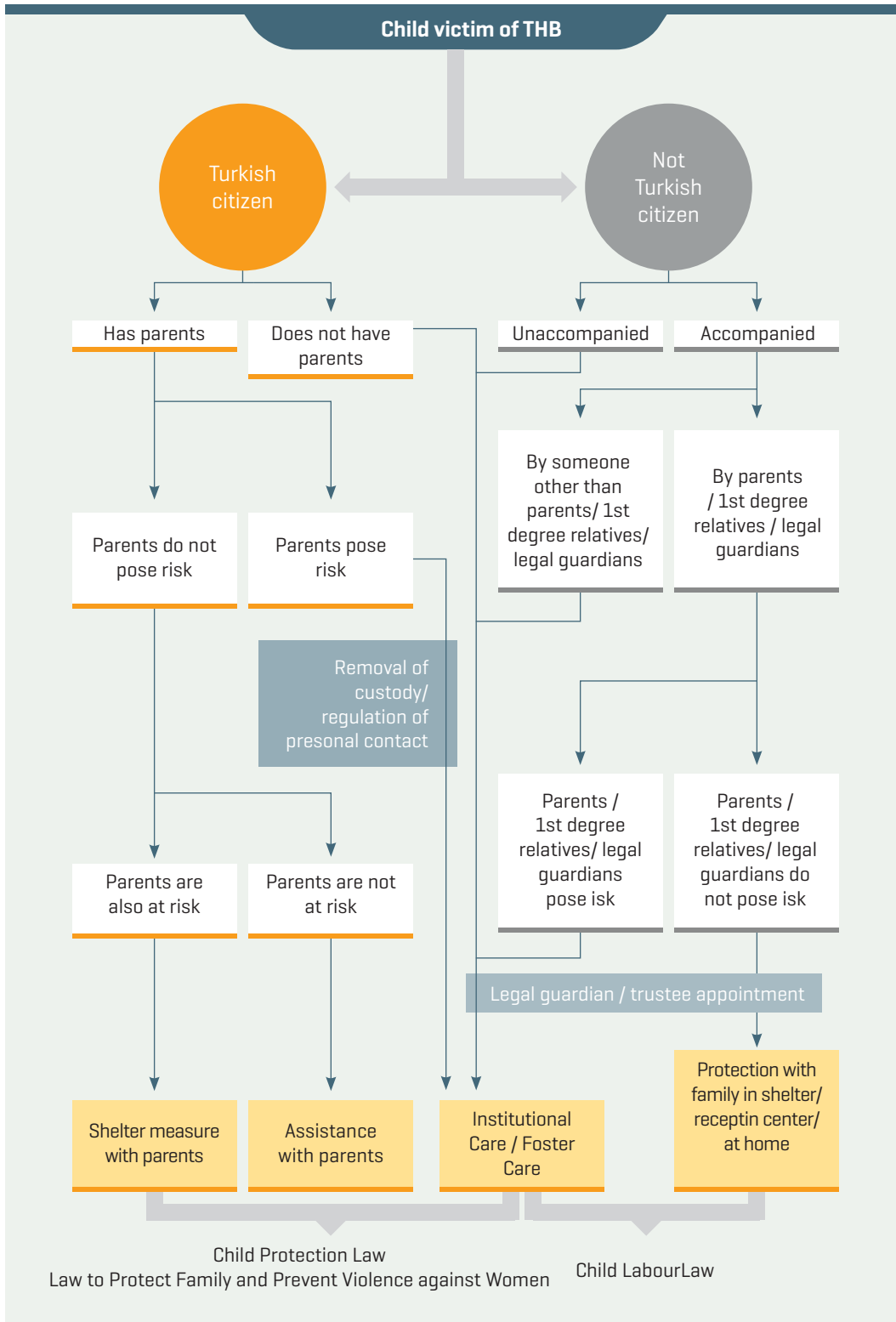
Graph 7. Identification flow of child victims of THB



According to the Child Protection Law [art.5], children can be placed in institutional care with their families [shelter care]. However, except for the women’s shelters, there are no other types of institutions where parents can be admitted with their children. It was mentioned during the interviews that a centre as such is currently being constructed for foreign families.

The referral process and the assistance foreseen in the various possible situations of a child presumed victim of trafficking are shown in the figure below.

Graph 8. Decision tree for institutional / within family care procedures



Challenges and opportunities

A general challenge is represented by the obstacles to the detection of trafficking cases, for a wide range of reasons, as highlighted in the chapter about the phenomenon, as well as in the chapter about the legal framework. Suggestions on how to tackle such obstacles are provided in chapter 4, in relation to the specific elements identified in the preceding chapters.

Some specific examples raised by the stakeholders interviewed concern the focus on migration and the fact that internal trafficking is not considered and that there is an alarming lack of awareness about the possibility that Turkish people might be victims of trafficking. On the other hand, despite the fact that the stakeholders interviewed considered THB almost exclusively related to migration, very few cases of THB are detected in removal centres or through the process of international protection, and in general from the activities of the LEAs (Police, Gendarmerie, Coast Guard) on irregular migration. Often THB indicators are simply overlooked due to the absence of systematic and widespread training on THB. And this applies even more to a potentially key actor, almost totally neglected: the municipal police. Labour inspectors have received trainings on combating trafficking in human beings, but trainings needs to be continuous to further strengthen the institutional capacity, and good practice practices should be observed on the ground. Lack of sufficient training might also affect the professionals called to specifically intervene in the identification procedures of presumed victims of trafficking, such as lawyers, social workers, or psychologists. Scarcity of trained and reliable interpreters represents another problem, as well as the absence of “cultural mediators”, even as a concept and a professional profile. The residual role NGOs have been relegated to also represents a serious missed opportunity to enhance identification of trafficked persons and their consequent protection as well as connected possibilities to prosecute the crime of THB. Further obstacles to the detection of trafficking cases and to the identification of victims arise from the absence of a non-punishment provision and the fact that the victims’ cooperation with the criminal justice system is required in order to be identified as a victim [see chapter 2]. This goes with the lack of proactive interventions and outreach services, as well as with the limited availability of shelters in general, the very limited allocation of dedicated financial resources, the absence of dedicated shelters for male victims of THB, the exclusion of NGOs from running shelters for trafficked persons, which is fact was a prominent expertise now subtracted from the system.

All these challenges can also be seen as opportunities for positive change.

4. NEEDS AND ACTION PROPOSALS

Summary Analysis of the Phenomenon in Preparation of Action Proposals

An evolving dynamic picture of trafficking in human beings

THB for the purpose of sexual exploitation is by far the most detected form of trafficking. This is a global trend, though, in Türkiye it is outstanding: 69% in average between 2014 and 2020, 71% in 2018, while worldwide the rate in 2018 was 59% [UNODC, 2018] and in Europe it was 56% [Eurostat, 2018].



Detected cases of THB for sexual exploitation largely prevailing on THB for labour exploitation



It would be difficult to state that Türkiye is a country where sexual exploitation is more widespread than elsewhere. It would be probably more correct to say that it is a country where sexual exploitation is detected more than in others or, better, that the rate of detected THB cases in sexual exploitation is disproportionately higher than those detected in labour exploitation. And we say “labour exploitation” because we can assume it is the largest base for THB. Notwithstanding the shift from the initially exclusive focus on sexual exploitation [second half of the nineties until about 2005], labour exploitation is still under-investigated, under-reported, and neglected worldwide. This is reflected in Türkiye in a more pronounced way. The main explanation could be that the Turkish anti-trafficking system is rather young.

However, the number of detected cases of THB for the purpose of labour exploitation

has increased in the last years. As seen above, the important informal dimension of the Turkish labour market in several economic sectors (in general 34,5%) creates heightened risks of vulnerability to exploitation in the workplace and human trafficking for the purpose of labour exploitation. Therefore, coordinated action should be in place to detect THB for labour exploitation, and the exceptions in the Labour Law should be removed specifically for the issue of human trafficking for labour exploitation, giving broader and more comprehensive inspection and audit power to labour inspectors. In addition, new procedures should be developed to address certain sectors such as agriculture and forestry and establishments including farms employing less than 50 workers, as well as the sectors of domestic work and care work in households.

Other forms of THB start being detected

It is noteworthy that other forms of exploitation are starting to be detected in Türkiye, and also to be categorised and included in official statistics: forced begging, forced marriage, child marriage, illegal adoption, and use in armed conflicts.

Internal THB neglected

Another concern is about internal trafficking. The numbers of Turkish nationals identified as trafficked persons are extremely low, despite the opinion expressed by several stakeholders that many might be affected by human trafficking. This phenomenon certainly deserves specific research. However, it can be stated that awareness raising among practitioners and the public at large is needed, about the fact that human trafficking is not exclusively pertaining to migrants, displaced people, and refugees.

The gender factor in THB: an issue related to women and girls; an issue related to men and boys; an issue related to LGBTQI as well.

A major concern is the gender issue, both as a specific problem and as a cross-cutting element characterising THB. It is a specific issue because in Türkiye women accounted for 80% of the identified trafficked persons in the period 2014/2018, and 88% in 2019/2020. It is a cross-cutting issue as the gender dimension has an important influence in the way trafficking is or is not identified, in its different forms.

Furthermore, gender should not be seen only related to women.

The gender dimension should also be considered in relation to the disregarded and denied vulnerability of men and boys to exploitation. Boys and men, especially during irregular and perilous migration or, to a lesser extent, as refugees or temporary protection holders, can be exposed to sexual and other forms of exploitation. And when this occurs, on an occasional or systematic basis, it is particularly insidious and difficult to detect because provision of sexual services by males takes place in concealed forms even when they are not forced. In the case of sexual abuse, the concerned males first and foremost tend to conceal/disguise/deny the incident. A powerful suppression process takes place in the convergence of the individual self-repression and the collectively perpetuated stereotype of male strength exempt from the not even conceivable submission to the humiliation of sexual abuse.

The gender dimension should also be looked at in terms of the vulnerability to trafficking of the LGBTQI community [Lesbian, Gay, Bisexual, Transgender, Queer and Intersex]. Specific research should be dedicated here, given that per se it is a community exposed to discrimination and marginalisation.



Child trafficking: a cross-cutting phenomenon



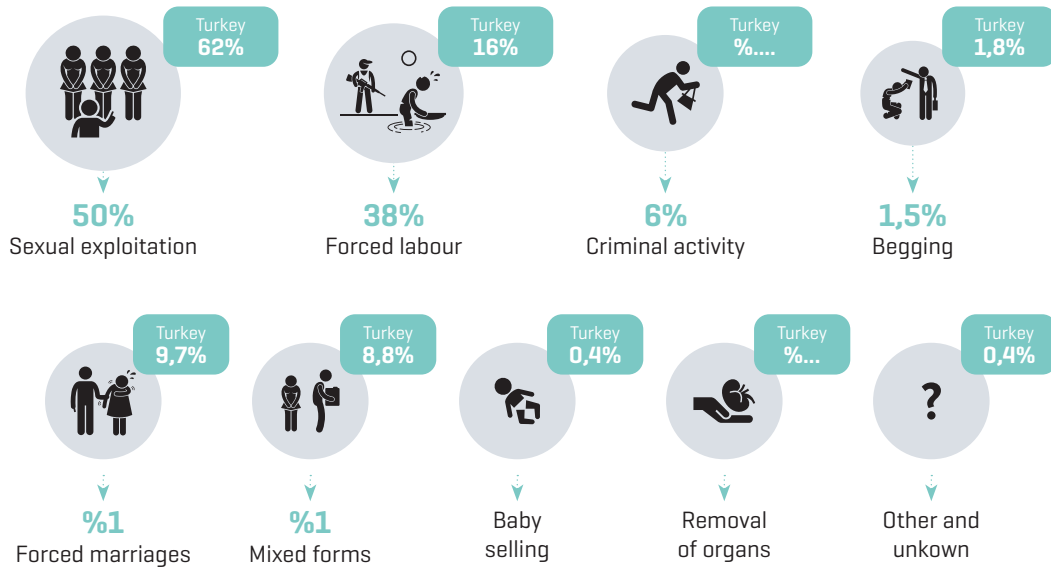
Children are trafficked for multiple purposes across borders and within the country, to be used in sexual exploitation, labour in different economic sectors, including domestic servitude, forced begging, forced criminal activities, armed conflicts and organ removal.

The average percentage of detected trafficked children out of the total trafficking cases in Türkiye between 2014 and 2020 is 17%, and also for 2019 it is 17% if we want to compare it with the latest global data provided by UNODC, according to which child trafficking amounts to 34% [UNODC, 2020 Global Report on Trafficking].

Comparison between those figures is not an absolute indicator, but it can be assumed that the percentage of identified child trafficking cases in Türkiye does not reflect the extent of the phenomenon, hidden in several forms of trafficking with different obstacles to emergence. Such obstacles may include the veil of normality and social acceptance norms [child marriage, child labour, for example], or the confusion with “accepted” social marginalisation phenomena [such as begging] or unlawful activities [petty crimes], and the underground dimension of obviously criminal acts [e.g. sexual exploitation, illegal adoptions, etc.].

Below a comparison is provided between the latest global data offered by UNODC in the Global Report on Trafficking in Persons 2020, and data provided by the PMM about identified trafficked persons in Türkiye in 2019.

Graph 9. Comparison between global data and national data about share of detected forms of exploitation purpose of THB [UNODC Global Report on Trafficking in Persons 2020; PMM data on identified trafficked persons 2019]



Source for Türkiye: PMM

__ Detecting THB and identifying trafficked persons

Different forms of THB: different challenges for detection and victim identification

In line with global data, we can assume that trafficking cases are underreported or unreported for diverse reasons:

- **Sexual exploitation:** it is the most frequently detected form of exploitation, though we can assume it is underreported because of its hidden nature and because the forms of sexual exploitation other than in prostitution are still unexplored and not yet under the loop of anti-trafficking stakeholders:
 - Prostitution can take place in many forms and places such as streets, apartments, bars and night clubs, massage parlours and spas, hotels, escort agencies, etc.
 - Forced pornography, online sexual exploitation and forced pregnancy/surrogacy for illegal adoptions are presumably not investigated as THB and do not emerge from official data.

Furthermore, there are forms of sexual exploitation which are not obvious as when the main activity characterising the purpose of trafficking is the provision of sexual services, as it is the case in prostitution or pornography. Sexual exploitation is often a component of other forms of THB [forced marriage, domestic servitude, labour exploitation].

- **Domestic servitude:** It is a particularly problematic context as the possibility for the law enforcement and for public institutions to intervene is limited. Mandate of labour inspectors is relatively limited when it comes to domestic and care work, and they do not access households in their inspections. In addition, victims of domestic servitude might be prevented from contacts with the external world, which is a condition that does not apply to such an extent to people in other forms of exploitation [e.g. in prostitution there is at least the contact with the clients, in begging with ordinary citizens, etc.]. Although domestic services fall under scope of Article 4 of the Labour Law No. 4857, which is titled as exceptions, in the context of foreign nationals it can be subject to inspection by labour inspectors in accordance with the International Labour Force Law No. 6735, and inspections can be performed by law enforcement officers in conformity with the housing immunity. Furthermore, in case of recruitment of workers for domestic services through private employment agencies, private employment agencies can be inspected by labour inspectors in accordance with Law No. 4904.
- **Labour exploitation:** The informal dimension of more than one third of the Turkish labour market and the risks of exploitation of vulnerable migrants have already been mentioned previously. Agriculture, construction, tourism and entertainment, domestic and care work, waste picking and recycling, apparel and textile are the main sectors affected by exploitation and THB. Informality means that around 34% per cent of the workplaces and workforce is not formally under the control lens of the State and of the labour inspectorate. Informality, i.e. irregular work, also means masses of workers with no means to claim their rights and in the case of undocumented migrants, it can even mean to be under the threat by their employers to be reported to the authorities for their irregular status. Another challenge is that even when victims of labour exploitation are identified and offered assistance, their main and most urgent need is in general to get a job and earn money to sustain their families back in their countries of origin. If the referral system is not able to respond to that need, the exploited workers might prefer to remain in their situation if they can earn a minimum for remittances. In conclusion, a combined approach merging criminal justice action with action on labour market dynamics and workers empowerment is needed to tackle exploitation and labour trafficking. Also, enhanced responsiveness of the referral system in ensuring access to the regular job market to trafficked persons for labour exploitation is crucial to facilitate emergence of victims.

- **Forced begging:** in Türkiye, cases of forced begging, mainly of child victims, have been detected in recent years: 79 between 2015 and August 2020, with a peak of 65 identified victims in 2017. Given the high numbers of refugees and the almost four million Syrians under temporary protection, as well as the transit of irregular migrants, along with the presence of poorer groups of the domestic population, those figures are not surprising. On the contrary, it could be stated that those numbers most probably do not reflect the real extent of the phenomenon. On the other hand, given the difficulty of identifying trafficking in the context of begging, the fact that cases have emerged is an encouraging sign. In-depth analysis of the identified cases and further research could highlight the specific recruitment and control dynamics of forced begging, as well as investigating overlaps with other forms of abuse and exploitation in trafficking, such as sexual exploitation or forced criminal activities.
- **Forced criminal activities:** no cases of victims compelled to engage in unlawful activities, such as pickpocketing, theft, robbery or drug pushing, have been reported. This is one of the most difficult forms of trafficking to identify, because the victims appear as criminals. The difficulty should be in principle mitigated by the fact that often the victims of such forms of exploitation are children, who should deserve special attention and care that would facilitate the detection of organised exploitation and trafficking. Nevertheless, the difficulty of identifying victims of THB for the purpose of forced criminality remains: if such cases exist, they probably concern the most vulnerable and threatened individuals, with not tools for self-determination, no information about their rights and under the influence of traffickers, therefore totally unwilling to trust the law enforcement and authorities in general. That is why a non-punishment provision for illegal activities committed as a result of trafficking is important [see below].
- **Forced marriage:** no cases of victims compelled to engage in unlawful activities, such as pickpocketing, theft, robbery or drug pushing, have been reported. This is one of the most difficult forms of trafficking to identify, because the victims appear as criminals. The difficulty should be in principle mitigated by the fact that often the victims of such forms of exploitation are children, who should deserve special attention and care that would facilitate the detection of organised exploitation and trafficking. Nevertheless, the difficulty of identifying victims of THB for the purpose of forced criminality remains: if such cases exist, they probably concern the most vulnerable and threatened individuals, with not tools for self-determination, no information about their rights and under the influence of traffickers, therefore totally unwilling to trust the law enforcement and authorities in general. That is why a non-punishment provision for illegal activities committed as a result of trafficking is important [see below].⁴³

⁴³ GREVIO's report on Türkiye highlights: "Child marriage increases dramatically in times of crisis. [...] Turkey experienced this phenomenon with the enormous influx of refugees which followed the Syrian war. A UNHCR survey conducted in 2014 revealed that the average age of marriage for Syrian refugee girls in Turkey was between 13 and 20 years, with many

The latter form of trafficking, which could also be related to trafficking for the purpose of involvement of terrorist activities, merits particular attention taking into account Türkiye's proximity to zones of conflict.

There have been no identified and reported cases of victims of trafficking for the purpose of organ removal. However, according to the EGM (the General Directorate of Security), there are ongoing investigations, suggesting that the latter form of exploitation is encountered in Türkiye and merits more research.

The main obstacle to the detection and identification of THB victims: the way they are looked at, understood, and treated

In general, human trafficking cases do not emerge and are difficult to identify because of a variety and multiple combination of factors:

- Trafficked irregular migrants fear prosecution and/or deportation for having illegally entered the country;
- Trafficked persons in migration might refuse to identify as victims because their main goal is to reach their destination at any cost (for different possible reasons);
- Trafficked persons fear prosecution for illegal and criminal acts they might have committed (even if because forced, since subjected to trafficking);
- Trafficked persons fear retaliation from traffickers against themselves, their children and family, or significant others;
- Trafficked persons may feel guilty or ashamed of the activity they had to undertake in the trafficking process (prostitution, typically) and fear their family may learn about it;
- Trafficked persons often do not trust the law enforcement and the authorities in general because of the above reasons and possible previous experiences of corrupted officials implied in their trafficking process;
- Trafficked persons are often not aware they are victims of a crime and that they have a right to protection and assistance (despite their possible irregular status, despite the commission of unlawful activities as a result of trafficking);

respondents saying if they had had the money, they would not have resorted to marrying off their daughters at such a young age. [...] GREVIO is concerned that in some instances of forced marriages, the victims are less likely to report the violence for reasons of "custom" or "honour", including pressure brought by the perpetrator's and/or their own family. In addition, the non-criminalisation of this form of violence against women is an obstacle to the collection of data and further obscures the true scale of forced marriages in Turkey." [page 81, par. 239-240]

- Trafficked persons might be reluctant to tell their story because their family is involved in the trafficking process [e.g. parents giving their children for begging], or because of their relationship with their traffickers [e.g. trafficked through the “lover-boy” modus operandi or victims of the “Stockholm Syndrome”];
- Trafficked persons might be subject to cultural or religious norms which prevent them from understanding that they are victims and react to the situation;
- Trafficked persons may lie or not tell the true or full story, because of the reasons above;
- Trafficked persons may not be in the condition to recall events and information, even when directly involved, because traumatised;
- Trafficked persons might be under physical and psychological coercion, [including by religious or ritual beliefs], which makes their identification more difficult;
- Trafficked person might not appear as victims, as their bonds might not be immediately identifiable and visible, and they might have freedom of movement and might receive part of their earnings [allowing some liberty and to earn some money is one of the criminals’ strategies to limit the risks of their victims reporting them to the law enforcement or trying to escape].
- Trafficked persons might have the perception that in the trafficking situation their life is anyway better than in their previous condition;
- Trafficked persons might have the perception that their situation might not improve or might not satisfy their need to earn at least some little money if they accepted support by the anti-trafficking system [which might be a well-founded perception if the referral system is not able to provide adequate responses].



Forced accomplices: traffickers use victims to support their criminal undertaking and to avoid prosecution



Not only physical and psychological coercion, discrimination, marginalisation and the risk of criminalisation prevent victims from coming forward to seek assistance, but “criminalising victims who have engaged in acts of trafficking directly plays into their instrumentalisation by traffickers to avoid punishment”, according to the 2020 UNODC Global Report on Trafficking in Persons. The report highlights increasing numbers of female victims who become perpetrators, as a result of traffickers pushing them into committing crimes such as the recruitment of new victims, collecting proceeds, imposing punishments, or posting advertisements for victims’ sexual services. These are all

low-level roles, that expose victims of trafficking to law enforcement authorities.

As a specular reflection, trafficked persons are not identified as such, i.e. as victims of a serious crime, because of the above reasons, conditions, attitudes and because of the way they are considered as irregular migrants, criminals, street children, beggars, prostitutes, accomplices of traffickers, illegal workers.

In the light of such a complex set of factors that hinder the identification and protection of trafficked persons, trafficking victim identification must be a proactive, multi-disciplinary, open-minded, human rights-based, trauma-informed, gender and age sensitive endeavour.

Failing to properly identify victims leads to their continued exploitation and possible further re-trafficking.



Understanding the root causes of trafficking is not just for policy makers: it helps practitioners to understand trafficked persons



Finally, it is important to consider the root causes of trafficking in human beings, looking at push and pull factors in an evolutionary and not static perspective. Also, it is important to analyse the changing *modi operandi* of traffickers and their criminal networks, i.e. their recruitment, transfer, control and exploitation methods. And this is important not only for policy makers, in order to design and re-design adequate counter-trafficking measures and appropriate policies and measures. It should also be a main consideration for law enforcement agencies and social work professionals, in order to understand the situation of those they are supposed to identify, protect and assist, responding to their needs and individual situation: the trafficked persons.

Summary Analysis of the Legal Framework and Action Proposals

Ways to improve the current anti-trafficking legal framework

Türkiye has taken significant steps in developing its legal framework over the last two decades in order to strengthen national anti-trafficking policies and strategies. Türkiye signed and ratified international conventions related to THB and issued its own domestic laws and regulations.

Nevertheless, in the process of adapting national legislation to international conventions, some legal gaps and disputes arose. Certain gaps in the Turkish legislation related

to action against THB, which were identified in GRETA's first report on Türkiye,⁴⁴ in terms of missing provisions or incomplete definitions, should be filled by amending current legislation. This applies to some parts of the anti-trafficking legal framework, namely, the definition of exploitation, aggravating circumstances, the non-punishment provision, and unconditional assistance.

Türkiye has endorsed the CoE Anti-Trafficking Convention by Law No. 6667 dated 30 January 2016. Pursuant to Article 90 of the Turkish Constitution, the CoE Anti-Trafficking Convention is an integral part of Turkish law. The Convention is explicitly mentioned as the legal basis for the Regulation on Combating Human Trafficking and the Protection of Victims, adopted in 2016.

Therefore, where the Turkish legislation does not cover with specific provisions or complete provisions, it could be argued that those aspects can be assumed to be covered by respective enforced international legal instruments, and therefore the CoE Anti-Trafficking Convention.



Towards a unified anti-trafficking legal framework



Despite the fact that in principle the CoE Anti-Trafficking Convention could be referred to as actual law, policy makers and the legislator will probably need to decide how to effectively complement the current legal framework, through amendments to existing laws and secondary legislation (e.g. the Regulation) or the adoption of a comprehensive legal instrument dealing with all aspects of human trafficking (prevention, protection, prosecution, coordination, cooperation).

A comprehensive, coherent and clear regulatory framework would significantly mitigate implementation challenges in the complex phenomenon of trafficking in human beings and would contribute to an effective operations system in place.

Such an approach could also help overcoming the fact that THB is often investigated and prosecuted under similar crimes, such as human smuggling instead of THB; the crime of mediating prostitution rather than THB for sexual exploitation; the crime of enforced abduction and rape instead of THB for forced marriage, etc.

⁴⁴ GRETA - Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Türkiye. Adopted on 10 July 2019. Published on 8 October 2019.

Completing the definition of exploitation as purpose of THB

Include “servitude” and “other forms of sexual exploitation”

One of the main recommendations in relation to the legal framework contained in GRETA’s report is about compliance of Art. 80 of the TCC with the Convention, in particular as regards the forms of exploitation:

GRETA urges the Turkish authorities to bring the definition of THB in conformity with Article 4 of the Convention by adding “servitude” and “other forms of sexual exploitation” to the list of forms of exploitation.

Article 4 of the Convention reads: “Exploitation shall include 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 80 of the TCC refers to “slavery or any similar practice”, but does not specifically mention “servitude”. GRETA notes that in *Siliadin v. France* the European Court of Human Rights found that the concept of “servitude” in Article 4 of the ECHR prohibits “a particularly serious form of denial of freedom”. It includes “in addition to the obligation to provide certain services to another [...] the obligation on the ‘serf’ to live on the other’s property and the impossibility of changing his status”.⁴⁵ GRETA notes that the absence of a specific criminal offence of servitude in Turkish law may lead to difficulties in complying with the State’s positive obligations under Article 4 of the ECHR, to prevent, investigate and prosecute servitude, including trafficking for the purpose of servitude.

In relation to other forms of exploitation, it is worth highlighting that in Article 17 the “Regulation on Combating Human Trafficking and Protection of Victims” is in part, and certainly not as primary law, filling the gap of Article 80 of the TCC, by mentioning other forms of exploitation:

ARTICLE 17

[1] The law enforcement shall contact the Directorate in cases which may be evaluated within the scope of human trafficking such as forced labour, prostitution, forced services, forced marriage, organ and tissue removal, child labour, use of children in crimes and begging and adoption.

This testifies of the Turkish authorities’ awareness of the importance of indicating the different forms of exploitation and the willingness to do that in relevant documents.

⁴⁵ *Siliadin v. France*, application No. 73316/01, ECtHR judgment of 26 July 2005, paragraph 123.

Therefore, when it comes to definitions, the main concern is about the incomplete formulation of Article 80 of the TCC as for the types of exploitation which are the purpose of trafficking in human beings:

- Servitude, as mentioned, needs to be included, perhaps also with a specification such as “in particular domestic servitude”, in order to draw attention on this invisible phenomenon;
- Apart from prostitution, other forms of sexual exploitation must be included [in practice, they can cover different forms of exploitation, which do not have to be explicitly mentioned as they can evolve over time].

Include other forms of exploitation

- Other forms of exploitation already covered by the Regulation (even though some only for children) could be included in the revised definition of THB in the TCC, for both children and adults:
 - exploitation in begging;
 - forced criminal activities;
 - early, child and forced marriage;
 - sham marriage⁴⁶
 - illegal adoptions, to the extent it involves exploitation;
 - use in armed conflicts, including terrorism.

Include the “at a minimum” clause

The revised THB definition of exploitation should include the “at a minimum” clause (the Convention reads: “Exploitation shall include at a minimum, ...). This is of critical importance because the forms of human trafficking are constantly evolving. The “at a minimum” clause is explicitly saying that the list is not exhaustive and other forms of exploitation which are purpose of trafficking can be considered, even if not listed in respective

⁴⁶ A sham marriage or fake marriage is a marriage of convenience entered into without intending to create a real marital relationship. This is usually for the purpose of gaining an advantage from the marriage (e.g. residence permit, social benefits...), but it has been associated with abuse of the spouse in cases involving young women from EU countries and Asian men in UK, Ireland, Cyprus, etc. who want to get regularised in the EU.

rules. This would cover all possible already detected and future forms of exploitation which are purpose for human trafficking.

However, including the “at a minimum” clause does not diminish the importance of mentioning in legislation and regulations all relevant possible forms of exploitation, as this would enhance the possibilities that THB for the less common or not yet well-known forms of exploitation is detected, investigated, and victims identified and protected.

Trafficking in all children, not just of children younger than 12, to be considered as an aggravating circumstance.

All other aggravating circumstances of the Convention to be preferably explicitly considered

The general rules of the TCC on aggravating circumstances would apply even though not explicitly mentioned in Article 80. However, concerning an offence being committed against a child they would apply only to children who are younger than 12.

There is therefore the stringent need to consider trafficking in all children, i.e. all persons under the age of 18, as an aggravating circumstance.

In addition, GRETA’s recommendation is to ensure that all the aggravating circumstances included in the Convention, in accordance with its Article 24, are appropriately taken into account:

- a** the offence deliberately or by gross negligence endangered the life of the victim;
- b** the offence was committed against a child;
- c** the offence was committed by a public official in the performance of her/his duties;
- d** the offence was committed within the framework of a criminal organisation.

Definition of victim of THB and unconditional identification and assistance

GRETA has noted that a definition of victim of trafficking which is too narrow has implications for the victim identification process and risks leaving unprotected persons who should benefit from assistance and support.⁴⁷ The identification process provided for in Article 10 of the CoE Anti-Trafficking Convention is independent of any criminal proceedings against those responsible for the trafficking. Further, Article 12, paragraph 6, of the Convention provides that the assistance to victims is not made conditional on their willingness to act as a witness. A similar provision is contained in the EU Directive 2011/36/EU.⁴⁸

The Regulation on Combating Human Trafficking and the Protection of Victims, at Article 3 [n], provides the definition of victims of THB as “natural persons who have been or are strongly suspected to be subject to the crime of human trafficking.” Therefore, in conjunction with Article 80 of the TCC, any natural person (woman, man and child) subjected to the offence of THB would be considered a victim of THB.

This formulation seems to be in line with the definition provided by the CoE Convention according to which a “victim of THB” is “any natural person who is subjected to THB as defined in Article 4.e of the Convention”. As GRETA highlights, “recognition of victims of trafficking as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention”.⁴⁹

In fact, this kind of definition of victim directly referred to the definition of THB, without mentioning respective criminal proceedings, appears to be particularly significant, especially in view of foreseeing another important provision, i.e. making assistance to victims of human trafficking independent from their cooperation in the investigation and court proceedings.

In that regard, it must be highlighted that the definition of THB, with reference to subjection to the “crime” in Art. 3 [n] of the Regulation and to the “offence” in Article 80 of the TCC, which is per se correct as THB is a crime, should not give leeway to considering as mandatory victims’ cooperation in criminal proceedings.

Therefore, it might be considered giving clear guidance in that regard: clarifying that a victim of THB is any person subjected to human trafficking as per definition, regardless of the proceedings aimed at demonstrating and punishing the crime of THB.

⁴⁷ See GRETA’s 2nd General Report (2012), paragraph 40 and following, at <https://rm.coe.int/greta-2012-13-2ndgenrpt-en/16807b4d74>

⁴⁸ “Member States shall take the necessary measures to ensure that assistance and support for a victim are not made conditional on the victim’s willingness to cooperate in the criminal investigation, prosecution or trial [...]”

⁴⁹ GRETA’s first report on Türkiye (2019), paragraph 59.

This might help overcoming the ambiguity which seems to be reflected in the provisions on assistance and residence permit for victims of THB set in the Regulation on Combating Human Trafficking and the Protection of Victims.

In fact, from the analysis of relevant articles of the Regulation, it is not possible to exclude mandatory cooperation by the victims with the authorities in criminal and court proceedings in order for them to access assistance.

Clarity is needed about assistance to victims of THB regardless of their cooperation with the authorities

Following are the provisions of the Regulation on Combating Human Trafficking and the Protection of Victims from which a contradictory picture emerges:

CHAPTER THREE

Victim Identification and Residence Permit

Notice, complaint and notification

ARTICLE 16 – (1) All individuals declaring to be a victim or those who are aware of the crime of human trafficking shall notify the situation verbally, in writing or electronically to the Emergency and Helpline, the Chief Public Prosecutor’s Office or law enforcement.

(2) The notices and complaints forwarded to the Directorate General, Directorates, Emergency and Helpline shall be immediately notified to the Chief Public Prosecutor’s Office or law enforcement.

(3) Notices and complaints to the Governorate or District Governorate shall be notified to relevant Chief Public Prosecutor’s Office.

(4) Notices to non-governmental organisations about the crime of human trafficking shall be notified to the Directorate, law enforcement or the Chief Public Prosecutor’s Office.

The obligation of giving immediate notice to the Chief Public Prosecutor’s Office appears to be too strong if interpreted as necessary as soon as there is the slightest suspicion of trafficking. This might overwhelm the Chief Prosecutor’s Office with no benefits. On the other hand, notifying the Chief Prosecutor’s Office once an initial screening of the case has been conducted and there are grounds to start an investigation, ensures that a prosecution-led investigation is carried out. It must be said though, that there are no specifications about the procedure to follow when a presumed victim is not participating in the criminal proceedings: notifying a case when there is no other evidence than the victim’s declarations, but the victim does not want to or is not in a position to collaborate with the criminal justice, can be interpreted in two ways: triggering proactive investigation or forcing the presumed victim to collaborate. This dual interpretation arises as well from another article of the Regulation:

Victim identification - ARTICLE 17

[7] During the interviews conducted with the possible victims of human trafficking by the personnel of the Directorate, if information which can enlighten the criminal investigation but which does not exist in the statement taken by the law enforcement is obtained, such information shall be notified to the law enforcement or the Chief Public Prosecutor's Office.

However, again, dual interpretation seems to emerge in relation to another article of the Regulation:

ARTICLE 20

[1] Victims of human trafficking or individuals strongly suspected⁵⁰ of being victims of human trafficking shall be granted a residence permit of 30 days by Governorates in order that they can be relieved from the trauma and decide on whether to cooperate with the authorities or not.

“Whether to cooperate or not” has a neutral acceptance in the CoE Anti-Trafficking Convention, i.e., cooperating with the authorities is an option, but not a mandatory condition in order for the victim to access assistance, which seems to be the case for Türkiye.

In fact, finally, a restrictive interpretation seems to prevail in the light of the following provisions of the Regulation:

Support programme - ARTICLE 28

[1] Victim support programme shall be provided for the victim on the basis of informed consent during the reflection period, at the stages of investigation and prosecution and thereafter, considering the safety, health and special status of the victim.

⁵⁰ A terminological note here, about the definition “strongly suspected”. Since it has a “blaming flavour”, as if being a victim implies a fault, in view of possible revisions, the language of the Convention could be considered: “reasonable grounds to believe that a person has been a victim of trafficking”.

Termination of victim support programme - ARTICLE 29

- a) does not want to benefit from the support programme,
- b) was identified/revealed to contact the offenders of the crime of his/her own free will except for cases hindering the victim's will,
- c) leaves the shelter without informing the authorities,⁵¹
- ç) does not abide by the measures taken under the support programme,
- d) does not cooperate with the authorities,

So, paragraph d) of Art. 29 explicitly foresees termination of victim support programme if the victim does not cooperate with the authorities.

This provision might be seen as contradicting Article 18 of the Regulation, which states: "victims of human trafficking shall be identified as victims through an administrative proceeding, without awaiting the results of the investigation or prosecution, regardless of the existence of a complaint by these individuals". It is also in contrast with the above-mentioned Article 12 (6) of the Convention and Art 11 (3) of the EU Directive.

It is worth highlighting that there might be several reasons determining the inability or unwillingness of trafficked persons to cooperate with the authorities, especially in the initial stages after the identification, but sometimes even beyond the duration of the recovery and reflection period [see pages 50-51]. However, this does not diminish their victim status and the rights they are entitled to. Also, a proactive and intelligence-led approach to investigations reduces reliance on the victims' testimony. Furthermore, unconditional support and assistance also give more chances that once the victim of THB is protected and assisted and has recovered to a certain extent and feels safe, reassured, and confident, the person is more likely to be in the position and willing to contribute to prosecuting the perpetrators. While otherwise their possible contribution would have gone lost.

In conclusion, it can be stated that such an approach not only allows States to comply with their responsibility to protect victims of trafficking as part of their international obligations, but can also prove to be a more effective approach in prosecuting THB.

⁵¹ GRETA recommended the following: "GRETA considers that the Turkish authorities should review Article 29 of the Regulation on Combating Human Trafficking and the Protection of Victims, which refers to victims leaving the shelter without informing the authorities as grounds for terminating the victim support programme. This could be done for example, replacing the word "shelter" with "support programme", adding "without a joint determination about its conclusion".

Specification about the right of victims of THB to access the support programme and respective services and to obtain residence permit, regardless of their cooperation with the authorities

Therefore, since in Art. 18 of the Regulation it is stated that determination of the status of victim of THB is an administrative procedure carried out by the PMM, regardless of complaint by the concerned individual, a clear provision should be introduced about the right of victims of THB to access the support programme [with all entailed services] and to obtain residence permit where applicable, irrespective of their cooperation with the authorities.

Long-term residence permit for victims of trafficking

The residence permit provisions contained in articles 30, 48 and 49 of the Law on Foreigners and International Protection are reflected in the Regulation, even though not dealt with in a systematic way [it would be simpler to have them all together and not dispersed in different parts of the Regulation]. The provisions are ample with a total extension period up to three years.

Extension and cancellation of residence permit - ARTICLE 21

[1] [...]

[2] The victim, whose residence permit was found admissible for extension on the basis of the assessment report, shall be granted extension periods of maximum six months. The total extension period shall not exceed three years.

Introduce conversion of the residence permit granted to victims of THB into a long-term residence permit

However, there is no mention of the possibility to convert the residence permit into a regular long-term residence permit [for example for work or study reasons]: this should be made possible, in order to allow the trafficked person social inclusion and for the system to capitalise on the efforts spent for supporting the person.

Victims of trafficking non-punishment provision

Trafficked persons might be compelled by the traffickers to commit unlawful activities. These acts might be the “simple” illegal crossing of borders or use of counterfeit documents when the victims are foreigners. The unlawful acts might be forced criminal activities as one of the forms of exploitation which are the purpose of trafficking, such as pickpocketing, theft, robbery, cultivation or distribution of illegal drugs. Furthermore, they might extend up to the forced engagement of victims in supporting the traffickers as accomplices in their criminal business, by playing for example the role of recruiters or controllers. The position of these trafficked persons might be even worse than the condition of other victims, as they are not recognised as such, but rather seen and treated as criminals. Unaware of their rights, or not even entitled to rights when a non-punishment provision is not in place, these victims are totally in the hands of their traffickers, who can exert an even stronger blackmailing power on them.

Victims of trafficking cannot be criminalised: a non-punishment provision means protecting and fulfilling victims’ rights, giving them the possibility to access justice, as well as to contribute to the investigation and prosecution of the crime

A non-punishment provision for illegal activities committed as a result of trafficking is decisive.

It would be a powerful means to encourage trafficked persons to come forward and to consequently allow the anti-trafficking system to protect their rights and possibly obtain their contribution to the criminal proceedings against the alleged perpetrators; though such a measure, even if provided for in the CoE Convention, is not explicitly present yet in the Turkish anti-trafficking legal framework.

Following is the relevant provision contained in the CoE Convention:

Article 26 – Non-punishment provision

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

GRETA's analysis of the situation in Türkiye reproduced below:

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

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

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

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

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

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

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

In addition to that, the Regulation on Combating Human Trafficking and the Protection of Victims foresees non-punishment for violations related to visa or residence period:

Residence permit - ARTICLE 20

[5] The foreign victim of trafficking and his/her child shall be granted residence permit in accordance with the sub-paragraph [g] of the first paragraph of Article 88 of the Law No. 492 on Charges dated 2/7/1964. Existence of fines from a previous violation of visa or residence period shall not hinder issuance of a residence permit to the foreign victim.

Introduce a non-punishment provision for victims of trafficking compelled to commit illegal acts

There is therefore a need to overcome the present fragmented, non-specific and incomplete set of measures and introduce a comprehensive non-punishment provision, providing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so.

GRETA recommends as well that “the Turkish authorities should examine the possibility of repealing sanctions imposed against victims of THB and providing compensation or reimbursement of fines paid by victims of THB”.

With reference to the overview provided in chapter 2 on the legal framework, based on the outcomes of the survey conducted in the project and on GRETA’s recommendations, other legislative and regulatory interventions can be proposed.

Compensation

Ensure victims of THB can access compensation

Access to compensation is another important issue in access to justice for victims of THB. The general regime for compensation is provided in the Code of Obligations [Articles 49,50,51]. The person at fault, who behaved unlawfully and caused harm to another is obliged to provide compensation and the injured party needs to demand compensation for damages. However, this practice is not common in Türkiye. The process often cannot be carried out during the THB trials and victims are required to file a separate private law action for compensation. Given their situation, it is exceedingly difficult for victims to access this right due to the lack of knowledge, the language barrier, inability to follow the steps and requirements and fear of the trafficker. Therefore, a more practical way of financial compensation should be regulated and paid by the state or from the confiscated properties of traffickers to victims of THB.

Article 15 of the CoE Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State.

On that basis and given the absence of such measures in the country, GRETA recommends:

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

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

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



Pursue compensation from criminal and civil proceedings, and establish a state compensation scheme accessible to victims of THB



Compensation must be provided to victims of trafficking regardless of the seizure and confiscation of assets of the specific perpetrator[s].

Therefore, on the one hand compensation deriving from convictions in the criminal court proceedings or from sentences in civil proceedings should be strongly pursued. For the penal proceedings, the criminal justice actors should be specifically sensitised in that regard and trained (starting from the focus on financial investigations), while for the civil proceedings trade unions might play an important role in supporting the victims of labour exploitation in claiming for the salary they were subtracted and denied.

On the other hand, compensation should be made an unconditionally receivable right, by establishing a national compensation scheme, accessible to victims of THB when compensation from court proceedings is not possible, and regardless of their citizenship and residence status.

Support and assistance to Turkish male victims of THB

Identification, protection and assistance for Turkish trafficked men: clarity in the legal framework is required

For adult Turkish victims of trafficking, Law No 6284 [Law on the Protection of Family and Prevention of Violence Against Women] is in force. Though, the main scope of Law No 6284 is about the protection women. It could be consequently argued that the current regulations do not cover protection of and assistance to male Turkish victims of THB. On the one hand, the wording “family members” in Article 23 of the Law could be interpreted as also covering men. On the other hand, the question could be if a man not member of a family in that context can be considered eligible to receive services.

In conclusion, both from a regulatory and an operational point of view, greater clarity of the legal framework would help not to leave Turkish male victims of trafficking out of attention and assistance.

Comprehensive protection of labour, and inspection powers

The Turkish Labour Code does not apply to workplaces with less than 50 workers in agriculture and forestry sector. In Türkiye, the vast majority of farms employ less than 50 workers. This leaves all farms employing seasonal migrant workers out of the scope of the labour code, which aggravates the risks of labour trafficking. Similarly, the Labour Code does not cover domestic and care work, leaving workers unprotected. Notwithstanding, Article 4857/113 stipulates that Articles 32, 35, 37 and 38 of the Labour Law numbered 4857, which regulate the matters of “payment of wages and salaries, latent parts of wages, pay slips, and wage deduction”, shall apply for the workers working at workplaces or enterprises where agricultural and forestry works are carried out and which are excluded from the scope of the Law numbered 4857. In addition, whether foreigners have a work permit and whether they work in accordance with the International Labour Law No. 6735 can be inspected by labour inspectors as an exemption under the Labour Law. Furthermore, since the provisions for job placements through private employment agencies are regulated in Law No. 4904, those employed for “Domestic Services” through private employment agencies fall within the scope of the Law concerned. Yet, there is a general need to explicitly include in the labour inspectors’ mandate a focus on exploitative conditions and subjection to trafficking of the workers. Following action proposals could be consequently outlined:

Revise the Labour Code so that workplace with less than 50 workers are not exempt from inspections and are compliant with labour and human rights protection

Revise mandate of labour inspectors accordingly, including the possibility to access households

Ensure labour inspectors have enough capacity and broader authorisation, under different aspects, to detect THB and identify victims

Overcome the geographical limitation of international protection

Granting international protection universally as per the 1951 Refugee Convention and its 1967 Protocol, would also facilitate identification of trafficked persons

Potential or actual victims of human trafficking might have a “well-founded fear of persecution” and would therefore be entitled to the rights granted under international protection, as per “UNHCR Guidelines on International Protection: The application of Article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the status of Refugees to victims of trafficking and persons at risk of being trafficked. - HCR/GIP/06/07 - 2006”

However, since Türkiye maintains a geographical limitation to the 1951 Refugee Convention and only applies it to refugees originating from European countries, the possibility to use international protection for victims of trafficking is very limited and in practice not exercised.

The recent broader protection granted by the Law on Foreigners and International Protection No 6458 of 2013 regardless of country of origin [Conditional refugees, art. 62 and Subsidiary protection, art. 63] is anyway limited to temporary measures and hence not relevant to satisfy the possible applicability to trafficked persons.

Granting full international protection regardless of country of origin as per the 1951 Refugee Convention and its 1967 Protocol, could facilitate the identification of trafficked persons among asylum seekers and, on the other hand, could provide further protection

to the victims of trafficking. In particular, until the possibility to extend the residence permit issued for trafficked persons remains limited to a maximum of three years and the permit cannot be converted in another residence permit, international protection could fill the gap.

In fact, both the extension of international protection without limitations by countries, and the possibility to convert the residence permit [as already recommended] are strongly needed measures.

Analysis of the Anti-Trafficking Policy and Coordination System and of the Referral System and Action Proposals

In the “Regulation on Combating Human Trafficking and the Protection of Victims” the outstanding attempt to design a 360 degrees anti-trafficking response is fully outlined.

In fact, this all-encompassing approach is in principle a mandatory choice, considering:

- the highly complex configuration of trafficking in human beings in general, and in Türkiye in particular,
- the size and variety of the Turkish territory,
- the diversity in the socio-economic setting,
- and also, the multiplicity of the migration/refugee-impacted demographic structure of the country.

Though, it is not an obvious choice.

Indeed, not many countries in the world have a comprehensive system in place both in its design and in its implementation.

The fact that Türkiye has a formal system provided by the “Regulation on Combating Human Trafficking and the Protection of Victims”, supported and complemented by other legal provisions, even though with some important improvement margin, is encouraging.

With reference to the margin of improvement of the formal design of the system and, as a consequence, of its effective implementation, based on the research conducted, the CoE Convention and GRETA’s first report on Türkiye, a series of needs and opportunities to consolidate the anti-trafficking response can be highlighted, organised under following areas:

- anti-trafficking coordination system
- a new National Action Plan on THB
- National Referral Mechanism involving multi-stakeholder coordination and cooperation

Anti-trafficking co-ordination system

Human trafficking is a complex phenomenon and in order to effectively address it, a holistic, integrated approach is needed. This principle, no matter how differently expressed, is at the core of any anti-trafficking legal or policy document. However, the challenge is to envisage and put in place a functional, feasible and sustainable system able to fulfil such an approach.

Therefore, the establishment and operationalisation of a comprehensive anti-trafficking co-ordination system is crucial in that respect. This function is covered in Türkiye by the Coordination Commission for Combating Human Trafficking. According to the Regulation on Combating Human Trafficking and Victim Protection, Art. 5 [4], “The Commission shall also act as national coordinator for combating human trafficking and the president of the Commission shall be the National Coordinator”. The Commission is operating under the chairmanship of the Undersecretary of the Ministry of Interior or the Deputy Undersecretary.

Operationalise the post of National Anti-Trafficking Coordinator

In order to ensure the fulfilment of the Commission’s mandate, and to link it to the actual implementation of the strategies and measures which the Commission will define, there is a need to make the function of the National Anti-Trafficking Coordinator fully operational.

The National Coordinator should provide the Commission with all elements to assess the effectiveness and gaps of the anti-trafficking policies and interventions, and to revise plans accordingly. This implies a strong coordination work of the members of the Commission and constant support. At the same time, the even more demanding and time-consuming task of the National Coordinator would be to co-ordinate all anti-trafficking policies and monitor and support their implementation, with a special focus on the functioning of the NRM.

The Office of the National Anti-Trafficking Coordinator

In the light of the above outlined responsibilities, it might be needed to assess whether those tasks can realistically be performed by the Undersecretary of the Ministry of Interior or the Deputy Undersecretary who, according to the Regulation, as president of the Commission should also enact the role of National Coordinator.

It anyway appears obvious that the function of National Anti-Trafficking Coordinator should be supported by a dedicated Office. A balance between a high political profile of the role of the National Coordinator, which is certainly a positive aspect in order to give proper weight to anti-trafficking, and the operationalisation of the National Coordinator's tasks, is of critical importance.

NGOs to become members of the Coordination Commission for Combating Human Trafficking

One of the needs resulting from the analysis conducted in the research, as well as from GRETA's recommendations, is to complete the composition of the Commission with the permanent participation of NGOs, so that they can convey their field expertise and their perspectives in the policy-making processes which are the mandate of the Commission.

Given the broad policy-coordination mandate of the Commission, experienced NGOs working in migration and international protection, as well as in proximity with other vulnerable groups, could be part of the Commission.

Certainly, the specialised NGOs which have been providing residential services and support to trafficked persons in Türkiye, or are conducting outreach work with groups vulnerable to THB, should be part of the Commission.

Specialised anti-trafficking NGOs to be fully part of the anti-trafficking system

It is proposed that specialised NGOs should be part of the Commission, so that, as formulated by GRETA, they can "structurally be involved in the planning, drafting, implementing and evaluating of national anti-trafficking policies". In fact, as resulting from the research and as proposed further on, NGOs should also be assigned a role in the identification of victims of trafficking (as "first responders") and in the provision of services, including the running of shelters.

An accreditation system of specialised anti-trafficking NGOs

Hence, overall, for the above purposes, an accreditation system of specialised NGOs could be established, in order to ensure that quality standards are met by the selected NGOs, therefore fully entitled to run services for trafficked persons and to take part in

the policy making processes and in the coordination organisms at the national and provincial levels.

In that regard NGOs could also be encouraged to determine a democratic rotation representation mechanism by which a limited number of NGOs [three, for example] are mandated for a certain period [two years for instance] to represent the platform of accredited NGOs within the National Commission.

All relevant accredited NGOs should, on the other hand, be stable members of the Provincial Coordination Commission.



Trade Unions and Employers Associations to become members of the Commission



Furthermore, the participation in the Commission of Trade Unions and Employers Associations could enhance the policies and measures addressing THB for the purpose of labour exploitation.



Not a luxury but a guarantee and support for the functioning of the anti-trafficking system: the National Rapporteur



GRETA invites the Turkish authorities to examine the possibility of designating a National Rapporteur on combating trafficking in human beings, pursuant to Article 29, paragraph 4, of the CoE Anti-Trafficking Convention, with a structural separation between the monitoring and executive functions in relation to anti-trafficking response. Such an independent entity “would enable an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, the identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations”.

Not many countries have an independent National Rapporteur in their system, and often the National Coordinator or Coordination Structure has been designated to fulfil that function, obviously voiding it of its main value of independent external objective analysis and evaluation of anti-trafficking policy and action.

Though such an entity could provide on a permanent basis valuable indications and support for improving the anti-trafficking system, and should therefore not be considered as a “luxury”, even considering the limited resources available and the many areas of anti-trafficking and victim protection that need strong, enhanced efforts. A viable solution, allowing to pursue the objective of an independent body in place, without being a burden to the already insufficiently funded anti-trafficking system, could be the designation of

the Human Rights and Equality Institution of Türkiye (HREIT) as National Anti-Trafficking Rapporteur.⁵²

The HREIT (see in chapter 3 their functions) is also part of the Coordination Commission for Combating Human Trafficking; a fact that on the one hand would not be detrimental to its independence and on the other hand would also ensure the possibility to follow from inside the work of the Commission and provide constructive advice.

A new National Action Plan on THB



National Action Plan for combating trafficking in human beings



The anti-trafficking stakeholders with whom the researchers interacted consider a new National Action Plan on Combating Human Trafficking as a priority and an opportunity to cover many of the areas where the need to improve anti-trafficking response has been identified.

An opportunity to increase targeted prevention, but also to determine stronger cooperation among the anti-trafficking agencies and professionals, a comprehensive plan should include specific, realistic, measurable objectives based on a clear accountability system.



Full support to the comprehensive approach recommended by GRETA and the indicated priorities



It is noteworthy that stakeholders have expressed full appreciation of the comprehensive formulation of the recommendation for the National Action Plan by GRETA, which is the following:

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

⁵² For example, the national human rights and equality bodies in France, Luxembourg and Ireland have been designated as the National Anti-trafficking Rapporteurs.

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



Addressing THB for the purpose of labour exploitation through a specific and comprehensive section in the Plan



Addressing trafficking in human beings for the purpose of labour exploitation is certainly a priority and a complex challenge at the same time. Few victims of THB in this form of exploitation are identified while several clues indicate that a number of sectors of the labour market are at high risk of exploitation and trafficking, whereas the possibilities to detect trafficking and identify trafficked persons in labour exploitation are extremely limited, as already highlighted.

A specific and comprehensive set of measures to combat trafficking for labour exploitation should therefore be part of the National Action Plan, including awareness raising, analysis of the labour market dynamics that feed trafficking, full “empowerment” of labour inspectors, training and involvement of all relevant actors, inception of strategies for social responsibility of enterprises, ensuring the referral system proactively undertakes actions aimed at identifying and supporting persons trafficked for labour exploitation in diverse sectors, striving for responses that meet the needs of victims of THB for labour exploitation, including timely access to regular jobs and shelter for males.

Reducing demand for labour exploitation

In the framework of a specific and comprehensive set of measures to combat trafficking for labour exploitation, it is of particular importance to design and implement a series of measures in the area of prevention, aimed at reducing demand.

Examples of demand reduction measures⁵³:

- Criminalise the use of services of victims of trafficking with the knowledge that the person is a victim;
- Adopt measures to improve labour conditions in sectors prone to the use of trafficked labour, through strengthening and enforcing labour standards and regulations;
- Regulate/license employment and recruitment agencies;
- Adopt legislation integrating the prevention of human trafficking in public procurement policies and promoting transparency in supply chains;
- Promote public-private partnerships;
- Engage NGOs and trade unions through strategic partnerships;
- Support consumer-based action against products made from exploitative labour.

A special attention to subcontracting in the construction sector

The practice of subcontracting needs to be taken at the focus of any anti-trafficking strategy in the construction sector. It is a widespread practice, and as it significantly reduces the profit margins at each subcontracting step, the risks of exploitation and human trafficking increase in a directly proportional way.

Some key questions should guide control strategies and interventions in subcontracting, such as: Which part of the construction activity is subcontracted to other smaller companies? Do these subcontractors have other subcontracting activities? Who works for these firms, what are the working conditions, are they registered to social security schemes? These questions could be part of the scrutiny that can be conducted via occupational health and safety (OHS) inspections.

⁵³ GRETA [2020]12, GUIDANCE NOTE on preventing and combating trafficking in human beings for the purpose of labour exploitation, page 17.

Secondly, “follow the money” techniques can be utilised to track the financial flow from the construction firm to subcontractors and between subcontractors. Withdrawal of workers’ wages by one account, lack of payslips are indicators showing that the money flow can be handled by traffickers. Moreover, the location of the construction site is also an important factor to consider when designing the inspections. Large scale construction activities that take place in remote parts of Türkiye (such as dam constructions) may limit the freedom of movement of the workers, contributing to the risk of labour trafficking.

Domestic and care work under the spotlight

Given the difficulty to detect domestic servitude and to reach out to possible victims, specific attention should go to the recruitment channels and means of the workforce for domestic labour and care work in households. There are numerous websites and online job portals in Türkiye, where especially migrants submit their applications for domestic care work. Continuous, focused analysis of these websites could identify the risks of trafficking.

Investigating job agencies and online employment portals is among the strategies to combat labour trafficking in domestic and care work. Legal compliance of the operations of such platforms and agencies must be ensured through control and investigations by relevant authorities.

Addressing the risk of human trafficking in waste picking

The media highlight a high risk of labour trafficking in waste picking, which requires a close cooperation among municipalities, law enforcement, PMM, provincial directorates and the collective organisations of the waste pickers. There are some initiatives to build cooperatives and non-governmental organisations by waste pickers that could be observed and supported in the framework of prevention of THB for labour exploitation.

As summarised at the beginning, the National Action Plan should comprise in a harmonised strategy activities covering all pillars of anti-trafficking, including activities related to the referral system.

In addition, the foreseen activities pursuing clear objectives should be feasible and sustainable, and hence with an adequate resource allocation. Proper and stable funding is particularly relevant and of vital importance for the functioning of the referral system and its services.

National Referral Mechanism involving multi-stakeholder coordination and cooperation

A comprehensive data collection system to be put in place

Systematic data collection and analysis, in order to monitor, evaluate and plan anti-trafficking measures is crucial.

It was noted during the interviews that data collected is limited, it is not disaggregated by age and other elements, and cannot be evaluated and reported by authorised bodies in a timely manner. Data collection is limited and dispersed also in relation to the criminal proceedings. In order to overcome these challenges, consulted stakeholders' representatives recommended to put in place a comprehensive data collection system and to make disaggregated data available to inform evidence-based policies.

The Regulation on Combating Human Trafficking and the Protection of Victims has specific provisions in that regard, including special attention to the protection of personal data, that would therefore allow to create a comprehensive data collection system:

Establishment of a database, confidentiality and sharing of personal data - ARTICLE 14

[1] The Directorate General shall request the data collected pertaining to the victims, human traffickers, process of human trafficking and proceedings of judicial authorities from the related institutions and organisations. The related institution shall immediately submit the requested data to the Directorate General.

[2] The Directorate General may request information, documents and statistics from the related Ministries, public institutions and organisations during the execution of the proceedings and procedures within the scope of the Regulation herein. Such requests shall be complied without delay.

[3] Confidentiality shall be the primary consideration concerning the collected personal data.

[4] Terms and definitions regarding human trafficking and the criteria used in the identification of the individuals subject to human trafficking shall be standardised at the national level.

[5] The authorities and officers within the scope of the fight against human trafficking and the protection of victims shall not disclose any type of confidential information, document or personal secrets to anyone other than the authorities and shall not use such information for their or third parties' self-interest.

[6] Personal data on the identity and safety of the victim shall not be disclosed to any other individual except for the purpose of the procedures for the identification and tracking of family members of the victim.

[...]

The above implies that a unified multi-agency and multi-layer data collection and processing system is designed, put in place, monitored and updated, r.

The creation of a data collection system implies the revision of the tools in place in the current referral procedures (including the interview form in use at present⁵⁴). The revision should be undertaken in the framework of the overall design of a new data collection system, and as a consequence considering all other phases of interaction with the concerned trafficked person in order to align tools in use, and allow the information to be fed into a single data base. Extreme attention should be paid to protection of personal data.

The data collection should also consider the needed link with the Case Management system, if the latter will be implemented, as foreseen in the Regulation on Combating Human Trafficking and Protection of Victims.

Ideally, the envisaged unified data base should also allow those feeding it (a PDMM, or an NGO, for instance) to benefit from the system for elaborating reports from the data they have provided, and more in general they would benefit from the return of wider scope analysis provided by the central system.

Proper data collection and analysis would therefore serve several different purposes:

- Understanding the dynamics of human trafficking as a social and criminal phenomenon, under its manifold aspects, and adjust as a consequence anti-trafficking strategies;
- Enhancing targeted activities by the criminal justice system actors, including investigation and prosecution also at the international level;
- Improving the response of the referral system and services, through evidence-based analysis;
- Improving prevention, including specific and targeted interventions that can be designed thanks to the possibility to identify vulnerable groups and areas, resulting from the data of trafficked persons (for example a particular village or urban area of origin; specific recruitment techniques adopted by traffickers, etc.).

Training on THB as part of the regular initial and in-service training programmes of all relevant actors

⁵⁴ The interview form currently in use is tailored for persons from other countries who have been trafficked into Türkiye and exploited in the country. It does not consider the victims trafficked abroad and returned to Türkiye. It does not consider the more frequent case of a person transiting through Türkiye, with another country as their final destination (for such cases, identifying trafficking indicators is particularly challenging, and therefore specific questions and aspects to focus on should be taken into account). The interview form also does not consider internal trafficking, i.e. victims of THB who are Turkish citizens.

If anti-trafficking efforts need to be structured, systematic, multi-disciplinary, it is clear that all anti-trafficking actors have to be properly equipped in terms of competences, according to their role, and have to speak a common language, in full awareness that the ultimate goal of protecting trafficked persons and eradicating human trafficking is the common goal.

Therefore, training on THB cannot be an occasional, ad hoc endeavour. All relevant professionals in anti-trafficking and victim identification and support are expected to receive initial and in-service training on THB and therefore their respective training institutions have to include training modules on THB in their regular training curricula⁵⁵. Training modules should be designed as agency-specific, but should also entail a multi-agency part, and should in general be practice and action-oriented.

Such an effort would also tackle some of the specific shortcomings which were highlighted by the interviewed stakeholders.

As already mentioned in this report, it was underlined that THB is often investigated and prosecuted under similar crimes, such as human smuggling instead of THB; the crime of mediating prostitution rather than THB for sexual exploitation; the crime of enforced abduction and rape instead of THB for forced marriage etc. In addition, traffickers also use these legal loopholes. Thus, gaps in applying the rule of law should be eliminated and the confusion of the crime of THB with other crimes should be prevented.⁵⁶ According to the interviewed stakeholders, another reason for confusion is that judges and prosecutors do not have enough knowledge about the crime of THB. Therefore, it is crucial to develop the capacities of judges, prosecutors and law enforcement officers on crime of THB and the indicators.

The adoption and use of comprehensive and consistent/harmonised training programmes would also enhance an integrated approach and the capacity to see the human trafficking phenomenon in its complexity and multiple forms. For example, the Turkish National Police has a Department for Combating Migrant Smuggling and Human Trafficking operating at central level and in 81 the provinces there are police units dealing with sexual offences [which cover THB] as well as police units for combating migrant smuggling and THB, which deal with forms of exploitation other than sexual. Regardless of their specific mandates, it is important to integrate knowledge and capacity of those different units, as the forms of exploitation are not always separate and often there are multiple forms of exploitation trafficked persons are subject to.

It is worth underlining that among the key agencies also Municipal Police should be considered, as they have a significant potential as first responders in detecting human

⁵⁵ Such a possibility is foreseen in the Regulation for Combating Human Trafficking and the Protection of Victims, under Article 12 – [1], par. 4.

⁵⁶ Charges for crimes other than THB in a presumed THB case could be set as an intentional strategy when there are no sufficient elements for opening a human trafficking case, but should not be the automatic option without assessing the conditions for a trafficking case to be pursued.

trafficking and identifying trafficked persons [for example in forced begging, labour exploitation, different types of sexual exploitation].

Coordinated action for the identification and protection of trafficked persons: a Memorandum of Understanding between the Ministry of the Interior (PMM), the Ministry of Family and Social Services, the Ministry of Labour and Social Security, and the Ministry of Justice (DVR)

In fact, a central and almost exclusive role has been assigned to the PMM in coordinating victim identification and assistance. The Ministry of Family Labour and Social Services plays a role in assisting children in general [pursuant to the Child Protection Law No. 5395 dated 3/7/2005] and Turkish adult nationals [pursuant to the Law on the Protection of Family and Prevention of Violence Against Women No. 6284 dated 8/3/2012]. In addition, law enforcement officers, labour inspectors, inspectors affiliated to the Social Security Institution play a significant role in the detection and identification of the cases of trafficking in human beings for the purpose of labour exploitation, as well as notification and referral of potential victims of trafficking.

The Regulation on Combating Human Trafficking and the Protection of Victims contains specific provisions in this context:

ARTICLE 23

[2] A protocol shall be concluded with the Ministry of Family and Social Policies in order to determine the procedures and principles related to support services to be provided for citizens of the Republic of Türkiye identified as victim of human trafficking and child victims.

The Protocol has not been designed yet. The Protocol could cover the division of tasks and the coordination procedures and modalities between PMM and the Ministry of Family and Social Services in relation to the identification and assistance of children as well as of Turkish citizens, but could also define the cooperation between the PMM and the Labour Inspection Board.

Furthermore, in the light of the specific role assigned to the Division of Victims' Rights [under the Ministry of Justice] in assisting trafficked persons in their participation in criminal proceedings⁵⁷, preferably in the same or otherwise in a separate Protocol, or Memorandum of Understanding, respective cooperation lines and procedures could be defined. In fact, given that the specific tasks of the DVR pertain to the target groups of the PMM, the Ministry of Family and Social Services, and the Ministry of Labour and Social Security, a comprehensive Protocol/MoU with implementing guidelines would probab-

⁵⁷ Pursuant to Presidential Decree No. 63 on Supporting Victims of Crime

ly be the most effective option. The cooperation framework could even go beyond victim identification and assistance, and also cover coordinated policy making and design and operationalisation of the National Referral System.

Design and formalisation of the NRM

The above-mentioned Protocol or MoU between PMM, the Ministry of Family and Social Services, the Ministry of Labour and Social Security and DVR would create the institutional coordination framework for the identification of, and support to, trafficked persons.

Though, based on the Regulation, optimally to be complemented as outlined previously, it would be worth to design and formalise, in one comprehensive document, the National Referral System and the Standard Operating Procedures for the identification, protection, assistance, access to justice, and social inclusion of trafficked persons.

The SOPs would give clear guidance for all involved actors, for the agency-specific as well as for the multi-agency actions to be conducted in order to identify, protect and support under all needed aspects presumed and identified adult and child victims of trafficking.

Referral as a tripartite system: national, local, transnational

The NRM should be designed and operationalised on a tripartite structure:

- National Referral Mechanism
- Local Referral Mechanism [at Provincial level]]
- Transnational Referral Mechanism [TRM]

It is in fact important that proper considerations of the functioning of the Referral System at the local level are made, and also that at the provincial level the Commission is invited to provide specifications, to structure the Local Referral System according to the context: in this way structure and functioning of referral fit the specific geographical/administrative area concerned, and ownership by local stakeholders is ensured.

Considerations could also be made on whether to support the Local Referral System with an MoU, in order to formalise commitment by the parties.

In parallel, given the cross-border dimension of part of the trafficking phenomenon, it is

important to structure and implement a Transnational Referral Mechanism (TRM), based on identification of and negotiation with the countries which are relevant for Türkiye because countries of origin, or of destination of trafficking flows to or from Türkiye. The TRM would define cooperation procedures to support trafficked persons, for example in order to ensure sustainable safe, voluntary assisted return, with real prospects of social inclusion; or to protect family members in the country of origin; or to ask for information or documents in the country of origin of a person willing to remain in the receiving country etc. Indirectly, the TRM could also facilitate law enforcement international cooperation.



Formalisation of the role of NGOs in the identification and victim assistance process



NGOs have capacity to engage with vulnerable and traumatised persons and to provide tailor-made responses; they are inclined to undertake pro-active initiatives, for example in outreach work; they are flexible and responsive; they can offer a series of diversified services; they have links with the local community and with the local social networks. For all these reasons, as already mentioned, NGOs should be assigned a primary role in the identification of victims of trafficking in all forms of exploitation, as well as in the provision of services for the psycho-social support to trafficked persons, including the management of shelters of different levels and for different kind of victims.

NGOs should be provided regular funding to run quality, multiple services and should therefore also be ensured resources for carrying out research and capacity building as well as for managing their data systems and the monitoring and evaluation system.

In relation to the actions and services of the NRM and to the SOPs, some specific aspects can be pointed out, which are of particular relevance for appropriately conducting the identification and referral procedures and which, according to the stakeholders interviewed in the survey, would significantly improve such processes.

Such specific aspects are proposed along the structure of the typical model of SOPs:

- Identification
- Assistance
- Social Inclusion
- Criminal and civil proceedings

The identification process as a multi-agency task

In order to detect human trafficking and identify victims in the different forms of exploitation, in the various places where exploitation can take place, as well as in the places where intentionally or not those crossing Türkiye in transit for other destinations stop, a multi-agency approach is paramount. The numerous possible first responders have to be ready to identify the need of a response, and to provide it appropriately. They have to be able to “see” a possible trafficking situation, and to act consequently, so that the concerned presumed victims are identified and referred to relevant services.

It should be noted that, as summarised in the GRETA Report, “PMM’s mandate had been gradually expanding since it was created in 2013. The PMM runs the country’s removal centres, and since March 2018, its Department for International Protection has been responsible for proceedings for temporary protection status of Syrians. Further, since September 2018, the PMM has also taken over the registration of refugees and the running of refugee camps”.

This expansion in mandate places the PMM in the position to activate, oversee and coordinate victim identification and referral processes in many relevant contexts where until now they were nearly absent: the migrants removal centres, the refugee camps, the enactment process of the procedures for asylum and temporary protection. The opportunity is therefore also provided to create a closer link between the rights and measures trafficked persons might be entitled to from two different perspectives: international protection and specific human trafficking victims protection and support.

Though, the PMM cannot cover all areas from a geographical and location-type point of view, as well in terms of expertise. Therefore, such extended mandate of the PMM should be carried out through strengthened and expanded partnerships in multiple directions, and with NGOs in particular. In addition, trafficking cannot be seen only in relation to migration or to the transit or temporary stay areas of migrants. Migrants, as well refugees and persons under the temporary protection regime, and Turkish nationals, are exploited in different sectors of the labour market, in different places for sexual exploitation, in households, in the streets for begging etc., and often in multiple forms. It is clear that other agencies have to be made aware of trafficking indicators and of the referral process: Trade Unions, Labour Inspectors, Health Services, Municipal Police. For NGOs it was recommended that they are assigned major role in participating in the identification procedures, supporting the PMM/PDMM as well as the LEAs.

It was in fact noted during the survey that the Regulation on Combating Human Trafficking and the Protection of Victims:

- does not foresee a coordination mechanism between institutions responsible for receiving notifications;
- does not delegate responsibility the Ministry of Family and Social Services, institution responsible for protection of children, in the identification process.

In terms of implementation, the agencies playing a role in the identification process and expected to adopt a multi-agency case management model, are acting independently from each other.

It is therefore clear that the response needs to be further organised.

Responses should include pro-active approaches, to enhance identification of trafficked persons in the different forms of exploitation, including outreach work.

It is equally important that the activities aimed at strengthening and conducting identification have accredited interpreters available when needed and ideally cultural mediators, a professional profile still to be defined that could play a crucial role in the Turkish context, not only in relation to human trafficking but also in relation to migration and international protection.



Awareness and different levels of training and specialisation: based on mandate and role



The organisations and their professionals likely to come in contact with possible trafficked persons have to be informed and trained about human trafficking and the responses to be provided. Though, the level of specialisation should differ according to the role of the organisations: awareness-raising and training have to be planned in that perspective in a functional way. Personnel from the educational or health services for example, or from the municipal police, should have a general preparation and should be able to identify the main indicators of trafficking and to refer the concerned person appropriately. Conversely, a social worker or a psychologist appointed to conduct an interview with a presumed child victim of THB have to be fully trained.



Coordinated interviews



In the identification process, it is crucial that the interviews of the presumed trafficked persons are properly coordinated among the involved actors. It is crucial in order to avoid the risk of repeated interviews and re-victimisation, as well as the risk of not collecting the information in the proper way or missing some important elements that

can be provided in the interview. When multiple actors are involved, joint preparation of the interview and joint assessment after the interviews is crucial, and in that way the interview can be conducted by appropriate professionals in the most limited number possible, and repetitions, as well as gaps in the collection or organisation of the information can be avoided.

The same principles apply when it comes to risk assessment, as well as in the following steps of the assistance process, or the support aimed at ensuring social inclusion, or those supporting the victim/witness in cooperating in the investigation and testifying at court.

Risk assessment: a continuous, coordinated process

Risk assessment is crucial at the early stages of identification and assistance, in order to verify possible danger for the [presumed] victim of trafficking and their significant others, including in the country of origin. Though risk assessment, and the design and implementation of a consequent Risk management plan is a continuous and multi-agency process. It should be conducted in a multi-agency setting by law enforcement agencies and service providers at the different stages of the support programme for victims of trafficking, or voluntary return programme, and also before, during and after court proceedings.

Optimise the functioning of existing helplines: creation of one specialised multi-lingual anti-trafficking hub-helpline

It has been highlighted that the various helplines active in Türkiye do not always offer and effective response: they receive few calls, respond to various other issues, are not coordinated.

It could therefore be assessed if to envisage the creation of a single specialised multi-lingual anti-trafficking helpline:

- In- able to receive pertinent calls diverted from the various helplines when it is about a presumed trafficking case;
- able to receive direct calls from possible victims [specific and differentiated reach-out campaigns promoting the helpline to be carried out];

- able to receive direct calls from citizens (specific campaigns promoting the helpline to be carried out, highlighting the various forms of trafficking and the diversity of trafficked persons and the conditions they might be in);
- able to refer the calls to the local anti-trafficking agency in the position to provide a suitable response to the issue raised;
- able to ensure also networking functions among the anti-trafficking stakeholders, for example connecting them across different geographical areas (this function needs to be assessed in particular by the PMM and in relation to the needs and capacity of the PDMMs).

The victim support programme: a range of quality services for first assistance and longer-term assistance aimed at social inclusion

Rights-based and victim-centred approach have to be applied by all actors and at all stages of the referral process. This means adopting an empowerment approach with a constant attention to the person's needs, consequently designing tailored individualised, multi-faceted and progressive responses, aimed at giving the person the possibility to make viable choices for their life and also to raise their voice with regard to the services and processes he or she is going through.

For this purpose, as highlighted by interviewed stakeholders a whole range of services is needed, in full agreement with the emphasis by GRETA that care services should be strengthened both in quantity and quality so as to provide necessary psychosocial and treatment services for all trafficked persons.

Since this range of services cannot be provided by a single organisation, a multi-agency approach is needed and the joint design of an Individualised Plan for the Support Programme and jointly defined procedures for Case Management would represent a turning point in the NRM.

Access to justice for victims and enhanced criminal proceedings: practical measures are needed

Full protection and the adoption of a human rights-based and victim-centred approach are not opposed to, but on the contrary contribute to more effective investigation and prosecution, because protected, supported and reassured victims of crime are more likely to cooperate with the authorities and have access to justice. This approach can effectively respond to the problem of very limited participation of trafficked persons in

criminal proceedings and high proportion of acquittals in human trafficking cases, if practical measures are undertaken. These include, but are not limited to: provision of adequate assistance services to the trafficked person who as a consequence can recover, feel safe, build trust in the institutions; protection measures preventing the victim-witness to come in contact with the alleged perpetrators; providing the person with accommodation and psycho-social support as well as legal advice during the investigation and before, during and after the court proceedings; accompanying and supporting the person at court; planning and implementing support after the trial. These practical measures, accompanied by risk assessment and management, by their nature, imply a coordinated multi agency work between service providers, law enforcement and judiciary.

Such measures should be part of the SOPs of the NRM.



Enhanced prosecution and adjudication of trafficking cases



riminal proceedings on trafficking cases should nevertheless not rely solely on victim-witness statements and testimony. In order to dismantle the criminal groups and networks, law enforcement agencies and prosecutors need to adopt a systematic pro-active approach based on intelligence-led investigations, enhanced international police and judiciary cooperation, financial investigations. In this regard, the work of the specialised anti-trafficking law enforcement units in place in Türkiye, could be guided by teams of specialised prosecutors to be set up. Also, coordination with law enforcement first responders is needed, as well as with specialised services, for example in the field of financial investigations and money laundering, or cybercrime.

It could therefore be assessed to develop specific Standard Operating Procedures for Investigating, Prosecuting and Adjudicating Human Trafficking cases.

Through multi-layer cross-cutting Partnerships, Protection and Prosecution brought together, with an impact on Prevention

In the above sections it has been highlighted that Prevention needs to be pursued through specific strategies, and that Protection in its broad meaning has to be enshrined in a comprehensive Referral System, and that specific and targeted actions are needed in the field of Prosecution, including at the international level. It has also been underlined that the efficient joint work for the Protection of trafficked persons and the Prosecution of the crime are mutually beneficial and that this convergence can have an impact on Prevention, provided that a multi-stakeholder and multi-agency approach through structured Partnerships informs all areas of anti-trafficking.

In such a complex system, it is crucial to never forget the focus on the groups and persons who are vulnerable to or victims of human trafficking. It is crucial to ensure that the action of all stakeholders moves towards the protection and promotion of trafficked persons' rights.

To that aim the legal framework, the coordination and intervention system, and the training structures of the different stakeholders, have to have a consistent design and implementing guidelines.

It is important that the underlying action-attitude of the anti-trafficking practitioners is informed by the strong belief that the rights of trafficked persons are not a gracious concession, and that each trafficked person is an individual, not the labelled single component of a category. The rights of the individuals, the rights of trafficked persons are "their rights", not a concession, the kind favour of a humanity-inspired law enforcement officer or NGO worker or PMM expert.

Such a rights-based approach not only is compliant with the obligation to protect the human rights of the individual, but also ensures the effectiveness of the protection and assistance measures (because they are meeting the real individual needs), and in addition enhances the success possibilities of the criminal justice actors in investigating and prosecuting the crime of human trafficking (because it is more likely that a protected, assisted and reassured trafficked person is willing to act as victim-witness to contribute to criminal proceedings and to the conviction of the perpetrators).

Therefore, the State must structure a System that provides all possible conditions in place for those rights to be ensured, protected and promoted, and places the agencies and professionals who are supposed to grant and support such processes in the position to do so.

Such an approach brings together Protection and Prosecution with direct effects on Prevention (which requires additional and wider measures), through a multi-layer and circular application of the concept of Partnership.

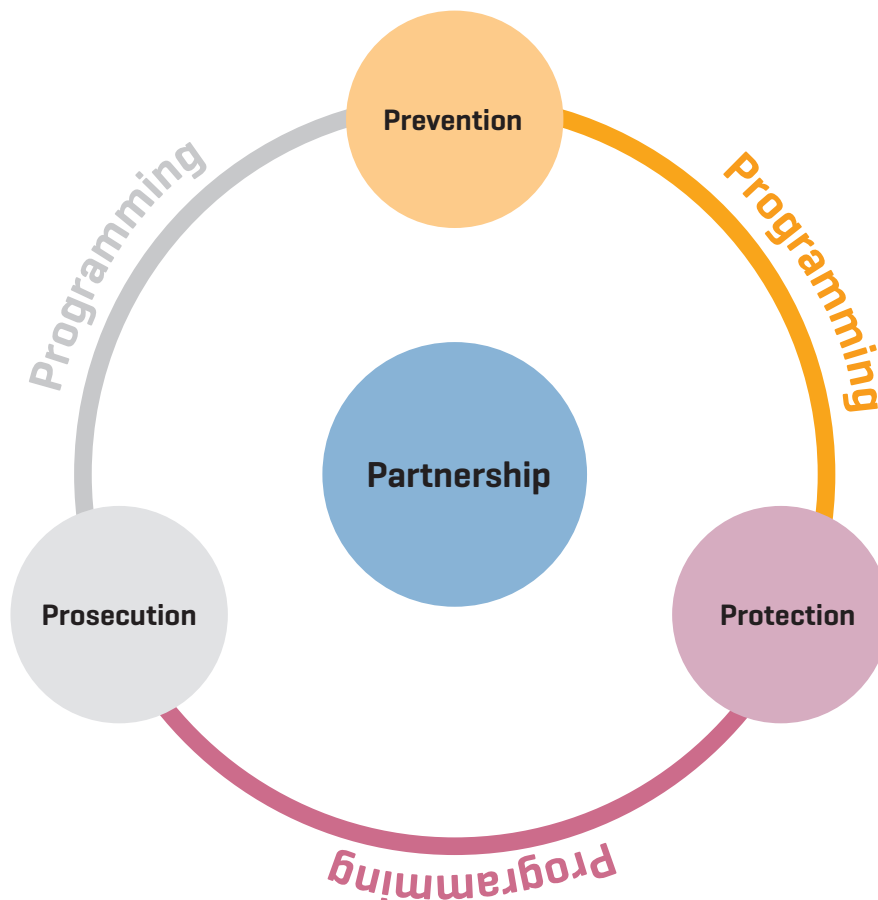
Though, the above-outlined 4 Ps approach would be incomplete without a fifth P: Programming, the engine for the functioning of the machine.

Towards a comprehensive and fully implemented Anti-trafficking System: the fifth P

The 4 Ps approach can work only if the 4Ps are under one other P. A fifth “umbrella P” that can ensure Prevention, Protection, Prosecution, Partnership strategies and measures are designed and carried out in a coordinated and harmonised, mutually beneficial way: Programming.

It might sound naive, but if we look at what Programming entails, it is not: preliminary analysis, planning, implementation, monitoring and evaluation, revision and new planning and so forth, in a continuous multi-dimensional circular cycle, pursued in a systemic and coordinated way.

Graph 10. Making anti-trafficking and victim protection response real: towards a 5 Ps system



So, we may say that it is nothing extraordinary, just normal sound policy making and good management. But it is extraordinary if we look at how this normality is lacking throughout the world, where so many different gaps are sadly visible, despite commonly agreed legal instruments and work principles in anti-trafficking and victim protection response.

And even though what is needed is not extraordinary or exceptional, it is a complex task.

First of all, it entails political will and commitment, clear mandates and tasks, full and shared ownership.

We are hopefully at the eve of the design process of a new National Anti-Trafficking Plan of Action. This is clearly a Programming task, which can lead to a new phase of systemic, coordinated implementation of anti-trafficking and victim protection responses.

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