



Current Anti-trafficking Response in Turkey and the Way Forward

RESEARCH REPORT

Current Anti-trafficking Response in Turkey and the Way Forward

RESEARCH REPORT

Enhanced Identification and Protection of Trafficked Persons in Turkey (IPT)

International Centre for Migration Policy Development

2013

ICMPD Team:

Jenny Andersson Pucher, Melita Gruevska-Graham, Martijn Pluim, Gokcen Sert, Elisa Trossero

Copyright:

International Centre for Migration Policy Development (ICMPD), 2013

All rights reserved. No part of this publication may be reproduced, copied or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any form of storage and retrieval system, without permission of the copyright owners.

International Centre for Migration Policy Development (ICMPD), 2013

Gonzagagasse 1, 5th floor

Vienna, Austria

A-1010

www.icmpd.org

This report was made possible through support provided by the United States Department of State, under the terms of Award No. S-SGTIP-11-GR-0023. The opinions expressed herein are those of the authors and do not necessarily reflect the views of the United States Department of State.

Layout by: Serdar Südor

FOREWORD

This research report reflects on the one hand the current situation of trafficking in human beings (THB) in Turkey, and on the other hand summarises the challenges and provides practical recommendations for the way forward in ensuring a comprehensive national anti-trafficking response. The report is part of the project 'Enhanced Identification and Protection of Trafficked Persons in Turkey (IPT)', implemented by the International Centre for Migration Policy Development (ICMPD) and financially supported by the United States Department of State, Office to Monitor and Combat Trafficking in Persons.

The report shows that Turkey has continuously improved its anti-trafficking response since the signing of the United Nations Convention Against Transnational Organised Crime and its Protocols back in 2000. Important steps have been taken to establish the necessary legal and institutional frameworks, such as criminalisation of THB within the Criminal Code, establishment of an inter-ministerial group (Task Force), establishment of national strategy and national action plans as well as a National Referral Mechanism for trafficked persons. Furthermore, it has to be noted that cooperation has been established between government institutions and civil society organisations in providing services to trafficked persons.

Despite the progress achieved so far, this report also identifies areas in the current anti-trafficking response in Turkey that need improvement. Considering the on-going legal and institutional changes, it points out issues that need to be addressed when designing future anti-trafficking efforts - especially in relation to the finalisation and endorsement of the ongoing draft framework of the anti-trafficking law. In this regard, the report highlights actions needed to ensure an "all inclusive" approach towards all forms of trafficking at both the national and transnational level that equally targets foreign as well as domestic victims of trafficking. The recommendations are based on promoting human rights and a victim centred approach as the key foundations of ensuring a comprehensive national anti-trafficking response.

This report presents a summary of interviews carried out with key anti-trafficking informants. Moreover, the viewpoints gathered from the three non-governmental organisations in Ankara, Antalya and Istanbul benefit from the insights gained through the hands on experience of the NGO workers in their direct contact with trafficked persons. Their insights provided an increased understanding of the existing assistance and protection schemes, and the steps that need to be taken to strengthen a victim-centred approach.

We hope that this report will be taken as an inspirational tool for moving towards the further establishment of the anti-trafficking legal and institutional framework in Turkey. We trust that the recommendations developed will result in targeted interventions conducted in a multi-disciplinary setting involving all of the relevant state and non-state actors.

Martijn Pluim
Director, ICMPD

ACKNOWLEDGMENTS

ICMPD acknowledges and appreciates the input provided by several institutions and organisations that contributed to the drafting of this report. First and foremost, we would like to acknowledge the key informants of the governmental and non-governmental agencies working on anti-trafficking issues in Turkey who accepted to be interviewed and share their experiences with the common view to improve the anti-trafficking response in their country, in particular to the Directorate General for Migration Management (DGMM), the Migration Department of the Turkish Ministry of Foreign Affairs, the Turkish National Police, the Human Resource Development Foundation (HRDF), the ofAntalya Family Counsellors Association (AFCA) and the Foundation for Women's Solidarity (WSF).

Thanks to the ICMPD colleagues that contributed to the drafting of this report, in particular to Jenny Anderson Pucher, Melita Gruevska Graham, Martijn Pluim, Gokcen Sert and Elisa Trossero.

Finally, ICMPD would like to thank the United States Department of State, Office to Monitor and Combat Trafficking in Persons for financially supporting this research report and the overall project 'Enhanced Identification and Protection of Trafficked Persons in Turkey (IPT)'.

Table of content

Foreword • 3

Acknowledgements • 5

Acronyms and abbreviations • 6

Introduction • 7

- About the report • 8
- IPT project • 8
- Methodology • 9

PART ONE: Overview of the situation of THB in Turkey • 11

- Introduction • 11
- Main forms and trends • 12
- Legal framework • 16
 - a. International instruments • 16
 - b. National policy and legislation • 18
- Institutional response • 23
 - a. National stakeholders • 23
 - b. National Referral Mechanism • 25
 - c. The National Task Force • 26
 - d. The 157 helpline • 27
- Conclusions • 29

PART TWO: Considerations and action oriented recommendations • 30

- Scope of trafficking in human beings in Turkey • 30
 - a. Forms of trafficking • 30
 - b. Domestic and foreign victims of trafficking • 32
- Initial referral and identification of trafficked persons • 34
- Cooperation with NGOs • 36
- National Referral Mechanism • 38
- Reflection period and residence permit • 41
- Transnational Referral Mechanism • 43
- Investigation • 45
- Capacity building • 47

List of references and resources • 52

Annex1: Guidelines for the development of TRM for trafficked persons • 52

Annex 2: Questionnaire • 61

Annex 3: Questionnaire on data collection • 67

ACRONYMS AND ABBREVIATIONS

AFCA	Antalya Family Counsellors Association
CCP	Code of Criminal Procedure
CoE	Council of Europe
DGMM	Directorate General for Migration Management
EU	European Union
EUROPOL	European Police Office
GO	Governmental Organisation
HRDF	Human Resource Development Foundation
IAP	Individual Assistance Plan
ICMPD	International Centre for Migration Policy Development
ILO	International Labour Organization
IO	International Organisations
IOM	International Organization for Migration
IPT	Identification and protection of trafficked persons
MFA	Ministry of Foreign Affairs
MOU	Memorandum of Understanding
NAP	National Action Plan
NGO	Non-Governmental Organisations
NPAA	National Programme for the Adoption of the Acquis
NRM	National Referral Mechanism
NTF	National Task Force
OHCHR	Office of the High Commissioner for Human Rights
SOP	Standard Operating Procedure
STDs	Sexually transmitted diseases
TiP	Trafficking in Persons
THB	Trafficking in Human Beings
TNP	Turkish National Police
TCC	Turkish Criminal Code
TRM	Transnational Referral Mechanism
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office for Drugs and Crime
VoT	Victim of Trafficking
WSF	Foundation for Women's Solidarity

INTRODUCTION

About the Report

The research report was implemented by ICMPD within the framework of the project 'Enhanced Identification and Protection of Trafficked Persons in Turkey (IPT)'. The scope of the report is twofold: firstly, to present the current anti-trafficking situation in Turkey including an overview of the legal and institutional framework; and secondly, to identify the main challenges facing the current anti-trafficking response and provide action oriented recommendations to be taken into consideration in future legal and institutional reforms.

The research process started with the commencement of the IPT project in October 2010. The preliminary findings of the report were used to shape the project activities. Based on these findings, some of the initially planned activities were replaced with different ones in order to better respond to the needs of the national actors in Turkey. The report was regularly updated throughout the lifetime of the project in accordance with current developments in the Turkish anti-trafficking response. The final findings of the report are intended to serve as the basis for the development of targeted interventions, to take place at different levels and strengthen the cooperation between all actors involved.

The report is comprised of the following sections:

Introduction:

- Brief introduction of the Research report including methodology of its preparation.
- General description of the IPT project.

Part One: Overview of the situation of THB in Turkey

- Information on main forms, trends and data on trafficking in human beings in Turkey.
- Overview of anti-trafficking legislation.
- Overview of anti-trafficking institutional framework and description of roles and responsibilities of state and non-state actors involved in the anti-trafficking response in Turkey.

Part Two: Considerations and action-oriented recommendations

- Summary of challenges in terms of identification, assistance, protection and referral of trafficked persons.
- Practical recommendations on future action for policy makers and national actors at operational level.

Note: In addition to the information provided in the above mentioned sections, the report also offers a brief introduction to the Guidelines for the development of Standard Operating Procedures for identification and referral of trafficked persons based on ICMPD Guidelines for the development of Transnational Referral Mechanism (TRM) for trafficked persons- TRM EU Guidelines.¹ The development of the SOPs was foreseen in the initial version of the IPT project. However, the project had to be adapted to the current needs of the Turkish anti-trafficking stakeholders and thus, changes were made to the work plan.

IPT Project

The overall aim of the project is to foster multi-agency cooperation and enhance the capacity of relevant anti-trafficking stakeholders in Turkey to identify and protect (potential) victims of trafficking more effectively and ensure consistent involvement of NGOs in the identification process. The IPT project started its implementation on the 1st October 2011 and was finalized on 31st December 2013. The activities implemented in the course of this 27- month project were conceptualized to reach the following specific objectives:

- Objective 1:** To produce an action-oriented research report assessing the present capacity of local stakeholders to identify and refer trafficked persons;
- Objective 2:** To elaborate recommendations on how to increase the capacity of national stakeholders to combat trafficking in human beings and effectively identify, refer and assist trafficked persons and to elaborate Guidelines on steps ahead for the development of Standard Operating Procedures (SOPs);
- Objective 3:** To conduct an expert meeting followed by a multi-agency workshop on the elaboration of the national draft anti-trafficking law;
- Objective 4:** To develop a tailor-made curriculum and train representatives of the institutions involved in the identification process on the basic concept of trafficking in human beings and the importance of the establishment of SOPs for identification and referral of trafficked persons through two-day multi-agency training sessions;
- Objective 5:** To facilitate exchange of information and best practices by organising an expert meeting for the DGMM to discuss future legal and institutional anti-trafficking reforms in Turkey based on expertise provided by other countries.

¹ See Guidelines for the Development of TRM for Trafficked Persons in Annex 4.

Methodology

This research report is based on the findings gathered through desk research, meetings with relevant national stakeholders, questionnaires disseminated to government institutions and reports prepared by NGOs active in Turkey. Furthermore, additional information is included within the report collected during the activities of the project, such as from the expert meetings on the draft anti-trafficking framework law and the trainings on the basic concept of THB and the SOPs for identification and referral of trafficked persons.

The desk research reviewed and analysed existing laws, regulations and reports relevant to THB in Turkey and compiled an overview of the existing legal and institutional framework. During this phase, mapping of relevant legislation and institutions was undertaken to identify the key informants of the assessment. A questionnaire² was developed with the purpose of assessing the current anti-trafficking situation, including the identification process, access to basic needs and risk assessment, protection and assistance schemes, referral process and information on data collection and management. A decision on who to disseminate the questionnaire to was based on information gained from the meetings with relevant national stakeholders and desk research. As a result, the questionnaire was sent to the following governmental institutions, NGOs and IOs: the former Migration Department of the Turkish Ministry of Foreign Affairs (current DGMM), the Turkish National Police, the Asylum and Migration Bureau of the Turkish Ministry of Interior, the Human Resource Development Foundation (HRDF), the Antalya Counsellors Association (AFCA) and the Foundation for Women's Solidarity (WSF), International Organisation for Migration (IOM).

In addition to the questionnaires, three NGO reports were prepared by HRDF, AFC and WSF. The reports were divided into four main areas:

- Legal Framework with a particular focus on an assessment of the draft anti-trafficking framework law;
- Institutional framework and the roles and responsibilities of NGOs in the process of identification and referral in the Turkish provinces of Ankara, Antalya and Istanbul;
- Problems encountered in the implementation of the National Referral Mechanism (NRM);
- Experiences of trafficked persons during the process of identification and referral.

Based on the findings of the NGO reports, Part Two of this report was drafted. Through the voices of the NGOs who directly work with the trafficked persons, areas for improvement were identified and recommendations for future legal and

² See questionnaire in Annex 2.

institutional reform were elaborated. For the purposes of gathering statistical data on victims of trafficking identified in Turkey by governmental institutions, an additional questionnaire³ was developed and data was obtained from the Foreigners Department of Turkish National Police through the Migration Department of the Turkish Ministry of Foreign Affairs and from the Coordination and Operations Department of the Directorate General for Security.

³ See Questionnaire on data collection in Annex 3.

PART ONE:

Overview of the Situation of THB in Turkey

I. Introduction

The situation of human trafficking in Turkey is primarily defined by two key characteristics: Turkey being geographically situated at a cross road of migration flows between Europe, Asia and Africa; and Turkey being a politically and economically stable country that is attractive to other country nationals seeking a better life. These two characteristics make Turkey primarily a country of transit and destination for illegal migration and trafficking in human beings. The main issue pertaining to Turkey as a country of origin is internal trafficking, however, no official statistics currently exist to quantify the scale of this.

Since the beginning of the last decade, Turkey has continuously sought to strengthen its anti-trafficking efforts. These efforts were initiated back in December 2000, when Turkey signed the United Nations Convention Against Transnational Organised Crime and its Protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons (hereafter Palermo protocol) . The convention and its Palermo protocols were ratified in March 2003. In the meantime, in order to identify the gaps and needs in the national anti-trafficking response, a National Task Force was set up in November 2002, under the chairmanship of the Ministry of Foreign Affairs (MFA).

Legal and policy reforms followed. Namely, human trafficking was introduced as a crime in the Criminal Code under Article 80, a national action plan to combat human trafficking was adopted and services became available to trafficking victims.

Turkey has therefore maintained its placement as a TIER 2⁴ country in the US State Department's Trafficking in Persons (TIP) report since 2005.

Turkey's accession process to the EU officially started on 3 October 2005. Within the negotiation process of Turkey's accession to the European Union, developments in the field of Turkey's anti-trafficking efforts are monitored closely. The harmonisation efforts with the EU Acquis, regarding the fight against trafficking in human beings, are implemented in accordance with the Turkish National Programme for the Adoption of the Acquis (NPAA). To date, three NPAA's have been formulated and developed following recommendations from the EU progress report and the Council decisions. The last NPAA was published in 2008 and cites fighting human trafficking as one main priority. Therefore, Turkey's increased efforts to fight human trafficking have been greatly influenced by the EU accession process.

⁴ "TIER" is a classification system introduced by the US Department of State in the course of the yearly Trafficking in Persons (TIP) Report. According to the 2013 TIP Report, TIER 2 countries are those "Countries whose governments do not fully comply with the TVPA's [The Trafficking Victims Protection Act – 2000] minimum standards but are making significant efforts to bring themselves into compliance with those standards.

II. Main forms and trends

This section of the report presents information on available statistics on THB in Turkey. It includes data for the years 2009-2013. Thus, this report includes victim centred data, namely, on the number of potential/identified trafficked persons per year (both foreign and domestic), forms of trafficking and the main countries of origin of victims trafficked to Turkey.

The disaggregated data was collected from the following institutions/organisations:

- Data on **potential trafficked persons** is available from the Coordination and Operations Department of Directorate General for Security⁵;
- Data on **identified foreign trafficked persons** is available from the Foreigners Department of Turkish National Police;
- Data on **assisted foreign trafficked persons** is available from the non-governmental organisations that run shelters for trafficked persons in Ankara, Antalya and Istanbul:
 - Woman Solidarity Foundation (WSF)
 - Human Resource Development Foundation (HRDF)
 - Antalya Family Counsellors Association (AFCA)
- **No data is available for identified and assisted domestic trafficked persons.**

In Turkey, law enforcement actors are responsible for identifying victims of trafficking. The NGOs that run shelters only deal with previously identified victims of trafficking that have been granted access to assistance and protection schemes.

The available data should be interpreted with caution, taking into consideration the large discrepancies in numbers of potential/identified trafficked persons and in type of data collected by different departments within the Ministry of Internal Affairs. The Foreigners Department provided only the total number of identified foreign victims per year and the Coordination and Operations Department provided a breakdown of numbers of potential victims by gender and age (male, female, male minors, female minors). Furthermore, only the Foreigners Department keeps data for trafficked persons per country of origin.

⁵ Note: There are large discrepancies in numbers of potential and identified foreign trafficked persons. From the data presented, it can be assumed that initial referrals of potential trafficked persons to the Foreigners Department to determine the victim status may be done by different sources not only by the Coordination and Operations Department of Directorate General for Security.

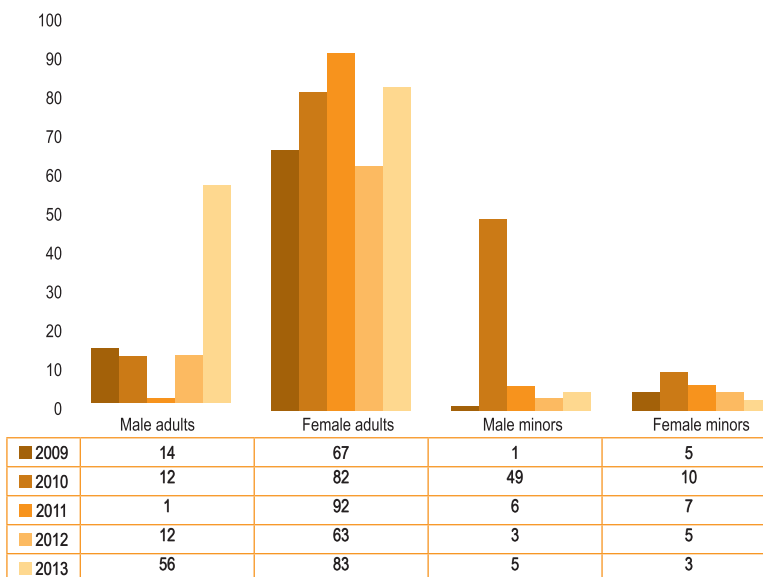
Table No. 1: Number of potential and identified victims in Turkey (2009-2013)

Coordination and Operations Department General Directorate for Security					
Number of potential foreign victims of trafficking in Turkey					
	2009	2010	2011	2012	2013
Male adults	2	39	88	24	0
Female adults	62	130	93	54	95
Male minors	1	2	10	20	0
Female minors	0	0	6	0	2
Total	65	171	197	98	97
Number of potential domestic victims of trafficking in Turkey					
	2009	2010	2011	2012	2013
Male adults	14	12	1	12	56
Female adults	67	82	92	63	83
Male minors	1	49	6	3	5
Female minors	5	10	7	5	3
Total	87	153	106	83	147

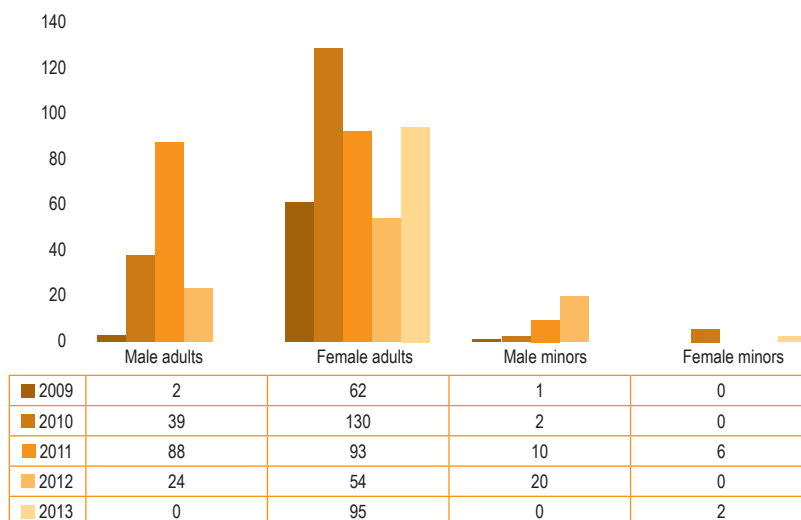
Foreigners Department Turkish National Police					
Number of identified foreign victims of trafficking in Turkey					
	2009	2010	2011	2012	2013
Total	102	58	82	55	11

The above table shows that the vast majority of all potential persons in Turkey are female. However, data from the Foreigners Department of the Turkish National Police is not available on officially identified victims by gender. The distribution of the potential victims by gender and age is shown in the charts below.

Chart nr. 1: Gender and age of potential domestic trafficked persons (2009-2013)

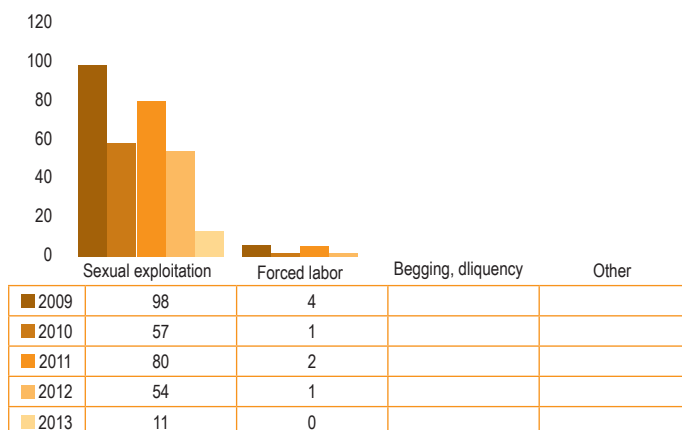


Source: Coordination and Operations Department, General Directorate for Security – Turkey

Chart nr. 2: **Gender and age of potential foreign trafficked persons (2009-2013)**

Source: Coordination and Operations Department, General Directorate for Security – Turkey

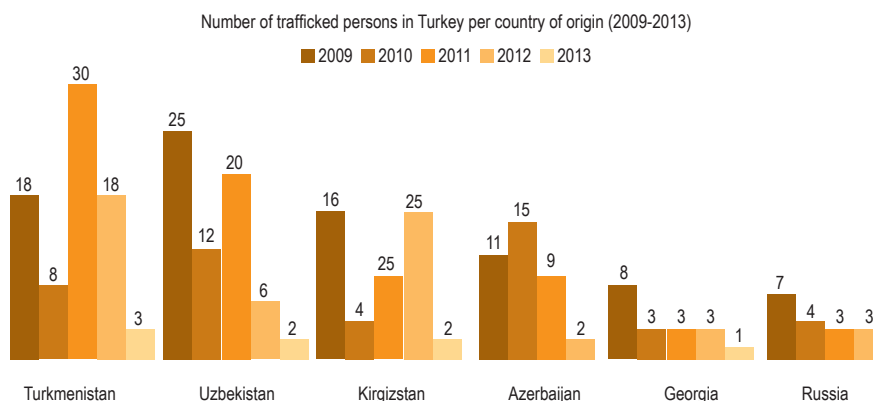
Regarding forms of trafficking, the majority of victims have been trafficked for the purpose of sexual exploitation. Identified foreign victims of labour exploitation, account only for around 3% of all victims.

Chart no. 3: **Forms of trafficking in Turkey- identified foreign victims (2009-2013)**

Source: Foreigners Department, Turkish National Police

In the last five years, the main countries of origin for trafficked persons in Turkey are: Turkmenistan, Uzbekistan, Kirgizstan, Azerbaijan, Georgia, and Russia. As it can be seen from the chart below, there is a significant decrease of identified trafficked persons in 2013. It should however be noted that the data is available only until the month of September 2013.

Chart no. 4: **Countries of origin of foreign victims in Turkey**



Source: *Foreigners Department, Turkish National Police*

Three NGOs run shelters for trafficked persons and provide assistance and services to the identified foreign victims by the Foreigners Department of the Turkish National Police. The station type shelter in Antalya run by the AFCA opened on 1st November 2009 and has assisted in total 29 victims. The WSF provided services to 69 victims over the period of 2009-2013 in their shelter in Ankara. However, due to financial problems, the shelter was closed two times between February 2010-September 2010 and October 2012-October 2013. The Istanbul shelter run by the HRDF has assisted in total 104 victims since 2009 but only two victims were provided services in 2013 since the shelter was closed due to financial problems for nearly half of the year.

Table nr. 2 : **Number of assisted trafficked persons in Turkey (2009-2013)**

	2009	2010	2011	2012	2013
AFCA (Antalya)	2	8	6	5	8
HRDF (Istanbul)	44	22	26	10	2
WSF (Ankara)	37	10	18	4	-
Total number per year	83	40	50	19	10
Total number	202				

Sources: *Family Counselors Association – Antalya (NGO); Women Solidarity Foundation – Ankara (NGO); Human Resources Development Foundation – Istanbul (NGO)*

III. Legal Framework

This section provides an overview of the international and national legal context related to the fight against trafficking in human beings in Turkey.

According to the Turkish constitution, international regulations can be directly applied in Turkey in cases when there are no or insufficient provisions in the national legislation. Therefore the first part provides insight of the applicable international regulations for Turkey.

The second part provides overview of the national legal framework on which Turkey's efforts to fight trafficking in persons is based.

1. International Instruments

The two most important international legal tools, defining and containing provisions regarding human trafficking are the United Nations Convention against Transnational Organized Crime (hereafter the UN Convention) and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (hereafter the Palermo Protocol) and the Council of Europe Convention on Action Against Trafficking in Human Beings (hereafter the CoE Convention).

As stated above, Turkey signed the UN Convention and the Palermo Protocol on 13 December 2000 and ratified them through the Turkish parliament on 25 March 2003. The CoE Convention was signed by Turkey on 19 March 2009 but it is yet to be ratified by the Turkish parliament. In order to ratify the CoE convention, Turkey is taking extensive measures to ensure its compliance within its' national anti-trafficking structures and legislation. However, the ratification process is pending also due to the fact that Turkey is not yet a party to the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. The ratification of the former is conditional upon the ratification of the latter.⁶

Other conventions that shape the international and Turkish legal basis for the fight against human trafficking are:

- **ILO Forced Labour Convention, 1930** – this convention is central as it abolishes forced and compulsory labour in all its form (Ratified by Turkey on 30 Oct. 1998);
- **The Abolition of Forced Labour Convention, 1957** - was designed to supplement the forced labour convention from 1930 by specifying forced and compulsory labour in five additional, specified cases – such as punishment for strikes and for holding certain political views. (Ratified by Turkey on 29 March 1961);

⁶ European Commission (2011), Commission Staff Working Paper, Turkey 2011 Progress Report, pg.95.

- **The Convention on the Rights of the Child, 1990** – contracts governments to protect children from all forms of sexual exploitation and abuse and take all measures possible to ensure that they are not abducted, sold or trafficked. (Ratified by Turkey on 4 April 1995)
- **The Convention on the Abolition of the Worst Forms of Child Labour, 1990** - calls for the prohibition and the elimination of the worst forms of child labour. (Ratified by Turkey on 2 August 2001)

Furthermore, the EU Directive on preventing and combating trafficking in human beings and protecting its victims (2011/36/EU) adopted in April 2011 is also relevant to Turkey as an EU accession country. According to the Directive, all EU member states, EU candidate or EU accession countries should have specific anti-trafficking laws or provisions that criminalise human trafficking. Until specific domestic legislation on trafficking is adopted, existing UN treaties and EU legislation provisions as well as other national provisions⁷ can be used to investigate, prosecute and adjudicate trafficking in human beings.

Regional and Bilateral Agreements

As of 2011, Turkey had signed 70 Security Cooperation Agreements with over 50 countries for combating organised crime and terrorism.⁸ Most of the agreements include provisions for cooperation against illegal migration and human trafficking. Cooperation Protocols within this framework have been proposed to neighbouring and regional countries, such as Azerbaijan, Belarus, Bulgaria, Georgia, Moldova, Romania, the Russian Federation, Ukraine and Uzbekistan in order to activate the relevant clauses of the said agreements.⁹

Since 2003 the Turkish Ministry of Interior has signed several Memoranda of Understanding with the Ministries of Interior of partner countries, as indicated further. These agreements include provisions facilitating the information exchange on traffickers and victims, investigation procedures including joint operations, entitlement of victims to support services and facilitation as well as general awareness-raising and information exchange on the development of the legislative framework in the field of trafficking in human beings and related areas:¹⁰

- Additional Protocol on Implementation of Article 1 of the *Co-operation Agreement against Crime between the Government of the Republic of Turkey and the Government of the Ukraine* (07.06.2005) and with Moldova (08.02.2006).
- Memorandum of Understanding between the Ministry of Interior of the

⁷ Provisions concerning slavery and work under slavery-like conditions, forced labour exploitation, violation of a person's liberty, facilitation of illegal border crossing, violation of public order, the prohibition of the formation of criminal association, the exploitation of prostitution.

⁸ MFA Turkey (2011), Turkey's Efforts In Combating Organized Crime. Online: http://www.mfa.gov.tr/turkey_s-efforts-in-combating-organized-crime.en.mfa

⁹ UNODC (2009), Model Guide On Strengthening the Criminal Justice Response to Trafficking of Persons in the Black Sea Region. Online: http://www.unodc.org/documents/human-trafficking/Model_Guide.pdf

¹⁰ Ariadne Network (2007), Combating Human Trafficking, Problems and Prospects – Turkey, online: <http://www.ariadnet.net/pdfs/12.Turkey.pdf>

Republic of Turkey and the Ministry of Internal Affairs of the Republic of Belarus on Cooperation in the field of Combating Trafficking in Human Beings and Illegal Migration (28.07.2004).

- Protocol between the Republic of Turkey and Georgia on the Implementation of the Ninth Article of the Agreement on Combating Terrorism, Organised Crime and Other Major Crimes between the Republic of Turkey, Georgia and the Republic of Azerbaijan (10.03.2005).
- Bilateral agreements with Lebanon and Spain regarding police cooperation in 2008.¹¹
- Bilateral Cooperation Protocol with Kyrgyzstan on Combating Trafficking in Human Beings (05.09.2006)¹²
- Memorandum of Understanding between the Government of the Republic of Turkey and the Government of Georgia on cooperation in combating crime. The MoU aims to develop and strengthen the existing friendship and partnership relations between their States and particularly to take into consideration common will to strengthen police cooperation. Both states are concerned by the increasing scale and trends of the crime, especially forms of organized crime. and recognise the importance of international cooperation in the fight against crime. The MoU was signed in Tbilisi on 22/02/2012.¹³

Furthermore the “Agreement on Cooperation between the European Police Office (EUROPOL) and the Republic of Turkey” entered into force as of July 2004.¹⁴ Turkey became a member of the International Organization for Migration (IOM) on 30 November 2004. Turkey has also signed the cooperation agreement with the International Centre for Migration Policy Development (ICMPD) in March 2000 and the Turkish authorities are finalising the national procedures endorsing membership of Turkey to ICMPD. Furthermore ICMPD in cooperation with the Directorate General for Migration Management is due to sign the document on the strategic cooperation that will enable both partners to further widen the thematic and geographic areas of cooperation.

2. National Policy and Legislation

Turkey does not have a separate law to combat human trafficking yet. The anti-trafficking response is regulated through the different laws presented below. Currently, the Government is drafting a Law on Combating Trafficking in Human Beings and Protection of its Victims.

Provisions regarding fundamental rights and freedoms set out in the Turkish Constitution form a general basis for sanctions against the crime of human trafficking. Article 17 titled “Personal Inviolability, Material and Spiritual Entity of the Individual” states that:

¹¹ Toktas/ Selimoglu (2012), Smuggling and trafficking in Turkey: An Analysis of EU – Turkey Cooperation in Combating Transnational Crime. In: Journal of Balkan and Near eastern Studies, online: <http://www.tandfonline.com/doi/pdf/10.1080/19448953.2012.656970>

¹² See: <http://www.egm.gov.tr/Sayfalar/turkiyenin-insan-ticareti-ile-mucadele-calismalari.aspx>

¹³ See: www.resmigazete.gov.tr/.../20120808M1-8-1.pdf

¹⁴ MFA Turkey (2011), Turkey on Trafficking in Human Beings, online: <http://www.mfa.gov.tr/turkey-on-trafficking-in-human-beings.en.mfa>

“Everyone has the right to life and the right to protect and develop his material and spiritual entity. The physical integrity of the individual shall not be violated except under medical necessity and in cases prescribed by law; and shall not be subjected to scientific or medical experiments without his or her consent. No one shall be subjected to torture or ill-treatment; no one shall be subjected to penalties or treatment incompatible with human dignity.”

Human trafficking is a violation of this article as it is a crime against the individuals’ material and spiritual entity, and incorporates a treatment incompatible with human dignity. Article 18 ensures the prohibition of forced labour and states that *“No one shall be forced to work. Forced labour is prohibited”* and Article 19 titled “Personal Liberty and Security” sets out that as a principle no one shall be deprived of his or her liberty.

Turkish Criminal Code

Currently the key piece of legislation in the fight against human trafficking is an amendment to the Turkish Criminal Code (TCC) no.765¹⁵. This amendment took place in 2002 and the crime of human trafficking was included in the TCC.

In 2006, the TCC was amended and “prostitution of others” was included in the definition of human trafficking. Also, the definition of the crime of human trafficking includes the phrase *forced to prostitution* in the description of human trafficking. With this the most important dimension of human trafficking can be punished.¹⁶

Although, trafficking for the purpose of sexual exploitation is considered as the main form of human trafficking in Turkey,¹⁷ prostitution is not defined as a crime in the TCC. It is regulated through a secondary legislation titled “By-law on Provisions Regarding Prostitutes and Brothels and Fight against STDs Transmitted Due to Prostitution.”¹⁸ The shortfall of this regulation lies in the terms dictating the registration of foreign sex workers, leaving people more vulnerable for exploitation by traffickers.

The engagement and facilitation for child prostitution is regulated by Article 227 of the TCC and sets provisions and penalties for persons who engage children and facilitate their prostitution. Despite covering an important provision in the law, Article 227 does not cover trafficking for sexual exploitation.

Trafficking in organs or tissues is criminalised under TCC with Article 91. If the offender has acted with the intention of removing organs of the victim and has

¹⁵ For the full text in English: http://www.justice.gov.tr/basiclaws/Criminal_Code.pdf

¹⁶ Ministry of Foreign Affairs (2011) Turkey on Trafficking in Human Beings, online: <http://www.mfa.gov.tr/turkey-on-trafficking-in-human-beings.en.mfa>. This statement is based on the data on trafficked persons in Turkey, provided by the Turkish Ministry of Foreign Affairs, in cooperation with IOM through the project www.countertrafficking.org.

¹⁷ Idem

¹⁸ Adopted through Cabinet of Ministers Resolution No: 30/03/1961 - 5/984 and published in Official Journal dated 19 March 1961 No. 10786.

succeeded in achieving his objective, he must be penalised for both offenses – the crime of human trafficking (Article 80) and the crime of trafficking in organs (Article 91). Because the commission of the intermediary acts is not necessary for the crime to occur, the perpetrator would also be punished for the intended crime if it had also been committed.

Labour Related Laws and Regulations

Laws regulating labour provisions are indispensably correlated to human trafficking legislations.

Article 117 of the TCC sets out penalties for the violation of freedom of work and labour. The difference between Article 117 and Article 80 stems from the fact that Article 117 does not mention having consent of the victim through threat, pressure, force or violence. This stipulates that if the victim has not consented in face of a threat, pressure, force or violence, the crime mentioned in Article 117 occurred and the perpetrator is punishable by this provision which sets out a prison sentence from six months to three years.

Furthermore, Article 229 of the TCC sets out a prison sentence between one to three years for *“any person who uses children or persons lack of corporal or spiritual ability in beggary”*.

The Law on Work Permits of Foreigners regulates conditions and durations of work permits that are given to foreigners, working in Turkey. The Ministry of Labor and Social Security is the only institution in Turkey that has authority to grant work permits for foreigners. The application directive of this Law¹⁹ includes regulations concerning the fight against trafficking in human beings and protection of the victim.

An important regulation has been introduced in February 2012 that facilitates faster procedure for obtaining work permits by victims of trafficking. Namely, the regulation states that the application of work permits for victims of trafficking will be finalized without being subject to the evaluation criterias set forth for the other applications..

Passport Law

A very general provision against trafficking in human beings, sexual and labour exploitation is stated in this Law. The Law prohibits trafficker and smugglers to enter the country.

Law on Highway Transportation

Another stand against trafficking in human beings and smuggling of migrants was taken on 19 July 2003 and 25 February 2004 when the Law on Highway

¹⁹ Published in the Official Journal N. 25214 dated 29/8/2003 and amended on 21.01.2010, 31.07.2010, 28.04.2011 and 14.02.2012

Transportation and its Directive came into force. With this directive the pure act of conveying persons illegally through the country is penalized by withdrawal of the highway transportation permits for a minimum of three years in addition to the conviction of trafficking in human beings or human smuggling.

Turkish Citizenship Law

In order to prevent forced marriages, marriages of convenience and human trafficking through fake marriages, Turkey included an amendment to its Citizenship Law in 2003²⁰ and 2009²¹. With these amendments, foreigners are no longer able to acquire automatic citizenship when marrying Turkish nationals, but need to be married for at least three years before applying for the Turkish citizenship.

Turkish Civil Code

Furthermore the Turkish civil code includes additional provisions²² regarding forced marriages, defining the annulment of marriage if it was forced.

Circular 74

In 2006, all above mentioned national laws, regulations, provisions and tools were summarised and collected in a single document, numbered circular 74.²³ With this document, the Turkish government took a big leap in formalising its national anti-trafficking efforts and moving towards compliance with international standards.

Circular 74 is a comprehensive document that covers a variety of subjects regarding the fight against human trafficking, including: rules and regulations on awareness raising campaigns, training of law enforcement units, investigation of trafficking crimes, investigation of perpetrators in trafficking cases, identification of victims of trafficking, victim protection and support, cooperation with civil society and international organisations, reflection period and temporary resident permits, ensuring safe return of the victims and international cooperation.

The Circular refers to the national legislations, but it is also accompanied by a manual that has a comprehensive overview of trafficking trends in Turkey, central definitions and step by step instructions on how to investigate trafficking cases, treat victims, national and transnational referral mechanisms and prevention strategies. Furthermore it also includes an identification document for victims of trafficking in human beings²⁴ to guide the conduct of assessment interviews.

²⁰ Amendment made through Article 1 of Law dated 4 June 2003 No. 4866.

²¹ The enactment of the new Turkish Citizenship Law No. 5901 dated 29 May 2009 abolished the previous but maintained the same requirement in its Article 16.

²² Turkish Civil Code No. 4721, dated 22 November 2001 includes. Articles 149, 150 and 151

²³ MoI Turkey (2006) Circular on Fighting Against Human Trafficking, B.05.1.EGM.0.13.07.06.illegal-9-, 21.11.2006

²⁴ MoI Turkey (2006) Circular on Fighting Against Human Trafficking. 7.1. Qualification of Official to Conduct the Interview.

Law on Foreigners and International Protection

Since 2008, the Turkish Ministry of Interior has been preparing to establish a Directorate General for Migration Management (DGMM) and a Department for Protection of Victims of Trafficking.

The law that provides the basis for the establishment of these structures is the Law on Foreigners and International Protection enacted in April 2013. After the endorsement of the Law, DGMM was established as an institution within the Ministry of Internal Affairs consisting of 12 service units, among which is the Department for Protecting Victims of Human Trafficking. The Law lists in general terms the duties of this Department but it doesn't go into details about the Department's role in the anti-trafficking response in Turkey. It is expected that further regulations will be enacted to specify the scope of work of the Department.

In addition, a very important provision in this Law is the right to temporary residence permits granted to victims of trafficking, as a separate category in the Law, valid for thirty days to allow for a period of recovery and reflection. This period may be extended for six months but cannot exceed three years in total.

The National Action Plan

At policy level, Turkey has adopted two national action plans (NAP).

The first NAP was adopted in 2003 and focused on victim assistance and support (establishment of shelters, medical assistance, and safe voluntary return of victims) but it also included provisions on legal changes, establishment of a helpline, training of law enforcement personnel, raising awareness, data collection and support to NGOs.

The second NAP was approved by a Prime Ministerial decree on 18 July 2009. It includes activities to address strategy and policy in the fight against trafficking in human beings, raising awareness, victim assistance and support, return and reintegration assistance, legal and administrative amendments, technical supply and quality provisions, and inter-agency cooperation.



IV. Institutional Response

In parallel with the development of the legal framework the institutional framework has also been restructured and set up to comply with the changing legislation and international standards.

1. National stakeholders

Trafficking in human beings requires a multi – dimensional approach in order to address its multiple facets. There are various stakeholders involved in the Turkish anti-trafficking response in order to cover all aspects. Changes in regard to the anti-trafficking institutional framework in Turkey are expected to take place in the near future based on the new Law on Foreigners and International Protections and the newly established Department for Protecting Victims of Trafficking in Human Beings within DGMM. The DGMM and its Departments will not become fully operational until April 2014 however, and therefore this part of the report refers to the current roles and responsibilities of the agencies involved in the anti-trafficking efforts in Turkey.

The Ministry of Foreign Affairs has held the role of the National Task Force Chairmanship, serving as the coordination mechanism between the main anti-trafficking stakeholders in Turkey. The position of a National Anti-trafficking Coordinator is delegated to the Director General of Consular Affairs. Together with the Ministry's Department of Asylum and Migration, the National Coordinator organises meetings of the National Task Force (NTF).²⁵ During the elaboration of the National Action Plans (NAPs), the Task Force met on a regular basis. However since the finalisation of the NAP in 2009, the NTF has called for meetings when deemed necessary on an ad-hoc basis.

The Ministry of Interior is responsible for the General Directorate of Security, the General Command of Gendarmerie and the Turkish Coast Guard Command. Next to the national police, these are the main actors involved in the investigation of trafficking cases. In accordance with the Law on Foreigners and International Protection, DGMM was established under the Ministry of Interior to implement migration policies and strategies, ensure coordination among relevant agencies and organisations and among the other things is responsible for the protection of victims of human trafficking.

The Ministry of Health is responsible for the free medical care program for victims of trafficking. The free medical care programme is covered by Circular 74 and the Ministry's Circulars No. 544 and No. 6679. These Circulars were distributed in 2004 and 2006 respectively to inform all relevant public institutions.

²⁵ Kartusch / Reiter / Uhl (2006), Assessment on Victim Assistance and Support. An analysis of the National Referral Mechanism in Turkey, BIM, Vienna.

Implementing the Turkish Criminal Code, **the Ministry of Justice** is the central actor in leading prosecution cases against offenders involved in human trafficking and/or exploitation.

The Ministry of Family and Social Policies and its Directorate General for Child Protection Services and the Directorate General for Women's Status have assumed roles that can be closely linked to counter-trafficking in the future. The women guesthouses, managed by the Ministry, provide support to women exposed to physical, emotional, sexual, economical exploitation or violence. These guesthouses are boarding social service institutions for women and their children where they can stay temporarily. There are 90 women guesthouses with the total capacity of 2441 beds. In December 2012, in 14 pilot provinces, Violence Prevention and Monitoring Centers had been opened under this Ministry. Expert personnel (preferably women) are employed in these centers. The centers provide services which focus on economical, psychological, legal and social empowerment of women. These 24/7 support and monitoring services, through a single door system, focus on prevention of violence as well as efficient implementation of protective and preventive measures.

The Ministry of Labour and Social Security carries out regular inspections to work places and private households where domestic workers may be employed to investigate issues such as salaries, social insurance and overtime payments. The ministry issues work permits for victims of human trafficking as part of the victim support process. Furthermore, a labor contract obligation was introduced between the employers and the foreigners evaluated to be possible victims of trafficking. The labor contract includes provisions on what to do in case of being subject to human trafficking. Also, Presidency of Migration Department has been established under General Directorate of Labor.

The Ministry of National Education is responsible for national awareness raising campaigns and public commercials on combating human trafficking and exploitation.

The Local Bar Associations is assigning lawyers specialised in human trafficking cases free of charge to victims of human trafficking.

Government partners include civil society and international organizations such as the Women Solidarity Foundation (WSF), the Human Resource Development Foundation (HRDF), the Antalya Family Counsellors Association (AFCA) and the International Organization for Migration (IOM) that provide direct services to victims. In addition IOM serves as the secretariat of the National Task Force.

WSF is based in Ankara and provides support for victims of trafficking by running a shelter. Support measures may include the facilitation of psychological, medical and legal help, supporting the victim in obtaining a residence or work permit, or facilitating the return process. The Ankara Metropolitan Municipality provided a building and furnished it to be used as a shelter. In 2011 the shelter was financed by the Ministry of Foreign Affairs. Continuous financing remains a concern. However,

DGMM will take over the financing of the shelters from its own budget once becoming operational in April 2014.

HRDF operates a shelter in Istanbul. The maintenance of the shelter is based on a framework protocol between the HRDF and the Municipality. Support measures may include the facilitation of psychological, medical and legal help, supporting the victim in obtaining a residence or work permit, or facilitating the return process. Victims tend to stay for a short term period only until the return process is implemented.

AFCA runs a station type shelter in Antalya and presumed victims of trafficking are referred to their shelter by the Turkish National Police. AFCA is partly included in the identification process, however this is based on de-facto situations as the cooperation protocol between AFCA and the Ministry of Interior does not include provisions regarding cooperation on identification of victims.

2. National Referral Mechanism

The National Referral Mechanism (NRM) is framework for cooperation between state actors. It helps them to fulfill their obligations to protect and promote the human rights of trafficked persons. The basic aim of the NRM is to provide an effective way to refer victims of trafficking to services. In addition, the NRM can support the improvement of national policy and procedures on a broad range of victim-related issues such as residence and return regulations, victim compensation, and witness protection.²⁶

The Turkish NRM has been developing for over a decade and it is comprised of government institutions, civil society partners, embassies and international organizations. The cooperation between these partners has been secured by diverse Memoranda of Understanding and Circular 74 and its annexed manual.

The first point of notification or contact for victims of trafficking in Turkey is mainly through law enforcement operations and calls made to the 157 helpline. Victim identification is carried out by the foreigners section of the Turkish national police. The identification is done based on the victim's testimony and other evidence collected during the investigation. A statement from the victim is necessary to start the investigation.²⁷

Women identified as presumed victims of trafficking by the police are referred to a state repatriation centre (also called "guesthouse") in the district. These centres are regulated and operated by the General Directorate of Security. The aim of these centres is to accommodate irregular migrants until their deportation.²⁸

The following step requires that law enforcement personal notify the closest shelter and transfer the victim to the shelter. Three NGO run shelters exist in Turkey located in Istanbul, Ankara and Antalya. They accommodate victims of human trafficking and support them during the assistance and protection process. They offer a 24/7

²⁶ Ibid

²⁷ Ibid

²⁸ HRDF (2012) Questionnaire provided by ICMPD, Vienna

service, providing a safe place to stay, psychological support, access to social workers, interpreters, free medical care, legal support and counselling.

Regardless of whether the victim will be sent to a shelter or not, the victim support process includes the following:

1. In cases where the victim does not want to be transferred to a local shelter, they remain at the state repatriation centre until their return to their country of origin is organised. Circular 74 stipulates that this process shall be supported by the police, in case a shelter is not involved.
2. In case the victim agrees to seek protection in a shelter, circular 74 grants the victim free access to a safe shelter, psychological support, guidance through social workers, health care and legal advice.

Prior to the introduction of the Law on Foreigners and International Protection, Circular 74 contained provisions regarding victims of trafficking being granted a one-month reflection period to consider their cooperation with the Turkish authorities. During this period the victims can be hosted by the available shelters. During the reflection period, the trafficked person is informed about his or her options to stay in Turkey. These options entail the following:

1. Within the programme of the victim support process, victims have the right to remain in Turkey for 6 months,
2. Victims of trafficking have the right to apply for a humanitarian visa, which is also valid for 6 months and may be renewed. This visa is issued by the Turkish national police from the Department for Foreigners, Borders and Asylum.²⁹ When issued with a humanitarian visa, the person also receives a residence permit and is eligible to work in Turkey.

3. The National Task Force

In order to consolidate the efforts of the national anti-trafficking response, a National Task Force (NTF) was set up in November 2002, under the chairmanship of the Ministry of Foreign Affairs (MFA). The NTF serves as a coordination mechanism between the main national anti-trafficking stakeholders and has fostered the main legal and institutional developments over the past decade.

The national task force is chaired by the MFAs Director General for Consular Affairs. Members of the NTF are the Prime Ministry, the Ministry of Justice, the Ministry of Interior, including the Turkish National Police and the Gendarmerie General Command, the Ministry of Finance, the Ministry of Labour and Social Security, the Ministry of Family and Social Policies as well as the Ministry for EU Affairs. Furthermore three NGOs, as well as the EU Delegation to Turkey and IOM are observatory members.

The NTF was responsible for the development of the national action plan.

²⁹ Kartusch / Reiter / Uhl (2006), Assessment on Victim Assistance and Support. An analysis of the National Referral Mechanism in Turkey, BIM, Vienna.

4. The 157 Helpline

The 157 helpline can somewhat be seen as a coordinating body and as an operational tool to support the identification and protection process of victims. It was established in May 2005, in line with the provisions of the first national action plan dictating the operation of a national toll-free telephone line.

The helpline is operational on a 24/7 basis and multilingual operators provide advice in Russian, Romanian, English and Turkish. It is accessible from any part in Turkey including mobile phones. It provides two types of services: *emergency services* and *non-emergency services*.

Since the end of 2006 to date all the registered incoming calls have been divided into seven categories according to the content of the call:³⁰ Since the establishment, 165 victims of trafficking have been rescued through the 157 helpline.

Table 1: 157 Helpline Statistics 2005 - 2012

Overall breakdown of the 157 Helpline database - registered calls between 2005 – 2012	2005	2006	2007	2008	2009	2010	2011	2012	total
Request for rescues	419	927	529	318	428	397	237	32	3287
Irregular migrant	56	218	423	316	201	178	83	10	1485
Marriage	0	12	64	160	140	196	91	21	684
Regular migrant	0	73	291	165	95	89	92	10	815
Assistance to law enforcement	0	31	59	56	92	100	70	10	418
Information sharing	0	12	48	41	88	75	59	6	329
Various topics	505	395	437	241	672	600	229	35	3114
Referral support	262	322	0	0	0	0	0	0	584
Psychological support	26	33	0	0	0	0		0	59
Total	1268	2023	1851	1297	1716	1635	861	124	10775

Source: countertrafficking.org 2012

Explanation of the categories:

- **Rescue requests** include trafficking related cases.
- **Irregular migrant** means a call from a person who has neither a residence nor a work permit.
- **Marriage** includes calls from foreign women living with or officially married to Turkish men. Typically the calls deal with domestic violence and children related problems.

³⁰ IOM (2012), Statistics of Trafficking Cases IOM Turkey 01 January – 30 June 2012. Online: <http://www.countertrafficking.org/2012.html>

- **Regular migrant** comprises calls from students and regular workers, such as dancers, animators, drivers of trucks, seamen, etc.
- **Assistance to law enforcement** means support to police or gendarmerie emergency lines 155 and 156 in interpreting; to law enforcement operational units in preliminary questioning of potential victims of trafficking; to embassies / IOM missions / hotlines / relatives etc. looking for missing persons; and information related to foreigners being detained in Turkish immigration repatriation centres..
- **Information sharing** calls are inquiries about the 157 Hotline, and counter-trafficking related statistics received from NGOs, IOs, universities etc.
- **Calls containing various topics** cover calls from Turkish citizens and deal with information / counselling / referral support.

Conclusions

Over the last few years, Turkey has put considerable efforts in setting up its anti-trafficking legal and institutional response. As a result, the main actors from GOs, NGOs and IOs have been identified and roles and responsibilities for implementing the national anti-trafficking response were defined. In addition, the Palermo Protocol has been ratified; THB has been criminalised within the Criminal Code; two National Action Plans were developed; the NRM was established; and shelters and assistance became available to trafficked persons. There are on-going efforts to strengthen the coordination at central and local level through the establishment of DGMM as an institution that will take over responsibility for consolidating the anti-trafficking structures in a functioning and efficient way.

Notwithstanding the efforts made so far, there is a need to further develop and strengthen the existing legal and institutional framework. The legal reform process has been initiated with drafting of the Framework Law on Combating Trafficking in Human Beings and Protection of its Victims. This demonstrates the commitment of Turkish national stakeholders to enhance the anti-trafficking legal framework, and thus its official adoption is of utmost importance. Moreover, development of secondary legislation will further support the newly established Department for Protection of Victims within DGMM in becoming operational and functioning.

Data collection and analyses has been one of the most pressing issues in Turkey. So far data is collected by different institutions and organisations but not in a unified way. In order to have optimal access to all relevant sources of information, the management and collection of data should be conducted by a central institution in close cooperation with all the other actors that have access to data.

The considerations and future recommendations presented in the following part of the report provide an overview of a number of other issues which pose a challenge in further development of the anti-trafficking response in Turkey.

PART TWO:

Considerations and Action Oriented Recommendations

The Law on Foreigners and International Protection, adopted in April 2013, initiated further legal and institutional reforms in Turkey in regard to migration management, including trafficking in human beings. Comparatively, the Framework Law on Combating Human Trafficking and Protection of Victims is still in draft version and yet to be adopted. The new Law on Foreigners and International Protection introduces institutional changes in terms of new structures for protecting victims of human trafficking. These structures need to be taken into consideration in the future drafting of the Framework Law on anti-trafficking. It is therefore the right moment to consider relevant legal and institutional changes in order to further develop a comprehensive anti-trafficking response in Turkey.

This part of the assessment provides an overview of the current situation along with action-oriented recommendations to be taken into consideration in the future legal and institutional reform. The information is based on the three NGO reports compiled for the purposes of this report.

1. Scope of trafficking in human beings in Turkey

1.1. Forms of Trafficking

*“This Convention shall apply to **all forms** of trafficking in human beings, whether **national or transnational**, whether or not connected with organised crime.” Article 2, Convention on Action against Trafficking in Human Beings, Council of Europe.*

In Turkey, like in many other countries, trafficking in human beings is mainly linked to trafficking for sexual exploitation. The available data shows that almost all of the victims identified in Turkey are foreign women and children trafficked for the purpose of sexual exploitation. Therefore, the victim support mechanisms developed in Turkey are specifically designed to cater for foreign female victims of trafficking for sexual exploitation. A major achievement of the Turkish legal system was amendments to the Criminal Code which criminalises human trafficking and provides definition of this crime. This created a basis for the anti-trafficking response in Turkey and harmonised, to some extent, the national legislation with international standards. However, Article 80 of the Turkish Criminal Code does not specifically mention other forms of trafficking except trafficking for sexual exploitation and removal of organs; the three available shelters accommodate only women; and no appropriate accommodation for male victims is available. Moreover, the regulation of similar crimes such as ‘forced prostitution’ and ‘forced marriage’ in different articles within the Criminal Code often causes uncertainty in implementation, leading to human trafficking cases being evaluated as forced prostitution within the scope of Article 227 of the Turkish Criminal Code.

NGO views...

Types of trafficking recorded:

One NGO reports that statistical data on victims of human trafficking has been collected regularly in Turkey since 2004. However, the same NGO states that, with the exception of cases of sexual exploitation, there is no data on other types of human trafficking. They point out that the majority of victims identified were women.

Another NGO describes how four women victims who had been subjected to labour exploitation were accommodated in their shelter. This is in contrast to information given above stating that there were only cases of sexual exploitation, however, it should be noted that these four cases were not recorded in recent years. Importantly, they also point out that in Turkey, as in many destination countries, identifying victims of labour exploitation is difficult.

NGO views...*Classification of crimes:*

NGOs describe how clearer definition in the Criminal Code would lead to more accurate classification of crimes related to trafficking. One example reported how a clear case of human trafficking was classified as 'forced prostitution'.

Recommendation:

Additional resources need to be made available to identify more attentively not only trafficking for sexual exploitation of women and girls, but also other forms of trafficking. In order to design and implement proper national and international responses to manage cases of all forms of trafficking, in-depth studies need to be carried out to understand the scope of the problem and to develop targeted responses which will involve all relevant actors at local, national, and transnational levels.

Furthermore, it is of utmost importance to amend Article 80 of the Criminal Code to include other forms of trafficking than sexual exploitation. In order to avoid confusion when two separate crimes with the same criminal elements exist in the law, consideration should be given to repealing relevant paragraphs of Article 227 (forced prostitution) and specifying those crimes instead under Article 80 to promote harmonisation within the legal framework.

1.2. Domestic and foreign victims of trafficking

The dynamics of trafficking in human beings in Turkey has continuously been described as being a country of destination and transit, and ignored the dynamics of trafficking in Turkey from a country of origin perspective, particularly in relation to the occurrence of internal trafficking. This lack of recognition of the phenomenon of internal trafficking results in limited support measures for Turkish victims trafficked internally within the territory of Turkey, as well as those trafficked externally to other countries and being returned back to Turkey.

Several steps have been undertaken to improve the assistance and protection system for trafficked persons in recent years. Roles and responsibilities of the national actors have been determined in relation to victim identification and the progression of the referral process following positive identification. At first glance, the victim support mechanism in place appears to apply to both domestic and foreign victims of trafficking. However, Turkey's current anti-trafficking legislative framework and the forms of protection and assistance provided to victims is not well equipped to address internal trafficking.

NGO views...

THB's place in the Criminal Code:

Some NGOs believe that it would be more appropriate to list THB crimes as 'crimes against liberty' or 'crimes against persons' rather than under "International Crimes". This is due to the fact that the classification of THB under international crimes suggests that this is a 'foreign issue'. Additionally, fundamental rights and freedoms of the individual are core legal values and therefore it is important to emphasize that human trafficking is a basic violation of human rights.

Furthermore, due to responsibility for the identification of trafficked persons residing with the Foreigners Department, almost all of the identified victims are of foreign nationality and only foreign victims have been accommodated in NGO shelters so far. Recent legal and institutional changes brought about through the establishment of the Department for Protection of Victims of Trafficking within the Directorate General for Migration Management, based on the Law on Foreigners and International Protection also reiterate the focus of the State's response on protecting foreign victims.

NGO views...

Identification of domestic victims:

Some NGOs in Turkey report that the existence of different forms of violence against women associated with the cultural practices of some groups (forced marriage, unregulated adoption, etc.) often amount to cases of trafficking. These cases are not identified as THB by Turkish authorities, regardless of the fact that the definition of trafficking provided by the Palermo Protocol would define them as such. Importantly, these NGOs note that none of the victims referred to their shelters are Turkish nationals.

Recommendation:

The national laws should institute trafficking in persons as a criminal offence in a manner which ensures equal treatment by national authorities of all cases of trafficking within their territory. This should be taken into consideration when revising the draft framework law to specifically state that the law refers to both foreign and domestic victims of trafficking in human beings in order to avoid lack of access to justice for citizens of Turkey. Moreover, clear procedures should be established to determine the process of identification, protection and referral of domestic victims to a comprehensive assistance scheme.

The drafting process of the framework Law on Combating Human Trafficking and Protection of Victims started in 2011. The first draft was prepared by the Ministry of Foreign Affairs, and was sent to the Ministry of Interior, which organised consultations with civil society representatives and academics to ensure the openness and transparency of the legislative process.

2. Initial referral and Identification of trafficked persons

“The Directive obliges Member States to ensure that a person is provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication for believing that he or she might be a victim of trafficking. Member States also need to establish appropriate mechanisms aimed at early identification, assistance, and support for victims based on their individual needs, at the very least including appropriate and safe accommodation, material assistance, medical treatment, psychological assistance, counselling and information and translation and interpretation services” – The Joint UN Commentary on EU Directive on Preventing and Combating Trafficking in Human Beings, pg.45

Since the establishment of the NRM and the introduction of Circular 74, initial referral and identification of trafficked persons in Turkey has become more formalized. Currently the first points of notification of suspected victims of trafficking are the police and the Department for Foreigners. A Coordination structure between the first points of notification and the NGOs in three main provinces in Turkey (Ankara, Antalya and Istanbul) has been established and assistance is provided to identified victims. Despite this progress, identification of trafficked persons in Turkey is very often dictated by a focus on facilitating investigation of the crime rather than placing the victim's wellbeing and their rights at the centre of the response. This results in a failure to build a trust-relationship between the victim and law enforcement personnel. After the initial referral of potential victims to the nearest police station, an interview is carried out by a prosecutor or law enforcement officer to assess whether there are grounds to initiate an investigation. After the initial interview at the police station, the potential victim is referred to the Repatriation Centre of the Department for Foreigners in the provinces. Here an additional interview is carried out by law enforcement officers. Based on the two interviews conducted, a victim identification protocol is prepared and sent to the central level at the DG Security, Department for Foreigners, Border and Asylum for approval and confirmation of the victim's status. In the absence of station-type shelters in Istanbul and Ankara, where the potential victims can be temporarily accommodated until they are referred to a shelter for further assistance and protection, the victims are placed in repatriation centers that do not satisfy their needs. The whole process is very time consuming and results in repetitive disturbance of an already traumatized person.

NGO views...

Waiting times and holding conditions:

NGOs recount the testimony of victims, indicating that improvements could be made in the manner victims are treated during time spent at police stations. Some of the comments relate to extended waiting periods (examples of 4-5 days are typical; however, there have been occasions of 9-10 day periods). Additionally, victims have commented on a lack of legal support, feelings of uncertainty about their future, non provision of translation services, the standard of living conditions and in some cases accommodation in detention cells with prostitutes. Isolated cases have also reported excessively frequent and seemingly unnecessary medical examinations (14 times in the space of one week in one case).

NGO views...

The victim-centred approach to identification:

Law enforcement authorities are often under pressure to initiate legal action. It has been noted that the victim-centred approach is lacking during initial contact by law enforcement with potential victims, and that law enforcement often insist on victims to provide statements against perpetrators. The victims are often fearful of their situation and are not ready to immediately cooperate. This presents an obstacle in the identification process and often results in missed identification of victims.

Recommendation:

In order to avoid re-traumatization of trafficked persons, the referral process, starting from the initial referral must to be adjusted to better serve the needs of the trafficked persons. Therefore, it should be kept in mind that *assistance and support should be provided immediately after competent authorities have a “reasonable-grounds indication” for believing that the person may be a victim of trafficking. “Reasonable-grounds indication” is sufficient to trigger access to assistance and protection at this stage and without delay.* Following this decision, the potential victim should be referred to a shelter where she/he would be offered assistance and support. For this reason NGOs should be involved in the identification process from the very beginning. Additionally, NGOs are those running the shelters for victims in Turkey and so keeping this in mind, they are a logical choice.

3. Cooperation with NGOs

“Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.”- Article 6, paragraph 3, Protocol to Prevent, Suppress and Punish Trafficking in Persons,

Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

“Member States shall take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations. ” Article 11, paragraph 4, EU Directive on preventing and combating trafficking in human beings and protecting its victims.

In Turkey, cooperation with NGOs is generally established in provision of assistance and support to trafficked persons after they have been referred to the shelters. In essence only one NGO becomes involved at the beginning of the support and assistance process. This starts from identification and initial referral and is recognised as a good practice in Turkey.

NGO views...

Involvement of NGOs in identification:

As a good practice, it has been highlighted that at least one NGO is involved in victim identification interviews together with the Foreigners Department.

NGOs are willing to intensify their involvement in the identification process, and offer assistance in the form of social workers, lawyers, translators and interpreters, psychologists, etc. These professionals could be more heavily engaged at stages where initial contact is established. It is felt that this will assist in building trust between victims and law enforcement and lead to greater success in initiating legal actions.

Non-involvement of NGOs in the identification process in Ankara and Istanbul often results in erroneous identification. This is due to the inexperience of law enforcement officers in terms of the indicators used to determine whether a case relates to human trafficking. Furthermore, since only a few victims of trafficking self-identify as victims, it is very important to approach the victims in a proper

manner. Specialized law enforcement officers are not always present during the initial interviews.

Only three NGOs operating in Ankara, Istanbul and Antalya are involved in anti-trafficking efforts. Having in mind the large territory of Turkey, divided into 81 provinces, it is apparent that this coverage of the anti-trafficking response is insufficient.

NGO views...

Increasing NGO territorial coverage:

In Turkey, there are three shelters in separate provinces assisting victims of trafficking. However, in other provinces, foreign victims are accommodated in the Repatriation Centres of the Foreigners Department until the victim identification processes are completed; in exceptional cases, victims are housed in other public shelters. NGOs suggest expanding shelter services to the wider region, thus allowing more appropriate accommodation of trafficked persons.

Recommendation:

Civil society organizations play an important role in anti-trafficking efforts in Turkey and are a vital link in ensuring human rights and victim-centered approach. Therefore, it is important to involve NGOs at the first stage of the process which begins with identification. This involvement should be based on formal agreements and clear procedures which define the roles and responsibilities of all actors involved in the process - especially the interaction between state and non-state actors. The national and transnational referral mechanisms should be based on standard operating procedures specifying the NGOs' role and involving them as an important actor in all stages of the identification, referral, assistance and support system to trafficked persons.

In addition, a thorough assessment needs to be conducted to identify the most vulnerable provinces in Turkey regarding trafficking in human beings. On the basis of this assessment, a broader coverage of assistance and support structures should be foreseen in the most affected provinces. However, it is not always necessary to establish new structures since this may require significant financial and human resources. Hence, structures such as human rights based NGOs working with other types of vulnerable groups should be identified and involved in the process and their capacity can be further strengthened to ensure proper services to trafficked persons.

4. National Referral Mechanism (NRM)

“Member States should ensure that formal, functional national referral mechanisms are established. These mechanisms should describe procedures to better identify, refer, protect and assist victims and include all relevant public authorities and civil society. The development of criteria for the identification of victims should be included, to be used by all those involved.

Under the Directive on trafficking in human beings, victims should receive appropriate protection and assistance on the basis of individual risk and needs assessments. Carrying out the assessments should be part of the remit of the national referral mechanisms. Based on the first implementation of these national referral mechanisms by Member States, the Commission will develop guidelines on how to further develop them by 2015. They should also address issues such as compensation and safe return. The roles and responsibilities of all those involved should be clearly defined.” - EU strategy towards the eradication of trafficking in human beings, 2012-2016, pg.19

“Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings”. - Article 5, paragraph 1, Convention on Action against Trafficking in Human Beings, Council of Europe.

The NRM in Turkey is developed as such to promote a multidisciplinary approach to the anti-trafficking response by being comprised of Government institutions, civil society partners, embassies and international organisations. The cooperation between these partners has been secured by diverse Memoranda of Understanding and Circular 74 and its' annexed manual.

Due to recent legal and institutional changes, the Turkish NRM must be significantly revised to incorporate new institutions and new legal provisions. The current mechanism has been in development for over a decade and is comprised of government institutions, civil society partners, embassies and international organisations. However, the roles and responsibilities of the anti-trafficking actors are not defined in a detailed manner, which often causes misunderstandings in the process of assistance and support of trafficked persons. In addition, the mechanism mainly targets foreign victims trafficked for the purpose of sexual exploitation.

NGO views...

NGO involvement in the NRM:

NGOs suggest that the National Referral Mechanism (NRM) be more inclusive of 'sensitive groups' which are more vulnerable to human trafficking. They also propose that human-rights based NGOs become more involved in implementing the NRM. This would mean for example, cooperation between NGOs concerned with migrant communities and NRM stakeholders.

Although not all inclusive, regulations within Circular No. 74 exist and anti-trafficking actors are entitled to proceed according to these guidelines. However, the practical implementation of these regulations is often dubious.

NGO views...

Putting regulations into practice:

NGOs stress the importance of Regulations detailed in Circular No.74, which were drafted to meet the requirements of the Palermo Protocol, and the Guide for Counteracting Human Trafficking, which supports the regulations. Additionally, the Guide of Best Practices in Combating Human Trafficking for Law Enforcement units, the Judiciary, NGOs and International Organisations also cover these regulations. NGOs suggest that the timing is now appropriate for an institutional response to implement the guidelines in practice.

Moreover, not all actors are familiar with these regulations which results in unequal treatment of trafficked persons.

NGO views...

Standardising procedures:

NGOs point out that there is some variation concerning the process of victims giving statements. Some victims are said to have given statements at a police station, while others were required to do so in front of a public prosecutor. Sometimes only police are present during the interview process, and victims are not informed about how the process works. NGOs suggest that the process is streamlined and standardised.

Long identification procedures, unsatisfactory and inappropriate facilities and the conditions under which identification is conducted, repetitive exposure to medical checks, failures to inform victims about their rights all result in a failure to identify trafficked persons and contribute to hesitation by victims to initiate legal action against perpetrators. Furthermore, lack of interpretation services by professional interpreters often puts the victims in a situation of fear and anxiety. In many cases victims have been interviewed using informal interpretation by other people accommodated in the Guesthouses as illegal migrants. This causes uncertainties in terms of the accuracy of the interpretation of the victim's statements.

NGO views...

Provision of interpretation services:

NGOs call attention to the practice of using non-qualified persons (held in deportation centres) as interpreters. This practice is said to be problematic both in terms of privacy and accuracy of the translation.

NGO views...*Medical privacy, medical rights:*

All women found in police raids are collectively taken to medical clinics for STD checks, regardless of their status as willing prostitutes or victims of trafficking. Patients are required to personally pay for the cost of examinations and it has been commented that documentation of payment or results of testing are not given to the patients directly. Additionally, due to linguistic barriers it is assumed that any advice on treatment is frequently not understood. Some victims have given accounts of public disclosure of their medical condition which is a breach of the Patients Rights Bylaw.

NGO views...*NGO-Police cooperation:*

Resources for support of relations between NGOs and police units appear to be limited. It is thought that it would be beneficial to improve cooperation and communication between the two groups. This could be done by identifying knowledgeable individuals within the police force who could act as a point of first contact.

Recommendation:

Revision of the Turkish NRM is needed to adapt to current trends and new legal and institutional changes. The present momentum should be used to improve the mechanisms both in terms of institutional frameworks and in becoming more inclusive in regard to forms of trafficking and domestic versus foreign trafficked persons.

Efficient and comprehensive Standard Operating Procedures (SOPs) need to be elaborated to cover the entire sequence of case measures, from identification, assistance and protection, participation and support during legal proceedings and legal redress, to return/ resettlement and/ or social inclusion of victims. These procedures should be designed to equip the relevant actors with the necessary tools to enable full assistance and protection of trafficked persons whilst also maintaining due respect to human rights and victim-centred standards. Since the process of assistance and protection of trafficked persons involves different actors and disciplines and can only become efficient if conducted using a multidisciplinary approach, the SOPs must be formally endorsed at senior governmental level to oblige all relevant ministries and non-state actors to proceed accordingly.

5. Reflection Period and Residence Permit

“Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorise the persons concerned to stay in their territory. - Article 13, Convention on Action against Trafficking in Human Beings, Council of Europe.

“Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:

a. the competent authority considers that their stay is necessary owing to their personal situation;

b. the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.” - Article 14, Convention on Action against Trafficking in Human Beings, Council of Europe.

The current relevant legislation for issuance of residence permits to trafficked persons is the new Law on Foreigners and International Protection. This represents a step forward to ensure protection of foreign trafficked persons in Turkey. Articles 48 and 49 of the Law enables granting a residence permit valid for thirty days to foreigners that are victims of trafficking or where there is strong suspicion that the foreigner may be a victim of trafficking. This allows such foreigners to recover from their unfortunate experiences and reflect on whether to cooperate with the competent authorities. Although not specifically using the words ‘reflection/recovery period’, the provision refers to this concept by using the terminology of a residence permit for thirty days. The law also provides for extension of this period by another six months and up to, but not exceeding three years in total. However, the Law does not go into detail concerning the procedure of granting a residence permit, nor does it state the conditions required. It is assumed that this will be additionally regulated by by-laws or other types of regulations. The weaknesses of the previous system need to be taken into consideration when developing the

procedures for granting residence permits to trafficked persons. Namely, granting of the residence permit up until now has been a long and difficult process which was not immediately forthcoming after reasonable grounds were established for a person being a victim of trafficking. Additionally, it is noteworthy that the procedure related to residence permitting is complex and difficult for the victim to apply for.

According to international standards, the victim should not be interrogated during the reflection period unless she/he agrees to such. This is not possible in Turkey due to often repeated intrusion into the victim's reflection period by law enforcement officials to conduct further investigative interviews, following the initial investigation procedure to ascertain cause for a 'reasonable grounds' identification as a trafficking victim.

NGO views...

Trauma and the Victim-Centred Approach:

NGOs point out that there is a need for police to enhance the concept of the victim-centred approach when encouraging victims to initiate legal action. The victim-centred approach is based on principles of human rights and gender equality, and consideration should be given to the traumatic experiences of victims. This is also illustrated by the long period it sometimes takes to finalise visa applications – waiting extended periods leads to concern and uncertainty which in itself may be considered as additional trauma.

Recommendations:

Procedures for granting residence permits should be precisely determined in future bylaws or regulations. These procedures should include a description of the initial 30-day resident permit granted for the purposes of recovery of the victim. Implementing this will contribute to streamlining the procedure for awarding status to victims - which is important for her/his future assistance arrangements. Moreover, the procedures should foresee assistance to trafficked persons in completing this procedure and ensuring cost-free application. It is important to underline that the protection envisaged should also be valid for victims who do not proceed to recording a complaint. Often victims have reasons not to file a complaint (such as coercion, intimidation or threats to the family in their home country etc.). Since the signs of such intimidation are often difficult to detect, it is therefore recommended that victims should be given the benefit of doubt in respect to the need for such conditions. Special provisions in this regard should apply to child victims of trafficking and this group should be specifically mentioned within the regulations.

6. Transnational referral mechanism (TRM)

“When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary”. - Article 8, paragraph 2, Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime.

Turkey is yet to implement a Transnational Referral Mechanism (TRM) for trafficked persons. Return of trafficked persons to their country of origin is mainly organized by IOM in cooperation with local NGOs. Formalized standard operating procedures for cross border referral of trafficked persons are needed to ensure safe and voluntary return to countries of origin. Circular 74 makes mention of safe and voluntary return - mainly regulating the transport of the victim to the airport, and exit and document control at the airport.

Most of the identified trafficked persons in Turkey are immediately returned back to their country of origin after the investigation process has started. This practice has a negative impact on the prosecution phase of the process.

NGO views...

Return mechanisms:

Victims who wish to return home using their own means can sometimes face difficulties when exiting the country. The procedure follows that a letter from the Foreigner's Department is required to allow him/her exit, however, this 'return letter' can only be applied for by IOM after they have re-interviewed the victim. This is said to be a redundant process step as the victim's status has already been established. NGOs suggest that the return procedure should be altered to exclude re-interviewing by IOM.

Although the return letter is an important support instrument, sometimes this document is disregarded by authorities in some countries of origin. This means that criminal investigations may be initiated against the victim in their home country. Hence, despite the support provided by Turkey, healthy social integration cannot be achieved after repatriation due to problematic practices by countries of origin. NGOs propose that this issue could be resolved by IOM contacting branch offices in the victim's country to ensure proper re-integration procedures are followed.

Additionally, another recommendation is to give consideration to the proper preparation of victims prior to return. If repatriated without prior counselling then feelings of guilt and helplessness may prevail and thus make reintegration into the home society very difficult. As a result, many victims once again become victims of human trafficking.

In many situations, the delayed return of trafficked persons means that victims are kept in repatriation centres in a 'legal limbo' while documents are being processed, transportation arrangements made, statements taken and other procedures undertaken. Conducting risk assessments prior to return does not usually take place. Trafficked persons are referred back to their countries of origin without assessing any imminent risks that may arise upon arrival back home.

Recommendations:

In order to ensure safe and dignified transnational referral of trafficked persons, Standard Operating Procedures should be endorsed in Turkey to clearly define the steps of intervention for different anti-trafficking stakeholders - from identification, through return and referral and during various phases of assistance and protection. See annex 1: *Guidelines for the Development of TRM for Trafficked Persons*³¹ for more information on Guidelines for the development of a TRM for trafficked person elaborated by ICMPD and implemented in some countries from the EU and South-Eastern Europe. Since SOPs are also lacking to support the implementation of the NRM, it is highly recommended to use the current impetus to develop one set of SOPs for both mechanisms – the NRM and a TRM.

³¹ See Annex 1: *Guidelines for the Development of TRM for Trafficked Persons*.

7. Investigation

“Each Party shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, at least when the offence was committed in whole or in part on its territory.” - Article 27, paragraph 1, Convention Action against Trafficking in Human Beings, Council of Europe.

Trafficked persons in Turkey are usually detected by law enforcement units in three commonly known and practiced methods:

- through a hotline (part of the anti-trafficking mechanism)
- victims self-refer when they manage to escape a trafficking situation to the nearest law enforcement centre (police or gendarmerie station)
- victims are rescued through the operations carried out by the law enforcement (raids in cases of witness reports or suspicion).

Research shows that most victims are detected through the first two methods and only a few were found through the operations conducted by law enforcement. Therefore, the situation in Turkey suggests that law enforcement is prone towards reactive investigation rather than proactive (intelligence lead) investigation. It also suggests that law enforcement agencies rely mostly on the victim's cooperation and testimony in initiating an investigation procedure.

NGO views...

Proactive identification:

Some NGOs suggest that most victims in shelters have requested assistance from the police, rather than arriving after being identified during police operations. The question is then raised as to why more women are not being identified from raids. One possibility is that they are too fearful to speak up during the raid.

Furthermore, another important consideration is that the modus operandi of traffickers constantly develops and improves in order to evade criminal responsibility in instances of being caught. This makes it difficult for law enforcement agencies to recognise the elements of human trafficking and often leads to improper erroneous identification of trafficked persons as illegal migrants and thus their treatment as such.

Recommendations:

Strengthening of investigation methods is needed. This should be designed to remove the burden of co-operating and testifying from the victim and instead placing more reliance on intelligence led investigations and other sources of evidence. Establishment of legal regulations relating to special investigative measures combining timely collection of intelligence data and investigation techniques is needed to increase the efficiency of law enforcement in detection of victims. Due to frequent changes and improvements in the modus operandi of traffickers, regular capacity building should be delivered to those involved in the identification of trafficked persons in order to support them being able to look beneath the surface and recognise the often hidden elements of the crime.

8. Capacity Building

“States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with nongovernmental organizations, other relevant organizations and other elements of civil society”. Article 10, Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime.

Capacity building activities have been conducted on an ad hoc basis for government institutions and non-governmental organizations. In Turkey, like in many other countries, due to frequent staff rotations within the police, cooperation between authorities and the NGOs is disturbed. This often leads to a lack of focal points for contact from the police regarding human trafficking cases and a lack of specialized personnel to deal with such cases.

Another problem is that police and Jandarma officers are often unfamiliar with trafficking indicators and how to engage in the national referral mechanism. Inconsistent application of procedures for identifying trafficking victims has continued to disrupt protection and services to victims of trafficking.³²

NGO views...

Knowledge base:

NGOs suggest increasing the number of relevant professionals (social workers, lawyers, interpreters/translators, psychologists etc) involved in operations where initial contact is established. It is also felt that it would be beneficial for law enforcement to contact NGOs immediately after initial contact as this would be advantageous to victim's understanding of the process and reduction of overall anxiety.

Recommendations:

Capacity building is a crucial element for the successful implementation of interagency cooperation as well as of cross border cooperation. It is to be seen as a continues process taking place on regular basis that concerns all relevant state and non-state actors (DGMM, Police, Jandarma, NGOs etc.). Capacity building should address the full process of identification, assistance and protection and

³² US TIP report 2013, pg.369.

referral of trafficked persons, and acknowledge the diversification of actors involved in the process. Trainings should be organised in a multidisciplinary manner that will encourage interaction between all of those that deal with trafficking cases in their everyday jobs.

Furthermore, trainings should be organised for state and non-state actors not only in the current provinces of Turkey where NGO shelters are operational, but also for those actors working in other provinces. This will promote a decentralisation of the anti-trafficking response to allow proper management of trafficking cases outside Ankara, Istanbul and Antalya.

List of References and Resources

AFC (2012)

Questionnaire provided by ICMPD, Vienna

Ariadne Network (2007)

Combating Human Trafficking, Problems and Prospects – Turkey, online: <http://www.ariadnet.net/pdfs/12.Turkey.pdf>

Arslan (2006)

Combating Trafficking in Turkey: A Strategic Approach to Law Enforcement. IOM, Ankara, online: <http://www.countertrafficking.org/default.html>

By-law on Provisions Regarding Prostitutes and Brothels and Fight against STDs Transmitted Due to Prostitution (1961)

Adopted through Cabinet of Ministers Resolution No: 30/03/1961 - 5/984 and published in Official Journal dated 19 March 1961 No. 10786.

Central Finance and Contract Unit (2009)

Strengthening Institutions in the Fight Against Human Trafficking. National Action Plan. EU - Twinning project

Citizenship Law (2009)

Official Gazette No. ??? dated 29 May 2009, Law Nr. 5901

Civil Code (2001)

Official Gazette No. ??? , dated 22 November 2001, Law Nr. 4721

Convention against Transnational Organized Crime and its Supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) (2000)

<http://www.unodc.org/unodc/en/treaties/CTOC/index.html#Fulltext>

Council of Europe Convention on Action Against Trafficking in Human Beings

http://www.coe.int/T/E/human_rights/trafficking/

Council of the European Union (2008)

Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey and repealing Decision 2006/35/EC (2008/157/EC) http://www.abgs.gov.tr/files/AB_Iliskileri/Tur_En_Realitons/Apd/turkey_apd_2008.pdf

Criminal Code (2004)

Official Gazette No. 25611 dated 12.10.2004, Law Nr. 5237, online: http://www.justice.gov.tr/basiclaws/Criminal_Code.pdf

Department for Equal Opportunities / ICMPD (2010)

Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM – EU, Vienna, online: <http://ec.europa.eu/anti-trafficking/download.action;jsessionid=7bphQCGFhvg2Lv1qGGqgVGXqsMRrkVklHg6ywnJpv4zKPTgIJnD!1>

158633405?nodeId=34f9d726-6738-4b3b-ba34-12650b9760db&fileName=Guidelines-for-the-Development-of-a-TRM.pdf

European Commission (2011)

Commission Staff Working Paper, Turkey 2011 Progress Report, online: http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/tr_rapport_2011_en.pdf

European Parliament and the Council (2011)

EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

HRDF (2012)

Questionnaire provided by ICMPD, Vienna

ILO (1930)

C029 - Forced Labour Convention, 1930 (No.29) Convention concerning Forced or Compulsory Labour (Entry into force: 01 May 1932), online: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312174

ILO (1959)

C105 - Abolition of Forced Labour Convention, 1957 (No. 105) Convention concerning the Abolition of Forced Labour (Entry into force: 17 Jan 1959), online: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312250

ILO (2000)

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182) Convention

concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Entry into force: 19 Nov 2000), online: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312327

Kartusch / Reiter / Uhl (2006)

Assessment on Victim Assistance and Support. An analysis of the National Referral Mechanism in Turkey, Ludwig Boltzmann Institute of Human Rights, Vienna Mandated Body, Vienna, online: http://bim.lbg.ac.at/files/sites/bim/Assessment%20Report%20on%20Victim%20Assistance%20and%20Support_0.pdf

Kröger / Malkoc / Uhl (2004)

National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook, OSCE / ODIHR, Warsaw, online: <http://www.osce.org/node/13967>

Law on Work Permits of Foreigners (2003)

Official Journal N. 25214 dated 29/8/2003 and amended on 21.01.2010, 31.07.2010, 28.04.2011 and 14.02.2012

Ministry for EU Affairs (2008)

National Programme of Turkey for the Adoption of the EU Acquis, <http://www.abgs.gov.tr/index.php?p=42260&l=2>

Ministry for EU Affairs (2008)

National Programme of Turkey for the Adoption of the EU Acquis, Chapter 24: Justice, Freedom and Security, online: http://www.abgs.gov.tr/files/Mukteseabat_Uyum_Programi/En/Chapter_24.pdf

Ministry for EU Affairs (2009)

Accession Policy Directorate, Current Situation of Accession Negotiations, online: <http://www.abgs.gov.tr/index.php?p=65&l=2>

Ministry of Foreign Affairs (2011)

Turkey on Trafficking in Human Beings, online: <http://www.mfa.gov.tr/turkey-on-trafficking-in-human-beings.en.mfa>

Ministry of Foreign Affairs (2011)

Turkey's Efforts In Combating Organized Crime, online: http://www.mfa.gov.tr/turkey_s-efforts-in-combating-organized-crime.en.mfa

Ministry of Foreign Affairs (2007)

2007 Report on Combating Human Trafficking. Ankara, online: <http://www.mfa.gov.tr/data/DISPOLITIKA/2007-human-trafficking-eng.pdf>

Ministry of Foreign Affairs (2006)

2006 Report on Combating Human Trafficking. Ankara, online: http://www.mfa.gov.tr/data/DISPOLITIKA/2006_human_trafficking.pdf

Ministry of Interior (2012)

Draft of Draft Law on Combating Trafficking in Human Beings and Protection of its Victims.

Ministry of Interior (2006)

Circular on Fighting Against Human Trafficking, B.05.1.EGM.0.13.07.06. illegal-9-, 21.11.2006

OHCHR (1990)

Convention on the Rights of the Child, Adopted and opened for signature,

Ratification and accession by General Assembly resolution 44/25 of 20 November 1989, Entry into force 2 September 1990, in accordance with article 49, Online: <http://www2.ohchr.org/english/law/crc.htm>

Toktas/ Selimoglu (2012)

Smuggling and trafficking in Turkey: An Analysis of EU – Turkey Cooperation in Combating Transnational Crime. In: Journal of Balkan and Near eastern Studies, online: <http://www.tandfonline.com/doi/pdf/10.1080/19448953.2012.656970>

UNGIFT (2012)

Trafficking for Organ Trade, online: <http://www.ungift.org/knowledgehub/en/about/trafficking-for-organ-trade.html>

UNODC (2009)

Model Guide on Strengthening the Criminal Justice Response to Trafficking of Persons in the Black Sea Region, online: http://www.unodc.org/documents/human-trafficking/Model_Guide.pdf

US Department of State (2012)

Trafficking in Persons Report 2012. Country Narratives – Turkey (TIER 2). Online: <http://www.state.gov/documents/organization/192598.pdf>

WSF (2012)

Questionnaire provided by ICMPD, Vienna

ANNEX 1:

Guidelines for the Development of TRM for Trafficked Persons

The following part is based on the “**Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU**”. The Guidelines have been developed in the framework of the project “*Development of a Transnational Referral Mechanism for Victims of Trafficking between Countries of Origin and Destination – TRM-EU*”, funded under the Prevention of and Fight Against Crime Programme (2007) of the Directorate-General Justice, Freedom and Security of the European Commission and managed by the Department for Equal Opportunities of the Presidency of the Council of Ministers in co-operation with the International Centre for Migration Policy Development (ICMPD).

The Transnational Referral Mechanism

What is TRM?

A Transnational Referral Mechanism (TRM) is a co-operative agreement for cross-border comprehensive assistance and/or transfer of identified or potential trafficked persons. A TRM links all stages of the referral process from the initial screening, through formal identification and assistance, to the voluntary assisted return, the social inclusion, and the civil and criminal proceedings. It is based on the co-operation between governmental institutions, intergovernmental agencies and non-governmental organisations of countries of origin, transit and destination of the assisted trafficked persons. Through the TRM, state actors of different countries fulfil their obligations to promote and protect the human rights of trafficked persons.

The primary elements of a TRM include:

- Standard operating procedures (SOPs) for the effective and safe transnational assistance and referral of victims of trafficking to a range of services. A comprehensive TRM shall thus identify specific SOPs and measures for five main components:
 1. Identification;
 2. First Assistance and Protection;
 3. Long-Term Assistance and Social Inclusion;
 4. Return and Social Inclusion;
 5. Criminal and Civil Proceedings.

All five components are interlinked and closely connected with the local and national referral mechanisms in place and, in many instances, such components depend on each other. In order to refer trafficked persons in a comprehensive manner from one country to another one, most components need to be in place.

- Formal international co-operative agreement between anti-trafficking stakeholders on strategies for the safe and supportive movement of trafficked persons between countries of destination, transit and/or origin. The agreements should clearly specify the roles and the attached responsibilities and obligations of each actor involved.
- Mechanisms for monitoring and evaluating the TRM to assess the output and impact achieved and to improve the strategic and operational goals in order to meet more successfully the needs of the assisted persons and ameliorate the procedures developed.

A TRM is therefore strictly intertwined with the National Referral Mechanism (NRM). The TRM does *neither* replace *nor* duplicate any existing national anti-trafficking structures. It is meant to build upon the national referral mechanisms or any other existing procedure in place and take them a step further to a transnational level. In an ideal case, one set of SOPs should be developed for both mechanisms- NRM and TRM.

The Standard Operating Procedures (SOPs)

What are SOPs?

The Standard Operating Procedures (SOPs) are tools for comprehensive assistance and support framework for trafficked persons. The SOPs integrate the process of identification and referral of trafficked persons and involve the cooperation between different government institutions and non-governmental actors. The SOPs effectively establish and manage the TRM as to:

- SOPs 1 – Identification;
- SOPs 2 – First assistance and protection;
- SOPs 3 – Long-term assistance and social inclusion;
- SOPs 4 – Return and social inclusion;
- SOPs 5 – Criminal and civil proceedings.

Each SOP consists of a set of measures that do not always follow a chronological order. In several instances they are to be implemented simultaneously or, in some cases, in a different order due, for instance, to the different national legislation frameworks and the related provisions in place. Furthermore, some measures may differ according to the country or individual situation and, thus, they need to be context specific. In case of a trafficked child, regardless of the different national child protection systems and mechanisms in place, all measures taken must have as a primary consideration the best interests of the child, resulting from a thorough and careful assessment undertaken by trained and qualified professionals³³. Any decision must take into due consideration the views of the child, which should be proactively sought at all stages by the involved staff and decision-makers with the required relevant expertise.³⁴

³³ For a full description on how to conduct the child's best interests assessment and determination, see UN High Commissioner for Refugees, UNHCR Guidelines on Determining the Best Interests of the Child, May 2008, available at: <http://www.unhcr.org/refworld/docid/48480c342.html>

³⁴ The elaboration of the Guidelines has been coordinated with Save the Children Italy within the framework of the project 'AGIRE, Austria,

I. SOP - Identification

The *identification stage* is the first phase of a local, national or transnational mechanism through which a trafficked person is identified as such. Given the complexity of the trafficking crime, the *benefit of the doubt* should be given to a person (both child and adult) claiming to have been subjected to exploitation possibly related to trafficking. A person presumed to have been trafficked shall be considered as a victim as soon as the competent authorities have the slightest indication that s/he has been subject to the crime of trafficking.

IDENTIFICATION	Preliminary	Measure 1	INITIAL SCREENING AND REFERRAL <ul style="list-style-type: none"> Referring the presumed trafficked person to the first point of notification Conducting the first identification screening Assessing whether the presumed trafficked person is a child Appointing a guardian if the presumed victim is/assumed to be a child
		Measure 2	ACCESS TO BASIC NEEDS AND INFORMATION <ul style="list-style-type: none"> Explaining to the presumed trafficked person the rights/responsibilities & available assistance Assessing imminent problems Assessing urgent needs Determining safety measures
		Measure 3	EARLY RISK ASSESSMENT <ul style="list-style-type: none"> Assessing imminent risks and determining safety and well-being measures Addressing urgent needs/requests of the presumed trafficked person
		Measure 4	LANGUAGE INTERPRETATION AND CULTURAL MEDIATION <ul style="list-style-type: none"> Providing translation/interpretation between assistance providers/police and the presumed trafficked person Informing interpreters/cultural mediators regarding their roles Informing the presumed trafficked person regarding her/his rights and the role of the interpreter/cultural mediator
		Measure 5	RECOVERY AND REFLECTION PERIOD <ul style="list-style-type: none"> Offering a time period for the presumed trafficked person to recover & stabilise Informing the presumed trafficked person about available options Providing safe accommodation Providing basic services Providing access to residence permits
	Formal	Measure 6	IDENTIFICATION <ul style="list-style-type: none"> Determining whether the individual is a trafficked person by formal procedures Contacting relevant country authorities in the country of origin/transit/destination, when necessary Establishing trafficked person's identity Establishing jurisdiction if the trafficked person is a child Explaining relevant information following the identification to the identified trafficked person.

Greece, Italy and Romania - Acting for a stronger private-public partnership in the field of identification and support of child victims and at risk of trafficking in Europe'. Some of the TRM SOPs have been used as benchmarks for the AGIRE methodology.

II SOP: First Assistance and Protection

The first assistance and protection stage is crucial for a trafficked person who is provided with accurate information about the available social and legal options for her/his future and is granted basic needs assistance. A risk assessment on her/his safety is also performed to check if any imminent situation can endanger her/his life. The final aim of the first assistance is to support and protect the assisted trafficked person while helping her/him to consider available options and take full informed decisions for her/his future life.

FIRST ASSISTANCE AND PROTECTION	Measure 1	<p>INFORMATION ON ASSISTANCE OPTIONS AND CONDITIONS</p> <ul style="list-style-type: none"> Providing the trafficked person with information on available services and obligations/conditions
	Measure 2	<p>INFORMATION ON LEGAL OPTIONS AND CONDITIONS</p> <ul style="list-style-type: none"> Providing the trafficked person with information on legal opportunities and obligations/conditions
	Measure 3	<p>INTAKE & NEEDS ASSESSMENT</p> <ul style="list-style-type: none"> Informing the trafficked person on the purpose of the intake procedure, and on rights and obligations Explaining who will and will not have access to the gathered information Informing the trafficked persons of her/his legal rights when subjected to police interrogation or summoned to go to trial in a court of law (e.g. right to be silent)
	Measure 4	<p>ASSISTANCE AND PROTECTION PROVISION</p> <ul style="list-style-type: none"> Providing assistance measures identified and agreed upon Ensuring protection measures

III SOP – Long-Term Assistance and Social Inclusion

Long-term assistance is provided to national and foreign trafficked persons who have agreed to accept assistance and/or join a support programme in the hosting place/country or in the origin country or in a third country. During the long-term assistance and social inclusion phase, the assisted person is supported by or referred to professional and trained service providers who are, at minimum, responsible to:

- Ensure safety;
- Assist the individual in regaining sense of control and self-determination;
- Foster the individual's psychological stability;
- Avoid secondary victimization;
- Foster empowerment;
- Assess the risk of social stigmatization;
- Facilitate social inclusion;
- Employ a multi-agency and holistic approach.

The final aim of long-term assistance and social inclusion is to ensure that the assisted persons, by fully participating in the decision-making process, have access to their fundamental rights and to the opportunities and resources necessary to participate in economic and social life, securing a standard of living that is considered acceptable in the society in which they live³⁵.

LONG-TERM ASSISTANCE AND SOCIAL INCLUSION	Measure 1	JOINT Development of THE INDIVIDUAL Assistance Plan (IAP) <ul style="list-style-type: none"> • Discussing the case with the assisted person and her/his support team • Inquiring, assessing and addressing the urgent needs/requests of the trafficked person • Formulating the plan according to the trafficked person's needs and wishes.
	Measure 2	Consent Procedure to Implement THE IAP <ul style="list-style-type: none"> • Providing translation/interpretation of the IAP to the foreign trafficked person (if needed) • Signing of the IAP by assisted trafficked person and assisting organisation
	Measure 3	ADJUSTMENT AND SOCIAL INCLUSION ASSISTANCE <ul style="list-style-type: none"> • Providing access to social inclusion services • Assessing the implementation of the IAP and its update • Providing case monitoring and evaluation • Developing and providing access to the complaint procedures
	Measure 4	LEGAL SUPPORT AND ASSISTANCE <ul style="list-style-type: none"> • Providing support for legal related matters • Implementation for procedures for legal stay, compensation claims, etc.

³⁵ See: http://ec.europa.eu/employment_social/spsi/poverty_social_exclusion_en.htm and Joint Report by the Commission and the Council on social inclusion (2003) http://europa.eu.int/comm/employment_social/soc-prot/soc-ncl/final_joint_inclusion_report_2003_en.pdf.



IV SOP – Return and Social Inclusion

Returning home is often a difficult process for trafficked persons, who may have to face many social, family, health, legal, and financial problems and run the risk of going back to the same social and economic conditions they tried to escape by leaving home. To avoid this re-victimizing situation, return and social inclusion programmes should be available to all trafficked persons who wish to go back to their place of origin or need to be resettled in a third place or country. The programmes should aim for the long-term recovery, empowerment and social inclusion of the trafficked persons and they should prevent the risks of re-victimisation and re-trafficking. The return and social inclusion programmes should be based at minimum on the following principles³⁶:

- *Voluntariness*: It is the trafficked person who decides on her/his free will to return home or be resettled in a third place/country and make use of the offered services;
- *Protection*: The safety and the privacy of the trafficked person are paramount and, therefore, all necessary measures should be taken to ensure them (e.g. no disclosure of personal information to third parties, pre-departure risk assessment, safe travel plan, risk management plan, case monitoring);
- *Tailor-made solution*: The needs, opinions and concerns of the trafficked person should be fully considered when assessing her/his wish to return home or be resettled and while preparing the return and social inclusion procedures;
- *Accuracy*: The trafficked person should be promptly and duly informed about any aspect of her/his return and social assistance programme request and procedure;
- *Co-operation*: Close collaboration between accredited support agencies (i.e. NGOs, IOs, GOs) of countries of origin, transit and destination is crucial for a successful return and social inclusion programme.

³⁶ Adapted from Experts Group Report, *op. cit.*, pp. 197-200.

RETURN AND SOCIAL INCLUSION	Measure 1	<p>INFORMED Decision to Return</p> <ul style="list-style-type: none"> • Providing the trafficked person with relevant information on legal and social aspects of return • Obtaining written consent on voluntary and informed decision of the trafficked person to return
	Measure 2	<p>Risk and Social Inclusion ASSESSMENT</p> <ul style="list-style-type: none"> • Inquiring about the trafficked person's perception of risks and security • Conducting risk assessment/questions with various individuals/organisations from the country/ place of origin
	Measure 3	<p>Risk Management Plan</p> <ul style="list-style-type: none"> • Outlining the possible risk and security scenarios and possible solutions • Informing the trafficked person on potential risks and available measures for protection
	Measure 4	<p>Family Tracing</p> <ul style="list-style-type: none"> • Identifying the relevant NGO/IO networks or competent government authorities in the place/country of origin • Initiating tracing process
	Measure 5	<p>Documentation</p> <ul style="list-style-type: none"> • Contacting relevant embassies/consulates to facilitate voluntary return • Ensuring accuracy of the travel documents • Ensuring the confidentiality and restricted access to the trafficked person's file
	Measure 6	<p>PRE-DEPARTURE INDIVIDUAL ASSISTANCE PLAN</p> <ul style="list-style-type: none"> • Informing the trafficked person of the risk & security and social inclusion assessment outcome • Contacting the service provider in the country of origin to exchange information and co-ordinate the return process • Informing the trafficked person on identity status; travel/transfer process; available assistance in the county of origin and reintegration plan • Obtaining confirmation that the trafficked person will be received and assisted
	Measure 7	<p>SAFE TRANSPORT/TRANSFER AND ARRIVAL ASSISTANCE</p> <ul style="list-style-type: none"> • Informing the institution/organisation of the place/country of origin that will meet the assisted person • Providing the trafficked person with necessary travel documents/items/ information • Ensuring accompanied transfer of minors • Ensuring that the trafficked person is received/met by the service provider at the border/airport/ harbour of the country of origin • Providing preliminary orientation and assistance to the trafficked person • Confirming/obtaining confirmation on the safe arrival of the trafficked person



V SOPs – Criminal and Civil Proceedings

All States should grant access to justice and fair treatment to trafficked persons, who should be fully informed and supported once involved in civil or criminal proceedings. Access to full and clear information is crucial to enable victims to participate actively in any proceedings, to reduce their psychological stress, and to enforce their rights³⁷. Legal representation and assistance should be part of any victim protection programme. Formalised protocols between the law enforcement agencies and the service providers assisting the trafficked persons are an effective means to fully protect the rights of the assisted persons at any stage of the legal proceedings.

In some cases, the victim may need to be protected from possible retaliations and harm from perpetrators and related parties. The protection of a victim as witness to a crime (i.e. trafficking and related crimes) requires tailor-made solutions to be implemented by the law enforcement agencies, prosecutors, judges and support agencies that must work in very close co-operation. A risk assessment is carried out to evaluate if the physical safety of victims (and of her/his significant others) is endangered and – when necessary – special resources are allocated to ensure her/his protection (and that of her/his significant others).

In the case of children, all decisions regarding participation, assistance to and co-operation with criminal and judicial proceedings shall be taken by the child's guardian in consultation with the child, and, where his or her family do not have custody of the child but retain parental rights, his or her family also, provided that their involvement does not prove to be detrimental to the child.

A victim of trafficking in human beings has the right to receive compensation for the physical and psychological harm suffered and wages lost through criminal proceedings, civil action, and administrative systems.

No detention, prosecution or penalties should be imposed on trafficked persons for their illegal stay in the country or for their participation in unlawful activities as a result of their trafficking experience.³⁸ In conformity with the national criminal legislation, it would then be necessary to consider the applicability of *non-punishment clauses* for the crimes committed as a result of the coercion suffered during the trafficking experience.

³⁷ Art. 26, Council of Europe, *Convention on Action Against Trafficking in Human Beings*, CETS no. 197, 16 May 2005.

³⁸ Art. 26, Council of Europe, *Convention on Action Against Trafficking in Human Beings*, CETS no. 197, 16 May 2005.

CRIMINAL & CIVIL PROCEEDINGS	Measure 1	<p>INVESTIGATION AND Evidence Gathering</p> <ul style="list-style-type: none"> • Informing the trafficked person regarding the rights/obligation in case of co-operation with the law enforcement agencies and/or participation in the trials • Consulting the case manager/service providers on psychological conditions of the trafficked person • In the event that the trafficked person refuses to co-operate, ensure that the methods of investigation and evidence gathering activities are not detrimental to her/his safety.
	Measure 2	<p>Victim-Witness Support before the Trial</p> <ul style="list-style-type: none"> • Providing information on victim's role in the criminal proceeding as well as timely updates on the case; • Providing guidance and advice regarding the trial process.
	Measure 3	<p>Victim-Witness Support during the Trial</p> <ul style="list-style-type: none"> • Providing physical protection and privacy • Arranging all necessary measures for full protection (e.g. video testimony, closed door hearings, special waiting areas, interpretation...).
	Measure 4	<p>Victim-Witness Support after the Trial</p> <ul style="list-style-type: none"> • Informing the victim about different risks/options related to a return to the place/country of origin, to stay in the country of destination, to be resettled to a third country.
	Measure 5	<p>Support FOR The Compensation CLAIMs</p> <ul style="list-style-type: none"> • Informing the victim about her/his rights to compensation and related legal procedures • Providing free legal assistance during the legal procedures.

ANNEX 2:

Questionnaire

Name	
Name of organisation/ agency	
Type of organisation/ agency	<input type="checkbox"/> Anti-trafficking National Office <input type="checkbox"/> Ministry of (please specify) <input type="checkbox"/> Judiciary (please specify) <input type="checkbox"/> Embassy/Consulate..... <input type="checkbox"/> Law enforcement agency..... (please specify) <input type="checkbox"/> Local authority..... (please specify) <input type="checkbox"/> Child Welfare Office (please specify) <input type="checkbox"/> Labour Inspectorate..... <input type="checkbox"/> Trade Union <input type="checkbox"/> NGO <input type="checkbox"/> IO <input type="checkbox"/> GO <input type="checkbox"/> University/Research Institute <input type="checkbox"/> Other..... (please specify)
Role in the organisation/ agency	
City	
Date of interview	
Recorded interview	YES <input type="checkbox"/> or NO <input type="checkbox"/>

Identification

Does your organisation/agency play a role in the identification procedure of a presumed trafficked person?

YES ☐

NO ☐

If yes, please explain its role and the procedures carried out:

Initial screening and identification

1. How does the presumed trafficked person get in contact with your organisation/agency?
2. Representatives of which institutions are likely to be the first ones to come into contact with potential trafficked persons?
3. Who assesses if the presumed trafficked person is a minor?
4. Who appoints a guardian if the presumed trafficked person is considered a minor?
5. Are you part of a formalised NRM (have you signed a MoU)?
6. Do several agencies or organisations share this responsibility (specify which ones, indicating the GOs, NGOs, IOs)?
7. Do you use a standard procedure that is in use throughout your country for the formal identification of a presumed trafficked person?
8. Do you use a list of indicators?
9. Which agencies do you have to contact during this procedure or once it is completed (please list them)?
10. Have you ever contacted a foreign NGO/embassy/authority during this phase (if yes, please specify)?
11. If yes, have you used any legislative provision and/or form to exchange information? (please specify the types of information shared, the forms used, etc.)
12. What are the main positive aspects of these procedures?
13. What are the main obstacles encountered?
14. What are your suggestions to improve the current procedures?

If no, please explain who is responsible for the identification:

15. What are the main channels of first contact of the presumed trafficked persons in your country/area?
16. Representatives of which institutions are likely to be the first ones to come into contact with potential trafficked persons?
17. Who assesses if the presumed trafficked person is a minor?
18. Who appoints a guardian if the presumed trafficked person is considered a minor?
19. Is a single government agency or structure responsible for the formal identification of a presumed trafficked person?
20. Do several agencies or organisations share this responsibility (specify which ones, indicating the GOs, NGOs, IOs)?
21. Is a standard procedure in use throughout your country for formal identification of a presumed trafficked person?
22. Is a list of indicators used?
23. Is a foreign NGO/embassy/authority contacted during this phase (if yes, please specify)?
24. If yes, do you know if any legislative provision and/or form to exchange information is used?
25. Are identification indicators, guidelines and/or procedures used and made public?
26. If no formal agreement allowing particular organisations to formally identify trafficked persons is in place, how can NGOs or others refer a presumed trafficked person for protection and assistance?
27. What are the main positive aspects of these procedures?
28. What are the main obstacles encountered?
29. What are your suggestions to improve the current procedures?

Access to basic needs and referral

<p>30. Do presumed/identified trafficked persons have access to urgent needs/ requests?</p> <p>31. How are such needs assessed/ who assesses within the process of identification?</p> <p>32. Who provides the identified needs?</p> <p>33. Does the presumed trafficked person receive information regarding a reflection & recovery period? By whom?</p> <p>34. Is language interpretation and cultural mediation provided (when needed)?</p> <p>35. Have you ever contacted a foreign NGO/embassy/authority during this phase (if yes, please specify)?</p> <p>36. What are the main positive aspects of these measures?</p> <p>37. What are the main obstacles encountered?</p> <p>38. What are your suggestions to improve this part of the referral process?</p>	
Early Risk Assessment	
<p>39. Is an early risk assessment carried out?</p> <p>40. By whom?</p> <p>41. How is a standard procedure used?</p> <p>42. Have you ever contacted a foreign NGO/embassy/authority during this phase (if yes, please specify)?</p> <p>43. What are the main positive aspects of these measures?</p> <p>44. What are the main obstacles encountered?</p> <p>45. What are your suggestions to improve this part of the referral process?</p>	



Recovery and Reflection Period

46. Is a reflection and recovery period offered?
47. What are the procedures in place?
48. Who takes care of the presumed trafficked person during this stage?
49. What are the services offered during this period?
50. Is language interpretation and cultural mediation provided (when needed)?
51. What are the main positive aspects of these measures?
52. What are the main obstacles encountered?
53. What are your suggestions to improve this part of the referral process?

Formal identification

54. Who determines whether the individual is a trafficked person by formal procedures?
55. Who confers the status of “victim of trafficking” and who can take it away?
56. Who contacts which authorities in the country of origin/destination/transit and how?
57. Are there any international agreements related to transnational cooperation during identification?
58. What are the main positive aspects of these measures?
59. What are the main obstacles encountered?
60. What are your suggestions to improve this part of the referral process?

Data collection and management

Does your organisation/agency collect data on traffickers?

YES ☐ NO ☐

Does your organisation/agency collect data on trafficked persons?

YES ☐ NO ☐

If yes, please explain what data is collected and how:

<p>61. How is data collected (do you use a database?)?</p> <p>62. What kind of data is collected?</p> <p>63. Who is responsible for collecting the data?</p> <p>64. Do you analyse the data and if yes, how?</p> <p>65. Who is responsible for analysing the data?</p> <p>66. Do you share the data with other national agencies/organisations and if yes, with whom?</p> <p>67. Do you share the data with other international agencies/organisations and if yes, with whom?</p> <p>68. What are your suggestions to improve data collection and management of trafficker-related/victim-related data?</p>	
---	--

According to your knowledge, how many trafficked persons were identified in Turkey in 2009, 2010, 2011?

Number of identified trafficked persons:

Year	ADULTS				MINORS			
	Nationals		Foreigners		Nationals		Foreigners	
	F	M	F	M	F	M	F	M
2009								
2010								
2011								

(F) Female, (M) Male

ANNEX 3:

Questionnaire on data collection

Assessment Questionnaire

Dear Madam/Sir,

This questionnaire is designed in order to collect information on your country situation with regards to trafficking in human beings. The data collected through this questionnaire will be the basis for the finalization of the Assessment Report drafted within the framework of the project Enhanced Identification and Protection of Trafficked Persons in Turkey (IPT). The project is being implemented by the International Centre for Migration Policy Development (ICMPD) and financially supported by the United States Department of State, Office to Monitor and Combat Trafficking in Persons. The Assessment report aims to provide an overview of the anti-trafficking response in Turkey including an overview of the current legal and institutional response.

Please provide information that is at disposal of your institution and may be shared as accurately as possible. We thank you in advance for your work on this questionnaire and look forward to continuing our cooperation with you within the framework of the project.

Please write the name of your institution/organisation:

Foreign victims	2009	2010	2011	2012	2013 (until September)
Number of foreign victims					
Male adults					
Female adults					
Male minors					
Female minors					
Total					
Forms of trafficking					
Sexual exploitation					
Labour exploitation					
Begging, delinquency					
Other					

Major countries of origin					
[Insert name of country]					
Number of adult victims					
Number of minor victims					
[Insert name of country]					
Number of adult victims					
Number of minor victims					

Domestic victims	2009	2010	2011	2012	2013 (until September)
Number of domestic victims					
Male adults					
Female adults					
Male minors					
Female minors					
Total					
Forms of trafficking					
Sexual exploitation					
Labour exploitation					
Begging, delinquency					
Other					
Major countries of destination					
[Insert name of country]					
Number of adult victims					
Number of minor victims					
[Insert name of country]					
Number of adult victims					
Number of minor victims					

Current Anti-trafficking Response in Turkey and the Way Forward

RESEARCH REPORT

The report is part of the project 'Enhanced Identification and Protection of Trafficked Persons in Turkey (IPT)', implemented by the International Centre for Migration Policy Development (ICMPD) and financially supported by the United States Department of State, Office to Monitor and Combat Trafficking in Persons.

Since the beginning of the last decade, Turkey has continuously sought to strengthen its anti-trafficking efforts. This report presents the current anti-trafficking situation in Turkey including an overview of the legal and institutional framework. Based on these analyses, the report identifies the main challenges facing the current anti-trafficking response and provides action oriented recommendations to be taken into consideration in future legal and institutional reforms.

The final findings of the report are intended to serve as the basis for the development of targeted interventions, to take place at different levels and strengthen the cooperation between all actors involved.