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Country Report on Trafficking in Human Beings: Turkey

Introduction

Organized criminal groups have increasingly taken advantage of technological developments and globalization during the past decades and have expanded their activities worldwide by employing sophisticated strategies. Accordingly, organized crime activities, including human smuggling and trafficking in human beings, have become more transnational and complex in nature. In combating these activities, firm and effective international co-operation and co-ordination, as well as comprehensive strategies dealing with prevention, prosecution and victim protection, rehabilitation and reintegration have become necessary.

Organized crime activities are interrelated. Criminal networks behind human smuggling and trafficking in human beings are also involved in drug trafficking, document fraud, money laundering, arms smuggling and other transnational crimes. It is particularly recognized that human smuggling and trafficking in human beings are now rivaling drug trafficking and other forms of organized crime activities in higher profitability for lower risk. A firm distinction should however be made between human smuggling and trafficking in human beings.

Trafficking in human beings and human smuggling cannot totally be prevented only by establishing a penal and law enforcement regime. A multi-disciplinary approach is required, including appropriate social and economic measures which will address their root causes such as poverty, economic disparities and unemployment. Collective efforts by origin, transit and destination countries are also necessary.

This report deals only with trafficking in human beings.

Situation in Turkey

Turkey, at the cross-roads of Asia, Middle East and Europe, bordering eight countries and lapped by 5,000 miles of coastline, has seriously been confronted with various forms of transnational organized crime, which pose a threat to its social order and human and democratic values.

In recent years, Turkey has become a destination country for nationals of transitional democracies, who are in search of better living conditions and job opportunities abroad in the face of conflicts or economic and social hardships prevailing in their own countries. Unlike other European countries, flexible visa and travel regulations in Turkey enable them to enter Turkey easily on an individual basis, without particular assistance from organized groups or agencies. While their presence in Turkey is generally voluntary, their illegal work and resident status, nevertheless, make them vulnerable to exploitation. Some of them acquire Turkish citizenship through arranged marriages and correct their illegal status in Turkey. Some others end up in small workshops or in private households, working illegally without any job security, insurance or administrative and judicial safeguards. Those who are employed in tourism and entertainment sector become also vulnerable to sexual exploitation, trafficking and incitement to or forced prostitution.

The situation in Turkey *vis a vis* human smuggling and trafficking in human beings is most often confused with each other. Although Turkey is a transit country for ‘migrant smugglers’, no particular link has been discovered as to the existence of organized transit trafficking activity or trafficking networks on Turkish territory. Turkey’s mere geographical location and large transport connections however allow victims of trafficking to travel through the country to other destinations.

Due to their strict immigration regulations and visa regimes, victims traveling to other European destinations need persons and agencies –criminal trafficking networks- to apply for and obtain a fraudulent visa and it is usually this need and link which make them fall into the trap of trafficking. In Turkey, flexible entry and visa regime for the countries known to be the source of trafficking leads to individual rather than organized cases of trafficking.

In most cases illegal work or residence in Turkey is the personal choice of the individuals themselves. These people are not considered victims of human trafficking, as trafficking occur when coercion, threat and deception are involved.

International obligations

In addition to many longstanding international instruments dealing with ‘white slave trade’ and ‘trafficking in women and children’, Turkey is a party to the Convention on the Rights of the Child. According to Article 34 and 35 of the Convention, States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse and to take all appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices, the exploitative use of children in pornographic performances and materials and the abduction of, sale of or traffic in children for any purpose or in any form.

On 9 May 2002, the Turkish Grand National Assembly also adopted the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

In Palermo, on 13 December 2000, Turkey was among the initial signatories of the UN Convention Against Transnational Organized Crime and of its two additional Protocols including the Protocol to Prevent, Suppress and Punish Trafficking, especially women and children. The ratification process for the Convention and its additional protocols are underway.

By adopting these international instruments Turkey clearly indicates her political will to combat against trafficking in human beings in co-operation with the world community and commits herself to translate the provisions included therein into its own legislation.

Legal framework

While individual prostitution is not punishable in Turkey, incitement to prostitution and trafficking in human beings are described as crimes and are punishable through the Penal Code and the Law on Combating Benefit-Oriented Criminal Organizations. Additionally, the Passport Law and the Law on the Prevention of Money Laundering of Turkey, as well as certain administrative decrees and regulations contain provisions that apply to trafficking cases as well.

Incitement to prostitution and women trafficking are described as crime under the Turkish Penal Code. Irrespective of the nationality of the perpetrators and of the place of offence, both crimes are to be investigated *ex officio* and punishable in Turkey.

While Article 435 of the Penal Code applies to incitement to prostitution, Article 436 deals with cases of trafficking. These two articles together cover various ways of incitement or force into prostitution of children, minors, women and men alike.

According to Article 435, punishment for incitement to prostitution ranges from six months to three years imprisonment or a fine depending on the age of the person incited or the level of acquaintance of the perpetrator of the act to the victim.

If the person incited is under the age of 15, imprisonment is no less than two years and a heavy fine. If the inciter is a relative of the minor, or adopted the minor, or is a parent, teacher, guardian, governess or servant, then the punishment is no less than three years.

If the person incited is between the ages of 15 and 21, then the inciter is sentenced to imprisonment of 6 months to two years and a heavy fine. If the inciter is a relative, or has adopted the person, or is a parent, teacher, guardian, governess or servant, or husband, then the punishment is no less than two years imprisonment and a heavy fine.

If the girl or women incited is over 21 and the inciter is her husband or relative, then the penalty required is between six months and two years.

According to Article 436, a person who rapes, or provides for, or sends, or transports for a third person a girl or a women under the age of 21 irrespective of her consent or who rapes, or provides for, or sends, or transports for a third person a girl or a women over the age of 21 by use or threat of force, violence or by trickery or influence is to be sentenced from one year to three years imprisonment and a heavy fine.

If this crime is committed against a girl or a women under the age of 21 by rape, use or threat of force, violence or by trickery or influence or by her husband, her relative, the person who adopted her, her parent, teacher, guardian, governess or servant, the sentence shall be between 2 and 5 years of imprisonment.

Under Article 313 of the Penal Code, which deals with organized crime activities, the traffickers can be sentenced to heavy imprisonment when they are involved in organizing a network in order to commit the above mentioned crimes.

The Law on Combating Benefit-Oriented Criminal Organizations, on the other hand, criminalizes establishing, promoting, leading or participating in benefit-oriented criminal organizations with a view to carrying out organized crime activities, which could include, *inter alia*, trafficking in human beings. In order to combat criminal organizations, the law empowers the investigative authorities with special procedural techniques such as tapping or intercepting telecommunications, clandestine surveillance, reviewing records and data, employing secret agents. However, to safeguard respect for human rights, judicial decree is sought before implementing such measures. Protective measures are available for witnesses.

In trans-boundary and organized cases of trafficking in human beings, like in any other organized crime activities, perpetrators are tried before the State Security Courts, whereas individual cases of incitement to prostitution fall under the jurisprudence of the courts of justice.

Article 8 of the Passport Code prohibits foreign traffickers from entering Turkey. Among other groups listed in the same article, those who are engaged in prostitution, or earn their living by inciting women into prostitution, and those involved in trafficking in women are also prohibited from entering the country.

Article 19 of the Code on Residence and Travel of Foreigners in Turkey states that ‘foreigners considered a threat to public safety, or through political and administrative necessity, are invited to leave the country within a determined period. At the end of this period, those who have not left can be deported.’ Girls under 18 can travel to Turkey only when accompanied by their parents or legal guardian, or with their permission.

Legislative review

In fulfillment of the provisions of the UN Convention Against Transnational Organized Crime and its additional protocols, a draft law on additional articles to the Penal Code and on amending the Law on Combating Benefit-Oriented Criminal Organizations has been prepared by the Ministry of Justice and submitted to the Prime Ministry. Early adoption of the bill is among the priorities of the Government.

This draft law, among its other provisions, introduces the definition of the trafficking in human beings into Turkish legal system and criminalizes the act of trafficking as such. The draft law brings heavier penalties for the traffickers, including 5 to 10 years of imprisonment.

The draft law on Working Permits for Foreigners includes provisions permitting foreigners to work in private households and thus legalizing their status in such services. As such they will be protected from exploitation and receive legal and administrative safeguards in their work places.

National coordination and international cooperation

Turkey actively supports counter-trafficking efforts and activities of the OSCE and the Stability Pact Task Force on Trafficking in Human Beings and adheres to the norms and standards developed in these fora for the prevention of trafficking, the prosecution of traffickers and the protection of victims. Turkey also co-operates with IOM, SECI and EUROPOL in these areas.

In Turkey, the Director General of Consular Affairs of the Ministry of Foreign Affairs is the focal point for international contacts in counter-trafficking efforts. Internal co-ordination is provided by the Directorate General of Security of the Ministry of Internal Affairs in terms of security and organized crime and by the Directorate General of the Status and Problems of Women (Prime Minister’s Office) in terms of protection. Prime responsibility for observance of international instruments and their implementation in the field of trafficking in human beings lies with the Department of International Development and Foreign Relations of the Ministry of Justice. The links with foreign prosecutors’ offices are also provided by this department.

The Ministry of Internal Affairs of Turkey has appointed national contact points to cooperate with the Stability Pact Task Force in areas of awareness raising, exchange of expert information, law enforcement and victim protection, whereas the coordinator of the Ministry of Justice has assumed the role of the contact point for legal reform.

A working group established by the Ministry of Internal Affairs has concluded an assessment report on trafficking in human beings. Recommendations include legislation review, preparation of a National Plan of Action and training programs on protection of victims, repatriation, psychological treatment, awareness raising and training of law enforcement authorities. Joint training programs are organized for the country of origin as well.

The work on the draft Turkish National Plan of Action is based on the model National Plan of Action proposed by the Stability Pact Task Force, which already conforms with the existing practices in Turkey in many respects.

Current activities and needs for improvement

- Prosecution of Traffickers

Under certain conditions prostitution is legal and not punishable in Turkey. It is however prohibited for foreigners. In general terms, prostitution is an individual and personal matter.

Victims of the involuntary prostitution tend to hide or deny their cases due to traditional and ethical reasons. This tendency makes it hard to identify the procurers and organizers of prostitution. When no complaint is lodged by the victims of forced prostitution, legal action against organizers is not possible.

- Victim Protection

Major difficulty is experienced in the area of victim protection and rehabilitation. There is yet no legal arrangement addressing the particular needs of the victims of trafficking. The Turkish Government, within its limited resources provides, if necessary, emergency health service including psychiatric services out of national budget and funds. Victims are provided with free accommodation in various facilities, although there are no officially designated shelters for foreign women. In case of need, they may be placed in shelters for battered women or in student dormitories, hotels and government guesthouses.

They also go through a practical screening process which involves thorough compulsory medical check at the hospitals. Tests are completed within one day and if no sexually transmitted disease is found repatriation procedures start immediately. Multiple tests are conducted to confirm the diagnose in cases of infection. Final test results should be available before repatriation. In curable cases like syphilis, treatment is also concluded.

Although victims of forced prostitution are identified during medical examinations, the Ministry of Internal Affairs is recommended by the national coordinators to set up a system of interviews in order to specifically identify trafficking victims and to provide psychological and physical rehabilitation.

- Repatriation

Certain difficulties are experienced in the safe return of victims to their countries of origin. It takes between 10 days to 2 months to obtain necessary travel documents. Difficulties are also encountered in covering travel expenses due to lack of special funds.

International assistance is required to establish proper shelters for victims of trafficking initially in İstanbul to be followed by in İzmir, Antalya, Trabzon and Ankara. Special return and reintegration funds are also necessary. Turkey is prepared to co-operate with international organizations and donor countries to develop projects to address these needs.

In situations where personal security considerations prevail, measures such as “humanitarian visas” to enable them to stay in Turkey for a certain period of time before repatriation are also among recommendations extended by the national coordinators.

- Researches and Statistics

Since a full definition of trafficking in human beings is not yet covered by the Penal Code, there are no statistics available in the Department of Judicial Registry and Statistics on trafficking cases. Preparations are underway for detailed data collection regarding trafficking cases. Data collected by the Directorate General of Security on Turkish citizens and foreigners arrested for incitement to prostitution or mediation and on foreigners subjected to administrative action due to prostitution are available in Annex. The Directorate General of the Status and Problems of Women is to expand statistical surveys in an effort to cover data available for trafficked foreigners.

- Awareness Raising/Media Coverage

The Turkish media is sensitive to criminal and humanitarian aspects of trafficking in human beings. Trafficking cases and international developments are reported widely in the media. However, no specific media campaign has so far been undertaken.

Awareness raising activities have focused on official targets such as law enforcement authorities, mainly through training programs. Positive results have been achieved. National coordinators have recommended to the Ministry of Internal Affairs to launch a public awareness campaign to raise sensitivity towards victims of trafficking.

Enlarged Council of the International Women Lawyers Federation which was held in Turkey on 1 September 2001 had trafficking in human beings as the special topic on its agenda. This civil society event which was opened by Prof. Dr. Hikmet Sami Türk, Minister of Justice, received positive interest by the media.

- Training

Anti-trafficking training is an integral part of the general professional training in the Turkish International Academy Against Drugs and Organized Crimes. During the 4 week basic training program a full day is allocated to special training on trafficking issues. Participants include police officers as well as other national and regional law enforcement officials. Various seminars have been organized by the Ministry of Internal Affairs and the Ministry of Justice to address different aspects of trafficking. Turkish experts join training seminars organized by the Stability Pact Task Force. Special training needs, including the proposal by the Justice Ministry to hold a training seminar in Turkey for judicial personnel have been communicated to the Stability Pact Task Force.

ANNEX**Turkish citizens and foreigners arrested for incitement to prostitution or mediation**

	2000	2001	2002*	Total
Incitement to prostitution	249	760	397	1406
Mediators	411	2392	772	3575
Total	660	3152	1169	4981

Foreigners subjected to administrative action due to prostitution

	1996	1997	1998	1999	2000	2001	2002*	Total
Infected by STD	1234	907	847	1212	1677	1225	236	7038
Prostitution	5065	6080	4920	5642	3529	3441	738	23442
Total	6299	6987	5767	6854	5206	4666	974	304480

* January-May 2002