



PERMANENT MISSION OF TURKEY  
TO THE UNITED NATIONS  
GENEVA

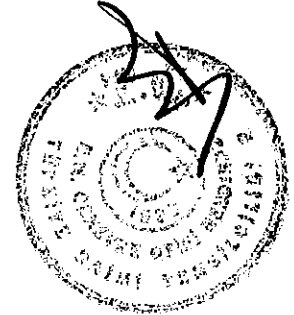
2015/62441669-BMCO DT/10242748

The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the Latter's Note dated 22 October 2015 (Ref:RRDD/HRESIS/JS//PO/CH/is), concerning the State contributions to the study on "the situation of migrants in transit, including unaccompanied children and adolescents, as well as girls", has the honour to enclose herewith an information note compiled by relevant Turkish authorities.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 15 December 2015

Encl: As stated



Office of the High Commissioner for Human Rights  
Palais des Nations  
1211 Geneva 10

*A. Does your country have laws, public policies or programmes, action plans or other relevant measures in place to ensure protection of the human rights of all migrants in transit? For example, including in the following areas:*

Turkey displays a decisive and progressive approach for protection of the human rights of all migrants.

The “Law on Foreigners and International Protection” (LFIP) No:6458 has entered into force on 11 April 2013 with a view to protecting human rights of migrants on the basis of national and international legislation and ensuring effective migration management. Within the framework of this law, the Directorate General of Migration Management (DGMM) was established in order to meet all needs of foreigners, make migration management more efficient and form a migration policy. Provincial organization of the Directorate General in all provinces of Turkey was completed as well.

Within the framework of fighting against human trafficking, the “Department for the Protection of Victims of Human Trafficking” is established under the DGMM according to the LFIP. The said Department is responsible for fighting against human trafficking and protection of victims; implementing projects related to fight against human trafficking; setting up, operating and outsourcing the operation helplines for victims.

Turkey introduced numerous administrative and legal measures regarding the main pillars of combating human trafficking. For instance, Articles 79 and 80 of the Turkish Penal Code are respectively about migrant smuggling and human trafficking. The perpetrators of these crimes are sentenced to three to eight (Art.79) and to eight to twelve years (Art.80) of imprisonment and to judicial fines up to an amount corresponding to ten thousand days. The said articles include security measures for the legal entities which commit this offence intentionally.

Moreover, the United Nations Convention on Transnational Organized Crime and its protocols on trafficking in persons and migrant smuggling which Turkey is party to, were adapted to the domestic legislation and became applicable according to the Article 90 of the Turkish Constitution.

Turkish Government closely cooperates with civil society to help and protect and assist the victims of trafficking in persons.

In this regard, “**The National Task Force on Fight against Human Trafficking**” was established in 2002. The National Task Force which includes relevant government institutions as well as NGO’s, plays a significant role in policy making for prevention of human trafficking, identification and protection of victims and prosecution of traffickers.

Two **National Action Plan in Fight against Human Trafficking** were developed by the National Task Force and put into practice in 2003 and 2009. The Action Plans aim at achieving relevant international standards in the fight against human trafficking, eradicating human trafficking in Turkey, strengthening relevant institutions, enhancing harmonisation with the EU Acquis and strategy development in combatting human trafficking.

***Access to essential services in transit, such as health care and services, including sexual and reproductive health care;***

The LFIP provides a number of rights and opportunities for foreigners. Besides, access to health, education, accommodation, communication, lawyer and right of petition are provided for foreigners in Turkey.

***Rescue of migrants in distress at land, sea and air borders, provision of immediate assistance and referral to adequate services;***

The Foreigners Calling Centre (YIMER Line: 157) became operational as of 20 August 2015 with a view to responding all questions of foreigners in Turkish, Arabic, English and Russian. This calling center also serves as a hotline for victims of human trafficking. It provides assistance to the foreigners in need in coordination with the law enforcement agencies and 1170 persons were rescued by the relevant law enforcement agencies as of 11 November 2015. Besides, this line provides translation service to the foreigners in the case that they need to contact with a law enforcement agency.

Furthermore, the Turkish Coast Guard (TCG) carries on the project “Increasing the Capacity of the TCG to Provide Humanitarian Assistance to Rescued Migrants” together with the IOM.

TCG also gives importance to the protection of the rights of vulnerable people including pregnant women and unaccompanied children. It carries another project together with the IOM to increase its effectiveness in this field.

***Alternatives to immigration detention and protection against arbitrary detention;***

According to the LFIP, with respect to the foreigners for whom removal and administrative detention are considered, the duration of assessment and decision-making shall not exceed forty-eight hours with a view not to limiting their freedoms. The duration of administrative detention in removal centers shall not exceed six months. However, in cases where the removal cannot be completed due to the foreigner’s failure of cooperation or providing correct information or documents about their country [of origin], this period may be extended for a maximum of six additional months. Furthermore, all acts done for foreigners have to be notified to foreigners via a language they can understand.

In the Article 54 of the LFIP, persons subject to a removal decision and in the Article 56 summons to leave Turkey were regulated. Where a removal decision has been issued, foreigners shall be granted a period no less than fifteen days and up to thirty days to leave Turkey, provided that this period is stated in the removal decision. This period shall be granted to foreigners who do not bear the risk of absconding or disappearing; have not breached the terms and conditions of legal entry and exit; did not use false documents; did not attempt to obtain a residence permit with false documents; do not pose a threat to public order, public security, public health.

The need to continue the administrative detention shall be regularly reviewed monthly by the governorates, and when consider it necessary. For those foreigners where administrative detention is no longer considered necessary, the administrative detention shall immediately be ended. These foreigners may be required to comply with administrative obligations such as to reside at a given address and report to the authorities in form and periods to be determined.

The person placed under administrative detention or his/her legal representative or lawyer may appeal against the detention decision to the Judge of the Criminal Court of Peace. Such an appeal shall not suspend the administrative detention. In cases where the petition is handed to the administration, it shall immediately be conveyed to the competent Judge of the Criminal Court of Peace. The Judge of the Criminal Court of Peace shall finalize the assessment within five days.

***Measures to ensure that any returns of migrants in transit are carried out in accordance with international law and standards, including the principle of non-refoulement and the prohibition of collective expulsion.***

The principle of *non-refoulement*, placed in the international conventions, also takes part in Turkish national legislation. Article 4<sup>th</sup> of the LFIP regulates that “No one within the scope of this of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion”

According to the Article 55 of the LFIP, removal decision shall not be issued in respect of those foreigners considered within the “vulnerable groups” regardless of whether they are within the scope of Article 54 of the LFIP on the persons subject to a removal decision.

Assessment and decision for removal shall be made on case by case basis according to both national and international legislation.

According to 3rd paragraph of the Article 53 of the LFIP, a foreigner, legal representative or lawyer may appeal against the removal decision to the administrative court within fifteen days as of the date of notification. Such appeals shall be decided upon within fifteen days.

***B. Does your country (as a country of origin, transit and/or destination) have measures in place that ensure a human rights-based approach to the governance of transit migration? For example, including in the following areas:***

***Governance of irregular migration, including the non-criminalisation of migrants in an irregular situation;***

Entering and exiting Turkey via illegal ways is not a crime in our legislation. However, administrative fine is applied to irregular migrants according to the Article 102 of the LFIP.

***Measures to prevent and combat all forms of xenophobia, racism and religious intolerance against migrants;***

Fundamental harmonization policies of Turkey are regulated by the Article 96 of the LFIP. One of the remarkable points in this article is the mutual harmonization of foreigners with the society. In this regard, prevention of xenophobia, racism and religious intolerance is of vital importance. All necessary measures would be taken by working together with the experts of the subject in the national and international level.

Furthermore, there are training projects developed for especially youth and children to make them conscious on the issue of migration effects.