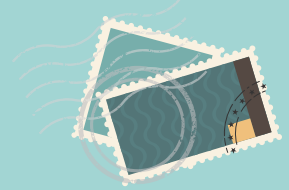
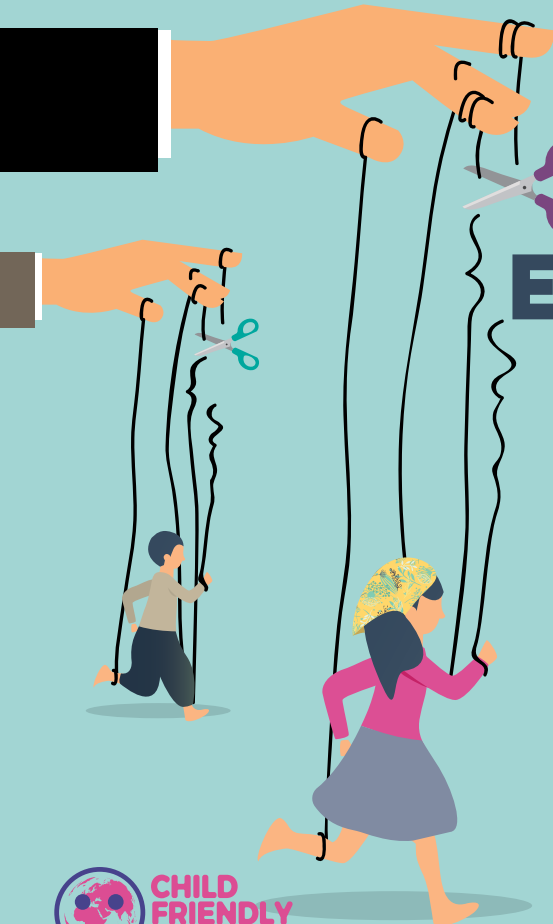




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INFORMATION NOTE TRAFFICKING AND SEXUAL EXPLOITATION OF CHILDREN



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POLICY NOTE ON TRAFFICKING AND SEXUAL EXPLOITATION OF CHILDREN

“Traffickers take every thing from you -all that makes you human”

*(A woman who survived child trafficking,
From a news article in The Guardian)*

Children’s sensitivities, their need for special protection and support, the high risk of their exposure to trafficking repeatedly, the fact that one in every three victims of trafficking across the world is a child and the upward trend in child trafficking with the increase in migration as a result of serious human rights violations and increasing natural disasters due to climate change, require us to consider child trafficking as a subject that needs attention.

Unfortunately, the increasing efforts to prevent human trafficking in persons and protect the survivors/victims do not progress at the same pace as child trafficking.

Therefore, the International Children’s Center developed this policy note about issues to be considered while planning their studies aimed at policy makers and practitioners.

CONTENTS

Policy Note on Trafficking and Sexual Exploitation of Children 2

What does Child Trafficking for Sexual Purposes (CTSP) mean? 4

Situation in Turkey 8

Risk factors and Need for Victim-oriented Policy 16

Policy Recommendations..... 21

Prevention 21

Protection and Support 22

Punishment, Restitution And Restorative Justice 23

References 24

International and National Legislation..... 26

WHAT DOES CHILD TRAFFICKING FOR SEXUAL PURPOSES (CTSP) MEAN?

Child trafficking is a serious crime and a grave violation of human rights. It means transport of the children from one place to another as if they are commercial products for the purpose of exploitation. Namely, it is a crime against humanity that we think is a thing of the past, which tears down the human dignity and the most basic values of human being; in other words, slavery in modern age. Child trafficking may appear in many forms, for example; forced labor, domestic servitude, debt bondage, sale of girls and women under the guise of marriage, sexual exploitation in exchange for debt or profit, recruitment to be used in armed conflict, etc. Child Trafficking for Sexual Purposes (CTSP) is one of the manifestations of child trafficking.

Definitions for a better understanding of CTSP

Child: Human being below the age of eighteen years (UNCRC article 1 and Child Protection Law article 3)

Child trafficking: An offence involving recruitment, transportation, transfer, harboring, and/or receipt of a child for the purpose of exploitation. When children are in question, preparation, deceiving, influencing or consent are not required, the offence shall be deemed committed. (Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Article 3c, Council of Europe Convention on Action against Trafficking in Human Beings Article 4c, (Turkish Criminal Code Article 80.3)

Sexual abuse of child: Involvement of a child in sexual activity, that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, by a person who is in a relationship of responsibility, trust or power with the child. (The United Nations Study on Violence against Children, 2006)

Sexual exploitation of child: It is the sexual abuse of child for profit. For example; sexual images, sale of the child in tourism and travel sector, human trafficking, sale of the child under the guise of marriage, child abuse in work place by using economical power. (UN Joint Report of the Special Rapporteur on the Sale and Sexual Exploitation of Children and Special Rapporteur on Trafficking in Persons 2017)

CTSP can appear in forms of selling of the girls and women under the guise of marriage, the sexual exploitation in exchange of debt or profit, buying and selling of children to be used as sexual slaves in armed conflicts.

CTSP may seem difficult to comprehend as it is an underground activity which manifests in various forms, the principle elements of international laws on children’s rights and child trafficking make the solution understandable and accessible starting from the issue of identifying victims and detection of the offence.

According to international laws binding Turkey, child trafficking is not only a criminal issue but a violation of human rights, thus beyond the penalties related to child trafficking legislative, political, economic, social and cultural studies which will eliminate the causes of this crime need to be conducted. (See. Council of Europe Convention on Action against Trafficking in Human Beings).

Figure 1: Steps to be taken by the State in relation to its obligations in child trafficking within the frame of children’s rights



Therefore, the studies should be guided by respect, as a human rights obligation of the State (e.g. identification and protection of risk groups, identification of victims, preventive measures, punishment of civil servants who are involved in human trafficking incidents which may also be organized), protection (e.g. identification of victims, protection of the victim when it happens, punishing the criminal, preventing it from happening again) and realization (e.g. identification of victims, bringing the laws and policies to a level that protects the child’s best interest, supporting the ones who prevent human trafficking, conducting rehabilitation and social integration studies for victims/survivors, supporting researches, conducting and supporting studies for data collection, publishing and monitoring, listening to victims and include their views to new policies etc..). In other words, government policies and legislative works should offer solutions against child trafficking on the basis of children’s human rights.

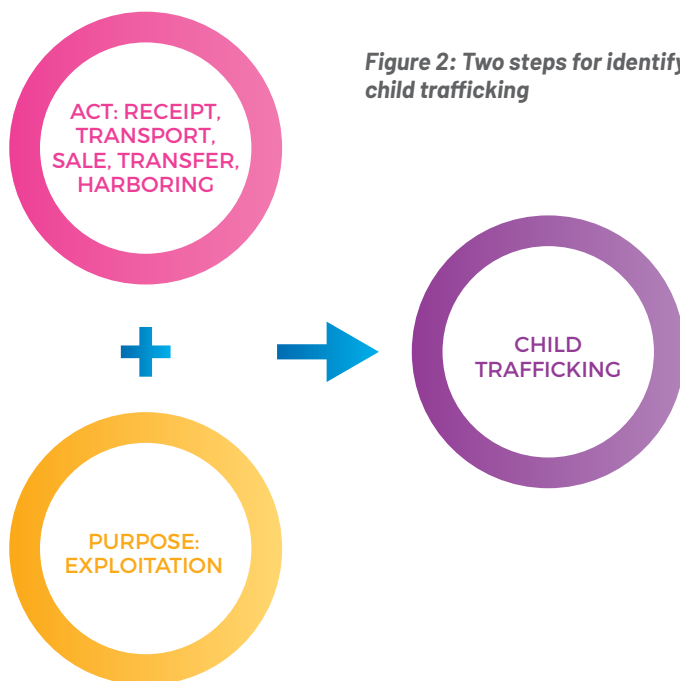


Figure 2: Two steps for identifying the victim of child trafficking

Because the child trafficking is an underground activity performed hidden in dark as other crimes which destroy human dignity, the identification of the victims of this crime is the one of first and most challenging steps.

As human trafficking laws put, the identification of the victims of human trafficking involves three elements: act, purpose, means. The same laws specific to children’s rights, explains that how the action is made, in other words the means stage is not important in child trafficking.

CTSP is the sexual exploitation of the child by transferring him/her from one place to another.

The means stage used in adults -such as use of force, deception, fraud- is not required in the case of children. This rule of not considering the means stage specific to children facilitates the identification of child victims. If the act and exploitation are present, than it is a child trafficking.

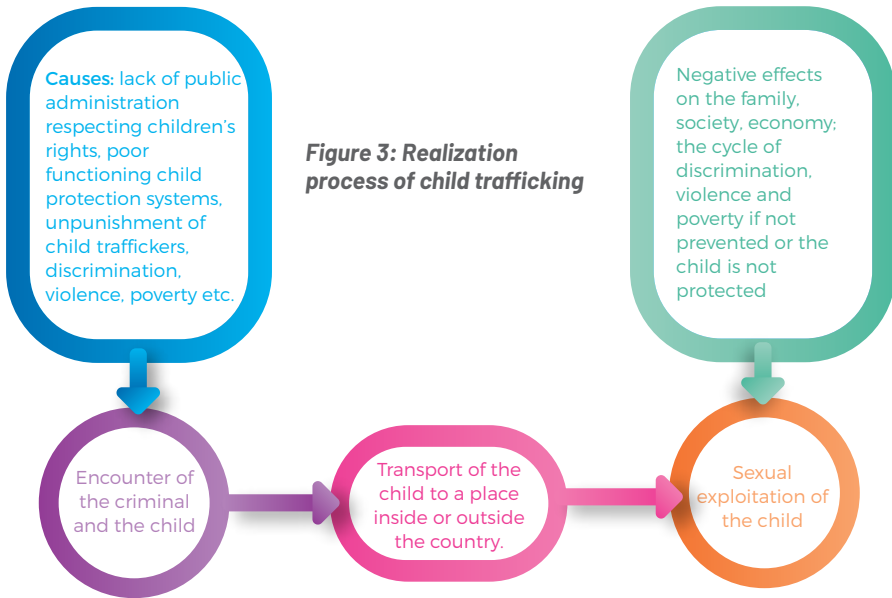


Figure 3: Realization process of child trafficking

International and National Legislation binding on Turkey regarding CTSP

- *The United Nations Convention on the Rights of the Child (CRC), Article 35*
- *The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*
- *The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*
- *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)*
- *Council of Europe Convention on Action against Trafficking in Human Beings*
- *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*
- *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*
- *ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*
- *Turkish Penal Code no. 5237, Article 80*
- *Child Protection Law*
- *Law on Foreigners and International Protection*
- *Regulation on Combatting Human Trafficking and Protection of Victims*

SITUATION IN TURKEY

As in many countries across the world, CTSP is included among children's rights violations also in Turkey.

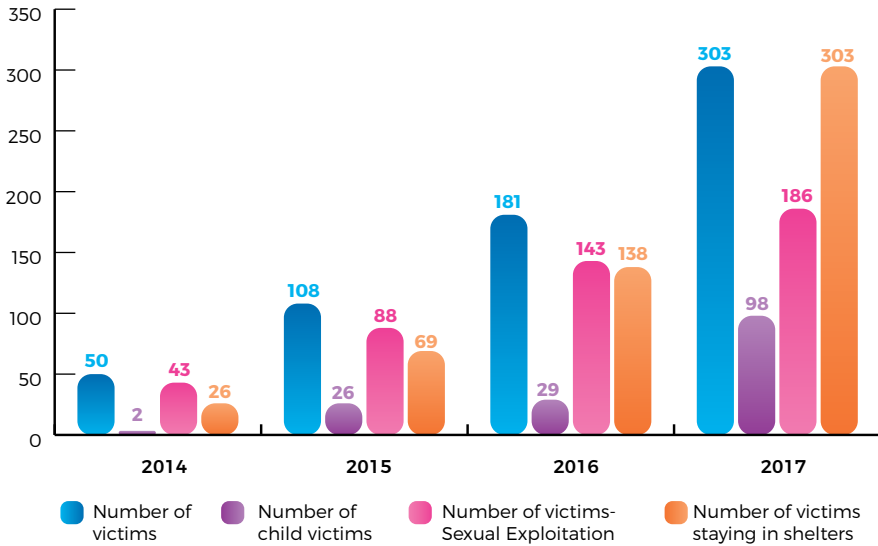
According to the researches of the United Nations (UN), more than 40 million people in the world are victims of human trafficking. And one in every four victims is a child. Up to 70% of all human trafficking victims are women and girls. The number of victims of human trafficking for sexual exploitation including forced marriage figures, is about 20 million. While approximately 6 million children are subject to sexual exploitation under the guise of marriage, 1 million children have been the victims of other forms of CTSP, in other words, a total of 7 million children are victims of CTSP (UNODC 2016 and ILO 2017).

While human trafficking and sexual abuse of children find discussion in national reports and studies in Turkey, the findings related to CTSP are negligible. For example, in the last 18 years in the dissertations and thesis database of the Council of Higher Education, there are only 22 postgraduate (master) thesis and 4 dissertations about human trafficking¹. There is only one study closely related to CTSP.

The most prominent recommendation on the subject as a result of the reports submitted by Turkey to UN human rights monitoring committees is the lack of information and data about human trafficking in general and child trafficking and CTSP in particular. Concluding observations and recommendations of the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (2016) and the Committee on the Elimination of Discrimination against Women (2016) for Turkey are in this direction. The concluding observations and recommendations of the UN Committee on the Rights of the Child dated 2006 and 2012 focus on the need to conduct in-depth researches regarding the issue, introduce a system to collect data and disaggregate official statistics by sex, age and risk group and in light of these information to develop policies and focus on the studies that will eliminate problems causing CTSP.

According to the Activity Report 2017 of the Ministry of Interior Directorate General of Migration (GİGM) Department of the Protection of Victims of Human Trafficking published in July 2018, the most common form of exploitation in human trafficking in Turkey is human trafficking for sexual purposes. 186 of the 303 victims of human trafficking identified in 2017 (61,4%) are victims of human trafficking for sexual purposes. As this data was not disaggregated by age and sex, the number of CTSP cases is unknown. Besides, it is seen that among 303 victims 98 (32,3%) of them are children. Data on age ranges and genders of these children was not published.

Figure 4: Official Figures of Human Trafficking Victims (Source: GiGM, 2018)



Besides the victim information, it can be observed that only 55 court cases affecting 543 victims were filed in 2017 on article 80 of the Turkish Criminal Code (TCK) on human trafficking, according to the data of the Ministry of Justice. Only 42 of these cases were finalized. In these finalized cases, the number of victims was 182, with a sharp decrease from 543. In the cases mentioned, among 185 defendants only 45 were sentenced. According to these statistics, which one is not disaggregated by age and sex, only 24% of these defendants were sentenced in the admitted cases.

According to the Criminal Record Statistics -2017 report, when article 79 on smuggling of migrant and 80 of TCK are taken together, the total number of defendants in these cases is 7,317; 33 of them are in the 12-15 (31 boys and 2 girls) age range; 65 of them are in the 15-18 age range (63 boys and 2 girls). Only 1.463 of the defendants are foreign national (112 women).

Considering the thin line between migrant smuggling and human trafficking, it should be remembered that there can be victims of human trafficking among the victims of migrant smuggling. As UNICEF stated in its 2016 report, migrant, refugee and displaced children within their countries have a very high risk of being subject to human trafficking. (UNICEF 2016, p.3).

The 2017 report of the Missing Children Europe indicates that, at least 10.000 unaccompanied children (without the presence of an adult responsible for them) among the migrants, many of whom arrived through Turkey, have gone missing in Europe and a large part of these children are under risk of being exploited by human traffickers.

Again, according to the Criminal Record Statistics 2017 report, the table containing sexual offences is extremely alarming. The data which is not disaggregated by age and sex indicates that, there are nearly 51.000 decisions on cases regarding sexual abuse of children (TCK 103- 104). In the sexual assault (TCK 102) and sexual harassment (TCK 105) cases the number of child victims is not known:

Figure 5: Decisions Given for Suspects Pursuant Crimes Against Sexual Immunity (Source: Ministry of Justice, 2018)

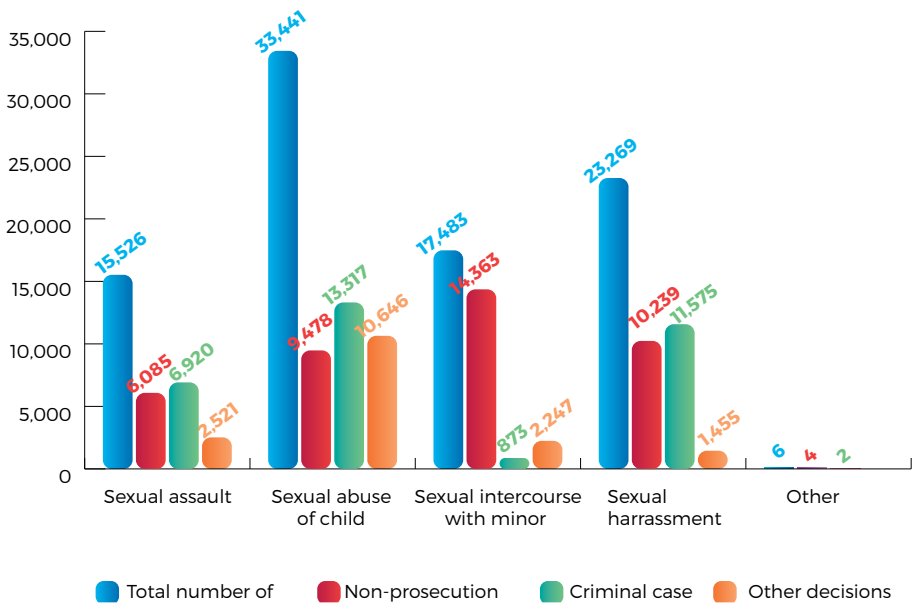
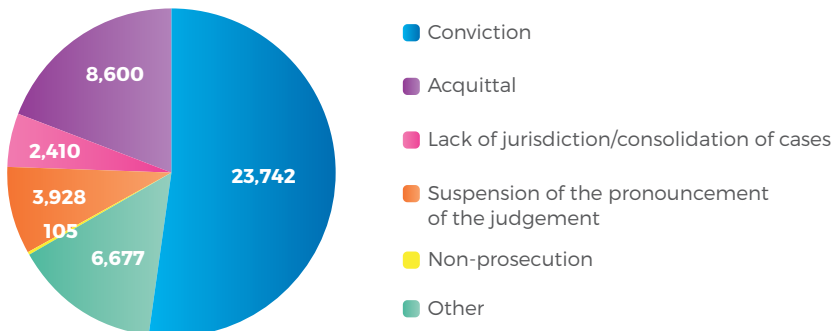


Figure 6: Total number of decisions on offences against sexual immunity - 2017 (TCK 102-105) (Source: Ministry of Justice, 2018)



Looking at the numbers above, while making an analysis is hard for they are not disaggregated by age and sex, the most striking point in almost half of the cases is that the defendants are released due to decisions of non-prosecution, acquittal or other reasons. The real problem here is the lack of services or other prevention efforts to avoid repetition of the acts of sexual abuse and exploitation faced in these cases, rather than the release of the defendants.

While the exact numbers of child victims are not known in general, the numbers of children among the defendants in the cases are known.

This is also the case in the numbers of offences and defendants in lawsuits filed in 2017 under the articles on sexual abuse and exploitation of children and adults of the Turkish Criminal Code:

Table 1: Numbers of Lawsuits Filed and Offences and Defendants 2017 (Source: Ministry of Justice, 2018)

Turkish Criminal Code (TCK), articles on sexual abuse and exploitation of child	Number of Offences in the Cases	Age 12-15		Age 15-18		18 and above		Age and gender unknown	Foreign National	
		Boy	Girl	Boy	Girl	Man	Woman		Man	Woman
TCK 103 - Sexual Abuse of Child	16,323	2,124	72	1,609	25	11,329	405	24	664	71
TCK 104 - Sexual Intercourse with Minor	1,288	48	7	150	5	1,027	29	-	18	4
TCK 227/1 - Child Sexual Exploitation through prostitution	390	7	4	10	9	234	118	-	2	6
Total	18,001	2,179	83	1,769	39	12,590	552	24	684	81

**Table 2: Numbers of Lawsuits and Offences and Defendants 2017
(Source: Ministry of Justice, 2018)**

Turkish Criminal Code (TCK), articles on sexual abuse and exploitation of child	Number of Offences in the Cases	Age 12-15		Age 15-18		18 and above		Age and gender unknown	Foreign National	
		Boy	Girl	Boy	Girl	Man	Woman		Man	Woman
TCK 102 Sexual Assault	6,607	127	2	180	2	5,925	59	4	307	1
TCK 105 Sexual Harrassment	11,626	265	8	324	4	10,642	111	1	266	5
TCK 227/3 Human trafficking for sexual exploitation	321	-	-	8	-	149	161	-	2	1
Total	18,554	392	10	512	6	16,716	331	5	575	7

Apart from these, 2017 figures regarding the children who arrived or brought to security forces present a similar pattern with different numbers. For example; as seen in Table 3, the children are brought to security units as if they are adult offenders of acts that are CTSP risk group acts such as sexual offences, kidnapping and use of narcotics.

Table 3: Children arrived or brought to security forces as per type of imputed offence and age groups, 2017 (Source: Directorate General of Security and Gendarmerie General Command)

Type of imputed offence	Total			-11		12-14		15-17		Unknown	
	Total	Boy	Girl	Boy	Girl	Boy	Girl	Boy	Girl	Boy	Girl
Total	107,984	92,849	15,135	5,190	1,764	20,008	3,834	66,827	9,001	824	536
Sexual offences	3,811	3,554	257	312	13	1,070	73	2,171	170	1	1
Deprivation of liberty	1,728	1,375	353	26	8	250	116	1,099	229	-	-
Possessing, selling, buying of narcotic and psychotropic substances	6,713	5,936	777	17	1	525	197	5,392	579	2	-

Further, it appears that again 3017 migrant/refugee/asylum seeker children, who can be considered as CTSP risk groups, brought to security forces due to different reasons (see. Table 4) have been handed over to GiGM. As seen in Table 4, there are 482 child victims who have been handed over to GiGM, but it is not known whether 98 child trafficking victims we see in Figure 4 (see page 8) and reported by GiGM are included in this number, neither do we know whether remaining of 482 children, who have been sent to GiGM by security forces, are victims of human trafficking (i.e. it is not known which crime these 384 children are victims of).

Table 4: Children who arrived/brought to security forces and handed over to GiGM as per reason for arrival and type of procedure by security force, 2017

(Source: Directorate General of Security and Gendarmerie General Command)

Reason for arrival	Total	Handed over to GiGM
Total	335,242	3,017
Pushed to crime	107,984	2,262
Misdemeanor	2,345	178
Running away from Home	2,315	1
Found	512	25
Victim	155,024	482
Illegal working	45	2
Appealed to for his/her testimony	46,040	23
Escape from institution	1,410	1

Looking at the data of both the Ministry of Justice and the Ministry of Interior, the number of child defendants/suspects prosecuted and/or brought to security forces for the offences such as human trafficking, and sexual abuse such as prostitution is alarming. This situation suggests that sufficient attention is not paid in the security and justice system to the issues such as what kind of acts by adults forced these children to commit these offences or whether these children are themselves victims of sexual exploitation, abuse and trafficking.

In addition to these figures, according to the International Labour Organisation (ILO) modern slavery and human trafficking 2017 report, forced child marriage appears as the most widespread human trafficking incident. While there are not any researches or statistics regarding “forced child marriage” or “child trafficking under the guise of marriage” in Turkey, 89,852 girls and 9,867 boys between the ages of 16-19 were made to marry in 2017 according to official figures (TÜİK, 2017). As in other CTSP cases, most of the victims are girls. Moreover, it is seen that the girls are forced to marry men who are much older than them (Figure 7) and some of the marriages are with men who had previously married (Figure 8).

Another point regarding the marriages that should not be overlooked is the fact that sizable number married women are citizens of countries where child trafficking is high like Syria, Uzbekistan, Georgia (decision of the Tbilisi Court regarding the Turkish citizen), Ukraine, Russia, Moldova (decision of the Supreme Court of Moldova regarding the Turkish citizen), Kazakhstan according to UN reports² (TÜİK 2017).

Another case related to a girl who came from the aforementioned countries and became a CTSP victim with the promise of marriage is seen in the decision of the Fifth Criminal Chamber of the Supreme Court (Case No. 2011/1242).

Figure 7: Number of married girls as per age group of men, 2017 (Source: TÜİK)

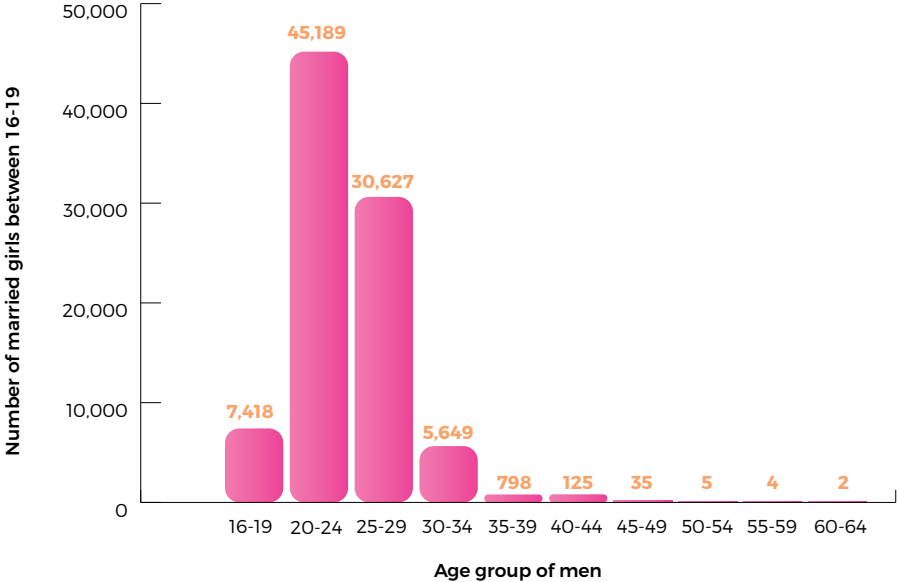
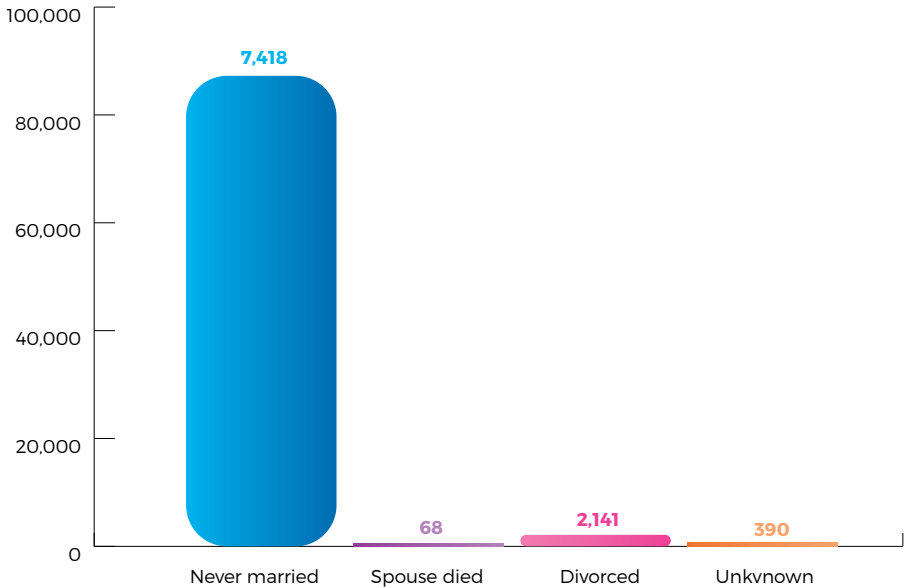


Figure 8: Number of married girls between ages of 16-19 as per previous marriage status of the person whom they are married (Source: TÜİK)



RISK FACTORS AND NEED FOR VICTIM-ORIENTED POLICY

Poverty resulting from discrimination; corruption and unfair distribution of income across the world; the vulnerabilities in the systems of child protection, child welfare and social security networks; different forms of violence against children and women in various environments and the lack of policies and programs aimed at preventing this; constraints on freedom of movement and migrant channels in the situations of armed conflict and following natural disasters; problems which prevent realization of basic children's rights, all increase the risk of CTSP (UN Special Rapporteurs on Trafficking in Persons and Sexual Exploitation of Children, 2017).

The UNICEF and ILO reports of 2016 and the general comments for all countries of the Committee on the Rights of the Child and concluding observations for all countries, the following groups of children are identified as being seen to be at greater risk:

- Girls (especially girls who do not have access to education, victims of CTSP under the guise of marriage, CTSP in situations of armed conflict, CTSP following natural disasters),
- Children living in poverty
- Roman children,
- Children under the care of institutions,
- Children in conflict with laws and the juveniles pushed to crime,
- Children working especially without social security,
- Children belonging to minority groups,
- Refugee/migrant children,
- Disabled children,
- LGBTI+ children,
- Boys abducted and recruited in situations of armed conflict (UNICEF 2017: 38-40, ILO 2016).

The victim is defined as a person who has suffered as a result of violation of the law by a person or group (Department of Victim Rights, 2015) and in the event that this person is under eighteen the term of child victim is used. As the concept of victim characterizes the person as weak, passive and desperate it is criticized especially from a feminist point of view (Kelly, Burton, & Regan, 1996). In feminist literature, instead of victim the concept of survivor is adopted to emphasize that the women and children who have suffered as a result of being subjected to different forms of violence and violation of their rights are actually not passive individuals, on the contrary they are individuals who have agencies and managed to stay alive. The concept of survivor also points to the fact that despite the traumatic event which threatens life, the individual continues his/her life and the existence of hope. However, as the concept of survivor is not yet widespread in Turkey and the concept of victim is used by the governmental and nongovernmental organizations, we prefer to use the concept of victim in this policy note. (We'd like to express that when using the concept of victim, we do not see the children as passive, weak, desperate individuals who do not have subjectivity (ICC/UCM, 2016).)

With regards to the child population in Turkey, 24 million of child population (including over 1.5 million Syrian children arriving as a result of the 7 years of armed conflict in Syria and other refugee children) corresponds to approximately one third of the total population. (TÜİK 2017 Refugees Association 2018).

According to the Research Note of Bahcesehir University Center for Economic and Social Research (BETAM) April 2016, within the scope of the definition of deprivation by the European Union, in 2014 more than 7 million children in Turkey, in other words one out of three children, lived in houses under severe material deprivation.

Likewise, according to the research note May 2018 of BETAM, 700.000 children between the ages of 15-19 neither participate in education nor work.

According to TÜİK 2016 Income and Living Conditions Survey, while income inequality increased compared to the previous year, 14,3% of the population remained below the poverty line and the rate of persistent poverty is %14,6 while the rate of material deprivation is 32,9%.

As a result, it is seen that many risk increasing factors in terms of CTSP such as migration movements, armed conflict, income injustice, poverty are present in Turkey. In view of these risk factors, victim oriented policies are needed. According to Table 5, the figures related to child victims brought to security forces also confirm this need.

Table 5: CTSP risk group children who arrived or brought to security forces as per type of victimization, 2017
(Source: Directorate General of Security and Gendarmerie General Command)

Type of victimisation	Total	Boy	Girl
Victim	155,024	84,162	70,862
Crime victim	137,482	74,854	62,628
Sexual offences	18,623	2,405	16,218
Deprivation of liberty	4,214	702	3,512
Possessing, selling, buying of narcotic and psychotropic substances	291	169	122
Victim of incident that needs to be prosecuted	17,438	9,265	8,173

Table 6: CTSP risk group children who arrived or brought to security forces as per reason for arrival and age group, 2017 (Source: Directorate General of Security and Gendarmerie General Command)

Reason for arrival	Total			-11		12-14		15-17		Unkownn	
	Total	Boy	Girl	Boy	Girl	Boy	Girl	Boy	Girl	Boy	Girl
Total	335,242	221,503	113,739	38,181	23,872	50,499	27,675	131,884	61,453	939	649
Abandonment	261	150	111	34	23	44	21	72	67	-	-
Elopement	2,315	867	1,448	40	8	258	351	569	1,089	-	-
Found	215	232	280	69	37	59	68	104	175	-	-
Missing (Found)	11,653	5,807	5,756	522	216	1715	1,419	3,570	4,121	-	-
Victim	155,024	84,162	70,862	26,675	18,718	19,399	16,377	38,059	35,741	29	26
Working in the street	715	506	209	291	145	140	30	75	34	-	-
Living in the street	10	6	4	-	-	1	1	5	3	-	-
Running away from institution	1,410	729	681	27	15	129	129	473	537	1	-

It is hard to make analysis with these disaggregated numbers however, when considered together with the limited data on CTSP, human trafficking, sexual abuse and exploitation which was shared in the part "Situation in Turkey" and the statistics about the relevant cases, punishment/unpunishment, it suggests that there is risk of overlooking potential victims and the current system is not child oriented but punishment-oriented and it is a system which is unable to protect child victims.

In addition to these, particularly in recent years many positive steps were taken on human trafficking and protection of victims' rights. For example; the Law on Foreigners and International Protection (YUKK), the Regulation on Combating Human Trafficking and Protection of Victim, (GİGM) Strategic Plan and Victim Rights Draft Law continuing for four years and pending in the Turkish Grand National Assembly (TGNA) are important in terms of seeing the improvements in policy making in this filed.

But unfortunately; the policymaking documents show that more specific regulations are needed due to children's special developmental need for protection. Policies, which are not clearly regulated and recommend the same service both to child and adult, are unable to protect the "child's best interests" which is one of the Constitutional obligations of Turkey.

Institutionally in GİGM organization, there are several boards and commissions which have among their missions to produce and implement policies related to human trafficking: The Migration Policies Board, the Migration Advisory Board, the International Protection Department, the Coordination Board for Combating Irregular Migration, and

the Coordination Committee for Combating Human Trafficking. While this set-up shows the importance given to combating human trafficking, it also has the potential to create problems regarding policy production and coordination.

In GiGM 2017-2021 Strategic Plan, under the 4. strategic purpose, the issues of combating human trafficking and protection of victims were openly discussed and the general purpose was specified as “to develop a victim-oriented and efficient victim protection and combat system from a legal perspective in the fields of combating human trafficking and protection of victims.” And, in order to accomplish this purpose, the following objectives were set:

1. Improve victim identification process by developing a far-reaching and a victim-oriented approach with regard to human trafficking
2. Empower legal and administrative capacity in the fields of combating human trafficking and protection of victims
3. Increase support services to the victims of human trafficking in collaboration with non-governmental organizations

All these objectives should include strategies related to prevention of CTSP, protection of victims of CTSP, effective prosecution against CTSP, There is only one child-specific strategy among the above mentioned strategic goals: the improvement of legal regulations aimed at children who are victims of human trafficking and increasing of services specific to children in accordance with the principle of “child’s best interest”.

The concept of “Child’s Best Interests”, as stated in the general comment of the UN Committee on the Rights of the Child, emphasizes the importance that should be given to the studies that will affect both each child individually, and considering different groups of children in general (UN Committee on the Rights of the Child, 2013). For this reason, it is a guide both in legislative and identification process and also in relation to support services to the victims. Fundamentally, “Child’s Best Interests” which is basically a process related to assessment both during policy making and provision of services, is a flexible right, a principle and a legal procedure rule which can be summarized as not to make any discrimination during and after the process, listen to views of the child and reflect them in the policies and provision of services, make studies for the living, survival and development of the child in the highest level knowing the effects of his/her development, needs, experiences on him/her.

In view of the practices in the field, the Victim Support Program of GiGM emerges as an extremely appropriate practice also within the framework of international human rights. But as this program pay regard only to identification of the victim and the subsequent process, it points to the fact that GiGM needs to conduct studies on topics related to victim risk groups and preventing victimization of children during and prior to identification of victim risk group.

One of these services is human trafficking shelters which will provide service especially to the victims of human trafficking apart from non-governmental organizations. The fact that the shelters in Ankara Metropolitan Municipality with a capacity of 30 persons and in Kırkkale with a capacity of 12 persons provide service to only 42 victims of human trafficking in total reveal the urgency of the steps that needs to be taken with this regard.

Victim-oriented policy making is valid for all stages of prevention, protection, support, punishment, restitution and restorative justice which are required for efforts combating CTSP based on children's rights. Therefore, victim orientation needs to be taken into account in the following steps recommended by the UN and for which studies are continuing on some of them under the GIGM Victim Support Program (UN, 2010):

- **Identification stage**
 - o Appointment of a custody
 - o Age determination

- **Protection of the private lives and identities of CTSP victims**
 - o Support services

- **Rehabilitation and thinking period**

- **If needed, granting residence permit to the victims (in international cases) and ensuring basic rights such as health, education, psycho-social support**

- **Compensation of rights and damages**

- **If it is in the interest of the child, return of the child to his/her hometown/family provided that he/she will not be harmed or be subject to CTSP or other types of violence.**

POLICY RECOMMENDATIONS

In consideration of the issues mentioned above, the steps needed to be taken in the efforts to combat CTSP based on children's rights and the recommendations which would be guiding for various duty bearers and stages of policy making and provision of services in light of UN human rights committees, relevant contracts of Council of Europe and guiding principles, are as follows:

PREVENTION

1. Although there are improvements to adopt international conventions³ which ensure the protection of children from child trafficking for sexual exploitation to the legal system in Turkey, specific regulations that will prevent human trafficking, ensure victims' access to justice and restorative support and the coordination in the field are not yet improved.

The provision on the offence of human trafficking in TCK, as opposed to the definition in the Palermo Protocol, does not include the concept of "exploitation" and the statement "provision of persons for the purpose of sexual exploitation". Although "forcing to prostitution" is listed among the acts in the legal definition of the offence, the concept of sexual exploitation was not included in the definition. Therefore, it is stated that the regulation in TCK is not compatible with the Palermo Protocol (Galma Jahic & Ulaş Karan, 2006). In light of the information given to GRETA, the monitoring group of the Council of Europe Convention on Action against Trafficking in Human Beings, it is understood that another action plan on human trafficking will be revealed in 2018-2019 (GRETA 2017). In this plan a specific study on CTSP is recommended.

2. Public administration must take measures that will eliminate risk factors. International and national social and economic policies must be adopted in order to secure and protect the children and their families under sufficient life standards.
3. The children must be educated with information and life skills that are gender sensitive and appropriate for their age in an understandable language and environment.
4. In order to combat and prevent child trafficking, public awareness campaigns, researches, sensitisation and mass media campaigns and social and economic initiatives that discuss the core causes of exploitation must be organized.
5. The capacities of the caretakers and professionals who are in contact with children must be increased.
6. Support mechanisms must be established by identifying the children in risk groups. In early identification stage the evidences such as deception, using force, threat must not be taken as basis in the definition of child trafficking including the measures to be taken in border gates.

7. Information regarding CTSP is scarce. The available data is conflicting and offers information differing from each other and hard to analyse. Therefore, support must be given to the implementation of children's rights and monitoring studies and researches (such as the participatory action research in particular) for welfare situations of the children. It is important to present the available data regularly to the public disaggregating by specific characteristics of the children such as age, sex, social situation and education.
8. Non-formal and formal training which raises awareness and contains in – depth information about human trafficking and assisting victims must be delivered to the law enforcement officers, judges, prosecutors, inspectors, teachers, health care professionals, embassy and consulate staff.
9. Target-driven, preventive social, economic and other studies for children in risk groups must be conducted:
 - a. Registration at birth
 - b. Children working/living in the street
 - c. Children living in institutions
 - d. Children in disadvantaged groups (disabled, Roman, etc.)
 - e. Unaccompanied children or children separated from their families
 - f. Children affected from unorganized immigration

PROTECTION AND SUPPORT

10. The victims of human trafficking must be protected against prosecution, arrest or punishment for the activities that they are involved as a direct consequence of the incidents. The victims must be exempt from any obligation regardless of their power or will to cooperate with prosecutors; and sufficient protection must be ensured such as witness protection programs and temporary residence permit. The principle of non-punishment must be followed for the children, who are victims of human trafficking or involved in some way in human trafficking, for the offences they commit in the course.
11. In accordance with the article 39 of Convention on the Rights of the Child, child victims' access to free legal services must be ensured and all kind of measures must be taken in order to promote their physical and psychological recovery and social reintegration and to help them to benefit from high quality medical care, counseling services and financial support and education opportunities.
12. The privacy and identities of the victims of human trafficking must be protected including the legal proceedings related to human trafficking.

13. Physical safety of victims of human trafficking must be ensured.
14. Legal or administrative system information to victims of human trafficking must be provided.
15. In order to offer and consider criminal investigation stages which are appropriate for the criminals, the views and concerns of the victims must be observed.
16. Appropriate residences and shelters for child victims must be provided. Two shelters⁴ with a total capacity of 42 in Turkey are insufficient and more shelters with a current situation assessment are needed. Collaboration with non-governmental organizations in the stages of provision of service in shelters and monitoring of the services in terms of children's rights will be a good practice for protecting best interests of the child victims.
17. Opportunities of care and means of living including employment, training and education must be provided for child victims.
18. If it is in the interest of the child and if it is certain that he/she will not be harmed there, the victims of child trafficking must be returned to their hometown.

PUNISHMENT, RESTITUTION AND RESTORATIVE JUSTICE

19. Compensation of the loss of the victims must be ensured.
20. Effective prosecution of criminal elements must be ensured.

NOTES

¹ <https://tez.yok.gov.tr/UlusalTezMerkezi/tezSorguSonucYeni.jsp>, Ulaşım Tarihi: 27.04.2019

² <http://www.unodc.org/unodc/en/human-trafficking/publications.html?ref=menuseide#Reports>

³ UN The Convention on the Rights of the Child (UNCRC) and Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime and Council of Europe Convention on Action against Trafficking in Human Beings

⁴ http://www.goc.gov.tr/icerik6/insan-ticareti-ile-mucadele_363_378_4714_icerik

REFERENCES

GUIDING REFERENCES

Ministry of Justice Criminal Record Statistics (2017) Report, http://www.adlisicil.adalet.gov.tr/istatistik_2017/istatistik2017.pdf

Missing Children Europe 2017 Report, <http://missingchildreneurope.eu/annual-reports/categoryid/0/documentid/444>

Council of Europe (2012). Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse: The Criminal Law Benchmarks of the Budapest and Lanzarote Conventions. Council of Europe

Bahçeşehir University Center for Economic and Social Research (BETAM) April 2016 Research Note, <https://betam.bahcesehir.edu.tr/2016/04/her-uc-cocuktan-biri-maddi-yoksunluk-icinde/>

Bahçeşehir University Center for Economic and Social Research (BETAM) May 2018 Research Note, <https://betam.bahcesehir.edu.tr/2018/05/15-19-yas-arasindaki-700-bin-genc-ne-iscucunde-ne-egitimde/>

United States Department of Foreign Affairs. (2018). Trafficking in Persons Report 2018. <https://www.state.gov/documents/organization/282798.pdf>

UN(Ed.)(2010), The Recommended Principles and Guidelines on Human Rights and Human Trafficking: Comment. New York: United Nations.

UN Study on Violence against Children (2006) https://www.unicef.org/violencestudy/reports/SG_violencestudy_en.pdf

UN Joint Report of the Special Rapporteur on the Sale and Sexual Exploitation of Children and Special Rapporteur on Trafficking in Persons (2017), (A/72/164)

UN ECOSOC (Economic and Social Council) Sub-Commission on the Promotion and Protection of Human Rights (2003). Report of the Working Group on Contemporary Forms of Slavery on its twenty-eight session, 15 (prepared by Paulo Sérgio Pinheiro) (U.N. Doc. E/CN.4/Sub.2/2003/31).

- ECPAT International. (2015). *Global Monitoring Status of Action against Commercial Sexual Exploitation of Children: Turkey*. http://www.ecpat.org/wp-content/uploads/legacy/A4A_V2_EU_Turkey_FINAL.pdf
- ECPAT International. (2016). *Global Study on Sexual Exploitation of Children in Travel and Tourism onCountry-Specific Report on Turkey*. <http://cf.cdn.unwto.org/sites/all/files/docpdf/global-report-offenders-move-final.pdf>
- Galma Jahic & Ulaş Karan, *Türk Ceza ve Ceza Usul Hukuku ve Fuhuş Amaçlı İnsan Ticareti Suçunda Yaşanan Sorunlar*, <http://tbbdergisi.barobirlik.org.tr/m2006-67-273>, (2006)
- GRETA (Group of Experts on Action against Trafficking in Human Beings) Follow-up questions, <https://rm.coe.int/16805ab825>
- GRETA Activities 7. General Report (2017), <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>
- Hodgkin, R., & Newell, P. (2007). *Implementation Handbook for the Convention on the Rights of the Child (Rev. 3. Ed)* New York: UNICEF.
- ICAT (2016), *Providing Effective Remedies for Victims of Trafficking in Persons. UNODC and Inter-Agency Coordination Group against Trafficking in Persons (ICAT)* https://www.unodc.org/documents/human-trafficking/ICAT/ICAT_Policy_Paper_3._Providing_Effective_Remedies_for_Victims_of_Trafficking_in_Persons_2016.pdf
- Ministry of Interior. (2018). *Ministry of Interior Directorate General of Migration Activity Report 2017. Ministry of Interior Directorate General of Migration.*
- Ministry of Interior (2017). *Directorate General of Migration (GİGM) Stratejic Plan 2017-2021. Ministry of Interior* http://www.goc.gov.tr/files/files/stratejik_plan_sitede_yayinlanan.pdf
- Ministry of Interior (2017). *Turkey Immigration Report 2016. Ministry of Interior Directorate General of Migration.*
- Department of the Protection of Victims of Human Trafficking. (2018). *Turkey 2017 Annual Report on Combating Trafficking in Human Beings. Ministry of Interior Directorate General of Migration.*
- Kelly, A., & Hodal, K. (2017, 30 July). *Traffickers take all that makes you human: faces of modern slavery - in pictures. The Guardian*. <https://www.theguardian.com/global-development/gallery/2017/jul/30/traffickers-take-all-makes-you-human-faces-modern-slavery-in-pictures>
- Refugees Association (2018), <https://multeciler.org.tr/turkiyedeki-suriyeli-sayisi/>
- TÜİK (2017), *Statistics on Child 2017*, <http://www.tuik.gov.tr/PreHaberBultenleri.do?id=27596>
- TÜİK (2017), *Vital Statistics, Marriage Statistics*, http://www.tuik.gov.tr/PreTablo.do?alt_id=1060
- TÜİK (2016) *Income and Living Conditions Survey*, <http://www.tuik.gov.tr/PreHaberBultenleri.do?id=24579>
- International Labour Organisation, Walk Free Foundation and International Organization for Migration (2017), *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, <https://www.ilo.org>

[org/wcms5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf](https://www.unicef.org/wcms5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf)

UNICEF. (2006). *Guidelines on the Protection of Child Victims of Trafficking*. Geneva: Unicef. https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/unicef_child_trafficking_reference_guide_en_1.pdf

UNICEF. (2016) *Uprooted*, <https://www.unicef.org/videoaudio/PDFs/Uprooted.pdf>

UNICEF. (2017) *A Child is a Child*. https://www.unicef.org/publications/files/UNICEF_A_child_is_a_child_May_2017_EN.pdf

UNICEF. (2017) *All Children in School: Education*

UNODC (2016), *Global Report on Trafficking in Persons*

UNODC, & UNICEF. (2009). *Justice in Matters involving Child Victims and Witnesses of Crime Model Law and Related Commentary*. UN https://www.unodc.org/documents/justice-and-prison-reform/Justice_in_matters...pdf

Vitit Muntarbhorn (2007). *Article 34: Sexual exploitation and sexual abuse of children*

Leiden ; Boston: Martinus Nijhoff. *A commentary on the UN Convention on the Rights of the Child*

INTERNATIONAL AND NATIONAL LEGISLATION

Turkish Criminal Code no. 5237, Article 80

Council of Europe Convention on Action against. Trafficking in Human Beings (2005).

Council of Europe. Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Pub. L. No. CETS No. 201(2007).

UN the Committee on the Rights of the Child (2013), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), <http://www.cocukhaklarizleme.org/wp-content/uploads/CRC14-R.pdf>

UN The Committee on the Rights of the Child. (2006). Concluding observations : Turkey(No.CRC/C/OPSC/TUR/CO/1).

UN the Committee on the Rights of the Child. (2012). Concluding observations: Turkey. (CRC/C/TUR/CO/2-3).

UN the Convention on the Rights of the Child (1989).

The UN Committee on the Elimination of Discrimination against Women (2016).

Concluding observations on the seventh periodic report of Turkey (No. CEDAW/C/TUR/CO/7).

UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). (2016). Concluding observations on the initial report of Turkey (No. CMW/C/TUR/CO/1).

UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (2017) Joint General Comment No. 4

United Nations, Special Rapporteur on trafficking in persons and Sexual Exploitation of Children, 2017

United Nations, Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000).

UN CRC, General Comment No: 13 on the Right of the Child to Freedom from All Forms of Violence (2011).

UN CRC, General Comment No: 20 on the Implementation of the Rights of the Child during Adolescence (2016).

UN CRC, General Comment No: 21 on Children in Street Situations (2017).

UN CRC, General Comment No: 6 – Treatment of Unaccompanied and Separated Children outside their Country of Origin (2005).

UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002).

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2002).

CEDAW, Article 6 (abolition of human trafficking)

Child Protection Law, Pub. L. No. 5395, § 5 (2005).

The Terminology Guidelines for the protection of children from sexual exploitation and sexual abuse, (Adopted by the Interagency Working Group in Luxembourg, January 28, 2016)

Case No. 2011/ 1242, UNODC Trafficking in Persons Knowledge Portal (5th Criminal Chamber of High Court of Appeals 2011).

Case No. 281-12, UNODC Trafficking in Persons Knowledge Portal (Tbilisi City Court 2012), https://sherloc.unodc.org/cld/case-law-doc/traffickingpersons/crimetype/geo/2012/case_no._281-12.html?lng=en&tmpl=htms

Case no: Ira – 578/2009, UNODC Trafficking in Persons Knowledge Portal (Moldova Supreme Court of Justice 2009).

General Comment No:22, Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (2017).

General Comment No:3, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, (2017).

ICCPR, Article 8 (prohibition of slavery) and Article 24 (protection of children).

ICESCR, International Covenant on Economic, Social and Cultural Rights, UN High Commissioner for Human Rights, Article 10/3, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

Ministry of Interior, Regulation on Combating Human Trafficking and Protection of Victims, <http://www.resmigazete.gov.tr/eskiler/2016/03/20160317-9.htm>

Ministry of Interior. (2016, March 17). Regulation on Combating Human Trafficking and Protection of Victims. Ministry of Interior.

Convention for the Protection of Human Rights and Fundamental Freedoms (1953), Article 3.

Basic Principles on the Right to an Effective Remedy for Trafficked Persons, Report of the Special Rapporteur on trafficking in persons, especially in women and children (A/69/33797)

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), <https://www.ohchr.org/en/professionalinterest/pages/traffickingpersons.aspx>

Kaya-Germany Case and Decision, (2007) https://www.echr.coe.int/Documents/FS_Trafficking_TUR.pdf

Slavery Convention (1926)

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956).

Victim Rights Draft Law, <http://www.adalet.gov.tr/Tasarilar/1magdurhaklarikanuntasarisi.pdf>

Palermo Protocol, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2003).

Grand National Assembly of Turkey GNAT. Law on Foreigners and International Protection (2013).

International Labour Organization, Convention no. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2001).

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