

## TURKEY

### Penal Code

(August 2002)

The following new articles 201a and 201b shall be inserted after article 201.

#### "Article 201a.

The smuggling of migrants consists of facilitating the residence in Turkey of an individual who is a foreigner or a stateless person and who is not legally entitled to have permanent residence in Turkey, or facilitating the illegal arrival and stay in Turkey or arranging or facilitating the illegal departure from Turkey for purposes of direct or indirect gain.

The major offender along with aiders and abettors who have facilitated or made arrangements, including the procurement of false identification or travel documents, for the illegal arrival, stay or departure of an individual, as well as those who have attempted the commission of these acts, shall be sentenced to two to five years' imprisonment and imposed a fine of not less than one billion liras, without prejudice to other sentences that may be passed in respect of distinct offences involved in the above-mentioned acts. Vehicles used, and gains made in connection with the crime shall be seized.

The penalties imposed in connection with the offences under this article shall be increased by half if the lives or the physical integrity of individuals have been endangered or if they have been subjected to inhuman or degrading treatment and shall be increased by twofold if the action has resulted in death.

If the offences under this article are committed as part of a criminal conspiracy, the penalties shall be increased twofold.

#### Article 201b.

A person commits an offence and shall be sentenced to five to ten years of imprisonment and a fine of no less than one billion liras if he procures, abducts, holds, transfers or receives an individual and he intends to exercise control over that individual by compelling him into work or any kind of services, or by subjecting him to slavery or similar treatment, or he threatens, exerts pressure, uses force or coercion to persuade him to give up his bodily organs, or for these purposes, he uses undue influence, secures his consent by deceit or by taking advantage of his despair.

If the actions that constitute a crime are attempted with the intentions described in the first paragraph, it is assumed that the victim has not given his consent.

Penalties fixed in paragraph one under this article shall apply to convictions of an offence committed upon a child under the age of eighteen even in cases where all the constituent elements of the crime as specified under paragraph one are gathered.

Should the offences under this article be committed as part of a criminal conspiracy, the penalties shall be increased twofold.

### List of Selected Pieces of Legislation relevant to the Trafficking in Human Beings

**Law no. 1583 on general hygiene** [relevant to prostitution, which is legal in Turkey, except for foreigners, under certain conditions - this law regulates brothels which are officially recognized institutions]

- **Article 435 of the Penal Code** [lays down penalties for incitement to prostitution from six months to three years imprisonment + a fine; no less than two years if the victim is under age 15]
- **Article 436 of the Penal Code** [provides for penalties from two to three year imprisonment for forced prostitution when the victim is 21 years old or under age 21]
- **Article 313 of the Penal Code** [imposes tougher penalties on traffickers who operate within an organized crime pattern]
- **Amendments to the Penal Code** enacted on 3 August 2002 [foresee tougher penalties on traffickers who have confiscated passports from their victims and contain provisions defining human smuggling and dispensing tougher penalties on human smugglers] [not yet in force]
- The **Law on Combating Benefit-Oriented Criminal Organizations** [regulates investigations into organized crime by using special techniques and dispensing specific measures to protect victims - according to the law, criminals suspected of involvement in organized crime are tried before State Security courts, while cases of incitement to prostitution fall within the jurisdiction of regular courts]
- Article 8 of the **Law no. 5682 on Passports** [if the prostitute of the trafficker is a foreigner, they are immediately deported; article 8 stipulates that "those who are engaged in prostitution, make a living by inciting women into prostitution, and those trafficking in women are prohibited to enter the country"]

- **Law no. 5683 on residence and travelling for foreigners in Turkey** [Article 19 stipulates that the Ministry of Interior, governors and sub-governors have the authorization of deporting foreigners (who are involved in trafficking either as prostitutes or traffickers) after 15 days following the notice issued for this purpose. If the same person is reported once again for the same offence, no further notice is needed and the person is deported immediately after captured by the police]

