

LAW OF TURKMENISTAN “On Combating Trafficking in Persons”

This law sets forth the legal and organizational basics of trafficking in persons in Turkmenistan and aims at ensuring the security of person and protection against human trafficking as guaranteed by the state

Section I. General Provisions

Article 1. Basic Concepts

The following basic concepts are used in the law:

trafficking in persons – a set of actions, such as recruitment, purchase, sale, transportation within one or several countries, handing over or holding a person or a group of people by threatening to use force or using force, trapping them into bonded labour or other forms of coercion, abduction, deception, fraud, abuse of power, or by using their vulnerability, adopting children for commercial purposes, or by offering payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;

human trafficker – physical or legal entity committing any actions related to trafficking in persons either independently or together with other people, as well as a public official who, either by their actions or the lack thereof, promotes trafficking in persons without counteracting or suppressing it, which they are supposed to do due to their official duties;

trafficking victim – a person who suffered as a result of trafficking in persons, irrespective of whether or not this person consented to his or her transportation, transfer, sale or other actions related to trafficking;

recruitment – taking on or hiring other people to do a certain work, attracting them for some activities, including illegal ones, or involving them in some organization, including those organizations which are prohibited by law;

forced labour – any work or services required of a person under the threat of punishment or by other means of coercion to which this person did not consent voluntarily;

exploitation – forced labour or services, servitude or customs relates to servitude, servile status or removal of human organs and/or tissues, and other forms of exploitation for the purpose of committing sexual actions;

servitude – a status or the state of a person treated with some or all features pertaining to the right of property;

debt-bondage – a condition or a state under which the debtor pledges his personal labour or the labour of someone dependent on them in order to pay off their debts, if the value of such work does not count toward redeeming the debt, or if such work is not limited in time, or if the nature of this work and compensation for it are not defined;

surrogate mother – a woman who delivers a child as result of using a medical method of artificial insemination or implantation of an embryo to act as a gestational carrier;

combating trafficking in persons – a set of activities meant to prevent, detect, suppress and minimize the consequences of trafficking in persons, as well as to provide assistance to trafficking victims;

crimes related to trafficking in persons – crimes laid down in the Criminal Code of Turkmenistan.

Article 2. Legislation of Turkmenistan on trafficking in persons

1. Legislation of Turkmenistan on combating trafficking in persons shall be based on the Constitution of Turkmenistan and consist of this law and other regulatory and legal

frameworks of Turkmenistan regulating the issue of trafficking in persons.

2. If any of international treaties to which Turkmenistan is a party contains other provisions than the ones envisaged in this law, such provisions shall be preferred.

Article 3. State policy of Turkmenistan on combating trafficking in persons

The state policy of Turkmenistan on combating trafficking in persons shall be aimed at addressing the following tasks: to ensure the implementation of one common policy on combating trafficking in persons; to protect individuals and society against trafficking in persons; to improve legislation on trafficking in persons; to regulate all relations arising in the course of combating trafficking in persons; to prevent, detect and suppress any activities on trafficking in persons; to create favourable conditions for physical, psychological and social rehabilitation of persons who fell victim to trafficking in persons; and to implement Turkmenistan's international obligations on combating trafficking in persons.

Article 4. Key principles of combating trafficking in persons

Combating trafficking in persons shall be based on the following principles: ensuring the rule of law in the area of combating trafficking in persons; irrevocability of bringing human traffickers to justice; non-discrimination of trafficking victims; ensuring a safe and fair treatment of trafficking victims; simultaneous use of legal, political, medical, social, economic, preventive and informational measures; and cooperation with public associations and international organizations.

Article 5. Methods and forms of exploitation to which trafficking victims are subject

1. Exploitation of trafficking victims may be carried out through the following means: physical coercion along with violence and/or narcotic and psychoactive substances, alcohol and other potent agents; economic coercion in the form of debt-bondage or other financial dependence, including servitude or conditions similar to servitude; psychological persuasion by means of blackmailing, deceiving, deluding or threatening to use violence; and legal dependence as a result of adoption, guardianship or entry into marriage without the purpose of starting a family.
2. Exploitation of trafficking victims may be of the following types: exploitation of physiological organs and tissues of humans for the purpose of transplantation; exploitation of a woman as a surrogate mother; exploitation of human labour in daily economic activities (household and daily services), production, agricultural works and illegal business (involvement in armed groups or production of illicit goods); sexual exploitation; and exploitation of a person for the purpose of using them for armed conflicts or military actions.
3. In case a trafficking victim consented to some form of exploitation within any specific action related to trafficking in persons, such consent shall be disregarded provided that any type of influence related to trafficking in persons was inflicted on a person.

Section II. Basics of activities on combating trafficking in persons

Article 6. State bodies implementing their activities in the area of combating trafficking in persons

1. State bodies implementing their activities in the area of combating trafficking in persons shall be the Prosecutor-General's Office of Turkmenistan, Ministry of the Interior, Ministry of National Security, Ministry of Foreign Affairs, State Border Guard Service, State Service on

Registration of Foreign Nationals and other government agencies as provided for by their jurisdiction.

2. Control over the activities of state bodies on combating trafficking in persons shall be vested in the Cabinet of Ministers of Turkmenistan.

Article 7. State body coordinating all activities on combating trafficking in persons

1. The state body responsible for coordinating all activities on combating trafficking in persons shall be the Prosecutor-General's Office of Turkmenistan.

2. The following authority shall be conferred upon the Prosecutor-General's Office of Turkmenistan:

- 1) enforcing the state policy on combating trafficking in persons;
- 2) organizing and carrying out activities aimed at identifying and eliminating the causes of trafficking in persons more efficiently;
- 3) overseeing the accurate and smooth enforcement of this law and other regulatory and legal frameworks of Turkmenistan on combating trafficking in persons;
- 4) coordinating the activities of other public bodies on combating trafficking in persons and supervising the work of specialized agencies listed in Article 11 of this law;
- 5) participating in developing international agreements of Turkmenistan on combating trafficking in persons;
- 6) formulating proposals on improving Turkmenistan's legislation in the area of trafficking in persons;
- 7) implementing activities on raising public awareness about the issue of trafficking in persons;
- 8) submitting annual reports to the Cabinet of Ministers of Turkmenistan on activities in the area of combating trafficking in persons;
- 9) exercising other authorities related to combating trafficking in persons.

3. State agencies implementing their activities in the area of combating trafficking in persons shall provide any new information on cases of trafficking in persons to the Prosecutor-General's Office of Turkmenistan.

Article 8. Authority of state bodies implementing their activities on combating trafficking in persons

1. The Ministry of the Interior in Turkmenistan shall combat trafficking in persons by preventing, detecting and suppressing crimes, as well as collecting, analyzing, and generalizing information on the scale, current condition and trends of trafficking in persons through disclosing and destroying links between individuals and organized crime groups involved in trafficking in persons and acting in Turkmenistan.

2. The Ministry of National Security of Turkmenistan, within its authority, shall combat trafficking in persons by detecting any possible links between international terrorist organizations and organized crime groups, on the one hand, and human traffickers, on the other.

3. The Ministry of Foreign Affairs of Turkmenistan, as well as diplomatic missions and consular services of Turkmenistan in other countries, shall ensure the protection of rights and interests among Turkmen nationals abroad who fall victim to trafficking in persons.

4. The State Border Guard Service of Turkmenistan shall combat trafficking in persons by preventing, detecting and suppressing any attempts by human traffickers to cross the state border of Turkmenistan illegally, as well as illicit transportation of trafficking victims through

the state border.

5. The State Service on Registration of Foreign Nationals of Turkmenistan shall combat trafficking in persons by detecting and suppressing any attempts by human traffickers to pass through migration control posts at the state border of Turkmenistan, dispatching trafficking victims who are foreign nationals outside the country, and taking measures to assist trafficking victims.

Article 9. Facilitation to state bodies implementing their activities on combating trafficking in persons

Public administration institutions, local executive and self-governance bodies, public foundations, public officials and common citizens shall facilitate the state bodies in their efforts to curb trafficking in persons.

Section III. Prevention of trafficking in persons

Article 10. Activities on preventing trafficking in persons

1. State bodies implementing their activities on combating trafficking in persons shall put in efforts to prevent trafficking in persons.
2. A set of measures aimed at preventing trafficking in persons shall include the following:
 - 1) conducting monitoring activities on the issue of trafficking in persons;
 - 2) developing and carrying out programmes aimed at preventing trafficking in persons;
 - 3) raising public awareness about dangerous situations that potential trafficking victims may confront, the protection provided by the state and specialized institutions, as well as criminal prosecution and administrative punishment initiated by the state to counteract trafficking in persons;
 - 4) developing and implementing educational programmes meant to prevent trafficking in persons and to reduce the risk of becoming a trafficking victim;
 - 5) collaboration with public foundations working in the area of combating trafficking in persons;
 - 6) other measures provided for in the legislation of Turkmenistan.

Section IV. Specialized institutions for supporting and assisting trafficking victims

Article 11. Establishment of specialized institutions for supporting and assisting trafficking victims

1. To provide protection and assistance to trafficking victims, specialized institutions for supporting and assisting trafficking victims (hereinafter specialized institutions) may be set up, as established by the Cabinet of Ministers of Turkmenistan.
2. Public foundations counteracting trafficking in persons may be involved in establishing specialized institutions mentioned in Item 1 of this article.
3. Sources of finance to implement the activities of specialized institutions shall be determined by the Cabinet of Ministers of Turkmenistan.

Article 12. Major functions of specialized institutions

1. The following shall be the major functions of specialized institutions:
 - 1) providing trafficking victims with easily understood information about a number of legal and organizational activities meant to protect their interests;

- 2) providing medical, psychological, legal and other types of assistance to trafficking victims;
- 3) helping trafficking victims to become re-integrated in their families and society;
- 4) providing trafficking victims with temporary refuge.

2. Temporary refuge in specialized institutions shall be provided to a trafficking victim up to one month following their personal request.

3. In case of a need for testimonies against human traffickers, the time in refuge established in Part 2 of this article may be prolonged for the course of a case, if requested by an investigation agency, a prosecutor or court, following the request of a trafficking victim to give testimony or a justified motion of a person who suffered as a result of trafficking in persons.

Section V. Assistance to trafficking victims and their protection

Article 13. Social rehabilitation of trafficking victims

1. Social rehabilitation of trafficking victims shall be carried out to help them return to the normal way of living, which includes legal assistance to such individuals, as well as their medical, psychological, professional rehabilitation and employment.
2. Social rehabilitation of trafficking victims shall be carried out as determined by the Cabinet of Ministers of Turkmenistan.

Article 14. Providing assistance to child victims of trafficking

1. Assistance to child victims of trafficking shall be provided in accordance with the legislation of Turkmenistan and relevant international treaties ratified by Turkmenistan.
2. If state bodies implementing their activities on combating trafficking in persons or specializes institutions receive some information about a child victim of trafficking, they, as established by the legislation of Turkmenistan, shall protect the rights of the child by notifying appropriate agencies dealing with guardianship immediately.
3. In case child victims of trafficking are provided refuge in specialized institutions, they shall be placed separately from adults.

Child victims of trafficking who are provided refuge in specialized institutions shall have an opportunity to attend public educational facilities, as established by the legislation of Turkmenistan.

4. In case a child victim of trafficking is deprived of parental guardianship or does not possess any information about the whereabouts of his or her family, measures shall be taken to find the child's family or to put him or her in ward, as established by the legislation of Turkmenistan.

Article 15. Measures on protecting trafficking victims

1. Any access to personal information about a trafficking victim shall be denied by directory services based on the resolution of a special undercover investigation agency, an inquiry officer, investigator, prosecutor or court.
2. Disseminating information about trafficking victims or about specific circumstances of trafficking in persons that may pose a threat to life or health of a trafficking victim or their

family members, as well as information about individuals facilitating the combat against trafficking in persons, shall be prohibited.

3. In case of a serious danger to life and health of a trafficking victim, this person shall have the right to change his or her first, last and patronymic names, as established in the legislation of Turkmenistan.

4. Disclosing information about security measures and confidential information about trafficking victims, as well as the results of a preliminary investigation and security measures taken with regard to all parties of a criminal proceeding, shall be prohibited.

5. Public officials working in public administration bodies, local executive and self-governance offices, as well as staff members of public associations, who are involved in combating trafficking in persons shall be held liable for disclosing confidential information about trafficking victims or refusing to provide assistance to such persons, as established in the legislation of Turkmenistan.

Article 16. State guarantees to trafficking victims

1. An inquiry officer, investigator, prosecutor and court shall undertake security measures, as provided for in the legislation of Turkmenistan, with regard to a trafficking victim who expressed his or her willingness to cooperate with investigation and inquiry agencies for the purpose of finding suspects involved in trafficking in persons.

2. In case a foreign national or a stateless person who becomes a trafficking victim is considered as such in accordance with the Criminal and Procedural Code of Turkmenistan and acts as a witness in a criminal case, or provides assistance to law enforcement agencies, he or she, following a justified motion of an inquiry officer, investigator, prosecutor and court, shall not be forced to leave the country until the criminal case is finished and a final judicial decision is made with regard to those charged with trafficking in persons. Such a trafficking victim shall be given the right to a temporary stay in Turkmenistan, irrespective of how he or she entered the country.

3. A trafficking victim shall not be held liable for any action regarded as administrative offence if such offence was committed due to circumstances caused by human traffickers.

Article 17. Obligations of Turkmenistan's diplomatic missions and consular services abroad in protecting and providing assistance to trafficking victims

1. Diplomatic missions and consular services of Turkmenistan abroad shall ensure the protection of rights and interests of Turkmen nationals who fall victim to trafficking in persons in the receiving country, and facilitate their return to Turkmenistan.

2. In case it is impossible to take away the documents from human traffickers proving that trafficking victims are Turkmen nationals or such documents are lost, diplomatic missions and consular services of Turkmenistan shall issue and provide such individuals with documents that will enable them to return to Turkmenistan.

3. According to the legislation of Turkmenistan and that of the receiving country, diplomatic missions and consular services of Turkmenistan shall provide information about Turkmenistan's legislation on trafficking in persons to relevant bodies of the receiving state, and spread information about the rights of trafficking victims among relevant individuals.

Section VI. International cooperation in the area of combating trafficking in persons

Article 18. International cooperation in the area of combating trafficking in persons

1. Turkmenistan, pursuant to the norms and principles of international law, shall cooperate

with foreign states and their relevant agencies on the issue of trafficking in persons, as well as with international organizations combating trafficking in persons and promoting the protection of rights and legal interests belonging to trafficking victims.

2. Guided by its aspiration to ensure the security of person, society and the state, and given the transnational nature of trafficking in persons, Turkmenistan shall prosecute those involved in trafficking in persons on its territory, including cases when trafficking in persons or some of its stages took place outside Turkmenistan, caused damage to Turkmen citizens or foreign nationals, and other cases provided for by international treaties ratified by Turkmenistan.

Section VII. Final Provisions

Article 19. Specific judicial proceedings with regard to cases of trafficking in persons

Cases on crimes related to trafficking in persons and cases on making restitution to trafficking victims may be considered within closed judicial proceedings, as established by the legislation of Turkmenistan.

Article 20. Liability for trafficking in persons

1. Physical and legal entities involved in crimes related to trafficking in persons shall be held liable in accordance with Turkmenistan's legislation.

2. In case a court detects cases of trafficking in persons through a legal entity in Turkmenistan intentionally covering trafficking in persons, such legal entity shall be eliminated following the resolution of a local court.

3. In case of recognizing a legal entity belonging to another country (its representative office or branch) by court as an organization involved in trafficking in persons, the court shall issue a resolution prohibiting the activities of such legal entity in Turkmenistan, and all its representative offices and subsidiaries in Turkmenistan shall be closed down.

4. All assets of a legal entity (its representative office or branch) mentioned in Item 2 and 3 of this article which were obtained through illegal means shall be seized and given to the state following a court resolution.

President of Turkmenistan
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