

HUMAN RIGHTS IMPACTS ASSESSMENT

Human rights impacts are influenced largely by the local human rights context and the nature of a project's specific activities. To be consistent with the UN Guiding Principles, the full range of human rights impacts needs to be considered, including those caused or contributed to by the project, cumulative impacts, and those directly linked to the project, e.g., through business relationships. An adverse human rights impact occurs when an action removes or reduces the ability of an individual to enjoy her or his human rights. The human rights due diligence process, as articulated by the UN Guiding Principles on Business and Human Rights (2011), focuses companies on identifying and addressing adverse impacts; this is, therefore, the main focus of this assessment. It is important to note that, potential issue areas typically considered in ESIAs are similar to those that are key to human rights including but not limited to resettlement, community health and livelihoods topics.

Human rights impact assessment will be performed in line with Equator Principles 4 "Guidance Note on Implementation of Human Rights Assessments under the Equator Principles" to include at least the followings:

More detailed consideration of the country human rights context including at least the followings:

- Legal statuses protecting human rights (e.g., status of ratification of UN International Covenant on the Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, eight of ILO Fundamental Conventions - . Human rights reports mainly focus on the functioning of democracy in Turkey and the analysis of political processes. Therefore, Project specific potential human rights risks have been defined in accordance with the structure of the Project's affected area, site visit findings and Project specific reports.)
- Identification of right holders at risk (e.g., ethnic minorities, migrant workers, elderly persons, women, children, human rights risks in the supply chain and mitigation measures required to address these supply chain risks – Authoritative sources of the various human rights bodies will be used)
- Labour rights context
- Land tenure rights context
- Political and civil rights context (including freedom of expression and protest)
- Ecosystem services users' rights context

- Identification of key human rights risks relevant to the Project activities and their assessment based on the EPIV guidance (based on scale, scope, remediability, likelihood, severity, significance)
- Description of key principles adhered to by the Project to secure human rights of local communities and Project personnel
- Description of embedded controls and proposed mitigations to address the human rights risks identified (In the case of human trafficking, sexual harassment, and gender-based violence issues, cooperation and partnerships with NGOs and institutions specialized in the investigation, evaluation and monitoring of these cases will be suggested. These collaborations are beneficial both for the protection of the rights of the person who has been subjected to human rights violations and for the correct and appropriate management of the process. Therefore, it will be included as a mitigation measure proposal).

1 SUMMARY ASSESSMENT ON HUMAN RIGHTS

"UN General Assembly National report of Turkey" and "Amnesty International Report 2020/21"¹ were evaluated within the scope of Turkey's current situation and international requirements on human rights.

Within the scope of the Amnesty International Report 2020/21 report, the evaluation of the current situation in Turkey has been gathered under the following headings:

- State intervention
- Pressures Against Opposition,
- Freedom of expression,
- The situation of human rights defenders,
- LGBT+ Rights,
- The rights of women and girls,
- Torture and other forms of ill-treatment
- freedom of assembly,
- enforced disappearances,
- Rights of Refugees, Asylum Seekers and Migrants.

In the *UN General Assembly National report of Turkey*, the following evaluations regarding the current situation in Turkey are included under the title of "Promotion and protection of human rights":

In Turkey's constitutional system, the laws state that all individuals are equal for the law; "without any discrimination based on language, race, color, gender, political opinion, philosophical belief, religion, sect or the like". Within the scope of anti-discrimination laws, Turkish Penal Code (TCK) (Law No. 5237), Civil Servants Law (Law No. 657), Law on Political Parties (Law No. 2820), Labor Law (Law No. 4857) and National Education Basic Law (Law No. 1739) Law No.) are laws that recognize the equality of everyone before the law and prohibit all forms of discrimination.

¹ <https://www.amnesty.org.tr/public/uploads/files/Rapor/UAO%CC%88%202020-21%20Y%C4%B1ll%C4%B1k%20Rapor%20-%20Tu%CC%88rkc%CC%A7e%20070421.pdf>

With the establishment of HREIT in 2016, Turkey has institutionalized its efforts to ensure the right of individuals to be treated equally and to prevent discrimination in the exercise of legally recognized rights. The founding law of HREIT (Law no. 6701), designates “anti-discrimination” as one of the three mandates of the Institution, which has administrative and financial autonomy in addition to a private budget. (Recommendation 148.17)

The Law no. 6701 serves as a comprehensive law against discrimination, prohibiting discrimination on the grounds of sex, race, colour, language, religion, faith, sect, political or other opinion, ethnicity, property, birth, marital status, state of health, disability and age ; while listing forms of discrimination falling under the scope of the law: Segregation or isolation, giving instructions to discriminate against someone and following such instructions, multiple discrimination, direct discrimination, indirect discrimination, mobbing, not providing reasonable accommodations for persons with disabilities, harassment and discrimination based on presumed grounds (a situation in which a person is discriminated because he/she is wrongly presumed to have one of the discrimination grounds mentioned in the present law)

HREIT's founding law (Law No. 6701) defines “anti-discrimination” as one of the three tasks of the Institution, which has administrative and financial autonomy as well as a special budget. Law No. 6701 functions as a comprehensive anti-discrimination law prohibiting discrimination on the basis of sex, race, color, language, religion, belief, sect, political or other opinion, ethnic origin, property, birth, marital status, health condition, disability and age. When listing the forms of discrimination covered by the law: Discrimination or isolation, giving instructions to discriminate against someone and complying with these instructions, multiple discrimination, direct discrimination, indirect discrimination, mobbing, lack of reasonable accommodation for the disabled, harassment and discrimination based on assumed grounds (if a person wrongly a situation in which he is discriminated against because he is presumed to have one of the grounds of discrimination specified in this law).

In the *General Assembly National Report of Turkey*, although it was evaluated that legal regulations and institutional activities related to human rights were positive, it was stated that there were problems in practice. Minorities, Freedom of religion and conscience, Freedom of expression and the media, Right to peaceful assembly and association, Prohibition of torture and ill-treatment, Right to education, Women's rights, Children's rights, Rights of the persons with disabilities, Refugees, asylum Seekers, international protection and human trafficking are the topics that have been evaluated within the scope of human rights.

In both two reports, it is stated that written laws and regulations are egalitarian and have an approach that protects the rights of disadvantaged groups; However, it is criticized that an

egalitarian and democratic approach is not displayed in the implementation of laws and regulations. Problems in practice prevent the fair functioning of the system and cause incompatibilities with international practices regarding human rights, violations of rights and discriminatory approaches.

2 PROJECT RELATED HUMAN RIGHT RISKS

According to the "Guiding Principles on Business and Human Rights"² document of The Office of the High Commissioner for Human Rights, Project and Project affected area have been assessed in terms of:

- Non-discriminatory manner,
- Risks or challenges of the individuals, groups or populations who are vulnerable or marginalized,
- The different risks that may be faced by children, women and men.

Turkey's characteristics such as being a transit and destination country in international migration movements, especially for the Middle East and Asian countries, its geographical location at the intersection of roads between Asia, the Middle East and Europe, its political borders with many countries, and the long coastline surrounding the country may occur the risks on the human rights.

Specific to the Project, risks related to human rights were evaluated on the basis of interviews and observations made during the fieldwork, and the documents prepared beforehand regarding the Project. The following potential risks to human rights have been identified in the Project impact area and within the scope of Project activities:

- Risks Relating to Human Trafficking
- Forced Labour
- Risks Related to Child Labor
- Risks Related to Gender Equality and Discrimination
- Risks Caused by Land Acquisition

Risks related to human rights, such as human trafficking, forced labor, child labor, and forced prostitution, to which migrant women and children and vulnerable groups may be exposed, were handled within the scope of the Project, within the scope of Human Rights-Related Risks.

² https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf

2.1 RISKS RELATING TO HUMAN TRAFFICKING

Due to the location of the project, Adana, Mersin, Osmaniye and Gaziantep can be considered as provinces where Syrian and other immigrant populations are densely populated and therefore there are groups at risk of being victims of human trafficking.

2.2 FORCED LABOUR

Forced labor, as a form of human trafficking, refers to the usurpation of personal freedom and coercion to work. Forced labor through confiscation of foreign passports, debt, threats and violence is another form of human trafficking. Forced prostitution among women, abuse and forced labor of children, and forcing men to work in inhumane conditions are common within the scope of this human rights violation.

Within the scope of the Project, measures and control mechanisms will be implemented to prevent the emergence of forced labor in provinces with high risk levels.

2.3 RISKS RELATED TO CHILD LABOR

Agriculture is the sector where child labor is most common in Turkey. 30.8% of working children are in agriculture, 23.7% in industry and 45.5% in service sector. 66.0% of working children work in a regular workplace, 30.4% work in the field-garden, 3.0% work in a mobile, non-fixed workplace or marketplace, and 0.5% work at home.

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Within the scope of the project, the following risks may exist regarding child labor:

- Employing child workers in subcontracted jobs,
- Employment of children in works such as agriculture and commerce carried out within the family,
- Employment of children in productions made in the household on a piece-by-piece basis,
- Including children in the recruitment of unskilled workers living or traveling as nomads,
- Employing children under the age of 18 in hazardous work.

It is important to implement the necessary mitigation measures. Risk management will be ensured with mitigation measures; however, child labor has been evaluated as a risk that must be taken into account and prevented.

2.4 COMMON MITIGATION MEASURES TO BE TAKEN AGAINST HUMAN RIGHTS RISKS

The project takes measures against all kinds of human trafficking, prostitution, forced labor, child labor and related activities that support or increase these crimes and implements a zero-tolerance policy.

- It will expand the zero-tolerance policy within the scope of procurement, supply, sub-activities and services. It will provide training and information on the prevention of child labor for contracted companies that it purchases or employs as subcontractors.
- The project directly monitors activities that may increase child labour, implements sanctions in line with human rights and principles, and reviews business relations.
- No employee or any Project consultant, contractor, sub-contractor, vendor or supplier will be involved in criminal activities, human rights violations. This commitment will be specified in all contracts and its sanctions will be defined.
- If any employee is found to have engaged in such behavior, the Project will impose its own sanctions, including dismissal, in addition to national and international regulations.
- The project will identify mitigation measures to minimize risks, consult and implement measures through open and transparent consultations with local people.
- In this process, necessary arrangements and supports should be provided especially in order to prevent the loss of livelihood and income of land users. For this reason, the determination of the main users of the lands is an important element.
- Effective Use of Grievance Redress Mechanism for these measures is one of the most important tools to prevent human rights violations and to prevent risks through early detection. For the effective use of the grievance mechanism, the GRM Procedure is being revised within the scope of the SEP document. Effective use of GRM measures are defined to improve the functioning of human rights.

Assistance will be provided to enable vulnerable groups to access Project GRM.

Open, transparent, timely and reliable information and consultations will be proceeded with vulnerable groups, disadvantaged groups and women living in or affected by the project, on GRM and Project impacts/ opportunities.

These activities will be detailed in the SEP document.

- Within the scope of the project, cooperation and partnerships will be established with institutions and/or NGOs that are experts in their fields to manage risks related to human rights and gender discrimination. These collaborations will support the management of project risks with consultancy activities that will be beneficial in the management of risks related to human rights, both legally and socially.

2.5 RISKS RELATING TO GENDER EQUALITY AND DISCRIMINATION

Discrimination is a risk that should be constantly monitored and may arise from many reasons. The Project aims to ensure social inclusion and gender equality of vulnerable groups and to eliminate potential risks throughout the life of the Project, in line with national and international objectives.

In order to ensure that the job opportunities and benefits created within the scope of the project are equally beneficial, it will be ensured that the vulnerable groups and women are informed at a sufficient level, primarily the people affected by the project.

- Announcements of the content of job opportunities and their definitions in job postings will be inclusive and will not include expressions that are indiscriminate, discriminatory, identifying or excluding.
- Environmental and social arrangements will be made to ensure working conditions that take into account gender equality and offer equal opportunities to all segments in the business area, office areas and all other working areas.
- Open, transparent, timely and reliable communication and consultations will be made with vulnerable groups, disadvantaged groups and women affected by the project,
- Meetings will be held and briefings will be made so that all segments can access the grievance mechanism and submit their complaints under equal conditions.
- Vulnerable groups will be provided with necessary support and assistance.
- Transparency, suitability for the job and merit criteria will be applied without exception in the recruitment processes in line with the principles and ethical rules.
- Discrimination behavior or practice arising from any reason such as gender, age, ethnicity, religion, language, race, physical characteristics, disability will be recorded and examined.

2.6 RISKS CAUSED BY LAND ACQUISITION³

The risks arising from land acquisition can be listed as follows:

- Decrease in the agricultural and/or animal livelihoods of the local people,
- Inadequate arrangement of the lands under current conditions,
- Increase in expenses of local people due to land purchases,
- Difficulties in accessing livelihood areas,
- Incomplete or incorrect identification of right holders,
- Exclusion of land users from the definition of beneficiary.

³ This subject, only headings are given here, has been assessed in detail in the final document.

3 IMPACT ASSESSMENT METHODOLOGY⁴

The methodology will be used in the analysis of all social, cultural, economic and human rights impacts that have the potential to occur within the scope of the Project.

Project activities can create both negative and positive impacts due to various characteristics of the affected people, groups or the receiving environment.

The methodology has been evaluated taking into account various characteristics of the projects, project activities and the project-affected environment. Impact analysis was carried out based on the assumption that both negative and positive impacts from the project could arise.

The methodology includes the following components:

- Project activities: Activities directly or indirectly related to the project that may cause environmental and social impacts,
- Impact factors: direct or indirect interventions that may affect the status of the environmental and social component arising from the project activities,
- Sensitivity of the component: the sum of the conditions that determine the quality and trends of the environmental and social component,
- Impacts: changes to the existing situation or quality due to project-induced factors on the environmental or social component,
- Mitigation measures: actions adopted to reduce negative impacts or improve the impact of positive impacts on the environmental and social component.

The calculation of the Impact Value is done by multiplying the Impact Factor Score for the value of the sensitivity of the target component, determined during the baseline. The result is then corrected by considering the reversibility of the impact. The reversibility is the property of an impact to diminish its magnitude over time and to eventually recede entirely. The definitions are given below.

The third step consist in assessing the effectiveness of the mitigation measures to reduce or eliminate the negative impact. The mitigation measures should be defined with reference to the mitigation hierarchy and be organized in a logical sequence of measures to:

⁴ Impact assessment methodology will be explained in more detail in the final report. The impact assessment methodology briefly presented here will be used both in the assessment of Project impacts and in the assessment of potential human rights risks within the scope of the Project.

- Avoid
- Minimize
- Restore
- Compensate

The effectiveness of the mitigation measures defined in the environmental and social management plan should be assessed using expert judgement and the findings from the previous application of the measures to similar projects. The definitions of the mitigation effectiveness are:

- Low: the measures can reduce the impacts by less than 20% of the expected magnitude
- Medium low: the measures can reduce the impacts by 20% - 40% of the expected magnitude
- Medium: the measures can reduce the impacts by 40% - 60% of the expected magnitude
- Medium high: the measures can reduce the impacts by 60% - 80% of the expected magnitude
- High: the measures can reduce the impacts by more than 80% of the expected magnitude

The identification and evaluation of the potential risks were determined by the methodology explained and mitigation measures were developed in accordance with the magnitude of the emerging risk. "Residual Impacts" remaining after the implementation of mitigation measures are handled and evaluated separately⁵.

⁵ While preparing this fact sheet, the process of impact assessment and measures development is still ongoing. In the final report, both the methodology and the impact assessment process will be presented in more detail.