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TURKEY

Report on Turkey's Asylum Law and Policies

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ABBREVIATIONS

AFAD	Turkish Disaster and Emergency Management Authority
AIDA	Asylum Information Database
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DGMM	Directorate General of Migration Management
ECHO	European Civil Protection and Humanitarian Aid Operations
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ESSN	Emergency Social Safety Net
EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organisation
IPAC	International Protection Assessment Committee
LFIP	Law on Foreigners and International Protection
RSD	Refugee Status Determination
SASF	Social Assistance and Solidarity Foundations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

Executive Summary

Turkey continues to be home to the world's largest refugee population. Out of nearly 4 million persons seeking international protection in Turkey, there are nearly 3.6 million Syrian, 172,000 Afghan and 142,000 Iraqi nationals (UNHCR 2019). Since 2011, all Syrian citizens, refugees, and stateless persons living in Syria who have sought refuge in Turkey have been eligible, as a group, for temporary protection in Turkey. Turkey's first asylum law namely, the Law on Foreigners and International Protection, entered into force in 2014 and created a comprehensive legal framework for the protection of asylum seekers and refugees in Turkey. The Law on Foreigners and International Protection also established Turkey's first migration agency, known as the Directorate General of Migration Management (DGMM), which currently oversees the implementation and coordination of asylum and migration policies in Turkey. To complement and facilitate implementation of the asylum framework established by the Law on Foreigners and International Protection, the Turkish government has also adopted a number of regulations concerning the status and rights of Syrians, as well as access of international protection beneficiaries and Syrians to the Turkish labour market.

Turkey's newly established asylum framework and migration agency require scrutiny as they affect protection of nearly 4 million forced migrants seeking protection within Turkish borders. This report provides an overview of Turkish asylum laws and policies with aims to identify the good practices and shortcomings of this newly established system. The report consists of five main parts. The first makes an introduction to the Turkish asylum system and the second analyses protection of Syrians in Turkey and Turkey's temporary protection policy. Following this analysis, the third part introduces international protection categories, outlines the rights secured for these groups and examines international protection determination procedures. The fourth part outlines deportation procedures and how to appeal international protection and deportation decisions in Turkey whilst it also investigates to the extent which procedural guarantees provided to refugees and asylum seekers are observed in practice. The final part outlines Turkish asylum laws and policies concerning administrative detention and Removal Centres. By focusing on these issues, the report provides a comprehensive review of Turkish asylum laws and policies, in particular those concerning temporary protection, international protection, refugee status determination, deportation and detention.

1. An Introduction to Turkish Asylum Laws and Policies

Turkey today hosts the largest number of refugees in the world. As of September 2019, the number of Syrians who have fled the conflict and sought refuge in Turkey reached 3.6 million.[1] Turkey maintains a geographical limitation to the Convention relating to the Status of Refugees (the 1951 Convention).[2] As a consequence, Turkey is not obliged to grant refugee status to asylum seekers coming from outside Europe. Turkey's reservation to the 1951 Convention has long shaped its asylum laws and policies and it still does to this date.

Until the entry into force of the Law on Foreigners and International Protection[3] (LFIP) in 2014, asylum related matters in Turkey were mostly regulated by Regulation No 1994/6169 on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey.[4] This Regulation introduced a very strict time limit for asylum seekers to lodge their international protection claims and there were no references to the core human rights of asylum seekers and refugees in it.[5] Besides, the 1994 Regulation neither mentioned the principle of non-refoulement, nor provided any safeguards against prolonged detention of asylum seekers

1 UNHCR, 'Syria Regional Refugee Response', Last Updated 5 September 2019, < https://data2.unhcr.org/en/situations/syria/location/113>. (All links are accessed on 23/09/2019)

2 Convention relating to the Status of Refugees (signed 28 July 1951, entered into force 22 April 1954) 189 UNTS 150.

3 Turkey, Law No. 6458 on 2013 of Foreigners and International Protection, 4 April 2013, <https://www.refworld.org/docid/5a1d828f4.html>.

4 Turkey, Regulation No. 1994/6169 on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum From another Country (last amended 2006), 19 January 1994, <http://www.refworld.org/docid/49746cc62.html>.

5 See B Frelick, 'Barriers to Protection: Turkey's Asylum Regulations' (1997) 9 (1) International Journal of Refugee Law 8-34, 12; C Soykan, 'The new draft law on foreigners and international protection in Turkey' (2012) 2(2) Oxford Monitor of Forced Migration 38-47.

and refugees.[6] The implementation of the above-mentioned restrictive provisions attracted criticism from many commentators.[7] Moreover, the European Court of Human Rights (ECtHR) has found Turkey in violation of articles 3, 5, and 13 of the European Convention on Human Rights (ECHR)[8] in a number of cases regarding deportation, detention, and treatment of asylum seekers and refugees.[9] This has changed with the adoption of Turkey's first asylum law.

The Law on Foreigners and International Protection, which was adopted in 2013 and entered into force in 2014, established a comprehensive legal framework for the protection of asylum seekers and refugees in Turkey that in many respects mirrors the European Union (EU) asylum *acquis*.[10] Furthermore, the LFIP secured access of refugees to health care, education and social services in Turkey and introduced clear administrative and judicial remedies against asylum decisions and deportation orders. The LFIP also established the Directorate General of Migration Management (DGMM), which is now responsible for the refugee status determination (RSD)[11] and is the authority overseeing the implementation and coordination

6 Article 29 of the 1994 Regulation provides that "A refugee or an asylum seeker who is residing in Turkey legally can only be deported by the Ministry of Interior under the terms of the 1951 Geneva Convention relating to the Status of Refugees or for reasons of national security and public order." This was not a provision that explicitly affirmed the principle of *non-refoulement*.

7 Frelick, 8-34; K Kirişçi, 'Turkey's New Draft Law on Asylum: What to make of it?' in S Paçacı Elitok and T Straubhaar (eds.) *Turkey, migration and the EU: Potentials, challenges and opportunities* (Hamburg University Press 2012) 63-83, 67.

8 Council of Europe, 'Convention for the Protection of Human Rights and Fundamental Freedoms' (adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221.

9 See Jabari v Turkey App No 40035/98 (ECtHR, 11 November 2000); Abdolkhani and Karimnia v Turkey App No 30471/08 (ECtHR, 22 September 2009); ZNS v Turkey App No 21896/08 (ECtHR, 19 January 2010).

10 M Ineli-Ciger, 'How Have the European Union and the EU Asylum Acquis Affected Protection of Forced Migrants in Turkey?: An Examination in View of the Turkish Law on Foreigners and International Protection and the EU-Turkey Statement of March 2016' V Stoyanova and E Karageorgiou eds. *The New Asylum and Transit Countries in Europe during and in the Aftermath of the 2015/2016 Crisis* (Brill Nijhoff 2018) 115-139, 124-128.

11 Before the adoption of the LFIP, UNHCR was conducting *de facto* refugee status determination in Turkey. "As of 10 September 2018, UNHCR is no longer involved in registration of applications." See UNHCR, Operational Update 2018 Highlights, 2018, <https://www.unhcr.org/tr/wp-content/uploads/sites/14/2019/02/UNHCR-Turkey-Operational-Highlights-2018-Final.pdf >.

of all asylum and migration policies.[12] The DGMM is an institution of the Turkish Ministry of Interior, the headquarters of which are in Ankara, whereas provincial DGMM Directorates have been established in 81 cities.

12 Article 103 of the LFIP.

2. International Protection & Refugee Status Determination in Turkey

Refugees, conditional refugees and people with subsidiary protection statuses all fall under the scope of international protection in Turkey. Hence, whilst status determination relating to these categories of protection is one and the same, temporary protection is subject to different procedural rules (see section 3). [13] According to the DGMM, 114,537 persons have applied for international protection in Turkey.[14]

An international protection applicant who originates from Europe and is determined to be a refugee, as defined under Article 1(A)(2) of the 1951 Convention and following a status determination by the DGMM, is granted refugee status.[15] According to Article 3 of the LFIP, Europe includes all members of the Council of Europe, as well as other states determined by the Turkish Presidency.[16] Refugees are entitled to receive identity and travel documents as well as resident permits that are valid for three years.[17] Refugees have access to education, the labour market, social assistance and health services in Turkey.[18] As such, for asylum seekers, the refugee status can be identified as the most generous international protection status in Turkey.

An applicant for international protection who does not originate from Europe and is recognised as a refugee on the basis of the 1951 Convention is granted conditional refugee status.[19] This provides less protection compared to that available to refugees coming from Europe. Conditional refugees receive resident permits, which are valid for one year and the only durable solution available to them is to be

13 Although not a structured protection category *per se*, the LFIP introduced humanitarian residence permits which allow persons to stay in Turkey for a year or more on a number of humanitarian grounds. See Article 46 of the LFIP.

14 Directorate General of Migration Management, International Protection, (2019) < https://www.goc.gov.tr/uluslararasi-koruma-istatistikler> 78 (available only in Turkish).

15 Article 61 of the LFIP.

16 Article 3(1) (b) of the LFIP.

17 These resident permits can be renewed further. Articles 83 and 84 of the LFIP.

18 Section III of the LFIP.

19 Article 62 of the LFIP.

resettled in a third country.[20] Conditional refugees may apply for travel documents, though it is not guaranteed that they will receive them[21] and they have no right to family reunification.[22] They are entitled to access education, social assistance and health care, though they may work only six months after having submitted their applications for international protection.[23]

The LFIP introduced another protection category, known as subsidiary protection status.[24] Article 63 of the LFIP defines a beneficiary of subsidiary protection as

"[a] foreigner or a stateless person, who neither could be qualified as a refugee nor as a conditional refugee […] because if returned to the country of origin or country of [former] habitual residence would: a) be sentenced to death or face the execution of the death penalty; b) face torture or inhuman or degrading treatment or punishment; c) face serious threat to himself or herself by reason of indiscriminate violence in situations of international or nationwide armed conflict; and therefore is unable or for the reason of such threat is unwilling, to avail himself or herself of the protection of his country of origin or country of [former] habitual residence."

Subsidiary protection beneficiaries receive resident permits valid for one-year[25] and may apply for travel documents, although in their case as well, it is not guaranteed they will receive the travel documents.[26] They are entitled to access education, social assistance, health care as well as the labour market[27] and enjoy the right to family reunification.[28] Notably, none of these three protection statuses outlined above can transition to the long-term resident status.[29]

International protection claims can be lodged with the DGMM; one can also present his/her asylum claim if placed in administrative detention or at the Turkish borders to the law enforcement units.[30] On a positive note, persons with spe-

20 These resident permits can be renewed further. See Article 83 of the LFIP.

21 Article 84 of the LFIP.

22 AIDA 2018, 17.

23 Section III of the LFIP.

24 Article 63 of the LFIP.

25 These resident permits can be renewed further. See Article 83 of the LFIP.

26 Article 84 of the LFIP.

27 Section III of the LFIP.

28 ibid.

29 Article 42 of the LFIP.

30 Article 65 of the LFIP.

cial needs[31] are to be given priority with respect to international protection procedures.[32] Once an international protection applicant submits his/her application, the DGMM is required to inform the applicant with regard to the asylum procedures to follow, his/her entitlements during this process and how to appeal a negative asylum decision.[33] The applicant can demand the help of an interpreter during registration and in the interview.[34] The DGMM experts, while conducting RSD, is required to take into account both the personal circumstances of the applicant and current general conditions in the country of origin.[35]

Under Turkish law, two different types of asylum procedures are prescribed: regular and accelerated. In the former case, the DGMM is expected to interview the applicant within 30 days and issue a decision in six months, though this period may be prolonged.[36] Accelerated procedures apply in cases where: a) it is clear the application for international protection is manifestly unfounded or is a subsequent application; b) the applicant submits false documents or information to support their application or destroys their identity or travel documents to mislead the Turkish authorities; c) the applicant is under administrative detention pending removal; and d) when the applicant has been previously removed from Turkey on public order or public security grounds.[37] In accelerated procedures, the interview should be conducted in three days and the DGMM should issue a decision in eight days.[38] If the DGMM is of the opinion that the RSD should take more than eight days, the accelerated procedure transitions to the regular procedure.[39]

A number of challenges relating to the RSD process are encountered in practice. First, as reported by a number of commentators, the DGMM communicates some asylum decisions in Turkish without informing the applicants of the reasoning of

31 According to LFIP persons with special needs include "unaccompanied minor; a disabled person; an elderly person; a pregnant woman; a single mother or a single father with an accompanying child; or a person who has been subjected to torture, rape or other serious psychological, physical or sexual violence" Article 3 (l) of the LFIP.

32 Article 67 of the LFIP.

33 Article 70 of the LFIP.

34 ibid.

35 Article 78 of the LFIP.

36 In case the DGMM is not able to process an asylum application in 6 months, it needs to inform the applicant on the delay see Articles 75 and 78(1) of the LFIP.

37 Article 79 of the LFIP.

38 Article 79(2) of the LFIP.

39 Article 79(3) of the LFIP.

these decisions, though this shortcoming is being addressed gradually and more asylum seekers are being informed of the decision in writing in a language they understand.[40] This gap between law and practice is a concern considering the right to be informed on the reasoning of a negative asylum decision and how to challenge it is the first step for accessing an effective remedy secured under Article 13 of the ECHR. [41] Second, as reported by AIDA, following the complete takeover of RSD by the DGMM from the UNHCR in 2018, substantial delays have been observed in the registration and processing of international protection claims.[42] For instance, it is noted that in some cities the earliest international protection registration appointments given to Afghan nationals who applied in 2018 were in 2021.[43] Third, although Turkish law ensures asylum seekers have access to interpreters during their interviews, due to lack of adequate number of interpreters this right is not fully accessible to all asylum seekers in Turkey.[44] Fourth, legal aid during RSD is not always available although the Turkish Bar Association together with UNHCR is implementing a project to improve access of asylum seekers to free legal aid in 18 cities.[45]

40 See further O Ulusoy and H Battjes, 'Situation of Readmitted Migrants and Refugees from Greece to Turkey under the EU-Turkey Statement' (2017) VU Migration Law Series No 15, 1-42; AIDA 2018, 32-35.

41 M Ineli-Ciger, 'Remedies Available against Asylum Decisions and Deportation Orders in Turkey: An Assessment in View of European Law and the European Convention on Human Rights' (2019) 88 Nordic Journal of International Law 216-249.

42 AIDA 2018, 14, 32, 33.

43 ibid, 14.

44 ibid, 34.

45 ibid, 15.

3. Temporary Protection & Syrian Refugees in Turkey

The legal regime concerning Turkish temporary protection is regulated under Article 91 of the LFIP and the Temporary Protection Regulation[46] that entered into force on 22 October 2014. Article 91 of the LFIP notes:

"Temporary protection may be provided for foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection."

In the past, the Turkish Council of Ministers decided when to start implementing or when to terminate temporary protections, as well as, which groups were eligible for temporary protection. Now this authority lies with the Turkish presidency. Since 2011, all Syrians, Palestinian refugees, and stateless persons living in Syria are eligible, as a group, for temporary protection in Turkey.[47] Syrians who have been returned from Greece to Turkey under the EU-Turkey Statement of March 2016[48] can also apply for temporary protection status, though it is not guaranteed that they will receive this status. Persons who fall within the scope of Article 1 F of the 1951 Convention, persons who are considered to pose danger to national security, public order, or public security and those who are identified as having committed, planned to commit or participated in acts of terrorism, are excluded from the scope of temporary protection.[49]

Since 2011 Turkey has declared that it maintains an open door policy towards Syrians.[50] However, Turkey's border with Syria is strictly managed due to security

46 Turkey, Temporary Protection Regulation, 22 October 2014, <https://www.refworld.org/docid/56572fd74.html>.

47 Provisional Article 1 of the Temporary Protection Regulation.

48 European Commission, 'EU–Turkey Statement' (18 March 2016) (EU–Turkey Statement) <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>.

49 Article 8 of the Temporary Protection Regulation.

50 UNHCR, Turkey 3RP Regional Refugee & Resilience Plan 2017-2018, <http://reliefweb.int/sites/reliefweb.int/files/resources/TURKEY%20country%20chapter%20%28English%29.pd> 3; See for Turkey's open door policy see B Koca, 'Deconstructing Turkey's "Open Door" Policy towards Refugees from Syria' (2015) 12 Migration Letters 209.

concerns: over the years, many temporary border closures have been recorded. [51] For instance, border closures between Turkey and Syria have been recorded in May 2019, which precluded entry of Syrians fleeing Idlib province to Turkey.[52] In 2016, Turkey introduced new visa requirements that are only valid for Syrians arriving to Turkey by air or sea; these are still applicable today.[53] Moreover, Turkey built a 764-kilometer long wall along its border with Syria in 2018 to prevent irregular crossings.[54] According to the Asylum Information Database (AIDA), the wall was not able to stop irregular crossings completely and "it has exacerbated difficulties in crossing the Turkish-Syrian border".[55] Summarizing the current situation, the UNHCR notes Turkey's borders with Syria continue to be strictly managed, with admission only on medical grounds, for humanitarian cases or family reunification for Syrian nationals.[56] Therefore, at the time of writing, Turkey's border with Syria is not open to all Syrians.

According to the LFIP, no administrative penalties are to be imposed for irregular entry or stay in Turkey provided the individuals are identified while crossing the border by the Turkish authorities or they themselves approach Turkish authorities within a reasonable time period.[57] On a positive note, the mode of entry of a person does not affect that person's registration as a temporary protection beneficiary

51 See for instance C Yeginsu and K Shoumali, 'Turkey Moves to Close All Gates at Border With Syria' NY Times, 29 March 2016 <https://www.nytimes.com/2015/03/30/world/europe/turkey-moves-to-close-all-gates-at-border-with-syria.html >; M Tokyay, 'Turkey closes Syria border crossing' Arab News, 11 August 2017 <http://www.arabnews.com/node/1142911/middle-east> .

52 C Gall and H Saad, 'Huge Wave of Syrians Flee Intensified Bombing on Last Rebel-Held Province' The Newyork Times, 30 May 2019 <https://www.nytimes.com/2019/05/30/world/middleeast/syrian-bombing.html>.

53 European Commission, Fact Sheet – EU-Turkey Joint Action Plan, Brussels, 15 October 2015 <http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm>.

54 T Sahin, 'Turkey installs 764 km security wall on Syria border' Anadolu News Agency, 9 June 2018 <https://www.aa.com.tr/en/middle-east/turkey-installs-764-km-security-wall-on-syria-border/1170257>.

55 Asylum Information Database (AIDA), 'Country Report: Turkey 2018 Update' (2018) < https://www.asylumineurope.org/reports/country/turkey> 117. (AIDA 2018)

56 UNHCR Turkey, Promoting access to and the provision of protection Fact Sheet, July 2019, < https://data2.unhcr.org/en/documents/download/71066>.

57 Article 5, Temporary Protection Regulation.

or his/her legal rights in Turkey.[58] Syrians are expected to register with provincial DGMM Directorates, yet owing to the high number of applications, lack of interpreters and the security check process, major delays have been recorded in many cities regarding the registration of Syrians.[59] Turkey stopped registering asylum seekers in Istanbul in 2018 citing the already high number of Syrians registered in Istanbul (half a million at the time).[60] As of July 2019, Syrians can only be registered in Adana, Çanakkale, Diyarbakır, Elazığ, Gaziantep, Hatay, Kayseri, Kocaeli, Mardin, Tekirdağ, Şanlıurfa and Kilis.[61]

According to Article 26 of the TPR, temporary protection beneficiaries may be provided with social assistance, though there is no obligation to do so. Syrians may also benefit from social and financial assistance offered by different organizations and government bodies[62]. The mentioned bodies that provide assistance to Syrians include the Emergency Social Safety Net (ESSN); the Social Assistance and Solidarity Foundations (SASF) (*Turkish: Sosyal Yardımlaşma ve Dayanışma Vakfı*); Social Service Centres that operate under the Provincial Directorates of Family and Social Policies and municipalities.[63] Under the ESSN programme, Syrians and other asylum seekers are provided with 120 Turkish Liras (approximately 19 Euros) per person each month and given a card to spend this amount. The ESSN programme seeks to facilitate the social integration of Syrians to Turkish society by providing them an opportunity to purchase items from local shops and businesses.[64] This programme, which is funded by the EU and implemented by the World Food Programme and

58 M Ineli-Ciger, 'How Have the European Union and the EU Asylum Acquis Affected Protection of Forced Migrants in Turkey?: An Examination in View of the Turkish Law on Foreigners and International Protection and the EU-Turkey Statement of March 2016' V Stoyanova and E Karageorgiou eds. *The New Asylum and Transit Countries in Europe during and in the Aftermath of the 2015/2016 Crisis* (Brill Nijhoff 2018) 115-139, 120.

59 AIDA 2018, 118, 119.

60 Human Rights Watch, 'Turkey Stops Registering Syrian Asylum Seekers', 16 July 2018, <https://www.hrw.org/news/2018/07/16/turkey-stops-registering-syrian-asylum-seekers>.

61 Sozcu Newspaper, 'Suriyeliler kayıtlı oldukları illere gidecek... Peki hangi ilde kaç Suriyeli var?' (Translation: *Syrians should go to cities that they are registered in.. How many Syrians are there in each city*?) 24 July 2019 < https://www.sozcu.com.tr/2019/gundem/suriyeliler-kayitli-olduklari-illere-gidecek-peki-hangi-ilde-kac-suriyeli-var-5246238/>.

62 UNHCR Turkey, Social and financial assistance, 2019, <https://help.unhcr.org/turkey/social-economic-and-civil-matters/social-and-financial-assistance/>.

63 ibid.

64 ESSN Website, Kızılaykart, < http://kizilaykart-suy.org/TR/index2.html>.

the Turkish Red Crescent, reaches around 1.4 million refugees in Turkey.[65]

As temporary protection beneficiaries in Turkey, Syrians are first and foremost entitled to protection from refoulement: the LFIP and the Temporary Protection Regulation explicitly note, no temporary protection beneficiary shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion.[66] Syrians are also entitled to receive identity cards and, have the right to access healthcare services provided by public hospitals and other public health care institutions.[67] Migrant Health Centres that offer free health care to Syrians have been established, beginning in 2016, with the financial support provided by the EU.[68] Today, there are ten Migrant Health Centres around Turkey. Besides healthcare, Syrians also have the right to education and a limited right to work.[69] In summary, Syrians as temporary protection beneficiaries have access to fewer rights compared to refugees but more rights and entitlements compared to conditional refugees in Turkey (See Section 3).

According to the DGMM, as of August 2019, 63,434 Syrians reside in camps also known as Temporary Accommodation Centres.[70] According to UNHCR, over 98 per cent of refugees in Turkey live in urban and rural areas, while the remaining refugees live in Temporary Accommodation Centres.[71] These centres were originally established, and run by AFAD (the *Turkish Disaster and Emergency Management Authority*) but now are managed by the DGMM. Conditions in the Temporary Accommodation Centres were identified as good, and services provided within them

65 ESSN Website, ESSN Card, <https://www.essncard.com/about-card/>.

66 Article 6 of the Temporary Protection Regulation.

67 Articles 19 (5), 22, 27 and 38 of the Temporary Protection Regulation; Refugee Rights Turkey, 'Health Care Services for Syrian Refugees and other Persons under "Temporary Protection" Questions and Answers' (2017) < http://mhd.org.tr/assets/tp_health_eng.pdf>.

68 T.C. Sağlık Bakanlığı (*Translation: Turkish Ministry of Health*), 'Göçmen Sağlık Merkezi'(*Translation: Migrant Health Centre*), (2019) <https://hsgm.saglik.gov.tr/tr/g%C3%B6%C3%A7men-sa%C4%9Fl%C4%B1%C4%9F%C4%B1-merkezleri.html>.

69 Articles 5, 31, 48, 49 and 53 of the Temporary Protection Regulation.

70 DGMM Website, 'Temporary Protection' (2019) <https://www.goc.gov.tr/gecici-koruma5638>.

71 UNHCR, Turkey Fact Sheet July 2019, < https://data2.unhcr.org/en/documents/download/71061>.

as adequate in the AIDA Report.[72] However, in 2019, citing economic concerns, the Turkish government has closed down six camps in Gaziantep, Adıyaman and Kilis, leaving seven camps open in Turkey.[73] Syrians living outside Temporary Accommodation Centres face many challenges in accessing housing and decent reception conditions.[74] Besides camps, no public housing options exist for Syrians.[75] According to Akar and Erdoğdu, a number of municipalities, organisations and NGOs have attempted to remedy this by providing housing opportunities to Syrians, though demand has exceeded available resources.[76]

According to the UNHCR, approximately 1.4 million refugees in Turkey are under 15 years old and over 800,000 are aged between 15 and 24. [77] As of the end of 2018, 590,114 Syrian children were enrolled in public schools and Temporary Education Centres, whereas it is estimated 400,000 Syrian refugee school-aged children remain out of school.[78] To improve access of Syrians to education, a number of different projects funded by the EU, World Bank, United Nations Children's Fund (UNICEF), European Civil Protection and Humanitarian Aid Operations (ECHO), Turkish Red Crescent, Turkish Ministry of Family, Labour and Social Services and the Ministry of National Education are being implemented and these, to an extent, improved access of Syrian children to education. [79] Nevertheless, many challenges remain for Syrian children to exercise their right to education. [80] Reasons that many Syrian children do not go to school in Turkey can be identified as follows: first, many

72 AIDA 2018, 130-133.

73 M Gurcan, 'Why Turkey is closing down Syrian refugee camps?' Al-Monitor, 4 June 2019, <https://www.al-monitor.com/pulse/tr/originals/2019/06/turkey-syria-why-government-closes-down-refugee-camps.html#ixzz5yTqCEkwF>; DGMM Website, 'Temporary Protection' (2019) <https://www.goc.gov.tr/gecici-koruma5638>.

74 See for these challanges AIDA 2018, 130-133.

75 S Akar & M. Erdoğdu, 'Syrian Refugees in Turkey and Integration Problem Ahead' (2019) 20(3) Journal of International Migration and Integration 925-940, 930.

76 ibid, 931.

77 ibid.

78 UNICEF, Turkey: 2018 Humanitarian results, December 2018, <UNICEF Turkey 2018 Humanitarian Results> 3.

79 See for a detailed review of these projects AIDA 2018, 138-142.

80 See for these challanges M Hauber-Ozer, 'Schooling gaps for Syrian refugees in Turkey' (2019) 60 Forced Migration Review 50-52; F Baban, S Ilcan, and K Rygiel, 'Syrian Refugees in Turkey: Pathways to Precarity, Diferential Inclusion, and Negotiated Citizenship Rights' (2017) 43 Journal of Ethnic and Migration Studies 41-57.

Syrian children work to support their families instead of going to school.[81] Second, Syrian children must be registered with Turkish authorities to access education, however, not all are. Third, the number of schools and teachers are not sufficient to accommodate the needs of Syrian children. Fourth, since public schools in Turkey only teach in Turkish, Syrian children who do not speak Turkish had difficulties following the Turkish curriculum; and fifth, as noted by Baban et al. some families find it difficult to locate a school that will admit their children or they are not aware that Syrian children have a right to education in Turkey.[82]

Syrians were given a limited right to work with the adoption of the Regulation concerning Work Permits of Temporary Protection Beneficiaries in 2016.[83] Syrians who have been granted temporary protection status for more than six months can apply for work permits and Syrians with work permits should be paid at least minimum wage.[84] However, the number of Syrians holding work permits is quite low: so far, only 31,185 Syrians holding temporary protection status were issued work permits.[85] International Labour Organisation (ILO) estimates nearly one million Syrians are working in Turkey though only a minority holds a work permit.[86] As also noted by the ILO, "Syrian refugees are mostly employed informally in low-skilled jobs such as seasonal agricultural work, construction, manufacturing and textiles. They work long hours in unsafe conditions, receiving below minimum wage rates, or even not being paid at all."[87] This is due to a number of reasons; the fact *only* employers can apply for the work permits; the cost and length of the application process as well as inadequate formal job opportunities make it harder for Syrians

81 S Gee, 'When Refugees Work, Children More Likely to Attend School: HRW' (News Deeply, 8 August 2016) <https://www.newsdeeply.com/refugees/op-eds/2016/08/08/when-refugeeswork-children-more-likely-to-attend-school-hrw>; M Ineli-Ciger, 'Protecting Syrians in Turkey: A Legal Analysis' (2017) 29(4) International Journal of Refugee Law 555-579, 560-562.

82 Baban et al. 41, 50.

83 Turkey, Regulation Concerning Work Permits of temporary Protection Beneficiaries (11 January 2016) < https://www.refworld.org/docid/582c71464.html>.

84 Minimum wage in Turkey as at September 2019 is 2,020.00 Turkish Liras. (around 422.3 € per month).

85 This is as of March 2019 See figure provided by the Turkish Ministry of Family, Labour and Social Services cited in Mülteciler Dernegi, 'Türkiyedeki Suriyeli Sayısı Eylül 2019' (*Translation: Number of Syrians in Turkey*) (2019) <https://multeciler.org.tr/turkiyedeki-suriyeli-sayisi/>.

86 ILO Website, 'Syrian Refugees ILO's Refugee Response' <https://www.ilo.org/ankara/projects/WCMS_379375/lang--en/index.htm>.

87 ILO Website, 'Syrian Refugees ILO's Refugee Response'.

to obtain work permits and work legally.[88] Moreover, the right of Syrians to access the labour market is not absolute: work permits can be restricted to certain provinces. Furthermore, the number of Syrians cannot exceed 10 per cent of the total staff in a workplace whereas businesses where fewer than 10 people work can hire only one Syrian. [89] Finally, the unemployment rate in Turkey is already quite high at 13% hence; Syrians have to compete with Turkish nationals to find jobs.[90] For these reasons, thousands of Syrians in Turkey still work illegally, without access to the minimum wage or social security benefits.

In light of the analysis above, it can be concluded that although the rights and entitlements secured for Syrians under Turkish laws are generous and in line with international law, a serious gap exists between law and practice. Therefore, there is an urgent need for an improved institutional capacity and infrastructure for ensuring all the legal safeguards enshrined in Turkish laws to all Syrians.[91]

Today, the temporary protection regime implemented for Syrians has been in force for more than eight years and no maximum time limit for the Turkish temporary protection regime is foreseen. Until the temporary protection regime is terminated, asylum applications of temporary protection will not be processed by the DGMM. There are three main durable solutions for refugees: voluntary repatriation, resettlement or local integration. UNHCR asserted in 2018 "present conditions in Syria are not conducive for voluntary repatriation in safety and dignity."[92] Not much has changed since then; still repatriation to Syria is not a viable option for most Syrian refugees. Turkish President Recep Tayyip Erdogan announced in September 2019 that Turkey intends to establish a safe zone in Northern Syria and

88 European Parliament Directorate General for Internal Affairs Study, 'Turkey: Labour Market Integration and Social Inclusion of Refugees' Doc No IP/A/EMPL/2016-13, December 2016, <http://www.europarl.europa.eu/RegData/etudes/STUD/2016/595328/IPOL_STU(2016)595328_EN>.

89 Article 7 and 8 of the Regulation Concerning Work Permits of Temporary Protection Beneficiaries.

90 This is as of October 2019, Trading Economics, 'Unemployment in Turkey' <https://tr.tradingeconomics.com/turkey/unemployment-rate>.

91 Ineli-Ciger 'Protecting Syrians in Turkey', 561, 562.

92 UNHCR, 'Comprehensive protection and solutions strategy: protection thresholds and parameters for refugee return to Syria', February 2018 < https://data2.unhcr.org/en/documents/download/63223>.

return nearly one million Syrians who have crossed its borders.[93] The compatibility of such a plan, if realised, with international law and the principle of non-refoulement, in particular, is questionable and will much depend on its execution.

As for resettlement, UNHCR makes clear that the resettlement needs for Syrian refugees continue to far outpace the places provided by resettlement countries and events in 2019 have illustrated a continuation of this trend.[94] The main cause of this decrease can be identified as a global drop in the number of resettlement places available, but also a shifting of resettlement opportunities to other priority situations. [95] This is also the case for those seeking asylum in Turkey hence; since the start of the Syrian crisis to September 2018, UNHCR Turkey has submitted 56,702 Syrians for resettlement processing, of which only 27,478 Syrians have been actually resettled.[96] These figures show that resettlement is not a viable option for most Syrians in Turkey.

Since the start of the Syrian war, Turkey has granted Turkish citizenship to nearly 76,000 Syrians. Persons who are selected and contacted by the DGMM are allowed to apply for Turkish citizenship, though how the DGMM selects these persons is unclear.[97] As Icduygu and Simsek note, "well-established, comprehensive integration policies are needed to cater to migrants and refugees, especially to provide for their immediate need for education, health, and housing."[98] Despite this need, Turkey does not have a comprehensive integration policy although a number of policies to accelerate integration (the term used by the LFIP and the DGMM is harmonisation) of Syrians with Turkish society have been developed and being im-

93 N Devranoglu and T Gumrukcu, 'Turkey plans to return one million Syrians, warns of new migrant wave in Europe' Reuters, 5 September 2019 < https://www.reuters.com/article/us-security-syria-turkey/turkey-plans-to-return-one-million-syrians-warns-of-new-migrant-wave-in-europe-idUSKCN1VQ13K>; Anadolu Agency, 'Turkey to act on its own if safe zone not established till end of Sept: Erdoğan' Hurriyet Daily News, 9 September 2019 < http://www.hurriyetdailynews.com/turkey-to-act-on-its-own-if-safe-zone-not-established-till-end-of-sept-erdogan-146412>.

94 UNHCR, Update: Durable Solutions for Syrian Refugees, March- April 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/69259.pdf>.

95 ibid.

96 UNHCR, 'Turkey Resettlement' (2018) < https://www.unhcr.org/tr/wp-content/uploads/sites/14/2018/10/UNHCR-Turkey-Resettlement-Fact-Sheet-September-2018.pdf>.

97 ibid, 15.

98 A. İçduygu and D. Şimşek, "Syrian refugees in Turkey: Towards integration policies" (2019) 15(3) Turkish Policy Quarterly 59-69, 65-66.

plemented with the help of international organisations and the EU.[99] Nevertheless, further time is necessary for these projects to yield positive results. Many Turks now complain that Syrians have turned from being temporary guests in the country to a permanent presence that—due to their sheer numbers—is too big for the country.[100] Moreover, Syrians face discrimination on a daily basis, there is a lack of social and political recognition and most importantly, a lack of a stable legal status.[101] These issues should be addressed as soon as possible through the development of comprehensive integration policies and policies that seek to diminish discrimination and xenophobia. [102]

99 See ibid, 65, 66 68.

100 Akar and Erdoğdu, 936.

101 ibid, 936.

102 ibid, 937.

4. Asylum and Deportation Appeals & Procedural Safeguards in Turkey

According to Suleyman Soylu, the Turkish Minister of the Interior, while 56,000 foreigners have been deported in 2018, 80,000 more persons are to be deported in 2019. [103] Under Turkish law persons to whom deportation orders may be issued include the following categories: leaders, members and supporters of a terrorist or criminal organisation; those who provide false information and documents during their entry, visa or resident permit applications; those who do not have a legal right to stay in Turkey and persons who pose a public order, public security or a public health threat.[104] In addition, international protection applicants whose application has been found inadmissible or unfounded, persons who are excluded from the scope of international protection and whose international protection status has ceased can also be issued deportation orders.[105] An appeal against a deportation order can be lodged in 15 days before the Administrative Court.[106] This decision is final and cannot be appealed.[107]

Appeals against negative asylum decisions taken in the regular procedures framework may be submitted either to an administrative authority (International Protection Assessment Committee) (IPAC) or the Administrative Court in 30 days. Yet, the applicant can submit an appeal against the asylum decisions of the DGMM before the Administrative Court directly. An onward appeal is also possible. The onward appeal authority was the Turkish Council of State but it is now the recently established Regional Administrative Courts.[108] Subsequent asylum applications, which do not present any new claim or evidence, and applications submitted by persons coming from

103 M Tokyay, 'İstanbul'da Suriyeli mülteci krizi: Protestolar başlarken, sorunun çözüm yolu nedir?' (*Translation: Syrian Refugee Crisis in Istanbul: While protests are starting what is the solution?)* Euronews, 27 July 2019, <https://tr.euronews.com/2019/07/27/istanbul-da-suriyeli-multeci-krizi-protestolar-baslarken-sorunun-cozum-yolu-nedir>.

104 Article 54 of the LFIP.

105 ibid.

106 Article 53(3) of the LFIP.

107 ibid.

108 The Turkish Council of State still decides on appeals against Administrative Court decisions relating to asylum but only those appeals lodged before 20 July 2016.

a safe third country[109] or a first country of asylum[110] fall into the category of inadmissible applications.[111] Appeals against admissibility decisions and decisions taken in the framework of accelerated procedures can be submitted in 15 days before the Administrative Court only.[112] Administrative Court's decision on inadmissible applications and asylum decisions taken in the framework of accelerated procedures is final.[113]

Aside from the outlined asylum and deportation appeal procedures, the applicant may file an individual complaint before the Turkish Constitutional Court for the violation of their constitutional or ECHR rights. There is no automatic suspensive effect for this individual complaint procedure, nevertheless, the Turkish Constitution Court may grant a suspensive effect either upon the applicant's request or acting *ex officio* provided that the applicant would face a real risk to their life or bodily integrity if no suspensive effect is granted.[114]

Under the LFIP, all deportation appeals used to have a suspensive effect however, following the declaration of a State of Emergency in Turkey, an emergency decree with the force of law namely, KHK/667[115] issued in 2016, amended Article 53 and Article 54 of the LFIP. With this amendment, a deportation order may be issued *at any time* to applicants and holders of international protection status who are leaders, members or supporters of a terrorist organisation or a criminal organisation; pose a threat to public order or public security or public health; or are reported by international institutions and organisations to have links with a terrorist organisation.[116] In these cases, the deportation appeals no longer have a suspensive effect. This change is now incorporated to the LFIP and the fact that the appeal procedures no longer have a suspensive effect for the mentioned groups is problematic because it increases the risk of refoulement. Moreover, the terms 'terrorist organisation', 'criminal organisation ', 'public order risk' and 'public security risk' are not defined clearly under the LFIP and

109 Article 74 of the LFIP.

110 Article 73 of the LFIP.

111 Article 72 of the LFIP.

112 Article 53(3) and 80 (1) (a) of the LFIP.

113 Article 80 (1) (d) of the LFIP.

114 Article 73 of the Turkish Constitution Court Bylaw, <www.anayasa.gov.tr/icsayfalar/mevzuat/ictuzuk.html>, (available only in Turkish).

115 The Emergency Decree with the Force of Law KHK/667 see Turkish Official Gazette, 'Olağanüstü Hal Kapsamında Alınan Tedbirlere İlişkin Kanun Hükmünde Kararname Karar Sayısı: KHK/667', 29 October 2016 <http://www.resmigazete.gov.tr/eskiler/2016/07/20160723-8.htm> (available only in Turkish).

116 Articles 35, 36 and 37 of the KHK/667.

this gives too much discretion to authorities issuing deportation orders namely, the DGMM and the Governorates. According to the Izmir Bar Association, deportation orders have been increasingly issued to Syrians and asylum seekers from other countries on the basis of the recently amended provision regarding suspensive effect.[117] On a positive note, Administrative Courts of Ankara and Istanbul are quite experienced in refugee law related cases and they decide asylum and deportation appeals in view of the principle of non-refoulement and the jurisprudence of the European Court of Human Rights.[118] Though not all Administrative Courts are experienced in asylum matters similar to Ankara and Istanbul Courts and this is reflected in their judgments. [119]

The LFIP provides a right to legal representation for all international protection applicants in appeals procedures, though free legal representation would be available only those who cannot afford to hire a lawyer.[120] This free legal representation must be provided through a state-funded Legal Aid Scheme by bar associations in each city. Under Turkish law, persons who are issued deportation orders may also access legal assistance and representation through the Legal Aid Scheme. Yet many rejected asylum seekers and persons issued deportation orders face challenges in accessing free legal assistance and legal aid during appeals procedures. It is particularly difficult for persons issued deportation orders, especially those detained pending removal, to access free legal assistance and representation.[121] A report by the Izmir Bar Association published in July 2017 pointed out serious problems with asylum seekers' and migrants' access to legal aid and assistance as well as lawyers' access to international protection applicants who are detained pending removal in Removal Centres in Izmir.[122] These problems include lawyers not always being informed when a person detained pending removal wishes to apply for international protection, problems with accessibility to these centres and the insufficient amount of time provided to lawyers to speak with their clients in Removal Centres.[123]

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117 AIDA 2018, 23.

118 ibid, 23.

119 ibid, 23.

120 Article 81 of the LFIP.

121 AIDA 2018, 123.

122 İzmir Barosu Göç ve İltica Komisyonu (*Translation: Izmir Bar Association Asylum and Migration Commission*), 'İzmir Geri Gönderme Merkezlerinde Adalete Erişim Hakkı Çerçevesinde Yaşanan Sorunlar' (*Translation: Challenges in access to justice in Removal Centres in Izmir)* July 2017 <http://www.asylumineurope.org/sites/default/files/resources/izmir-geri-gonderme-merkezlerinde-adalete-erisim-hakki-cercevesinde-yasanan-sorunlar2017713112147450.pdf> (available only in Turkish).

123 ibid, 1-32.

5. Detention & Removal Centres in Turkey

Two kinds of administrative detention are foreseen in the LFIP: administrative detention of international protection applicants during the processing of their applications and detention for removal purposes. Detention of international protection applicants is regulated in Article 68 of the LFIP as follows:

> *"Applicants only be subject to administrative detention only under the following cases:*
>
> *a) for the purpose of determination of the identity or nationality in case there is serious doubt as to the accuracy of the information provided;*
>
> *b) for the purpose of being withheld from entering into the Turkey in breach of terms [and conditions] of entry at the border gates;*
>
> *c) when it would not be possible to identify the elements of the grounds for their application unless subjected to administrative detention;*
>
> *d) when [the person] poses a serious public order or public security threat."*[124]

According to the LFIP, the administrative detention of asylum seekers should be the last resort and an exceptional measure; this appears to be in line with Article 31 of the 1951 Convention.[125] AIDA notes there is no available information regarding the practice of detention under Article 68 of the LFIP.[126]The administrative detention decision and its reasoning should be notified to the asylum seeker or, to his/her legal representative or lawyer in writing and the period of administrative detention cannot be more than 30 days.[127] Appeals against administrative detention decisions can be lodged before the Criminal Court of Peace at any time and the appeal outcome is final. [128]

Administrative detention for removal purposes is regulated under Article 57 *et seq*. Not all persons issued with a deportation order can be detained. The LFIP

124 Article 68(2) of the LFIP.

125 Article 68 of the LFIP.

126 AIDA 2018, 79.

127 Article 68(5) of the LFIP.

128 Article 68(7) of the LFIP.

makes clear that among persons issued with deportation orders, only the following groups can be detained: persons who bear the risk of absconding or disappearing; breached the rules of entry into and exit from Turkey; have used false or fabricated documents; have not left Turkey after the expiry of the period granted to them to leave, without an acceptable excuse; or, pose a threat to public order, public security or public health.[129]

Administrative detention in removal cases should cease after 6 months, however in cases where the removal cannot be completed due to the foreigner's failure to cooperate or provide correct information or documents about their country [of origin], this period may be extended for a maximum of 6 more months.[130] While administrative detention is to be reviewed by city governorates every month, an appeal against a detention decision can be lodged before the Criminal Court of Peace at any time.[131] The decision of the Judge of the Criminal Court of Peace is final thus, cannot be appealed further.

A person who is subjected to administrative detention is held in a Removal Centre. There are currently 24 Removal Centres in Turkey whereas 10 more centres, some of which will be funded by the EU, are to be built in the future.[132] Detention conditions in a number of Removal Centres drew criticism in the past: the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Removal Centres throughout Turkey in 2015 and found conditions in Removal Centres in Ankara, Istanbul-Kumkapı and Izmir to be "extremely poor" and identified conditions of detention in some of the establishments visited as inhuman and degrading.[133] The Turkish government responded to this report in 2017 where it is stated that the conditions in Removal Centres are be-

129 Article 57(2) of the LFIP.

130 Article 57(3) of the LFIP.

131 Article 57(4) and (6) of the LFIP.

132 DGMM Website, 'Geri Gönderme Merkezleri' (*Translation: Removal Centres*) (2019) <https://www.goc.gov.tr/geri-gonderme-merkezleri33>.

133 Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 23 June 2015, CPT/Inf (2017) 32, 17 October 2017, <https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2017/10/24/cpt_2017-32-inf-eng.pdf>.

ing improved and most shortcomings identified by the CPT are being addressed.[134] Moreover, the Turkish Parliament Human Rights Observation Committee found in 2017 detention conditions in Removal Centres in Izmir and Aydın to be adequate and treatment of the detainees humane and in line with the LFIP provisions.[135] Recently, Member of the European Parliament Kati Piri noted, "Concerns have been raised about the conditions in Turkish Removal Centres where refugees are held. According to reports, refugees in these centres are being systematically neglected, intimidated and abused" and considering the EU funds for some of the Removal Centres in Turkey she posed the following question to the European Commission on 19 September 2019: "Can the Commission indicate the exact amount of EU funding allocated to Turkish Removal Centres per year since the implementation of the EU-Turkey agreement in March 2016? Is the Commission aware of these conditions? What action will the Commission undertake to address this situation?"[136] Answers to these questions may clarify two things: first, the detention conditions in Removal Centres in Turkey and whether refugees and migrants are truly ill-treated in these centres; and second, the responsibility of the EU under international law due to its role in the establishment and funding of these Removal Centres. Unfortunately, the answers to these questions were not available at the time of writing.

Although the grounds under which a person can be detained are regulated restrictively under the LFIP, a new detention practice has emerged: asylum seekers as well as international protection and temporary protection beneficiaries who are not found to be in the satellite city[137] they are assigned to are detained in practice,

134 Response of the Turkish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Turkey from 16 to 23 June 2015, CPT/Inf (2017) 33, 17 October 2017 <https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2017/10/24/cpt_2017-33-inf-eng.pdf>.

135 Turkish Parliament Human Rights Observation Committee, 'Izmir ve Aydın illerinde bulunan geri gönderme merkezleri incelemesi raporu' (*Translation: Observation Report of Removal Centres in Izmir and Aydın*), November 2017 <https://www.tbmm.gov.tr/komisyon/insanhaklari/docs/2017/izmir_aydin_rapor.pdf>.

136 European Parliament Website, Question for written answer P-002884-19 to the Commission Rule 138 Kati Piri (S&D), 25 September 2019, <https://www.europarl.europa.eu/doceo/document/P-9-2019-002884_EN.html> .

137 Upon the completion of registration of the international protection applications, asylum seekers are assigned to reside in certain cities in Turkey (so called "satellite cities") pending decisions on their applications and search for durable solutions. Persons apprehended outside their "satellite city" may be detained in order to be transferred thereto. See AIDA 2018, 15.

according to AIDA.[138] Istanbul, which has currently 15 million residents, attracts many refugees and migrants mainly due to a high number of informal job opportunities and there are more than half a million Syrians in Istanbul who are not registered there working informally and earning a living. Recently, the Istanbul Governorate issued a declaration stating, temporary protection beneficiaries who are not registered in Istanbul should return to cities they are registered in by 20 August 2019 (This was later on extended until the end of October).[139] It is also noted that those who do not obey this order will be detained and forcibly returned to those cities.[140] Suleyman Soylu stated that students and their families and Syrians who have formal jobs in Istanbul were exempted from this practice.[141]

138 AIDA 2018, 90.

139 Deutsche Welle, 'İstanbul Valiliği kaydı olmayan Suriyelilere tarih verdi' (*Translation: Istanbul Governorate issued a deadline for Syrians who are not registered*), 22 July 2019 https://www.dw.com/tr/istanbul-valili%C4%9Fi-kayd%C4%B1-olmayan-suriyelilere-tarih-verdi/a-49700135; E Wallis, 'Deadline extended in Turkey for unregistered Syrian refugees', Infomigrants, 21 August 2019, <https://www.infomigrants.net/en/post/18971/deadline-extended-in-turkey-for-unregistered-syrian-refugees>.

140 ibid.

141 Reuters, 'Syrians facing forced removal from Istanbul given temporary reprieve' 21August 2019, <https://www.reuters.com/article/us-turkey-syrians/syrians-facing-forced-removal-from-istanbul-given-temporary-reprieve-idUSKCN1VA2CG>.

Analysis & Conclusions

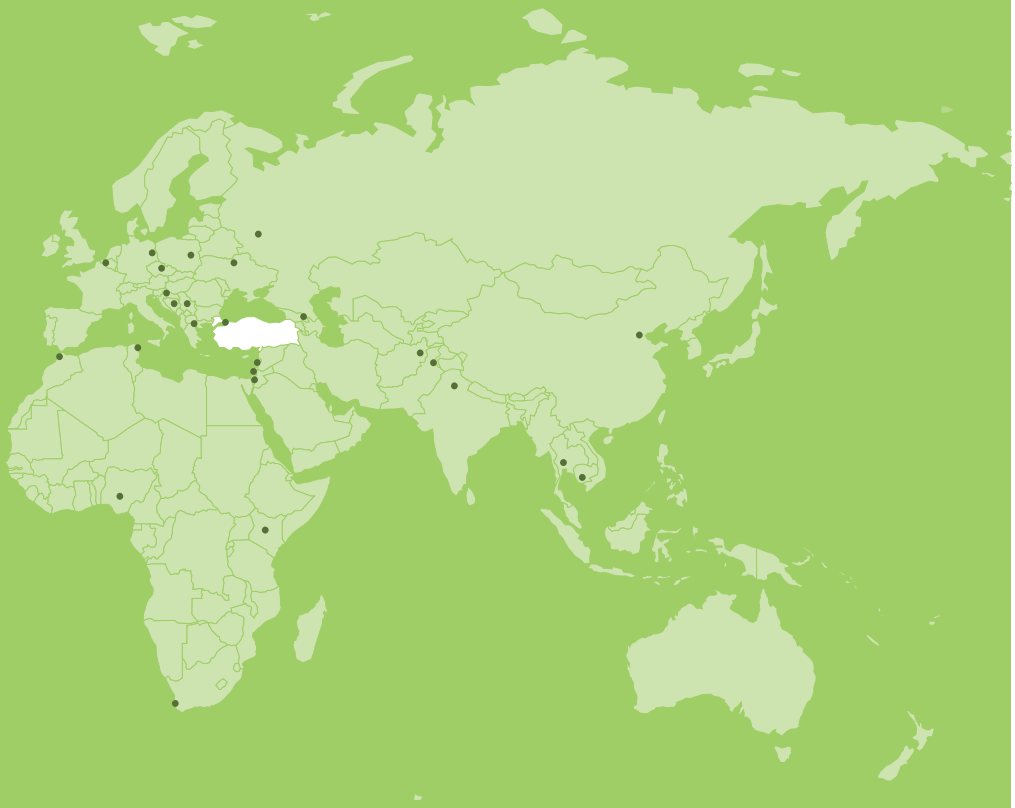
The entry into force of the Law on Foreigners and International Protection in 2014 marked the beginning of a new era in Turkish asylum law. The LFIP introduced crucial safeguards for the protection of asylum seekers and refugees in Turkey. The law established new protection categories such as: subsidiary protection and the conditional refugee status and clarified the rights and entitlements of status holders. Before the adoption of the LFIP, the temporary protection regime did not have a clear legal basis and a structured legal framework did not govern it. With the adoption of the LFIP, the protection of the Syrians has been brought into the legal sphere. Nevertheless, some gaps exist in the Turkish asylum framework, which hinder effective protection for some refugees and asylum seekers. This report attempted to provide an overview of Turkish asylum laws and policies in addition to identify good and bad practices.

Turkey introduced a temporary protection regime to protect all persons fleeing the armed conflict and violence in Syria in 2011, which still continues today, although with some caveats. The temporary protection regime in Turkey affects the lives and the legal status of more than 3.6 million forced migrants at the time of writing. Turkish laws grant Syrians protection from refoulement, an explicit right to education, and a limited right to work. Syrians in Turkey are also entitled to information and advice on the temporary protection regime in their own language; identity cards; temporary residence permits; and free emergency healthcare.

Turkey's open-door policy (although the Turkey-Syria border has been strictly managed for some time) and the fact that Turkey has opened its borders to more than 3.6 million Syrians; provisions of the LFIP and Temporary Protection Regulation that explicitly prohibit refoulement; procedural safeguards concerning the right of asylum seekers and refugees to effective remedy introduced by the LFIP; free healthcare services provided to Syrians and establishment of Migrant Health Centres and decent reception conditions in Temporary Accommodation Centres can be identified as good practices. Despite these, it is noted that many Syrians still face challenges accessing protection standards prescribed by Turkish laws, and even minimum basic treatment, such as food and shelter. Thus, Syrians' access to education and formal work opportunities should be improved since there is significant number of Syrians out of school and who work informal jobs without access to social security. One of the main shortcomings of the Turkish temporary protection policy can be identified as the absence of a maximum time limit on the temporary

protection regime, which has already been in place for more than eight years, and has yet to be set. The future of Syrians in Turkey is uncertain and this leaves more than 3.6 million Syrians in limbo. To address this issue, Turkey may determine a timeframe to terminate its temporary protection policy and adopt comprehensive policies on how to best integrate Syrians into the Turkish society or facilitate access for Syrians to other durable solutions.

There are a number of operational problems with regard to asylum seekers' access to international protection and administrative detention. For instance, these problems include delays observed in the registration and processing of international protection applications; lack of interpreters during RSD interviews; problems that lawyers face accessing international protection applicants in Removal Centres and other challenges faced by refugees and migrants in accessing effective remedies. Moreover, although they are being gradually improved, reception conditions and the treatment of refugees and migrants in Removal Centres should come in line with international human rights, in particular ECtHR jurisprudence. The outlined shortcomings have been gradually addressed by the DGMM, some with the funding provided by the EU and international organisations. Considering the DGMM is a new institution that has a substantial workload, addressing all the gaps between Turkish asylum laws and practice requires substantial time and effort. Despite the mentioned operational problems, Turkey's efforts to protect nearly 4 million forced migrants is commendable, though it should be also noted that recent plans to return Syrians to envisaged safe zones in Northern Syria may raise serious issues with regard to the compatibility of this plan with international law.



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