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Situation of Readmitted Migrants and Refugees from Greece to Turkey under the EU-Turkey Statement

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Working Paper Series

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1. Executive Summary

In 2015, more than 1 million irregular migrants and refugees arrived to Europe from neighbouring countries by the sea routes. Aegean Sea route -from Turkey to Greek islands- alone witnessed 860,000 arrivals during this period, a sharp increase from 72,000 in 2014¹. International Organisation for Migration (IOM) reported 3,771 fatalities at the Mediterranean route in 2015. And out of these 3,771 migrants, more than 800 lost their lives in the Aegean Sea while trying to reach Greece from Turkey². 2015 was the deadliest year on record for migrants and refugees crossing the Mediterranean Sea.

After intensive negotiations between EU member states and Turkey between November 2015 and March 2016, EU and Turkey released a Statement³ on March 18, 2016 indicating their willingness to increase the cooperation to stop irregular migration to Europe. In order to *“break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk”*, as it is mentioned in the Statement, EU and Turkey agreed several action points, including; readmission of all irregular migrants from Greece to Turkey after 20 March 2016, to resettle one Syrian refugee from Turkey to the EU for every Syrian being returned to Turkey from Greek islands and obliging Turkey to take necessary steps to prevent opening of new sea or land routes for illegal⁴ migration from Turkey to the EU.

The statement was widely criticized and several scholars have illuminated the large gap that exists between the adopted policies and the way they are implemented (Heijer & Spijkerboer, 2016), accepting Turkey as a safe third country (Roman & Peers, 2016) and certain shortcomings of the Turkish asylum system (Ulusoy, 2016).

Since the start of the implementation of the Statement provisions, several researches were conducted and reports were published on the conditions of migrants and refugees in Greece (among others; Crépeau, 2017; Dimitriadi, 2016; Leghtas, 2017). However, little is known about the conditions of the migrants and refugees who were readmitted from Greece to Turkey after the EU-Turkey Statement.

¹ IOM; Compilation of Available Data and Information 2015; <http://doe.iom.int/docs/Flows%20Compilation%202015%20Overview.pdf> (Last Accessed 23 June 2017)

² IOM; IOM Counts 3,771 Migrant Fatalities in Mediterranean in 2015; <https://www.iom.int/news/iom-counts-3771-migrant-fatalities-mediterranean-2015> (Last Accessed 23 June 2017)

³ European Council, Press Release; EU-Turkey Statement, 18 March 2016; available at: <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement>

⁴ Throughout this report the term *irregular* was used instead of *illegal* migrant/migration. The term *illegal* was used in the original text of the EU-Turkey Statement.

To fill this gap of knowledge from the field and have a better understanding of the effects of the Statement, Vrije Universiteit Amsterdam Migration Law Section conducted a research in the field. The research was funded by the Dutch Refugee Council.

This report, based on the field and desk research between December 2016 and March 2017, highlights several problematic practices which lead to serious human rights violations in Turkey. The research demonstrates that, among other issues, access to international protection from detention in Turkey is exceptional in practice and most detainees are subject to clear infringements of procedural rights, a situation that could lead to violations of the principle of non-refoulement. Research also underlines that readmitted Syrian nationals are subject to arbitrary detention without legal basis and furthermore, recent changes in asylum legislation in Turkey puts asylum seekers and refugees at risk of deportation to their country of origin without juridical review, which effectively undermines the international protection mechanism.

Key Findings:

Situation of the Non-Syrian Readmitted Migrants

Detention; Readmitted Non-Syrian nationals were transferred to the Kırıkkale city Pehlivan köy Removal Centre until May 2017. Since May 2017, Kayseri Removal Centre is used to accommodate the readmitted migrants. In these centres, readmitted non-Syrian nationals were kept in cells and were not allowed to communicate with their families, lawyers and often denied access to UNHCR representatives⁵. They were locked in their cells with only 5 to 10 minutes of outdoor time before meals; a total of 20 to 30 minutes of outdoor time per day. Furthermore, unaccompanied minors are housed with adults or families in these cells. While there are facilities such as an internet room, library, hairdresser and a sports hall, the detainees were not allowed to use these facilities. Migrants are kept in these Removal Centres for one to two months until they are deported back to third countries or their countries of origin.

Access to Asylum; Readmitted non-Syrian migrants are provided with no information about their situation and rights and are often denied access to UNHCR representatives and NGOs as well as to their lawyers who could advise them of their rights. Furthermore, staff of the removal centres regularly provided misinformation to the migrants; advising detainees not to apply for international

⁵ Letter of UNHCR Representation in Greece, 23 December 2016, Athens. Available at: <http://www.statewatch.org/news/2017/jan/unhcr-letter-access-syrians-returned-turkey-to-greece-23-12-16.pdf>

protection since this would increase their stay in the removal centre or that they were not allowed to apply for international protection in Turkey because they were readmitted from Greece. Migrants are forced to sign documents which they don't know the content or not even in their languages.

Our research found out that applying for asylum or any international protection within these Removal Centres is practically impossible. Migrants are not allowed to have pen or paper, their verbal requests to lodge an international protection application are ignored by officials and lawyers are not allowed to see their clients or their files. The latest European Commission report indicates that 1,798 non-Syrian migrants were readmitted between April 2016 and June 2017 and only 56 of them (3%) applied for international protection in Turkey (European Commission, 2017b). According to a Turkish lawyer, applying for international protection from a removal centre is *"based on pure luck"*. According to this lawyer, the only possibility for readmitted migrants to apply for international protection is through the intervention of a third party: a lawyer or an NGO. Even then, lawyers and NGOs may not be successful on lodging their clients' applications due to reported arbitrary obstacles even refusals from the officials.

Situation of the Syrian Refugees

Between April 2016 and June 2017, 178 Syrian nationals were readmitted from Greece to Turkey under the EU-Turkey Statement. Readmitted Syrians were transferred to Düziçi Temporary Accommodation Camp in Osmaniye city and Islahiye 2 Camp in Gaziantep city while waiting administration's decision on their protection status and finalisation of the related paperwork.

According to several independent reports (among others; Boček, 2016; GUE/NGL Delegation, 2016) and lawyers interviewed during the field research, the Düziçi Camp is, in practice, a detention facility. Syrian nationals in this camp are not allowed to leave the camp, kept in locked cells and have very limited communication opportunities and access to the outside world.

The presence of a 'de facto detention camp' and administrative detention for persons who are under the temporary protection regime in this camp has no legal basis according to the relevant Turkish legislation (namely Law on Foreigners and International Protection and Temporary Protection Regulation). Furthermore, detaining Syrian nationals who were readmitted from Greece and Turkey also does not have a legal basis.

2. Introduction

Under the Greece-Turkey Readmission Agreement, irregular migrants and asylum seekers whose claims are found inadmissible by the Greek authorities are readmitted to Turkey since the EU-Turkey Statement was announced in March 2016. This report is based on field and desk research on conditions faced by migrants and refugees readmitted from Greece to Turkey and focuses on their access to effective international protection.

Turkey was regarded as a safe (third) country for asylum seekers and refugees for the purposes of the EU-Turkey Statement. Pursuant to Union law, the safe third country concept entails inter alia that "the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention."⁶ However, this paper demonstrates that, in practice, access to international protection from detention in Turkey is exceptional. Most detainees are subject to clear infringements of procedural rights, a situation that could lead to violations of the principle of non-refoulement. Research also underlines that readmitted Syrian nationals are subject to arbitrary detention without any legal basis and, furthermore, recent changes in asylum legislation in Turkey put asylum seekers and refugees at risk of deportation to their country of origin without juridical review, which effectively undermines the international protection mechanism.

3. Methodology

The information in this report is sourced from desk and field research conducted from 15 December 2016 to 15 February 2017. The desk research consisted of a survey of relevant related legislation in Greece and Turkey, and reports by national and international governmental and non-governmental organisations that have been published after the EU-Turkey Statement. The field research was conducted from 20 to 29 January 2017 in Greece and Turkey. Semi-structured in-depth interviews were conducted with seven lawyers and five NGO practitioners who represented migrants that were readmitted from Greece to Turkey under the provisions of the Greece-Turkey Readmission Agreement. Respondents have been anonymised for their and their clients' security. Due to the changes that took place on readmission procedures in Turkey after the field research, additional phone

⁶ Article 38(1)(e) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. Available at: <http://data.europa.eu/eli/dir/2013/32/oj>.

and skype conversations were held with respondents after the fieldwork period to clarify and update the information gathered.

Throughout the field research, only lawyers and NGO practitioners were interviewed and migrants were not selected as information sources. Readmitted migrants and refugees were not chosen to be interviewed for three main reasons:

- a. initial attempts proved that a very limited number of readmitted persons would be interviewed due to their deportation to third countries that took place after their readmission to Turkey;
- b. since a limited number of returned migrants or refugees would be interviewed, the interviewed group would not be representative of the readmitted persons from Greece to Turkey; and
- c. to avoid further risking their status and fragile situation in Turkey.

The research was funded by VluchtelingenWerk Nederland (The Dutch Council for Refugees).

4. The EU-Turkey Statement

On 18 March 2016, after intensive negotiations since October 2015, the EU Heads of State and Turkey agreed on several operational issues aiming to reduce irregular migration to the EU. The agreed steps were shared with the public as "the EU-Turkey Statement".⁷ The elements composing the EU-Turkey Statement⁸ can be placed in two categories:

- a. articles on an extended version of the readmission agreement between EU and Turkey; and
- b. incentive elements for Turkey to implement the agreed instruments.

⁷ European Council, Press Release; EU-Turkey Statement, 18 March 2016; available at:

<http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement>

⁸ It must be noted that there is no consistent use of the word 'Statement' by the European Commission. While in May 2016 the Commission used the term EU-Turkey Agreement in the press release 'Fact sheet - Implementing the EU-Turkey Agreement Questions and Answers', in its first Report on the implementation of the Agreement dated April 2016, it used the term EU-Turkey Statement. It was also widely named the "EU-Turkey Deal" in the media and by the public. Throughout this report, the term "Statement" will be used in line with the original wording of the 18 March 2017 press release.

These instruments include allocation of considerable funds (up to EUR 6 billion) by the EU for refugees in Turkey, accelerating the visa liberalisation roadmap and re-energising the EU accession negotiations.

The articles on the readmission of third country nationals are based on the EU-Turkey Readmission Agreement signed in December 2013 and ratified in November 2014.⁹ Originally, the Agreement was due to come into effect in November 2017 (Art. 24 (3) of the EU-Turkey Readmission Agreement). However, by a decision¹⁰ of the Joint Readmission Committee (no: 2/2016), which was established to monitor and coordinate the implementation of the EU-Turkey Readmission Agreement (Art. 19 of the EU-TR Readmission Agreement), this date was revised to June 2016.

The Statement provides for three operational procedures:

- a. all irregular migrants who crossed from Turkey to the Greek islands are to be returned and readmitted to Turkey first under the Greece-Turkey Readmission Agreement, and after June 2016, under the EU-Turkey Readmission Agreement. This includes asylum seekers whose claims have been declared inadmissible.
- b. Syrian refugees are to be resettled from Turkey to the EU. The EU is obliged to resettle the same number of Syrian refugees as those returned to Turkey from the Greek islands.
- c. a "Voluntary Humanitarian Admission Scheme" will be activated.

4.1. Criticism of the EU-Turkey Statement

After the announcement of the EU-Turkey Statement on 18 March 2016, several aspects of the Statement were widely criticised by international organisations, civil society organisations and experts. In general, this criticism can be categorised as political and legal. While arguments on the effectiveness (Spijkerboer, 2016) or on "moral" aspects (Médecins Sans Frontières International, 2016) of "The Deal" fall into the category of political debate, there were two legal points that were most commented on by scholars:

- a. designation of Turkey as a safe third country; and
- b. legality of the Statement under EU and international law.

⁹ Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation, available at: [http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0507\(01\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0507(01))

¹⁰ Council Decision (EU) 2016/551 to adopt the Joint Committee decision (No: 2/2016); <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016D0551>

Turkey as a safe third country

The EU Asylum Procedures Directive requires that a person may only be readmitted to a "safe third country" that guarantees effective access to protection.¹¹ The EU-Turkey Joint Action Plan in November 2015 and the subsequent EU-Turkey Statement stipulate the readmission of irregular migrants to Turkey. Therefore, Turkey is regarded as a safe (third) country for refugees and migrants by the EU.

Section III of the Asylum Procedures Directive¹² defines safe country concepts, including the first country of asylum and the safe third country. Art. 38 of the Directive sets out a series of legal requirements for a country to be considered safe for asylum seekers. These requirements are:

- a. life and liberty shall not be threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- b. there shall be no risk of serious harm;
- c. the principle of non-refoulement shall be respected; and
- d. the possibility shall exist for the applicant to claim refugee status and to receive protection in accordance with the 1951 Geneva Convention.

Whether Turkey meets these legal requirements has been widely discussed after the announcement of the EU-Turkey Statement in March 2016 (among others see Collett, 2016; Roman, Baird, & Radcliffe, 2016; Roman & Peers, 2016; Ulusoy, 2016). Issues such as Turkey's geographical limitation on the 1951 Geneva Convention, which limits refugee status to European nationals; reports of non-refoulement principle violations at the Turkish-Syrian border (Amnesty International, 2016b; Human Rights Watch, 2016a); and the poor human rights record of Turkey were underlined in these discussions. Furthermore, while Turkey's newly established asylum system provides and guarantees rights for asylum seekers and refugees generally in line with EU legislation (Ulusoy, 2016), as this report also demonstrates, there are serious shortcomings and problems in the implementation phase of the system.

Legality of the Statement

¹¹ See footnote 2.

¹² Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. Available at: <http://data.europa.eu/eli/dir/2013/32/oj>

The EU-Turkey Statement of 18 March 2016 addresses the provisions of three previous legal/political instruments: the EU-Turkey Joint Action Plan (November 2015); the EU-Turkey Readmission Agreement (2013); and the Greece-Turkey Readmission Protocol (2002).

The EU-Turkey Statement of 18 March 2016 states that the EU-Turkey Readmission Agreement will be in force as of 1 June 2016. The legal basis for this re-arrangement is the decision¹³ of the Joint Readmission Committee. However, according to the Art. 19 of the EU-Turkey Readmission Agreement, the Joint Readmission Committee does not have the authority to change the effective date or have the authority to make changes in the main text of the treaty.¹⁴ Changes and amendments to the main body of an agreement/treaty may only be made by the signatory parties and must be ratified according to national legislation. Therefore, the Joint Committee's decision to change the application date for third country nationals is null and void (for a detailed discussion of this issue see Ekşi, 2016) .

Furthermore, according to Art. 20 of the EU-Turkey Readmission Agreement, implementation protocols must be drawn up in order to implement the Readmission Agreement. While there is a Greek-Turkish Joint Declaration dated 8 March 2016 underlining the agreement to effectively implement the Readmission Agreement, there is no implementation protocol signed and made publicly available.¹⁵ The first Report on the progress made in the implementation of the EU-Turkey Statement mentions that *"... Turkey has also agreed a bilateral implementing protocol to the EU-Turkey Readmission Agreement with Germany and is currently negotiating such instruments with Bulgaria and Greece"* (European Commission, 2016b). However, there is no follow-up on that issue in the following reports and no information or protocols were signed between Turkey and Germany, Bulgaria and Greece (or any other EU member states).

The Greece-Turkey Readmission Protocol was signed in 2002 and Art. 21 of the EU-Turkey Readmission Agreement states that on the date of entry into force of the readmission agreement, previous agreements shall no longer be applied. Therefore, as of 1 June 2016, if the Joint Readmission Committee's abovementioned decision (no: 2/2016) is accepted as legal and binding, the protocol between Greece and Turkey must be automatically not applicable. However, there are no other implementing protocols signed. In that case, all readmissions from Greece to Turkey are without a legal basis.

¹³ European Council Decision 2016/551 to adopt the Joint Committee decision (No: 2/2016); <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016D0551>

¹⁴ Art. 24(3) of the EU-Turkey Readmission Agreement entry into force.

¹⁵ The only publicly available information is: Greek-Turkish Joint Declaration on 8 March 2016 (page 2); <http://www.mfa.gr/images/docs/ellinotourkiko/joint%20declaration.pdf>

5. Background Information on the Turkish Asylum System

Turkey was one of the first countries to sign and ratify the 1951 Geneva Convention on the Status of Refugees and is a party to the 1967 Protocol, but maintains a geographical limitation for non-European asylum seekers. According to this reservation, Turkey may grant refugee status only to asylum seekers originating from Member States of the Council of Europe (see Boček, 2016, p. 6). According to UNHCR, Turkey is one of only four states (along with Congo, Madagascar and Monaco) that maintain the "geographical limitation".¹⁶

The Law on Foreigners and International Protection (LFIP; Law no: 6458) was adopted by the Turkish Parliament in 2013 and came into force in April 2014¹⁷. The LFIP is the first-ever comprehensive law regulating asylum and migration issues in Turkey. The law and accompanying secondary legislation foresaw the establishment of a new civil body for asylum and migration, together with provisions – in line with EU legislation – on basic human rights and procedural rights of migrants, asylum seekers and refugees.

5.1. Temporary Protection Regime

In April 2011, two months after the beginning of civil unrest in Syria, a first group of Syrian refugees entered Turkey (İçduygu, 2015, p. 6). While the number of Syrian refugees arriving in Turkey was relatively small, only 8,000, at the end of 2011, just one year later the total number of Syrians in Turkey was 170,000 at the end of 2012¹⁸. While the Turkish authorities initially adopted an open door policy towards Syrian refugees at that time (İçduygu & Millet, 2016, p. 4), there was no legal or regulatory framework for such an influx into Turkey. Turkish authorities named Syrian refugees "guests" and implemented "*spontaneous, ad hoc measures and changing practices*" (ECRE, 2015, p. 105) until the adoption of the Temporary Protection Regulation (TPR) in October 2014¹⁹. Although Turkish

¹⁶ Declarations under section B of Art. 1 of the Convention (Unless otherwise indicated in a footnote, the declarations were received upon ratification, accession or succession.) (a) "Events occurring in Europe before 1 January 1951" available at: <http://www.unhcr.org/protection/convention/3d9abe177/reservations-declarations-1951-refugee-convention.html> [accessed 04 April 2017]

¹⁷ The Law on Foreigners and International Protection (Law no: 6458); Unofficial translation available at: <http://www.refworld.org/docid/5167fbb20.html>

¹⁸ At the end of 2011 there were 8,000 Syrian refugees in Turkey. The total number was 170,000 in December 2012. Source: UNHCR; <http://data.unhcr.org/syrianrefugees/country.php?id=224> [accessed 7 April 2017]

¹⁹ Temporary Protection Regulation, (Official Gazette No. 29153 of 22 October 2014). available at: <http://www.refworld.org/docid/56572fd74.html>

authorities already announced in 2011 (ECRE, 2015) that they were implementing a temporary protection regime for Syrian refugees, until the adoption of the Temporary Protection Regulation (TPR) of October 2014, basic issues such as admission to territory, identification, registration, access to shelter and healthcare services for Syrian refugees were based entirely on political and administrative discretion between 2011 and 2014.

Adoption of the TPR in 2014 provided a framework for refugees from Syria for their basic rights including non-punishment of illegal entry and stay (Art. 6 TPR) and non-refoulement principle (Art. 7 TPR) and regulated their access to social services such as healthcare and education. However, Art. 7(3) and 25 TPR explicitly exclude temporary protection beneficiaries from a long-term and durable solution. Art. 7(3) underlines that obtaining a temporary protection status *“shall not be deemed as having been directly acquired one of the international protection statuses”*. Furthermore Art. 25 TPR stresses that temporary protection status does not *“grant the right for transition to a long-term residence permit”* and *“shall not entitle its holder to apply for Turkish citizenship.”* These two articles of the TPR practically put the legal statuses of temporary protection beneficiaries on hold and make a long-term and durable solution impossible for them.

According to Art. 12(1)a TPR, temporary protection status of individuals who leave Turkey on their own volition will be terminated. Therefore, Syrian nationals who left Turkey for Greece and are subject to readmission under the EU-Turkey Statement would be without a protection status when they arrive back in Turkey. To address this issue, after the Statement, Turkey amended²⁰ the Temporary Protection Regulation on 6 April 2016 stating that Syrian nationals returning under the new arrangements may request temporary protection in Turkey (European Commission, 2016b, p. 4).

5.2. Significant Changes in Greek and Turkish Asylum Systems after the EU-Turkey Statement

The Greek Parliament adopted a new law (Law no: 4375/2016)²¹ in April 2016 that introduced several crucial changes in the Greek asylum system, such as the change of the institutional framework and reception procedures. These changes include the adoption of fast track asylum determination

²⁰ Regulation Amending the Temporary Protection Regulation No: 2016/8722
<http://www.resmigazete.gov.tr/eskiler/2016/04/20160407-18.pdf>

²¹ Greece: Law No. 4375 of 2016 on the organization and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EC [Greece], 3 April 2016, available at: <http://www.refworld.org/docid/573ad4cb4.html> [accessed 4 April 2017]

procedures at the borders (Art. 60(4)) and an initial admissibility test for asylum applications at the borders (Art. 54-56). According to the new law, the fast track asylum determination procedure including the appeal stage should be completed in 15 days. Significantly, one criterion for finding a claim to be inadmissible is whether the applicant has entered from a safe third country. Since Turkey is designated a safe third country (European Commission, 2016b, p. 4), virtually all applications made at the border can be rejected without substantive assessment.

As of 1 April 2016, just two weeks after the announcement of the EU-Turkey Statement, all migrants and asylum seekers on Greek islands have been channelled into the new fast track asylum procedure (Amnesty International, 2017, p. 12). While, in practice, it appears that only asylum claims made by Syrian nationals have been assessed for initial admissibility under this new system, there are recent reports that Greek authorities have started to use the initial admissibility test for claims from people of other nationalities (Amnesty International, 2017, p. 13). In combination, the initial admissibility test and fast track procedure dramatically reduce the opportunities for people recently arrived in Greece to have their asylum claims considered on their merits before being returned to Turkey.

This situation in Greece increases the importance and necessity of a working and accessible asylum system in Turkey. The Greek asylum system now operates on the presumption that people with valid claims for international protection who have been readmitted from Greece to Turkey under the EU-Turkey Statement, as explained above, can expect to find such protection in Turkey. Turkish authorities, on the other hand, claim that persons readmitted from Greece have already exhausted their claims for international protection in Greece and, therefore, do not need to be provided opportunities to lodge asylum applications in Turkey (GUE/NGL Delegation, 2016, p. 5).

On 29 October 2016, under the state of emergency declared after the failed coup attempt on 15 July 2016, Presidential Decree no. 676 made significant amendments to LFIP²². In particular, Art. 36 of Presidential Decree no. 676 makes changes to Art. 54 LFIP, which determines for whom deportation decisions can be issued. According to the amendment, asylum seekers, international protection applicants and refugees *can be deported at any stage of their international protection application if they are recognised as “a member of a terrorist organisation”*. The provision does not require a court decision or formal procedure for declaring a foreigner to be a member of a terrorist organisation. Moreover, it gives the administration the authority to make a deportation decision against persons recognised as refugees, fundamentally undermining this important protection status as well as several

²² Presidential Decree No: KHK/676 Official Gazette Link; <http://www.resmigazete.gov.tr/eskiler/2016/10/20161029-5.htm>

provisions of the LFIP, and creating a real risk of refoulement in violation of Turkey's international obligations under the 1951 Refugee Convention and the European Convention on Human Rights.

The following sections provide an overall view on access to information for asylum seekers and migrants, access to asylum procedures and detention conditions in removal centres in Turkey. Together with the information gathered from the field research in Turkey, the sections aim to provide an assessment of access to procedural rights by the readmitted migrants from Greece to Turkey.

6. Application of the EU-Turkey Statement

A first group of migrants was readmitted from Greece to Turkey under the EU-Turkey Statement on 4 April 2016²³. In total 202 people, among whom 136 from Lesbos and 66 from Chios, were brought on three boats to the port of Dikili (Turkey). Four days later, on 8 April, 123 migrants were transferred to Turkey. The readmission of these first two groups, in total 325 migrants, received wide national and international media coverage. However, following the first transfers from Greece to Turkey, a sharp decrease in numbers was witnessed (see Annex 2). The decrease in the numbers of readmitted migrants was mainly a result of "shortfalls in resources" in Greece (European Commission, 2016d, p. 5). Prohibiting migrants and asylum seekers from leaving the Greek islands left them stranded on these islands and put further pressure on the Greek asylum and migration management system at the local level (Amnesty International, 2017, pp. 11–12). Together with the existing high number of backlog cases, the asylum management system on the Greek islands, especially in Lesbos, was "paralysed."²⁴

The legal basis for the readmissions from Greece to Turkey under the EU-Turkey Statement is indicated as the existing bilateral readmission protocol between Greece and Turkey (European Commission, 2016a, pp. 2–3, 2016b, p. 4). This bilateral readmission agreement was signed in 2002 and was already in force as of 18 March 2016 when the Statement was signed. It was planned to continue the readmission of migrants from Greece to Turkey under the EU-Turkey Readmission Agreement after 1 June 2016. For this purpose, the EU-Turkey Readmission Agreement was amended by the Joint Readmission Committee to allow the Agreement to come into force on 1 June 2016 and succeed the Greece-Turkey Readmission Agreement. However, while there *"has been some progress*

²³ In April 2016, 202 migrants were transferred from Lesbos Island (Greece) to https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_eu_turkey_en.pdf

²⁴ Interview with Lawyer E in Athens, Greece, 20/01/2017 and Interview with Lawyer F in Lesbos, Greece, 21/01/2017

in the implementation of the provisions of the EU-Turkey Readmission Agreement with regard to the readmission of Turkish nationals”, no progress has been recorded in the implementation of the EU-Turkey Readmission Agreement regarding the third country nationals under the EU-Turkey Statement (European Commission, 2016d, p. 6).

In practice, Syrian and non-Syrian nationals have been subject to different readmission procedures since readmissions from Greece to Turkey began after the EU-Turkey Statement. This difference in procedures is a result of the different statuses these nationals have. Non-Syrian nationals are preliminarily accepted as irregular migrants while Syrian nationals are regarded as the beneficiaries of the temporary protection regime in Turkey.

Non-Syrian migrants are transferred from the Greek islands to Turkey by boat and later taken to the Pehlivan köy Removal Centre in Kırıkkale. As of 19 June 2017, 1,013 non-Syrian nationals have been readmitted to Turkey according to data available from the Turkish DGMM²⁵. Out of this 1,013 readmitted non-Syrian nationals, 707 persons have been returned to their countries of origin from Turkey as of June 2017 (European Commission, 2017b, p. 5). However, neither European Commission implementation reports nor Turkish authorities provide nationalities or related information of the expelled migrants from Turkey to their countries of origin. 56 readmitted non-Syrian migrants, out of 1,013, applied for international status protection in Turkey and as of June 2017 only 2 of them have been granted a protection status while 38 applications are pending, nine persons have received a negative decision and a further seven applications were withdrawn.

According to official Turkish data, more than half of the all readmitted persons from Greece to Turkey are Pakistan nationals. The exceptionally high proportion of readmitted Pakistan nationals to other nationals can be explained with the recently approved Turkey-Pakistan Bilateral Readmission Agreement. Although the Turkey-Pakistan Readmission Agreement was signed in 2010, the Turkish government did not ratify the agreement until April 2016, just two weeks after the EU-Turkey Statement²⁶. Furthermore, the spokesperson of the Turkish Ministry of Foreign Affairs announced on 2 March 2016 that Turkey had proposed readmission agreements to 14 countries but did not identify those countries during the press conference.²⁷

²⁵ DGMM, Return Statistics, 10 April 2017, available at: http://www.goc.gov.tr/icerik6/return-statistics_915_1024_10104_icerik [accessed 14 April 2017]

²⁶ Turkish Official Gazette, Law No: 6703, Approval Date: 07/04/2016: , available at: <http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/eskiler//2016/04/20160420.htm/20160420.htm&main=http://www.resmigazete.gov.tr/eskiler//2016/04/20160420.htm> [accessed 05 April 2017]

²⁷ Statement of the spokesperson of the Ministry of Foreign Affairs, Tanju Bilgiç (in Turkish) ; 02/03/2016, available at: http://www.mfa.gov.tr/disisleri-bakanligi-sozcusu-tanju-bilgiç-in-basin-bilgilendirme-toplantisi_-2-mart-2016_-ankara.tr.mfa [accessed 18 April 2017]

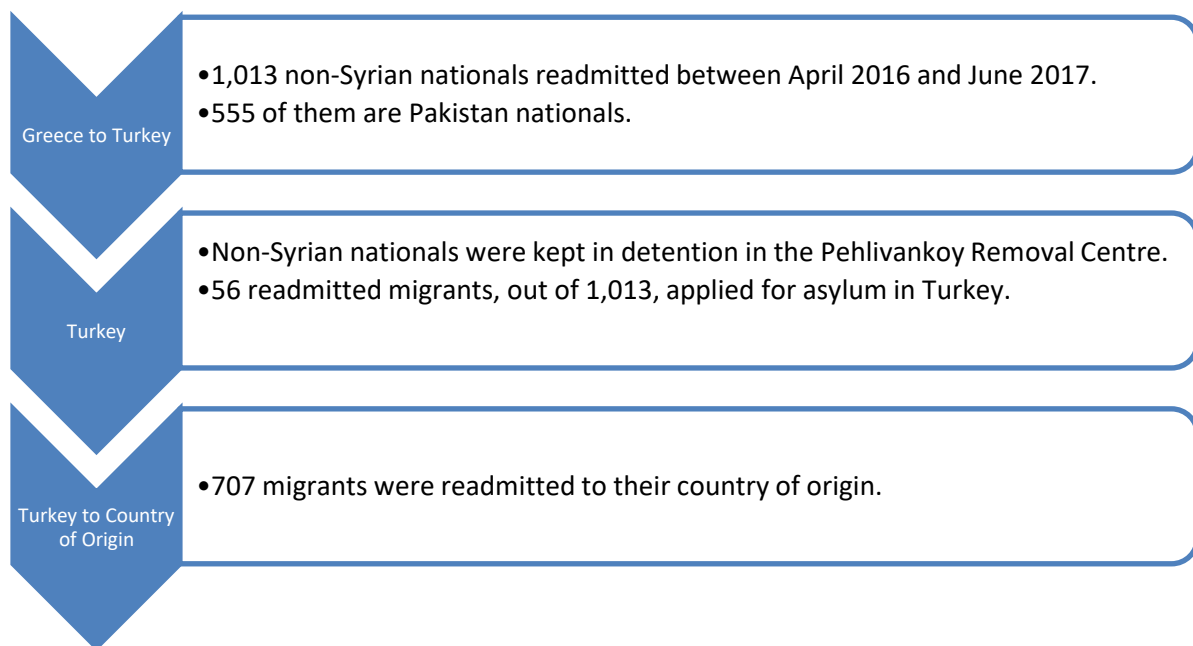


TABLE 1: READMISSION OF NON-SYRIAN NATIONALS

Syrian nationals were subject to a slightly different readmission procedure from the procedure for non-Syrian nationals. As of 19 June 2017, 203 Syrian nationals have been readmitted to Turkey according to data available from the Turkish DGMM²⁸. Syrian nationals are transferred to Turkey by plane and placed in the Düziçi Temporary Accommodation Camp in Osmaniye, which is exclusively for Syrian nationals. Once readmitted, they are detained in the Düziçi Temporary Accommodation Camp until their temporary protection status is reinstalled. This procedure takes about three to four weeks²⁹.

²⁸ DGMM, Return Statistics, 10 April 2017, available at: http://www.goc.gov.tr/icerik6/return-statistics_915_1024_10104_icerik [accessed 14 April 2017]

²⁹ Interview with Lawyer D in Turkey, 25/01/2017.

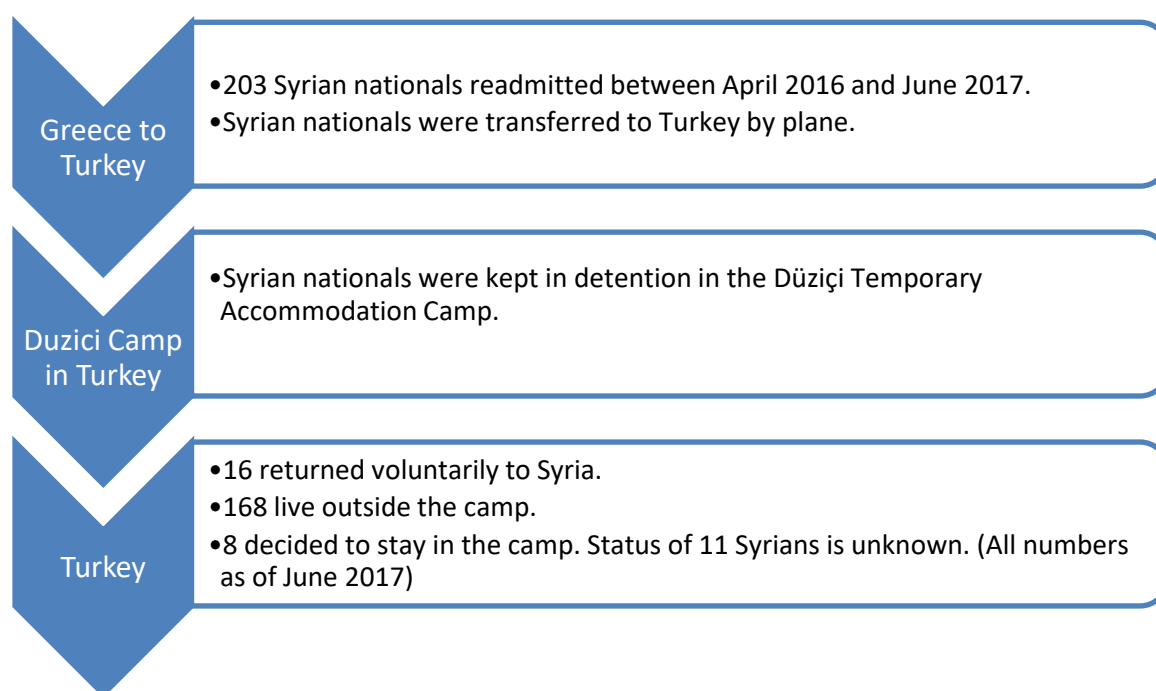


TABLE 2: READMISSION OF SYRIAN NATIONALS

7. Readmitted Non-Syrian Nationals to Turkey

The following section first provides an overview of the relevant legislation in Turkey regarding access to information and access to asylum procedures for asylum seekers who are in detention and seeking international protection. Following the overview, the current situation in Turkey is discussed with the information gathered from desk and field research.

7.1. Access to Information

Relevant legislation in Turkey

Art. 68 and 70 of the Law on Foreigners and International Protection (LFIP) provide the legal framework for the right of access to information for asylum seekers who are in detention and seeking international protection. Art. 68(4) LFIP stipulates that migrants who are detained with an

administrative decision must be notified of the decision, including the reason, duration and other related information. Moreover, this notification must be done in a language that the detainee understands. The notification can be made to the detainee him/herself or to a legal representative of the detainee.

Art. 70(1) LFIP provides that a person applying for international protection status must be informed about the procedure that will be followed for his/her application, his/her rights and obligations during this procedure and the procedure for appealing a decision.

The Law on Foreigners and International Protection together with related secondary legislation, in general, provides a sufficient legal framework for asylum seekers' access to information in line with EU legislation. However, while these guarantees are provided by law, several national and international organisations and NGOs (Amnesty International, 2017; Boček, 2016; Human Rights Watch, 2016b) have reported that, in practice, there are certain shortcomings or problematic issues.

In practice

After his fact-finding mission to Turkey between 30 May and 4 June 2016, Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees, published a report criticising the arbitrary restrictions on migrants' and asylum seekers' access to information. In his report, Boček underlines that while there are procedural safeguards defined in national legislation *"they [migrants] are provided with no information and are often denied access to UNHCR representatives and NGOs who could advise them of their rights"* (Boček, 2016, p. 10).

Furthermore, Boček found that, although officials in the removal centres he visited assured him that *"all new arrivals are given a document in a language that they understand, explaining their right to apply for international protection"*, he was not able to obtain a copy of any such document. The papers he was shown served a different purpose: *"they were provided information once an application for "international protection" had been made or a removal decision handed down. The detainees I interviewed stated that they had not received any information on their rights upon arrival at the removal centre"* (Boček, 2016, p. 8).

The Turkish Ombudsman Institution conducted an investigation after a Turkish NGO, Multeci-Der (Association for Solidarity with Refugees) lodged an application on 20-21 January 2016 alleging inhuman treatment of migrants in Erzurum Aşkale Removal Centre. In its decision dated 2 December

2016 on application no. 2015/6136³⁰, the Ombudsman noted that while officers from the Aşkale Removal Centre claimed all migrants in the centre are properly informed about their procedural rights and access to asylum, interviews with detainees revealed that *“none of the migrants were aware why they were in the center and how long they will stay there.”*³¹

Lawyers interviewed in Turkey for our own research all confirmed Boček's and the Ombudsman's findings. Their clients either did not receive any information or received incorrect or unrelated information on procedural rights or reasons for their detention. For example, Lawyer B's clients from the Congo, who were readmitted from Greece under the EU-Turkey Statement, can only speak French but received official notifications in English concerning their deportation order. They were also forced to sign documents, in English, testifying that they did not want to seek asylum in Turkey and would like to go back to the Congo voluntarily.³²

Another regular problem observed by respondents in Turkey was misinformation given to the migrants by the staff of the removal centres. According to the lawyers interviewed, the staff and officers in the reception and removal centres advise detainees – including persons readmitted from Greece – not to apply for international protection because this would increase the duration of their stay in the removal centre. Lawyer A's clients from Afghanistan were advised not to apply for asylum by the removal centre's staff, although their lawyer believes they are clearly in need of international protection³³. Lawyer B's clients from the Congo were told by the Pehlivan köy Removal Centre officials that they were not allowed to apply for international protection in Turkey because they were readmitted from Greece.

7.2. Access to Asylum Procedure

Related legislation in Turkey

The Law on Foreigners and International Protection (LFIP) and the Implementing Directive of the Law on Foreigners and International Protection (Implementing Directive of the LFIP) provide the legal framework for the procedural rights for people who apply for international protection while they are in detention or removal centres in Turkey. According to Art. 65 (5) LFIP, *“applications for international*

³⁰ Decision of the Turkish Ombudsman's Institution is not available online.

³¹ Page 30, paragraph 20.3.3; Decision on Multeci-Der's application about inhumane treatment allegations in Erzurum Aşkale Removal Centre. The Ombudsman Institution. Decision date: 2 December 2016, Application no. 2015/6136.

³² Interview with Lawyer B in Turkey, 27/01/2017.

³³ Interview with Lawyer A in Turkey, 22/01/2017.

protection lodged by persons whose freedom has been restricted shall be forwarded to Governorate immediately". This provision covers all applicants, regardless of their nationality. Furthermore, Art. 65 (1) LFIP guarantees that *"every foreigner or stateless person may lodge an international protection application on his/her behalf"*. Thus, in principle, access to the asylum procedure is guaranteed for all persons in Turkey, including detainees. Art. 65 (8) of the LFIP also guarantees applicants' access to legal representatives, lawyers, notaries and UNHCR officials while in detention.

The Implementing Directive of the LFIP was published on 17 March 2016, only one day before the announcement of the EU-Turkey Statement.³⁴ Art. 64 of the Implementing Directive of the LFIP regulates that Ministry of Interior Affairs shall determine *"the procedures and principles with respect to the deportation proceedings of foreigners to be admitted to Turkey pursuant to readmission agreements"*. However, to date there has been no regulation or decision published by the Ministry on the procedures and principles to be followed in this context. Instead, in the absence of regulation, in practice, all persons readmitted from Greece are detained as soon as they arrive in Turkey and, with the exception of Syrian nationals, Turkish authorities immediately initiate deportation procedures to their countries of origin.

In practice

In his report, Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees, provides two examples of arbitrary obstruction of access to asylum for the migrants who were readmitted to Turkey from Greece under the EU-Turkey Readmission Agreement. The first case involved Congolese migrants who tried to lodge their applications in the Pehlivanköy Removal Centre. Boček reports that *"They claimed that, upon arrival in Pehlivanköy, they had asked for access to the UNHCR; however, the authorities ignored their request for "international protection" for several weeks."* (Boček, 2016, p. 9). The group could finally lodge their applications after interventions by lawyers who were informed about the cases by NGOs.

In the second case, members of an Afghan family informed Turkish officials that they wished to make applications for international protection while they were in the Pehlivanköy Removal Centre, having been readmitted from Greece to Turkey. Boček was concerned that even though officials at

³⁴ Directive on the Implementation of the Law on Foreigners and International Protection; Published on 17 March 2016, Official Gazette No: 29656. Unofficial Translation by UNHCR Turkey; available at: <http://www.refworld.org/docid/5747fb7a4.html>

the Removal Centre assured him that their applications had been received and that they would be interviewed that afternoon, *“the family did not seem to be aware of this.”*(Boček, 2016, p. 9).

After visiting Turkey and the Pehlivanköy Removal Centre, three members of the European Parliament from the European United Left/Nordic Green Left (GUE/NGL) group published a report in May 2016 on the situation of migrants readmitted from Greece to Turkey³⁵. In their report, members of the Parliament indicate that Turkish officials state that *“all people being returned to Turkey had the opportunity to request asylum in Greece”* and based on this assumption, that their *“... aim is to ensure deportation of entirety of the people being returned from Greece, 100% if possible. [...] This is the spirit of the readmission agreement”*.(GUE/NGL Delegation, 2016, p. 5). According to the European Commission’s implementation reports, virtually all migrants arriving in Greece apply for asylum (European Commission, 2016c, p. 4). However, only 56 out of 1,013 non-Syrian nationals applied for asylum in Turkey (European Commission, 2017b).

Our research includes interviews with lawyers who were involved in the two cases highlighted by Boček’s report. These lawyers confirmed that attempts to lodge international protection applications by readmitted migrants themselves were ignored by Turkish officials or were not properly considered. As mentioned above, when Lawyer B’s Congolese clients tried to lodge their applications, Pehlivanköy Removal Centre officials refused to accept the applications arguing that since those clients were readmitted from Greece, they were not allowed to seek asylum or protection in Turkey. All lawyers interviewed agreed that it is virtually impossible for readmitted migrants to lodge an application while in removal centres despite the procedural guarantees in the law. As one lawyer put it, having the possibility to apply for international protection from a removal centre is *“based on pure luck”*³⁶. According to Lawyer C, the only possibility for readmitted migrants to apply for international protection is through the intervention of a third party: a lawyer or an NGO.

However, representation by a lawyer does not guarantee that an application will be successfully lodged and properly considered. Respondents indicated that it is also very hard for them to apply for international protection on behalf of their clients. While national legislation provides the necessary legal framework and guarantees for lawyers to act on behalf of their clients in all procedures

³⁵ The European United Left/Nordic Green Left (GUE/NGL) report on Delegation to Turkey, 2-4 May 2016; http://www.guengl.eu/uploads/news-documents/GUENGL_report_Situation_of_refugees_since_EU-Turkey_deal_2016.05.10.pdf

³⁶ Interview with Lawyer C in Turkey, 25/01/2017.

related to international protection (LFIP Art. 81)³⁷, Lawyers A and C reported arbitrary obstacles and even refusals to accept applications.

7.3. Detention Conditions

Legislation

Detention facilities for migrants in Turkey were named "guesthouses" prior to the adoption of the Law on Foreigners and International Protection (LFIP) and fell under the administration and regulation of the Foreigners Police department of the National Police (Global Detention Project, 2016). After the adoption of LFIP, administration of the existing centres as well as those under construction with the financial support of the EU were transferred to the newly established civil migration management body, the Directorate General of Migration Management (DGMM).

Art. 58 and 59 of the LFIP, together with the Directive on the Administration of the Reception, Accommodation and Removal Centres³⁸, define and outline the removal centres and services to be provided in these centres. Art. 59(1)b LFIP stipulates that *“Foreigners shall be allowed to have access to and receive visits from his or her relatives, notary, legal representative and lawyer and to have access to telephone services.”* While section 1(ç) of the same Article indicates that *“The best interest of children shall be respected; families and unaccompanied children shall be given separate accommodation.”*

In practice

According to Lawyers A, B and C, whose Congolese and Afghan clients were readmitted from Greece to Turkey in 2016, officials at the Kırıkkale Pehlivan köy Removal Centre prevented lawyers from visiting their clients, in breach of the Turkish Lawyers Law as well as the LFIP. After repeated attempts and communication with various governmental officials in Kırıkkale city and in Ankara, Lawyer A was finally given limited access to his clients and their files. However, even then, Lawyer A was not permitted to see all his clients and was only allowed to view selected documents from clients’

³⁷ Art. 81(1) LFIP: Applicant and beneficiaries of international protection may be represented by a lawyer in proceedings stated in Chapter Three of this Law, provided that they cover the costs.

³⁸ Kabul ve Barınma Merkezleri ile Geri Gönderme Merkezlerinin Kurulması, Yönetilmesi İşletilmesi, İşletirilmesi ve Denetimi Hakkında Yönetmelik (No translated version is available) , Official Gazette No: 28980, Date: 22 April 2014; <http://www.resmigazete.gov.tr/eskiler/2014/04/20140422-5.htm>

files with no opportunity to make copies. Meanwhile, Lawyer C's attempts to visit clients failed completely. After providing a list of names of clients to the Pehlivanköy Removal Centre administration, Lawyer C made requests to meet with them for several days. The director of the Centre finally refused to allow Lawyer C to meet with clients and, on the request of Lawyer C, he provided a written letter to the lawyer confirming that *"Lawyer C's access to clients and request to visit them in the Center was declined due to the instructions from the headquarters of the Directorate General of Migration Management (DGMM) in Ankara"*.³⁹

The Special Representative on Migration and Refugees of the Secretary General of the Council of Europe, Tomáš Boček, also observed that *"detainees have difficulties contacting the UNHCR, NGOs and lawyers. In some removal centres there is allegedly no opportunity for telephone contact"* (Boček, 2016, p. 9). This information is in line with the testimonies of lawyers who were interviewed during our field research. All respondents confirmed that they have difficulties contacting their clients by telephone. Their clients' mobile phones were confiscated at the removal centres and public phones in centres rarely work.

Using the public phones is further limited since detainees are locked in their cells almost all day. In the Pehlivanköy Removal Centre, clients of Lawyers A, B and C were locked in their cells with only 5 to 10 minutes of outdoor time before meals; a total of 20 to 30 minutes of outdoor time per day. While there are facilities such as an internet room, library, hairdresser and a sports hall, according to Boček, none of the detainees were aware of these facilities (Boček, 2016, p. 25).

Lawyers A and C made allegations about the absence of a separate unaccompanied minor section in the removal centres. Instead, these minors are housed with adults or families. One of Lawyer A's clients is an unaccompanied minor from Afghanistan who was readmitted from Greece to Turkey; he was housed with adult male detainees in the Pehlivanköy Removal Centre.

While provisions of the law are clear and require officials to allow detained foreigners access to their relatives, notary and legal representatives, recent reports and testimonies of the lawyers interviewed indicate that these rules are ignored or neglected by the staff of the centres.

It must be noted that, at the time of the field research in Turkey - January 2017 - , readmitted non-Syrian nationals were transferred and held in Kırıkkale Pehlivanköy Removal Centre. Therefore, interviewed lawyers provided information on the mentioned Centre. However, since May 2017, Turkish authorities started to transfer all readmitted non-Syrian nationals to Kayseri Removal Centre

³⁹ Interview with Lawyer C in Turkey, 25/01/2017. Original copy of the letter mentioned was seen by the researcher during the interview.

instead of Pehlivanköy. Additional phone conversations were held with respondents after the fieldwork, between June and July 2017, to update the information gathered during the field research. Respondents, who visited Kayseri Removal Centre after May 2017, indicated that the detention conditions were the same in both of the Centres and they faced similar obstacles accessing their clients.

8. Readmitted Syrian Nationals to Turkey

With the EU-Turkey Statement, Turkey agreed to not only readmit irregular migrants but also readmit Syrian nationals who crossed the Aegean Sea. According to the EU-Turkey Statement, *“For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU.”*⁴⁰ On 3 March 2016, prior to the EU-Turkey Statement, there were more than 2.7 million Syrian refugees registered in Turkey⁴¹. In comparison, total asylum applications by Syrian nationals in the EU since the start of the Syrian Civil War was around 660,000 as of March 2016⁴².

Prior to the Statement, according to Art. 12 of the Turkish Temporary Protection Regulation, Syrian nationals who have temporary protection status would lose their status if they leave Turkey in irregular ways. This meant that all Syrian nationals readmitted to Turkey under the Statement would not have any protection status in Turkey. On 5 April 2016, Turkey amended the Temporary Protection Regulation and included a clause that Syrian nationals who are readmitted from Greece *“may have their protection status installed upon arrival”*.⁴³ While the European Commission’s First Report on Implementation of the EU-Turkey Statement indicates that *“... Turkey has, by letter of 12 April 2016, provided assurances that all returned Syrians will be granted temporary protection upon return.”* (European Commission, 2016b, p. 4), the wording of the amendment is vague. A related Article gives discretion to the administration to reinstall the protection status and does not provide a guarantee.

According to the most recent official data available from Turkey, 178 Syrian nationals have been readmitted from Greece to Turkey under the EU-Turkey Statement (see Annex 2). Out of the

⁴⁰ EU-Turkey statement, 18 March 2016, available at: <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/> [accessed 14 April 2017]

⁴¹ UNHCR Syria Regional Refugee Response Inter-agency Information Sharing Portal <http://data.unhcr.org/syrianrefugees/country.php?id=224>

⁴² Eurostat, Asylum and first time asylum applicants available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en

⁴³ Regulation no 2016/8722 Amending the Temporary Protection Regulation. Date 05/04/2016 Official Gazette: <http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/eskiler/2016/04/20160407.htm&main=http://www.resmigazete.gov.tr/eskiler/2016/04/20160407.htm>

178 Syrian nationals who have been readmitted since April 2016, 10 returned voluntarily to Syria, 133 are living in urban areas (cities) with temporary protection status reinstalled and 16 are living in the Osmaniye Düziçi Temporary Accommodation Camp (European Commission, 2017a, p. 6). The status of the remaining 19 Syrian nationals was unknown at the time of writing this report. All 178 readmitted Syrian nationals were transferred to Turkey from Greece by airway. Readmitted Syrian nationals were kept in the Osmaniye Düziçi Camp while awaiting the administration's decision on their protection status and related paperwork. Düziçi Camp, which is a temporary accommodation camp for Syrian nationals, has a capacity of 5,000 (Boček, 2016, p. 13). After reinstallation of protection status, Syrian nationals can choose to stay in the camp or go to a city of their choice.

8.1. General Living Conditions of Syrian Refugees in Turkey

Since the start of the Syrian Civil War and the influx of refugees to Turkey, the Disaster and Emergency Management Authority (AFAD), a new body established in 2009, is the primary governmental agency responsible for the humanitarian response to the Syrian influx of refugees. Coincidentally, a regulation aiming to set the rules and procedures for AFAD's coordination role in disasters and emergencies was published in January 2011, just 2 months before the Syrian Civil War broke out⁴⁴. This regulation authorised AFAD to coordinate and facilitate humanitarian aid in the event of large scale "asylum and mass influx" situations (Art. 6/1(b)).

Housing: The main legal document for Syrian refugees in Turkey, the Temporary Protection Regulation, does not oblige the administration to provide accommodation for the temporary protection beneficiaries. Art. 37 of the Regulation⁴⁵ authorises the Prime Ministry Disaster and Emergency Management Authority (AFAD) to build temporary accommodation camps and manage them in cooperation with the Directorate General of Migration Management (DGMM). As of 24 April 2017, there were 252,061 Syrian nationals living in temporary accommodation camps in Turkey,⁴⁶ roughly 10% of all registered temporary protection beneficiaries in Turkey. The remaining population

⁴⁴ Regulation on Management of the Disaster and Emergency Centres. No: 2011/1377 Date:31/01/2011 available at: <http://www.resmigazete.gov.tr/eskiler/2011/02/20110219-12-1.pdf>

⁴⁵ Temporary Protection Regulation, 22 October 2014, unofficial translation available at: <http://www.refworld.org/docid/56572fd74.html>

⁴⁶ AFAD; Current Status in AFAD Temporary Protection Centres, <https://www.afad.gov.tr/tr/2374/Barinma-Merkezlerinde-Son-Durum> [accessed 20 April 2017]

is living mainly in cities⁴⁷. A recent World Food Programme report found out that almost 30% of all Syrian refugees are living in unfinished buildings or garages (WFP Turkey, 2016).

Access to labour market: Art. 29 of the Temporary Protection Regulation provides a legal basis for the beneficiaries of temporary protection to access the labour market. According to Art. 29(2) of the Regulation, "*Persons, who hold a Temporary Protection Identification Document, may apply*" for working permits. However, the same article provides for a Council of Ministers' decision on principles and procedures regarding the employment of persons benefiting from temporary protection. Until January 2016, there was no such decision or regulation and access to labour markets "remained theoretical" (ECRE, 2015, p. 134).

On 15 January 2016, with the Council of Ministers decision no. 2016/8375, the long-awaited regulation on working permits of temporary protection beneficiaries was published⁴⁸. According to Art. 5(1) of the Regulation, TPR beneficiaries can apply for a working permit after being registered in the TPR system for six months. Working permit applications can be filed by employers unless the applicant will work as independent. While there is no official data on the number of working permit applications and approval rate of these applications, governmental news agency Anadolu Ajansi published a news article based on the information received from the authorities, indicating that only 10,227 Syrian nationals, less than 0.4% of registered Syrians in Turkey, were granted working permits (Ozcan Yildirim, 2017).

Healthcare: Since the start of the influx, all registered temporary protection beneficiaries have access to the Turkish healthcare system. Initially, between 2011 and 2013, temporary protection beneficiaries had access to basic free-of-charge healthcare services in 11 cities. In 2013, with Circular no. 2013/8, AFAD announced that Syrian "guests" could access free basic healthcare services in all 81 cities of Turkey.⁴⁹ Even though temporary protection beneficiaries have access to free healthcare services nationwide, language continue to be the main challenge for beneficiaries of temporary

⁴⁷ According to the Turkish Statistical Institution data, Syrians are living in all 81 cities of Turkey.

http://www.goc.gov.tr/icerik6/temporary-protection_915_1024_4748_icerik [accessed 20 April 2017]

⁴⁸ Regulation on the Working Permits of Temporary Protection Beneficiaries. No: 8375 Date 15/01/2016 Official Gazette: <http://www.resmigazete.gov.tr/eskiler/2016/01/20160115-23.pdf>

⁴⁹ Circular on Healthcare Services Provided to Syrian Guests, AFAD. No: 2013/8 Date: 09/09/2013 Available at: https://www.afad.gov.tr/upload/Node/2311/files/saglik_genelgesi.tif

protection in access to healthcare. And though authorities are employing interpreters to solve this issue, the number of interpreters is not enough (Ekmekci, 2016, p. 6).

8.2. Detention of Syrian Nationals

Düziçi Temporary Accommodation Camp

While there is conflicting information about the numbers of camps, according to the most recent official data provided by the DGMM, there are 21 temporary accommodation centres for temporary protection beneficiaries.⁵⁰ All of these camps were established and are run by AFAD. However, the management of the Düziçi Temporary Accommodation Camp in Osmaniye was reportedly taken over by DGMM in October 2015 and became a de facto detention centre for Syrian refugees (Boček, 2016, p. 27; ECRE, 2015, p. 120). Syrian nationals who engaged in begging, suspected criminal activity or those apprehended while trying to cross the border irregularly were sent to the Düziçi Camp "for their own good" according to national officials (Boček, 2016, p. 28). Conditions in the Düziçi Camp are also substantially different from AFAD-run accommodation centres. Boček (2016) reports that while the Düziçi Camp was only less than half full, living conditions - especially for children - were dire (Boček, 2016, pp. 13, 20, 27–28).

However, the most problematic issue is the "purpose" of the camp. While officially it is a temporary accommodation camp, national and international NGOs are reporting that this is "de facto" a detention camp (Amnesty International, 2016a, p. 110; Boček, 2016, p. 28; ECRE, 2015, p. 120). Furthermore, lawyers and NGO workers interviewed for this research all confirmed that refugees in this camp are not allowed to leave the camp on their own volition and are regularly denied communication with anyone outside the camp. In a letter dated 23 December 2016, UNHCR Representative in Athens also indicates that the Düziçi Temporary Accommodation Camp is indeed "a closed facility" and UNHCR does not have *unhindered and predictable* access to the facility⁵¹.

The presence of a "de facto detention camp" and administrative detention for persons who are under the temporary protection regime in this camp has no legal basis according to the LFIP and the Temporary Protection Regulation. Detaining Syrian nationals who were readmitted from Greece to

⁵⁰ DGMM Temporary Protection Statistics, available at: <http://www.goc.gov.tr/icerik6/temporary-protection-915-1024-4748-icerik> [accessed 19 August 2017]

⁵¹ Letter of UNHCR Representation in Greece, 23 December 2016, Athens. Available at: <http://www.statewatch.org/news/2017/jan/unhcr-letter-access-syrians-returned-turkey-to-greece-23-12-16.pdf>

Turkey also does not have a legal basis. Turkish authorities declared and gave assurance to the European Commission that all readmitted Syrian nationals “*will be granted temporary protection upon return*” (European Commission, 2016b, p. 4). Since there is no prospect of deportation for returned Syrian nationals, their detention cannot be justified with Art. 57 of the LFIP, which regulates administrative detention within the deportation procedure. And, furthermore, since the readmitted Syrian nationals will be under the temporary protection regime, they may not be detained under Art. 68 of the LFIP, which regulates the administrative detention procedure under extraordinary circumstances for asylum applicants.

Conditions

The first Syrian nationals were readmitted to Turkey on 4 April 2016 together with the first group of readmitted non-Syrian migrants. Two Syrian nationals, whom authorities indicated that they had returned voluntarily, were taken to Dikili (Turkey) by boat from the islands of Lesbos and Chios (Greece). Syrian nationals were then transferred to the Osmaniye Düziçi Camp. The following readmissions of Syrian nationals from Greece to Turkey were made by plane to Adana and then the Syrian nationals were transferred to the Düziçi Camp. One year after the signing of the EU-Turkey Statement, 178 Syrian nationals were readmitted from Greece to Turkey under the provisions of the Statement (see Annex 2).

Interviews with Lawyer D provided insight into how the already existing dire living conditions in Turkey and the provisions of the EU-Turkey Statement forced her Syrian national clients to risk their lives more than once to find a secure shelter and dignified living conditions.⁵² According to Lawyer D, her clients, members of a Syrian family readmitted from Greece to Turkey under the provisions of the EU-Turkey Statement, had already repeatedly tried to apply for asylum in Greece. This Syrian family claims that, while they were on the island of Leros (Greece), they were told by Greek officials that they would be transferred to Athens although they were readmitted to Turkey by plane.⁵³

This family, together with the rest of the readmitted Syrian group, were kept in detention for two weeks in the Düziçi Camp. During this period, they were not allowed to leave the camp and communicate with anyone outside the camp. Lawyer D could get in touch with the family after their

⁵² Interview with Lawyer D in Turkey, 25/01/2017

⁵³ This incident was widely reported by the media and UNHCR confirmed that the groups were readmitted to Turkey without due consideration of their asylum claims. UNHCR's concern about the return of 10 Syrian asylum seekers from Greece, 21 October 2016, available at: <http://www.unhcr.org/news/briefing/2016/10/5809e78d4/unhcr-concern-return-10-syrian-asylum-seekers-greece.html>

release in another Turkish city. However, because of the dire situation in this city and limited access to social support, they were again forced to leave the city and cross the Turkish-Iraq border irregularly, to join their extended family members in Northern Iraq where they could find shelter and receive support.

9. Conclusion

In 2013, with the adoption of the Law on Foreigners and International Protection, Turkey undertook a Herculean task to establish "a migration and asylum system based on the international human rights norms" as indicated in the Law's preamble. However, four years later, as the preliminary findings of our research indicate, persons in need of international protection still face considerable difficulties accessing rights and guarantees provided by this law.

People who were readmitted from Greece to Turkey under the Greece-Turkey Readmission Agreement after the 18 March 2016 EU-Turkey Statement face particular obstacles to international protection. Their access to asylum is very limited in Greece (Amnesty International, 2017; Human Rights Watch, 2016b; UNHCR, 2016), yet Turkish authorities justify limiting their access to asylum in Turkey on the basis that readmitted migrants already had an opportunity to seek asylum in Greece. This has created a vacuum for persons who are in need of international protection.

As Turkish authorities informed the European United Left/Nordic Green Left (GUE/NGL) delegation from the European Parliament, their aim is to deport all migrants who were readmitted to Turkey from Greece under the Greece-Turkey Readmission Agreement to their country of origin. The practices reported demonstrate that there is limited, if any, real access to asylum and to lawyers or NGOs for detainees of Turkish removal centres, especially the Pehlivan köy Removal Centre where readmitted migrants from Greece were primarily transferred. Deporting a person who may be in need of international protection against possible persecution in his or her country risks the lives of these persons and leads to violation of the non-refoulement principle. In practice, in part as a result of alarming developments in the legal framework in Turkey, effective safeguards are not in place to ensure that readmitted migrants with genuine claims for international protection can secure a protected status in Turkey.

Annex 1: Timeline of the EU-Turkey Statement

TIMELINE OF THE EU-TURKEY STATEMENT

20 January 2000	Greece-Turkey Readmission Protocol signed in Athens. ⁵⁴
12 March 2002	Greece-Turkey Readmission Protocol approved
28 November 2002	European Community-Turkey Readmission Agreement adopted by the Council. ⁵⁵
27 May 2005	Negotiations formally opened in Brussels.
7 December 2006	Negotiations stopped after the 4th round.
17 December 2009	Negotiations resumed and a new draft text prepared and transmitted to Turkey. ⁵⁶
21 June 2012	The agreed text initialled in Brussels by the representatives of both parties. ⁵⁷
16 December 2013	Turkey-EU Readmission Agreement signed
1 January 2014	The agreement partly entered into force
1 October 2014	Readmission Agreement between Turkey and the EU entered into force. ⁵⁸
20 October 2014	Commission adopted its First report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap. ⁵⁹
3 February 2015	Refugee facility for Turkey. Agreement on details of financing: Member States agreed on how to finance the €3 billion EU refugee facility for Turkey. This would allow the EU to deliver additional humanitarian assistance to refugees in Turkey and their host communities. ⁶⁰
29 November 2015	<i>EU-Turkey Summit</i> took place, where both sides agreed on modalities to deepen their cooperation, notably in managing the Syrian refugee crisis and addressing irregular migration. <i>Joint Action Plan</i> accepted. ⁶¹
4 March 2016	Second report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap. ⁶²

⁵⁴ <http://madde14.org/images/8/88/YunTurgerikabul.pdf>

⁵⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0239:FIN:EN:HTML>

⁵⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0239:FIN:EN:HTML>

⁵⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0239:FIN:EN:HTML>

⁵⁸ http://europa.eu/rapid/press-release_STATEMENT-14-285_en.htm

⁵⁹ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/international-affairs/general/docs/turkey_first_progress_report_en.pdf

⁶⁰ <http://www.consilium.europa.eu/en/press/press-releases/2016/02/03-refugee-facility-for-turkey/>

⁶¹ <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-278-EN-F1-1.PDF>

⁶² https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/international-affairs/general/docs/turkey_second_progress_report_en.pdf

18 March 2016	EU-Turkey Statement ⁶³
20 April 2016	First Report on the progress made in the implementation of the EU-Turkey Statement. ⁶⁴
28 April 2016	Fast-Track Standard Operating Procedures to help accelerate the resettlement process agreed. ⁶⁵
4 May 2016	Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap. ⁶⁶
1 June 2016	EU announced that all provisions of the Turkey EU Readmission Agreement entered into force. <i>'The Turkish Parliament approved the entry into force of the provisions of the EU-Turkey Readmission Agreement concerning third country nationals as of 1 June. The relevant law was signed by the President's office on 18 May and published in Turkey's Official Journal on 20 May. The entry into force of the provisions on third-country nationals of the EU-Turkey Readmission Agreement should be completed with a decision by the Turkish Council of Ministers as a matter of urgency to allow for actual readmission.'</i> ⁶⁷
15 June 2016	Second Report of the European Commission on the progress made in the implementation of the EU-Turkey Statement. ⁶⁸
28 September 2016	Third Report of the European Commission on the progress made in the implementation of the EU-Turkey Statement. ⁶⁹
24 November 2016	Temporary freeze on EU Accession talks with Turkey. ⁷⁰
8 December 2016	Fourth Report of the European Commission on the progress made in the implementation of the EU-Turkey Statement. ⁷¹

⁶³ <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>

⁶⁴ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160420/report_implementation_eu-turkey_agreement_nr_01_en.pdf

⁶⁵ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160615/2nd_commission_report_on_progress_made_in_the_implementation_of_the_eu-turkey_agreement_en.pdf

⁶⁶ <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-278-EN-F1-1.PDF>

⁶⁷ http://europa.eu/rapid/press-release_MEMO-16-1664_en.htm

⁶⁸ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160615/2nd_commission_report_on_progress_made_in_the_implementation_of_the_eu-turkey_agreement_en.pdf

⁶⁹ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160928/3rd_report_on_the_progress_made_in_the_implementation_of_the_eu-turkey_statement_en.pdf

⁷⁰ <http://www.europarl.europa.eu/news/en/news-room/20161117IPR51549/freeze-eu-accession-talks-with-turkey-until-it-halts-repression-urge-meps>

⁷¹ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20161208/4th_report_on_the_progress_made_in_the_implementation_of_the_eu-turkey_statement_en.pdf

Annex 2: Readmissions from Greece to Turkey in 2016; Numbers and Dates

Numbers and Nationalities of People Readmitted from Greece to Turkey

- **4 April 2016** - "A total of **202 people, 136 from Lesbos and 66 from Chios**, were brought on three boats to the **port of Dikili** that day. Each was escorted by at least one Frontex officer, all of whom were masked for the duration of the journey. **There were 11 women among them; the nationalities of the people were as follows: 130 from Pakistan, 42 from Afghanistan, 10 from Iran, 5 from Congo, 4 from Sri Lanka, 3 from Bangladesh, 3 from India, 1 from Somalia, 1 from Iraq, 1 from Ivory Coast and 2 Syrians who, it was alleged, were returning to Turkey on a voluntary basis.**

According to the official statements by the authorities in Turkey, except for the two Syrians among the first group, **all 323 non-Syrians were directly transferred to the Pehlivan köy / Kırklareli Removal/Detention Centre, while the two Syrians were taken to the Düziçi Camp.** According to official statements to the media, non-Syrians are to be detained for the purpose of deportation, and once the procedure is completed, they will be deported to their countries of origin or transit."⁷²⁷³

- **8 April 2016** - "A second group of **124** were readmitted on 8 April; 20 were **from Samos, 50 from Kos and 45 from Lesbos**. (One person was not accepted by the authorities in Turkey and taken back to Greece.) **111 of the people in the group were from Pakistan, 4 from Iraq, 4 from India, 2 from Bangladesh, 1 from Morocco, 1 from Egypt and 1 from Palestine.**"⁷⁴
- **20 April 2016 – First EU Commission Report:** A total of 325 persons who entered irregularly after 20 March and did not apply for asylum after 20 March have been returned from Greece to Turkey, consisting of 240 Pakistani, 42 Afghanis, 10 Iranians, 7 Indians, 5 Bangladeshis, 5 Iraqis, 5 Congolese, 4 Sri Lankans, 2 Syrians, 1 Somali, 1 Ivorian, 1 Moroccan, 1 Egyptian, 1 Palestinian, In total, 1,292 migrants have been returned under the bilateral readmission

⁷² (<http://www.multeci.org.tr/haberler/multeci-ders-observations-on-refugee-situation-in-turkey/>)

⁷³ (<https://www.hrw.org/news/2016/04/19/eu/greece-first-turkey-deportations-riddled-abuse>)

⁷⁴ (<http://www.multeci.org.tr/haberler/multeci-ders-observations-on-refugee-situation-in-turkey/>)

agreement between Greece and Turkey in 2016, with most of return operations taking place in March.⁷⁵

- **26 April 2016** – Ferry Asım Captain, carrying 31 refugees from Afghanistan, Pakistan and Myanmar, arrived at the port of Güllük at 13.30 by departing from the island of Kos at 12.00 noon. Refugees were to be taken to İzmir, then taken to Kırıkkale or Adana by plane.⁷⁶
- **20 May 2016** - 5 Algerians, 5 Iranians, 1 Moroccan and 1 Afghani from Lesbos; 5 Afghans from Chios and one Iraqi family (5 people) returned to Turkey.⁷⁷
- **15 June 2016 - EU Press Release:** Since the Statement entered into force, there have been **462 returns** from the Greek islands to Turkey of persons **who did not apply for asylum or voluntarily revoked their asylum application, including 31 Syrians**. Other nationalities returned have included **Pakistanis, Afghans, Bangladeshis, and Iranians as well as people from Iraq, India, Congo, Algeria, Sri Lanka, Morocco, Nepal, Somalia, Ivory Coast, Egypt and the Palestinian Authority**. In total, **1,546** returns of irregular migrants have been carried out from Greece to Turkey in the course of 2016.⁷⁸
- **15 June 2016 EU Press Release:** **462 persons** who entered irregularly after 20 March and did not apply for asylum returned from Greece to Turkey.⁷⁹
- **16 June 2016** - 6 Algerian Asylum seekers returned to İzmir, Dikili by ferry. They had been taken by minibus to go Kırklareli.⁸⁰
- **28 September 2016 EU Press Release:** Since the Statement entered into force, there have been **578 returns from the Greek islands to Turkey, including 53 Syrians**. Other nationalities returned have included **Pakistanis, Afghans, Bangladeshis, Iranians as well as people from Iraq, India, Congo, Algeria, Sri Lanka, Morocco, Nepal, Somalia, Ivory Coast, Egypt, Yemen,**

⁷⁵ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160420/report_implementation_eu-turkey_agreement_nr_01_en.pdf

⁷⁶ <http://www.iha.com.tr/haber-siginmaci-iadesi-gerceklesti-554445/>

⁷⁷ <http://www.memurlar.net/haber/585374/>

⁷⁸ ([http://europa.eu/rapid/press-release MEMO-16-1664_en.htm](http://europa.eu/rapid/press-release_MEMO-16-1664_en.htm))

⁷⁹ (http://europa.eu/rapid/press-release MEMO-16-1664_en.htm)

⁸⁰ <http://www.iha.com.tr/haber-yunanistandan-veni-gocmen-kafesi-izmirde-567006/>

Lebanon, and the Palestinian Authority. In total, over 1,600 returns of irregular migrants have been carried out from Greece to Turkey in the course of 2016.⁸¹

- **8 December 2016, 4th Report of the EU Commission:**

Since the Third Report of 28 September 2016, with the return of Turkish Liaison Officers on the islands and resumption of return operations in early September, **170 persons** who entered Greece through Turkey have been returned to Turkey in the framework of the EU-Turkey Statement, **including 42 Syrians**, which brings the total number of migrants returned to Turkey following the EU-Turkey Statement to 748. **Other nationalities included Pakistanis (394), Afghans (61), Algerians (68), Iraqis (17), Bangladeshis (26), Iranians (18), Sri Lankans (16), and Moroccans (15).** The returned persons had received negative asylum decisions (including negative decisions at second instance), had withdrawn their asylum applications, or had not applied for asylum. **In total, 1,187 irregular migrants** were returned from Greece to Turkey in the course of 2016 under the EU-Turkey Statement or the Greece-Turkey bilateral readmission protocol, out of which **95 Syrians**.⁸²

⁸¹ [http://europa.eu/rapid/press-release MEMO-16-3204 en.htm](http://europa.eu/rapid/press-release_MEMO-16-3204_en.htm)

⁸² https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20161208/4th_report_on_the_progress_made_in_the_implementation_of_the_eu-turkey_statement_en.pdf

- Number of readmitted migrants and refugees by Turkish Ministry of Interior Directorate General of Migration Management (last date of update: 19.06.2017)⁸³

IRREGULAR MIGRANTS RECEIVED SINCE 4 APRIL 2016

NATIONALITY	TOTAL
GRAND TOTAL	1216
PAKISTAN	555
SYRIA	203
ALGERIA	126
BANGLADESH	88
AFGHANISTAN	77
MOROCCO	34
IRAN	30
IRAQ	23
SRI LANKA	16
NIGERIA	11
MYANMAR	9
NEPAL	9
GHANA	6
DEMOCRATIC REPUBLIC OF CONGO	5
EGYPT	4
INDIA	3
PALESTINE	3
CAMEROON	3
LEBANON	2
IVORY COAST	2
DOMINICAN REPUBLIC	1
JORDAN	1
YEMEN	1
MALIAN	1
SENEGAL	1
HAITI	1
CONGO	1

⁸³ http://www.goc.gov.tr/icerik6/return-statistics_915_1024_10104_icerik

- EU Commission returns from Greece to Turkey in 2016⁸⁴

Date of return	Number of people returned from Greece to Turkey under the	Date of return	Number of people returned from Greece to Turkey under the EU-
4 April	202	26 October	8
8 April	123	27 October	22
26 April	49	3 November	4
27 April	12	28 November	10
18 May	4	29 November	17
20 May	51	12 December	29
8 June	8	19 December	5
9 June	13	20 December	19
16 June	6		
17 August	8		
18 August	6		
25 August	2		
7 September	5		
8 September	13		
23 September	7		
26 September	69		
5 October	55		
6 October	10		
13 October	25		
20 October	14		
21 October	5		
		TOTAL	801

⁸⁴ European Commission, Operational implementation of the EU-Turkey Statement https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_eu_turkey_en.pdf

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- European Commission. (2016d). *Third Report on the Progress made in the implementation of the EU-Turkey Statement*. Retrieved from <https://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8>

&ved=0ahUKEwic8PHd6KPTAhXFZFg0MAE&url=https%3A%2F%2Fec.europa.eu%2Fneighbourhood-enlargement%2Fsites%2Fnear%2Ffiles%2Fnews_corner%2Fmigration%2Fcom_2016_634_f1_other_

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