RESPOND
Multilevel Governance of Mass Migration in Europe & Beyond

Policy Brief 1

Border Management and Protection Policies for Syrian Refugees in Turkey

Executive Summary

This Policy Brief focuses on border management and international protection policies, practices and humanitarian responses to refugee immigration between 2011 and 2018 in Turkey. This brief addresses the main challenges in terms of the focused policy areas with an emphasis on the nexus of forced and irregular migration, in particular regarding the situation of Syrians in Turkey. It also offers some policy recommendations for different stakeholders. Our research is primarily based on the fieldwork that conducted in İstanbul, İzmir, Şanlıurfa and Ankara in 2018.

Turkey is different from the European Union (EU) Member States in the sense that it does not grant refugee status to non-European refugees but the "conditional-refugee" status as pending the resettlement and durable solutions of the United Nations High Commissioner for Refugees (UNHCR) elsewhere, due to Turkey's geographical limitation to the 1951 Geneva Convention. This results in limits to protection under international law, a dual international protection regime as well as reduced access to rights. In addition, Syrians are provided temporary protection, which brings additional complexities and uncertainties for the asylum policy and international protection.

Regarding border management, Turkey's initial open-door approach towards Syrian mass migration have gradually turned into reluctant approach, evolved around deterrence and return. Turkey's stance toward exits of irregular migrants, particularly in its Western costs has been utmost importance. Beside humanitarian and legal concerns, domestic politics and geopolitical considerations shape Turkey's perspective about bordering in and outside of the country. Dual protection regime and dominance of temporary mechanisms characterize the national protection regime. Gap between legislations and actual practices are observable, generating high level of precarity and fragility for asylum seekers and holders of international/temporary protection statuses. Most worrying protection related problems include difficulty to access registrations, situation in removal centres, bans on travel and assessing asylum applications.

There are increasing concerns about the outcome of Covid-19 pandemic are already further restricting the formal and informal protection mechanisms available to asylum seekers, refugees and irregular migrants.

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From Guesthood to Return: Turkey's Changing Migration Policy

Initially, Turkish political leaders welcomed Syrians with open arms and described them as religious brothers who deserved Turkish hospitality. However, as time wore on the situation has changed dramatically. This brief was written in a period in which worrying developments took place in Turkey with regard to the state of migrants under temporary protection. Regarding the internal controls, following the election defeat of the ruling party in the local elections in Istanbul (June 2019), the Governor of Istanbul operating under the Ministry of Interior announced that Syrians under temporary protection residing in Istanbul without a valid document showing their legal residence permit, in other words, those who had originally been registered in other cities at their reception would be sent back to the cities where they were initially registered with the risk of losing their protection rights. For many years, many Syrians had found ways to migrate to Istanbul to find better opportunities with respect to jobs, education, housing and protection, despite the fact that they were originally registered in different cities, mostly in the cities bordering Syria.

Following the sharp increase of crossings from Turkey to Greece, new policy tools and agreements were also introduced regarding the external border controls, such as the EU-Turkey Statement of 18 March 2016. Briefly according to the Statement, the EU Heads of State or Government and Turkey agreed to end irregular migration flows from Turkey to the EU, ensure improved reception conditions for refugees in Turkey and open up organised, safe and legal channels to Europe for Syrian refugees. The Statement not only aims to prevent loss of lives in the Aegean Sea, but also seeks to break down migrant smuggling networks and replace illegal migration with legal migration. The Statement also formulates regulations specifically concerning Syrians as distinct from general, irregular transit migrants. Known as the "one-to-one" formula, this article requires that for every Syrian returned to Turkey from the Greek islands, another Syrian should be resettled in the EU (Article 2).

Worries about the conditions of irregular migrants and migrants under temporary protection grew when Turkish state actors declared they would open the borders for irregular migrants to head towards the European borders on 29 February 2020, the day after 34 Turkish soldiers were killed by the Syrian regime forces in Idlib, the northwest province of Syria. It was declared that Turkey's borders with Europe would be opened and Turkey stopped border controls at its EU borders. Since then, immigrants and refugees from various countries including from Syria, began to accumulate and thousands gathered at the border areas such as Edirne, Çanakkale, and İzmir, along with the land and sea borders with Greece. While they were trying to enter Europe, they faced serious humanitarian tragedies, traumas and violations. Some of them could cross the borders, but they were prevented by the border forces in the countries they reached, and faced the risk of serious push-backs and violence while also becoming the target of human smuggling networks. In addition, those who want to cross the borders irregularly became subject to loss of rights and for this reason, removal from international or temporary protection in Turkey. As of 28th March, the majority of these migrants were taken by the state actors back from the border and distributed to nine cities.

This new development once more showed how vulnerable irregular and forced migrants are to the political changes in the region.

A mounting discourse about the need for Syrians to return has replaced the initial discourses of guesthood and the Ansar spirit. The ruling elite has refrained from using a discourse of integration as they strongly believe that it is the discourse of return, which will politically pay off. It is for this reason that the Directorate General for Migration Management (DGMM) is reluctant to publicise the Integration Strategy Document (Uyum Strateji Belgesi), which has already been reported to have been prepared by the Ministry of Interior. In the midst of the growing stream of return discourses are practices to encourage so-called voluntary returns (e.g. municipal campaigns to return home, provision of transportation support, 'go and see visits'). There are growing concerns about Turkey's unilateral approach, its strategy of providing restricted protection while encouraging return, and the principles that it ignores during returns such as voluntariness, safety, and security.

In addition, the ongoing cross-border operations and the return emphasis for Syrians in Turkey got more visible and emphasized. Regarding the return dimension, it should also be emphasized that as of 22 July 2019, Turkey unilaterally suspended the EU-Turkey Readmission Agreement; however, the EU-Turkey Statement (2016) appears to still be functional, which has also significant implications on international protection. Although, the recent developments at the EU-Turkey border cities, in particular Edirne, appear as against the principles of the the Statement and in a way, its de facto suspension by Turkey, returns can still take place under the EU-Turkey Statement from Greece to Turkey. Therefore, Syrians under temporary protection have started to feel even more threatened and at the conjunction of the irregular and forced migration nexus, they have been subject to instrumentalization by Turkey and made into a bargaining chip during times of crises with the EU.

Protection

Registration of asylum seekers is the first critical step for status determination and access to rights. Since the Fall 2018, Turkey's migration agency, the DGMM has taken full authority for refugee status determination (RSD) procedures by gradually eliminating the parallel procedure carried out with the UNHCR. The DGMM has been the sole responsible authority for registrations for temporary protection and verification and renewal of previous registrations. However, non-standardized practices in registration have been observable across cities. Not only access to rights but also in some cities even the access to asylum is challenging for migrants, since authorities have temporarily suspended registration for both international and temporary protection applicants and are not taking first registrations.

Turkey has a dual protection system, basically offering different treatment or access to rights by asylum seekers from European countries and non-European countries, which is legitimized by Turkey's geographical limitation regarding the 1951 Refugee Convention. The country also maintains different treatment of Syrian and non-Syrians with respect to temporary protection status. This situation leads to vast differences regarding access to rights for the beneficiaries of international and temporary protection and for those who are Syrians, non-Syrians or non-Europeans.

In general, our respondents highlighted nationality-based differences or discriminations in practice with regards to access to asylum. Non-Syrian beneficiaries or applicants of international protection appear to be more disadvantaged. Access to asylum, in particular, at the borders appears problematic for both international and temporary protection applicants. For asylum seekers, it is difficult to reach non-governmental organizations (NGOs) or inter-governmental organizations (IGOs) to get legal assistance. The majority of the migrants, who are caught at the borders during irregular border-crossings, do not know about their rights to apply for asylum. Also, making asylum applications through law enforcement forces after being apprehended is difficult. Few IGOs and NGOs are able to officially cooperate with Turkish law-enforcement forces at the border-crossing points to provide information to migrants about an international protection application. Beside problems that migrants face accessing information, Turkish state agencies have shortcomings in capacity, training and preparation for solely carrying out registration, identification, evaluation and appeal stages that are marked by uncertainties and inconsistencies. Problems in each stage either hinder or slow down the recognition of vulnerabilities within the asylum procedure. Access to international protection during the administrative detention and deportations or so-called "voluntary returns" from removal centres can be noted as the most challenging protection issues. In February 2018, the derogation from the principle of nonrefoulement was introduced for reasons, such as public order, security and terrorism. This widely used derogation also raises concerns about protection.

The temporary protection regime for Syrian refugees is based on temporality and uncertainty due to its design. Considering that temporary protection is not the main protection itself, but an interim measure provided in emergency situations, such as mass-migration movements, it should not be seen as an alternative to international protection. Rights and procedural safeguards attached to temporary protection are weaker than those attached to international protection. By hindering access to international protection, temporarily protected individuals face the risk of being subject to an insecure status for an indefinite period time. Therefore, there is a significant risk of protracted refugee situations where there is no available durable solution other than repatriation. This is also relevant to the fact that the status of temporary protection prevents asylum seekers from approaching the UNHCR for resettlement except in a very few emergency and vulnerable cases.

Methodology

The policy brief is based on RESPOND reports comprising data from different sources in order to provide comprehensive insights regarding policies, regulations, practices and experiences of border management, reception, protection and integration in Turkey.

The discussion of politics and legal regulations is based on a document analysis of policy and legislative documents. In addition, the reports draw from 84 semi-structured interviews conducted with different meso level stakeholders in four cities, namely: Istanbul (17), Izmir (29), Sanliurfa (34), and Ankara (4). The meso level analysis is based on total 84 interviews conducted in Istanbul (17), Izmir (29), Sanliurfa (34), and Ankara (4) by members of the Turkish research team between July 2018 and November 2018. Interviews were conducted with high level state officers, including representatives from ministries, and directorates, local government bodies (municipalities, city councils), law enforcement agencies, provincial civil servants, experts from international organizations (IOM, UNHCR), representatives of international, national, local non-governmental organizations and lawyers dealing with cases about migrants.

Micro level interviews were conducted by the same research team in İstanbul (40), İzmir (43), and Şanlıurfa (20) to understand the ways in which refugees respond to the policies, regulations and practices of reception at local and national levels. 103 refugees of mostly Syrian origin, as well as some Iraqis and Afghans, were interviewed in the summer of 2018. The data was analysed on the basis of a qualitative content analysis approach which combines deductive and inductive elements. The software, Nvivo12 Pro, was used as an essential tool in the study for the processing of data.

Policy Recommendations

1. Working together: Turkish migration and asylum policy require multidimensional cooperation and coordination among actors and sectors. It requires both strong state actors like the DGMM and strong civil society networks, which can bring together very different stakeholders to take part in the process.

2. Consensus building: Effective migration and asylum policy involve building and managing political consensus across the country. A migrant/refugee friendly public opinion should be encouraged by the political leadership of the country together with academia, civil society organizations and the media to foster a positive attitude about migrants and refugees. The national parliament could be the venue for the building of consensus among different political parties.

3. Developing a holistic approach: Migration and asylum policies are all interconnected. Admission is connected to integration; reception conditions are connected to long-term integration outcomes; and housing policy is connected to public opinion. This makes migration/refugee policy especially complex and it makes holistic, integrated approaches, multilevel governance, and institutional and international cooperation essential.

4. Facilitating knowledge formation: Turkey must be able to evaluate the policies that are implemented, and this requires benchmarks and indicators. All of the stakeholders must be able to analyse the results and communicate them back to the public. All of this requires data collection and interpretation. There should be scientific venues where a synergy can be constructed between government, civil society, and academia to exchange views and opinions on objective grounds.

5. Improving border management and protection: Turkey needs a more civilian border management structure and elimination of vagueness and contradictions in its legal framework are needed. At the borders, blocking the migratory flows in the neighbourhood by constructing a border wall or conducting unilateral military operations cannot be seen as an effective border management policy in the long run. In terms of internal controls, the implementation of travel permit measures should be re-formulated, as it significantly limits the exercise of freedom of movement of people who are under international or temporary protection in Turkey. In relation to return, voluntary returns should be closely monitored and the non-refoulment principle should always be respected. The procedures and consequences of readmission agreements should be carefully analysed. Moreover, to comply with human right standards, Turkey should act more transparently and cooperatively with non-state actors in the apprehension, deportation, and voluntary return of asylum seekers.

6. Training of border officials and law enforcement authorities: Officials who come into contact with refugees should be aware of international and domestic laws relating to asylum-seekers and refugees. They should be trained on how to handle asylum applications, including sensitive ones, such as those based on gender-based persecution or those submitted by minors.

7. Consistent rights-based approach in access to asylum: All state and non-state actors should embrace a rights-based approach. Ensuring the equal and fair access to asylum procedures and the facilitation of full access to legal aid should be among the major priorities. The disadvantages and differences between international and temporary protection should be gradually eliminated. The inconsistencies between primary and secondary law should be narrowed down in favour of eliminating restrictions, such as the domestic travel limitations of Syrians. Legislation, implementation and monitoring should be better harmonized.

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Project Identity

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Further readings:

1.RECEPTION POLICIES, PRACTICES & RESPONSES: TURKEY COUNTRY REPORT
https://www.respondmigration.com/wp-blog/refugee-reception-policies-practices-responses-turkey-country-report

2.REFUGEE PROTECTION REGIMES: TURKEY COUNTRY REPORT:
https://www.respondmigration.com/wp-blog/refugee-protection-regimes-turkey-country-report

3.BORDER MANAGEMENT AND MIGRATION CONTROLS IN TURKEY REPORT
 https://www.respondmigration.com/wp-blog/border-management-migration-controls-turkey-report

4.TURKEY – COUNTRY REPORT: LEGAL AND POLICY FRAMEWORK OF MIGRATION GOVERNANCE
 https://www.respondmigration.com/wp-blog/2018/8/1/compara-
tive-report-legal-and-policy-framework-of-migration-governance-pclyw-ydmzj-bzdbn-sc548-ncfcp

5.INTEGRATION IN TURKEY REPORT (FORTHCOMING)
https://www.respondmigration.com/wp-blog

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