

**ADDITIONAL COMMENTS BY THE GOVERNMENT OF TURKEY REGARDING
THE CONCLUDING OBSERVATIONS OF CAT**

Refugees, asylum seekers and non-refoulement principles (Observations)

- *It is also concerned by several reports of expulsion, return or deportation in violation of the non-refoulement principle contained in article 3 of the Convention. According to the information before the Committee, the State party might have acted in breach of the principle of non refoulement regarding hundreds of Syrian nationals reportedly returned to their country of origin since mid-January 2016.*

Article 33 of 1951 Geneva Convention Relating to the Status of Refugees and Article 4 of Law N^o 6458 on Foreigners and International Protection (LFIP) provide assurance for “Non-refoulement Principle” and regulate that no one within the scope of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion. Within this scope, no one who has requested protection in our country are not returned forcibly.

Within the scope of Article 42 of the Temporary Protection Regulation Numbered 6883 and dated 20.10.2014, voluntary return form is prepared for the foreigners who have requested voluntary return to their own country and they return their own country with their own free-will after being informed in a language that they can understand with the accompaniment of an interpreter as well as witnesses of UNHCR, Turkish Red Crescent, Representatives of national of international civil society organizations. No foreigner is forced or inculcated to return their own country.

Due to internal conflicts in Syria, mass influx towards Turkey’s borders began on 29.04.2011. As of 29.04.2011 Turkey has introduced a range of practices including open door policy, unconditional reception to Turkey and non-refoulement principle, 2,774,475¹ Syrian nationals have been registered and granted temporary protection.

On the other hand, registration procedures of Syrian nationals are ongoing in all 81 provinces of Turkey. The open door policy is going on, therefore; Turkey does not return such a small

¹ As of 17.11.2016, data provided by Directorate General of Migration Management (DGMM)

group ("hundreds") of Syrian nationals to their country forcibly while providing protection to millions of Syrian nationals.

On the other hand, they are still granted temporary protection upon their statement for changing the decision on voluntary return or after they voluntarily return to their country and then arrive in Turkey,

- *The Committee is concerned about other recent cases in which around 30 Afghans asylum-seekers were reportedly returned to Afghanistan in March 2016 without granting them access to asylum procedures.*

Applications of the foreigners for international protection in Turkey under the 1951 Refugee Convention Relating to the Status of Refugees and The Law No. 6458 on Foreigners and International Protection are received and evaluated on a case by case basis.

On the other hand, of the foreigners who are irregular and placed in a removal centre so as to be deported, the ones who do not apply for international protection, and are not under the scope of Article 4 of the Law No. 6458 which regulates the principle of *non-refoulement*, are deported to their own country. Irregular migrants are notified of their rights and obligations as well as of the decisions made about them in any language they can understand in accordance with the respective articles of the Law. There are written statements of the concerned 30 Afghan nationals asserting that they have not requested for asylum/international protection in Turkey. Following the statements of these foreigners, their exit from Turkey was ensured.

- *The Committee regrets that the State party has not provided complete information on the procedures in place for the timely identification of victims of torture among asylum-seekers.*

Article 3 of the Law on Foreigners and International Protection specifies the term "Person with special need" as follows: "out of those applicants and international protection beneficiaries, an unaccompanied minor; a disabled person; an elderly person; a pregnant woman; a single mother or a single father with an accompanying child; or a person who has been subjected to torture, rape or other serious psychological, physical or sexual violence."

It is primarily identified whether the applicant is a person with special needs, while considering international protection application within the scope of detecting the victims of torture among the foreigners in need of international protection.

Those who are identified in any process of international protection procedures as persons with special needs are given priority for all the actions and procedures to be carried out.

Cooperation with relevant public institutions, international agencies and civil society organisations is carried out for providing a sufficient treatment to recover the damages of the persons who are subjected to torture, sexual assault or other serious psychological, physical or sexual violence.

EU-Turkey Statement of 18 March 2016 (OBSERVATIONS)

- *While taking note of the explanations offered by the State Party's delegation regarding the content and initial results of the EU-Turkey agreement on "the migrant crisis", which took effect on 20 March 2016, the Committee regrets the lack of information from the State party concerning concrete measures adopted to accommodate returned refugees, asylum-seekers and irregular migrants under this agreement. Furthermore, the Committee is deeply concerned at the lack of assurances that applications for asylum and international protection will be individually reviewed and that such individuals will be protected from refoulement and collective returns.*

Returns of the irregular migrants crossing from Turkey into the Greek islands are carried out within the framework of the EU and Turkey legislation, in accordance with the international human rights standards, pursuant to the decisions of the EU-Turkey Summit of 18 March 2016 and within the scope of the Turkey-Greece Readmission Protocol.

Within this scope;

- The persons who are not subject to the international protection procedures or the persons whose procedures are completed are returned to Turkey.
- Sufficient numbers of registry control units are established at the delivery points with the aim of ensuring admission of returnees safely and effective implementation of the actions and procedures after the readmission. At every control unit officials from

Directorate General of Migration Management (DGMM) as well as the law enforcement officers are appointed. Health controls of irregular migrants are being carried out by the Ministry of Health. An ambulance stands ready for people who are in emergency need of health care need and the necessary intervention is carried out by the professional healthcare teams. Additionally, necessary measures are taken when suspicion of transmissible diseases arises during the health checks and necessary guidance is provided in line with the persons' needs.

- When persons are readmitted to Turkey, they are informed about their rights and assurance pursuant to the LFIP No. 6458.
- Appropriate reception and accommodation conditions are provided for unaccompanied children and/or identified persons with special needs in coordination with the Ministry of Family and Social Policies.
- Persons who need international protection are given the right to active application. After the evaluation of their applications, if it is decided that they do not need international protection, they will be deported.
- Persons are evaluated individually in accordance with the national legislation and human rights standards. Mass evaluation or mass deportation is not even a matter of discussion.
- Removal procedures are implemented for persons who are considered as not in need of international protection.
- All humanitarian and legal needs of persons being accommodated in the removal centers during the procedures are met. These centers are open to the inspection of all national and international institutions and organizations in charge of monitoring and examination. At present, the total capacity of the available removal centers in Turkey is **6.810²**

Within the framework of the implementation of the EU-Turkey Statement of 18 March 2016, the situation of Syrian nationals who have arrived in Turkey as a result of events occurring in Syria as of 28/04/2011 and have crossed from Turkey into the Greek islands through illegal pathways after 20 March 2016 is regulated with the Regulation Amending

² As of 17.11.2016, data provided by the DGMM.

the Temporary Protection Regulation published on the Official Gazette on 7 April 2016. In this regard, Syrians being returned to Turkey following the completion of the procedures are transferred to their province of residence or to appropriate temporary accommodation centers.