

Country Report: Turkey



2017
Update

Acknowledgements & Methodology

The original report and first update were researched and drafted by Refugee Rights Turkey and edited by ECRE. The 2017 update was researched and drafted by an independent consultant and edited by ECRE.

This report draws on desk research, field visits and information collected from the Directorate-General for Migration Management (DGMM), UNHCR Turkey, civil society organisations and legal practitioners in Istanbul, Izmir, Ankara, Muğla, Batman, Adana, Hatay, Mersin, Van and Gaziantep. Access to official information on the situation of persons under international or temporary protection in Turkey remains limited to date. Information requests to different authorities were submitted for the purpose of this report but not all have been met with responses.

The information in this report is up-to-date as of 31 December 2017, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 20 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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Glossary & List of Abbreviations

Reception and Accommodation Centre	Reception centre used for the accommodation of applicants for international protection.
Satellite cities	Provinces designated by DGMM where applicants for international protection are required to reside. 62 provinces are designated as satellite cities, excluding provinces such as Istanbul, Izmir and Ankara.
Temporary Accommodation Centre	Camp used for the accommodation of temporary protection beneficiaries.
AFAD	Disaster and Emergency Management Authority Afet ve Acil Durum Yönetimi Başkanlığı
ASAM	Association for Solidarity with Asylum-Seekers and Migrants Sığınmacılar ve Göçmenlerle Dayanışma Derneği
CCTE	Conditional Cash Transfer for Education
DGMM	Directorate-General for Migration Management Göç İdaresi Genel Müdürlüğü
DRC	Danish Refugee Council
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ESSN	Emergency Social Safety Net
FIN	Foreigners Identification Number
ICMPD	International Centre for Migration Policy Development
IKGV	Insan Kaynagini Gelistirme Vakfi
IPEC	International Protection Evaluation Commission Uluslararası Koruma Değerlendirme Komisyonu
İŞKUR	Turkish Employment Agency
LFIP	Law on Foreigners and International Protection
MFSP	Ministry of Family and Social Policies
PDMM	Provincial Directorate for Migration Management
RSD	Refugee status determination
SGK	Social Security Agency
SILA	Determination of Legal Aid Needs and Improvement of Legal Aid Service
ŞÖNİM	Centre for the Elimination and Monitoring of Violence Şiddet Önleme ve İzleme Merkezi
SUT	Health Implementation Directive
TPR	Temporary Protection Regulation
UNHCR	United Nations High Commissioner for Refugees
YİMER	Foreigners Communication Centre Yabancı İletişim Merkezi
YTS	Foreign Terrorist Fighter Yabancı Terorist Savascı

Statistics

Overview of statistical practice

Available statistics on Turkey are provided by the Directorate-General for Migration Management (DGMM) and the Disaster and Emergency Management Authority (AFAD). DGMM publishes information on the total number of international protection and temporary protection beneficiaries, as well as data on the registration of the latter across provinces.

On the other hand, as explained in the [General Introduction](#), persons subject to the international protection procedure also register with UNHCR Turkey, which continues to carry out mandate refugee status determination (RSD) activities *in tandem* with the DGMM procedure.

Moreover, a level of caution is advisable in evaluating whether all persons registered with DGMM in Turkey either as temporary protection beneficiaries or within the framework of the international protection procedure are actually still present in Turkey. While both categories are required to reside in assigned provinces, it can be safely assumed that a fraction of the registered population may no longer be present in Turkey.

International protection applicants: 2017

Total	112,415
Iraq	68,685
Afghanistan	31,148
Iran	9,619
Somalia	1,082
Pakistan	350
Yemen	200
Turkmenistan	181
Palestine	167
Uzbekistan	111

Source: DGMM: <http://bit.ly/1CRBEPX>.

Registered temporary protection beneficiaries: 21 December 2017

	Beneficiaries	Percentage
Total number	3,412,368	100%
Outside Temporary Accommodation Centres	3,183,879	93.3%
In Temporary Accommodation Centres	228,489	6.7%

Breakdown per ten main provinces: 21 December 2017

Province	Population in Temporary Accommodation Centres	Total population	Share of total
Istanbul	0	537,084	15.7%
Şanlıurfa	80,107	462,077	13.5%
Hatay	17,838	456,761	13.4%
Gaziantep	24,362	349,039	10.2%
Mersin	0	191,263	5.6%
Adana	26,305	170,362	5%
Bursa	0	134,490	4%
Kilis	26,288	131,793	3.9%
Izmir	0	128,690	3.8%
Konya	0	99,212	2.9%
Kahramanmaraş	17,324	99,168	2.9%
Ankara	0	93,269	2.7%
Mardin	2,762	90,647	2.7%
Kayseri	0	70,252	2.1%
Osmaniye	15,058	49,554	1.5%
Kocaeli	0	45,696	1.3%
Diyarbakır	0	31,729	0.9%
Adıyaman	8,979	27,988	0.8%
Malatya	9,466	26,323	0.8%
Batman	0	20,787	0.6%

Source: DGMM, Temporary protection, 21 December 2017: <http://bit.ly/1Np6Zdd>.

Overview of the legal framework

Main legislative acts relevant to international protection (asylum procedures, reception conditions, detention, content of protection) and temporary protection

Title (EN)	Original Title (TR)	Abbreviation	Web Link
Law No 6458 on Foreigners and International Protection, 11 April 2013 <i>Amended by:</i> Emergency Decree No 676, 29 October 2016	6458 Yabancılar ve Uluslararası Koruma Kanunu, 11/4/2013 676 sayılı Kanun Hukmünde Kararname Olağanüstü Hal Kapsamında Bazı Düzenlemeler Yapılması Hakkında Kanun Hükmünde Kararname, 29/10/2016	LFIP	http://bit.ly/1fATdsC (EN) https://bit.ly/2ISX0RA (TR) http://bit.ly/2z0t3wh (TR)
Law No 4817 on Work Permits for Foreigners, 27 February 2003 <i>Repealed by:</i> Law No 6735 International Workforce, 13 August 2016	4817 Yabancıların Çalışma İzinleri Hakkında Kanun, 27/2/2003 6735U uluslararası Isgucu Kanunu, 13/08/2016	LWPF	https://bit.ly/2Gvyl7n (TR) http://bit.ly/1IsCcKN (EN) http://bit.ly/2jtRexU (TR)
Law No 2577 on Administrative Court Procedures, 6 January 1982	2577 İdari Yargılama Usulleri Kanunu, 6/1/1982		http://bit.ly/1KcDTzg (TR)
Law No 5543 on Settlement, 19 September 2006	5543 İskan Kanunu, 19/9/2006		http://bit.ly/1FB1IZH (TR)
Law No 1136, 19 March 1969	1136 Avukatlık Kanunu, 19/3/1969		http://bit.ly/1fATsUx (TR)
Law No 1512 Notaries, 18 January 1972	1512 Noterlik Kanunu, 18/1/1972		http://bit.ly/1Rw8wyN (TR)
Law No 3294 for the Enhancement of Social Assistance and Solidarity, 29 May 1986	3294 Sosyal Yardımlaşma ve Dayanışmayı Teşvik Kanunu, 29/5/1986		http://bit.ly/1Kab7p (TR)
Law No 5510 Social Insurance and General Security Law, 31 May 2006	5510 Sosyal Sigortalar ve Genel Sağlık Sigortası Kanunu, 31/5/2006		http://bit.ly/1e3sFiS (TR)
Law No 5902 on Institutional Framework and Mandate of Disaster and Emergencies Agency (AFAD), 29 May 2009	5902 Afet ve Acil Durum Yönetimi Başkanlığının Teşkilat ve Görevleri Hakkında Kanun, 29/5/2009		http://bit.ly/1GyAW4W (TR)
Law No 5395 on the Protection of Children, 3 July 2005	5395 Çocuk Koruma Kanunu, 3/7/2005		http://bit.ly/1NaHQSV (TR)
Law No 6284 on the Protection of Family and Combatting All Forms of Violence against Women 08 March 2012	6284 sayılı Ailenin Korunması ve Kadına Karşı Her Turlu Şiddetin Önlenmesi Hakkında Kanun 08/03/2012		https://bit.ly/1U00VKT (TR)

Law No 2949 on Formation and Procedures of the Constitutional Court, 30 March 2011	2949 Anayasa Mahkemesi'nin Kurulduğu ve Yargılama Usulleri Hakkında Kanun, 30/03/2011		https://bit.ly/2pKj2NQ (TR)
Law No 5901 on Turkish Citizenship, 29 May 2009	5901 Turk Vatandasligi Kanunu, 29/05/2009		https://bit.ly/2l7fjRS (TR)
Law No 5682 on Passports, 5 July 1950	5682 Pasaport Kanunu, 05/07/1950		https://bit.ly/2Gg1wb4 (TR)
Law No 462 on Court Fees, 2 July 1964	492 Harclar Kanunu, 02/07/1964		https://bit.ly/2l3HqkQ (TR)
Turkish Criminal Law No 5237, 26 September 2004	5237 Turk Ceza Kanunu, 26/09/2004		https://bit.ly/2lVlvZD (TR)

Main implementing decrees and administrative guidelines and regulations relevant to international protection (asylum procedures, reception conditions, detention, content of protection) and temporary protection

Title (EN)	Original Title (TR)	Abbreviation	Web Link
Temporary Protection Regulation 2014/6883, 22 October 2014 <i>Amended by:</i> Regulation 2016/8722, 5 April 2016 <i>Amended by:</i> Regulation 2018/11208, 16 March 2018	Geçici Koruma Yönetmeliği 2014/6883, 22/10/2014 Geçici Koruma Yönetmeliğinde Değişiklik Yapılmasına Dair Yönetmelik 2016/8722, 05/04/2016 Geçici Koruma Yönetmeliğinde Değişiklik Yapılmasına Dair Yönetmelik 2018/11208, 16/03/2018	TPR	http://bit.ly/1He6wvl (TR) http://bit.ly/1JiGVSI (EN) http://bit.ly/209ErLI (TR) https://bit.ly/2GynE4b (TR)
Circular of the DGMM on Principles and Procedures for Foreigners under Temporary Protection 29 November 2017	Geçici Koruma Altındaki Uygulanacak Prosedürler ve İlkeler Hakkında Genelge 27/11/2017		
Regulation on the Implementation of the Law on Foreigners and International Protection, 17 March 2016	Yabancılar ve Uluslararası Koruma Kanunu'nun Uygulanmasına Dair Yönetmelik, 17/03/2016	LFIP Implementing Regulation	http://bit.ly/1U90PVq (TR) http://bit.ly/2ANlhVE (EN)
Regulation 2016/8375 on Work Permit of Foreigners under Temporary Protection, 15 January 2016	Geçici Koruma Sağlanan Yabancıların Çalışma İznine Dair Yönetmelik, 15/01/2016		http://bit.ly/2Aso4H0 (TR) http://bit.ly/2AYqdqH (EN)
Regulation on Work Permit of Applicants for International Protections and those Granted International Protection, 26 April 2016	Uluslararası Koruma Başvuru Sahibi ve Uluslararası Koruma Statüsüne Sahip Kişilerin Çalışmasına Dair Yönetmelik, 26/04/2016		http://bit.ly/2z08v74 (TR) http://bit.ly/2ApyMKf (EN)

Regulation on the Establishment and Operations of Reception and Accommodation Centres and Removal Centres, 22 April 2014	Kabul ve Barınma Merkezleri ile Geri Gönderme Merkezlerinin Kurulması, Yönetimi, İşletilmesi, İşletirilmesi ve Denetimi Hakkında Yönetmelik, 22/4/2014		http://bit.ly/1Ln6Ojz (TR)
Regulation on DGMM Establishment and Operations, 14 November 2013	Göç İdaresi Genel Müdürlüğü Taşra Teşkilatı Kuruluş, Görev ve Çalışma Yönetmeliği, 14/11/2013		http://bit.ly/1LBuTks (TR)
Regulation on the Implementation of the Law on Work Permits for Foreigners, 29 August 2003	Yabancıların Çalışma İzinleri Hakkındaki Kanunun uygulama Yönetmeliği, 29/8/2003		http://bit.ly/1JiGOq8 (TR)
Regulation on DGMM Migration Experts, 11 July 2013	Göç Uzmanlığı Yönetmeliği, 11/7/2013		http://bit.ly/1Ln70PP (TR)
Circular of the Prime Minister on the Turkey-EU Readmission Agreement, 16 April 2014	Geri Kabul Anlaşması ile İlgili Başbakanlık Genelgesi, 16/4/2014		http://bit.ly/1QPTEAj (TR)
Legal Aid Regulation of the Union of Bar Associations, 30 March 2004	Türkiye Barolar Birliği Adli Yardım Yönetmeliği, 30/3/2004		http://bit.ly/1dg9Nwd (TR)
Regulation on the Implementation of Law on Notaries, 13 July 1976	Noterlik Kanunu Yönetmeliği, 13/7/1976		http://bit.ly/1dgakOF (TR)
AFAD Circular on Healthcare and Other Services for Syrians, 9 September 2013	Suriyeli Misafirlerin Sağlık ve Diğer Hizmetleri Hakkında Genelge, 9/9/2013		http://bit.ly/1He6Ha2 (TR)
Circular on Educational Activities Targeting Foreigners, 23 September 2014	Yabancılarla Yönelik Eğitim Öğretim Hizmetleri – Genelge, 23/9/2014		http://bit.ly/1fAUAaV (TR)
Regulation on Disaster and Emergencies Response Centres, 31 January 2011	Afet ve Acil Durum Yönetim Merkezleri Yönetmeliği, 31/1/2011		http://bit.ly/1KabYyt (TR)
Regulation on Marriage Procedures, 10 July 1985 <i>Amended by:</i> Regulation amending the Regulation on Marriage Procedures, 8 December 2016	Evlendirme Yönetmeliği, 10/7/1985 Evlendirme Yönetmeliğinde Değişiklik Yapılması Hakkında Yönetmelik, 08/12/2016		http://bit.ly/1KabY1f (TR) http://bit.ly/2AP9I3d (TR)
Circular on the Marriage and the Registration of Children of Refugees and Temporary Protection Beneficiaries, 13 October 2015	Mülteciler ve Geçici Koruma Altına Alınanların Evlenme ve Çocuklarının Tanınması Konulu Yazı, 13/10/2015		https://bit.ly/2IVMskR (TR)
Circular of the Union of Notaries on the Documents and Identification Cards issued on the basis of LFIP, 2 March 2016	YUKK Uyarınca Verilen Belge ve Kimlikler Hakkında 02/03/2016 tarihli 3 numaralı Noterler Birliği Genel		

	Yazısı		
Circular of the Union of Bar Associations on the Legal Aid Service Provided to Syrians under Temporary Protection, 22 July 2013	Türkiye Barolar Birliği'nin Geçici Koruma Altındakilere Verilecek Adli Yardım Hizmetiyle İlgili 2013/59 sayılı ve 22/7/2013 tarihli duyurusu		https://bit.ly/2IY5JC7 (TR)
Circular on Health Benefits for Temporary Protection Beneficiaries, 4 November 2015	Geçici Koruma Altına Alınanlara Verilecek Sağlık Hizmetlerine Dair Esaslar Yönergesi, 4/11/2015		http://bit.ly/1NLbaz5 (TR)
Regulation on the Establishment and Operation of Guest Houses, 5 January 2013	Kadın Konukevlerinin Açılması ve İşletilmesi Hakkında Yönetmelik, 05/01/2013		https://bit.ly/2ur4ZCm (TR)
Regulation on the Fight against Human Trafficking and Protection of Victims, 17 March 2016	İnsan Ticaretiyle Mücadele ve Magdurların Korunması Hakkında Yönetmelik, 17/03/2016		https://bit.ly/1VeEOn5 (TR)
Directive on Unaccompanied Children, 20 October 2015	Refakatsiz Çocuklar Yönergesi, 20/10/2015		https://bit.ly/2pKR7xh (TR)

Overview of main changes since the previous report update

The report was last updated in **December 2015**.

- ❖ **Access to the territory:** Unlawful push backs along the Turkey-Syria border, as well as allegations of unlawful returns at other land borders, have continued throughout 2017. Incidents refer to the use of violence and shootings against people entering the territory.
- ❖ **Right to remain:** An amendment to the LFIP by Emergency Decree No 676, adopted on 29 October 2016, introduced derogations to the principle of *non-refoulement* for cases concerning individuals who lead, participate in or support a terrorist organisation or a benefit-oriented criminal group, pose a threat to public order or public health, or have relations with terrorist organisations defined by international institutions and organisations. Persons falling under those categories may be deported even where they have a pending international protection procedure or benefit from international protection or temporary protection. While some Administrative Courts have halted deportations in some cases,¹ the *non-refoulement* principle is not uniformly applied in Administrative Court reviews. The Constitutional Court has issued interim measures in different to prevent deportations where a risk of *refoulement* has been identified.²

International protection

International protection procedure

- ❖ **Processing times:** As the joint registration of international protection applications continues to be handled by UNHCR through its implementing partner ASAM in one location in Ankara, long queues of people waiting to access the procedure continued to be reported. The average number of applications processed per days is 500-600. On the other hand, applicants face delays of up to several months before obtaining an interview with the PDMM.

Reception conditions

- ❖ **Access to the labour market:** A Regulation on Work Permit of Applicants for and Beneficiaries of International Protection was adopted on 26 April 2016, regulating the conditions and procedure for obtaining work permits. Applicants may apply for a work permit 6 months after lodging an application for international protection, subject to possible sectoral and geographical restrictions defined by the Ministry of Labour. Despite this measure, applicants for international protection continue to face widespread undeclared employment and labour exploitation in Turkey and have extremely limited access to formal employment.

Detention of asylum seekers

- ❖ **Grounds for detention:** Pre-removal detention is applied *inter alia* to persons issued a foreign terrorist fighter code (“YTS89”). The code seems to be applied widely, with approximately 67,000 persons issued such a code in 2017. At the same time, persons apprehended outside their “satellite city” may be detained in order to be transferred thereto. It nevertheless appears that

¹ Administrative Court of Istanbul, Decision 2016/2765, 29 December 2016. See also Decision 2016/2646, 21 December 2016; Decision 2016/2593, 16 December 2016; Decision 2016/2535, 7 December 2016; Decision 2016/2542; Decision 2016/2344, 24 November 2016; Decision 2017/233, 15 February 2017.

² Constitutional Court, *Khaldarov*, Decision of 13 February 2017.

detention is imposed on applicants who violate residence restrictions with varying rigour, often depending on the profile of the individual.

- ❖ **Place of detention:** The detention infrastructure of Turkey is increasingly expanding, with a total 18 Removal Centres reaching a total capacity of 8,276. According to the observations of lawyers, it seems that different categories of persons are detained in different Removal Centres. For example, Edirne mainly accommodates irregular migrants intercepted while attempting to leave turkey, while Hatay, Erzurum and Gaziantep accommodate migrants identified as foreign terrorist fighters (“YTS89”). However, Removal Centres face capacity issues at the moment. Another 16 Removal Centres totalling 7,400 detention places are planned to be established.
- ❖ **Access to detention facilities:** Lawyers are only granted access to Removal Centres on the basis of written requests, and can only request a copy of documents deemed not to be confidential, provided they have a power of attorney. In practice, lawyers report difficult and arbitrary access to Removal Centres, namely Izmir (Harmandalı), Hatay, Adana, Mersin and Erzurum. Access is described as easier in Çanakkale.
- ❖ **Judicial review of detention:** Magistrates’ Courts seem generally reluctant to review detention orders, with most appeals against detention being rejected in Izmir, Aydın, Hatay, Adana and Erzurum. In addition, the Constitutional Court has delivered several judgments raising concern on the effectiveness of remedies against detention conditions. The rulings have found that the LFIP makes no provision on the relevant standards on conditions of detention and avenues for challenging infringements on individual’s human rights, contrary to the Turkish Constitution and the ECHR.

Content of international protection

- ❖ **Resettlement:** Conditional refugees face severe delays in accessing resettlement opportunities, often depending on the nationality of the beneficiary. For Iraqi nationals, the earliest date for a resettlement interview with UNHCR is 2020 at the time of writing for Iranians while Iraqis nationals have appointments dates like 2024. However, UNHCR does not give any interview date for resettlement of Afghans.

Temporary protection

Temporary protection procedure

- ❖ **Registration:** PDMM have taken over the pre-registration phase of temporary protection registration as of November 2017. More recently, however, the province of Hatay has suspended registration of temporary protection beneficiaries due to the high number of persons already registered and challenges in the provision of public services. A similar suspension has been reported in Istanbul, albeit denied by the authorities.

Content of temporary protection

- ❖ **Services:** Following an amendment to the TPR by Regulation 2018/11208 of 16 March 2018, responsibility for the management of Temporary Accommodation Centres and provision of services such as health care lies with DGMM.

- ❖ **Family reunification:** As of 2017, the right to family reunification has been almost entirely suspended in Turkey. According to the observations of lawyers, PDMM do not allow international and temporary protection beneficiaries to apply for family reunification, unless the sponsor has been accepted for resettlement in another country and the family is to join him or her before departure.
- ❖ **Freedom of movement:** According to a DGMM Circular of 27 November 2017, the PDMM may impose reporting obligations on temporary protection beneficiaries, who are required to reside in the province where they are registered. Consecutive failure to comply with those obligations may lead to cancellation of temporary protection status. Whereas Syrians continue to be required to reside in their assigned province, reporting obligations have not been introduced in practice yet.
- ❖ **Access to the labour market:** A Regulation on Work Permit of Foreigners under Temporary Protection was adopted on 15 January 2016, regulating the conditions and procedure for obtaining work permits. Temporary protection beneficiaries may apply for a work permit 6 months after registering for temporary protection, subject to possible sectoral and geographical restrictions defined by the Ministry of Labour as well as quotas in workplaces. Despite this legal framework, temporary protection beneficiaries in Turkey continue to face widespread undeclared employment and exploitation, including child labour.

Introduction to the asylum context in Turkey

Turkey currently hosts both a mass-influx refugee population from neighbouring Syria and a surging number of individually arriving asylum seekers of other nationalities, most principally originating from Iraq, Afghanistan, Iran and Somalia, among others. These two populations of protection seekers are subject to two different sets of asylum rules and procedures. As such, the Turkish asylum system has a dual structure.

Turkey maintains a geographical limitation to the 1951 Refugee Convention. That said, in April 2013 Turkey adopted a comprehensive, EU-inspired Law on Foreigners and International Protection (LFIP), which establishes a dedicated legal framework for asylum in Turkey and affirms Turkey's obligations towards all persons in need of international protection, regardless of country of origin, at the level of binding domestic law. The law also created the Directorate General of Migration Management (DGMM) mandated to take charge of migration and asylum.

Turkey implements a “temporary protection” regime for refugees from Syria, which grants beneficiaries right to legal stay as well as some level of access to basic rights and services. The temporary protection status is acquired on a *prima facie*, group-basis, to Syrian nationals and Stateless Palestinians originating from Syria. DGMM is the responsible authority for the registration and status decisions within the scope of the temporary protection regime, which is based on Article 91 LFIP and the Temporary Protection Regulation (TPR) of 22 October 2014.

On the other hand, asylum seekers from other countries of origin are expected to apply for an individual international protection status under LFIP and are subject to a status determination procedure conducted by DGMM. While DGMM is developing the national asylum procedure on the basis of the LFIP, UNHCR assumes a key role in Turkey by assisting in the registration and interviews of international protection applicants. It also remains a “complementary” protection actor as it continues to undertake refugee status determination (RSD) activities of their own grounded in UNHCR's mandate and make resettlement referrals – *in tandem* with the international protection procedure. There is no specific deadline by which the RSD process will be completely taken over by DGMM. UNHCR continues to provide training and support to further develop the asylum system, while also assisting in registration, referral of applicants to satellite cities, and interpretation.³ UNHCR and DGMM are currently developing joint registration activities to facilitate the transition of functions to DGMM. A pilot phase of this process started in July 2017, whereby DGMM started processing applications for international protection by Iranian nationals filed with UNHCR.⁴

In 2016, UNHCR delivered over 20,000 mandate RSD decisions, while another 11,672 were issued between January and September 2017.⁵ That said, UNHCR mandate RSD decisions do not have any direct binding effect under LFIP, which firmly establishes DGMM as the sole decision maker in asylum applications.

³ Information provided by UNHCR, February 2018.

⁴ UNHCR, *Turkey Factsheet*, October 2017, available at: <http://bit.ly/2ysPxIV>.

⁵ *Ibid.*

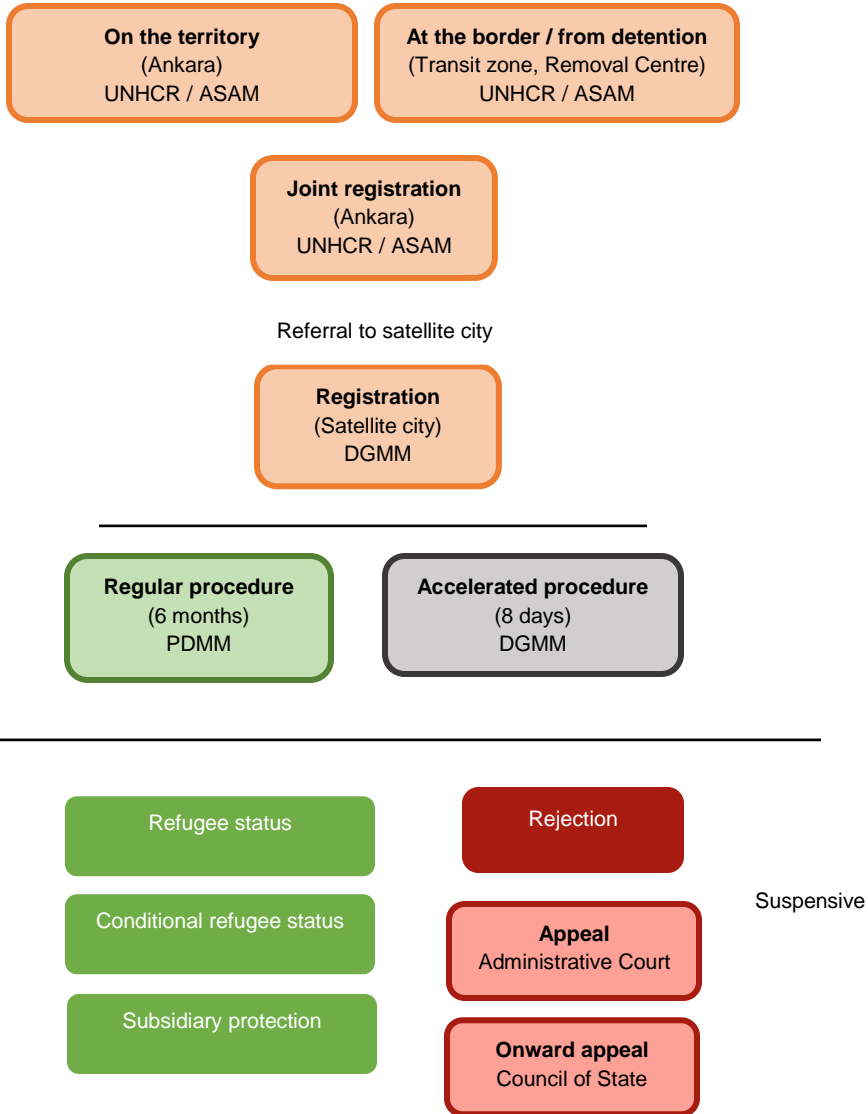


International Protection

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|---|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ⁶ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ⁷ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Dublin procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: ⁸ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other | | |

Are any of the procedures that are foreseen in the law, not being applied in practice? Yes No

3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (TR)
Application ❖ At the border ❖ On the territory	Directorate General for Migration Management (DGMM)	Göç İdaresi Genel Müdürlüğü (GİGM)
Refugee status determination	Directorate General for Migration Management (DGMM)	Göç İdaresi Genel Müdürlüğü (GİGM)
Appeal	International Protection Evaluation Commission Administrative Court	Uluslararası Koruma Değerlendirme Komisyonu İdare Mahkemesi
Onward appeal	Regional Administrative Court Council of State	Bölge İdare Mahkemesi Danıştay
Subsequent application	Directorate General for Migration Management (DGMM)	Göç İdaresi Genel Müdürlüğü (GİGM)

⁶ For applications likely to be well-founded or made by vulnerable applicants.

⁷ Accelerating the processing of specific caseloads as part of the regular procedure.

⁸ Labelled as “accelerated procedure” in national law.

4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Directorate General for Migration Management (DGMM)	2,600	Ministry of Interior	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Source: ASAM, February 2018.

DGMM is structured as a civilian agency within Turkey's Ministry of Interior. Therefore, as with all agencies operating under the Ministry of Interior, in principle DGMM is subject and potentially susceptible to instructions from the Ministry on matters of policy and implementation. DGMM It has 12 departments and 3 permanent committees and commissions. It has 81 Provincial Departments for Migration Management (PDMM). Through the Migration Research Centre established within the headquarters of the General Directorate, new developments in the field of migration and application are followed and information exchange with universities and public institutions is constantly carried out.

5. Short overview of the asylum procedure

To register an international protection application, potential applicants have to approach the office operated by UNHCR and its implementing partner Association for Solidarity with Asylum Seekers and Migrants (ASAM) in Ankara. Upon registration with UNHCR, they are issued a registration document and assigned to a province in Turkey ("satellite city") where they need to report for registration with the Provincial Directorate for Migration Management (PDMM), as well as an appointment for interview with.

Under the LFIP, the regular international protection procedure shall aim to issue first instance decisions in 6 months. This time frame is not binding and may be extended by DGMM if deemed necessary, however. Under the accelerated procedure, the status determination interview has to be conducted within 3 days of the date of application, and a decision must be issued within 5 days of the interview.

The LFIP also provides a differentiated set of remedies against decisions issued within the framework of regular procedure as compared to decisions issued within the framework of accelerated procedure as well as admissibility decisions. Judicial appeals against negative status decisions under accelerated procedure and inadmissibility decisions have to be filed within 15 days. Negative decisions under regular procedure and other unfavourable decisions can be challenged at the International Protection Evaluation Commission (IPEC) within 10 days or directly at the competent Administrative Court within 30 days; in practice, the latter remedy is applied. All international protection appeals generally carry suspensive effect and guarantee applicants' right to stay in Turkey until the full exhaustion of remedies, although an exception has been introduced with regard to persons facing deportation on grounds of "public safety", "public health" and "membership of a terrorist or criminal organisation".

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? Yes No

Attention on Turkey's border practices has almost entirely been focused on the **Syrian** border in recent years. At the same time, irregular border crossings and arrivals of mixed flows of refugees and migrants continue on other land borders, most significantly with **Iran** and **Iraq**. In recent years, Turkey has taken strict measures to prevent irregular crossings by erecting barriers on its southern and eastern land borders. The construction of a wall extending for more than 800km along the border with Syria was completed in September 2017.⁹ At the same time, the construction of another "security wall" on the Iran-Turkey border began in August 2017 and had reached more than 70km by the beginning of 2018.¹⁰ Turkey has strictly managed access to its territory throughout 2017.

While the LFIP has provided a proper rule of law framework and basic safeguards for persons subject to migration control measures, there is an ongoing gap in relation to any significant level of monitoring presence along Turkey's long land borders in the south and east. Practices of border security authorities take place largely outside the critical gaze of independent monitoring actors such as NGOs and UNHCR. In such a context, it remains difficult to analyse the current state of practices by Turkish border authorities, despite frequent reports of significant numbers of people apprehended and detained at the border.¹¹

Turkey currently does not have a dedicated border agency. Border control functions are shared among the land forces, gendarmerie, Coast Guard and the National Police. In 2017, a total 175,752 apprehensions for irregular entry and/or stay were reported, the vast majority concerning nationals of Syria (50,217) and Afghanistan (45,259), followed by Pakistan (30,337).¹²

Against this background, NGOs have published a number of reports, mainly focusing on reported violations along the Turkey-Syria border, but also occasionally making allegations of unlawful returns at other land borders.¹³ Civil society organisations report an approximate 250,000 Syrian refugees apprehended and returned to Syria by Turkish authorities in the first months of 2017.¹⁴ In that context, incidents of ill-treatment at the Turkey-Syria border, including push backs and shootings by border guards near Cilvegözü in **Hatay**, continue to be reported.¹⁵ In one incident in August 2017, three Syrian refugees

⁹ Hürriyet, 'Turkey-Syria border wall to be completed by end of September', 22 September 2017, available at: <http://bit.ly/2kooN14>.

¹⁰ Hürriyet, 'Turkey completes 72 km of wall on border with Iran', 10 January 2018, available at: <http://bit.ly/2mmXNRb>; 'Turkey starts building security wall on Iran border', 9 August 2017, available at: <http://bit.ly/2B7Vc5T>.

¹¹ See e.g. Hürriyet, 'Over 1,600 undocumented migrants detained across Turkey', 2 January 2018, available at: <http://bit.ly/2CnRYJp>.

¹² DGMM, *Irregular migration*, available at: <http://bit.ly/2BO8chL>.

¹³ Human Rights Watch, 'Turkey: Mass Deportations of Syrians', 22 March 2018, available at: <https://bit.ly/2lFZjr8>; Amnesty International, 'Illegal mass returns of Syrian refugees expose fatal flaws in EU-Turkey deal', 1 April 2016, available at: <http://bit.ly/1RBgYNt>; *Europe's Gatekeeper: Unlawful Detention and Deportation of Refugees in Turkey*, 16 December 2015, available at: <http://bit.ly/1NwzIRu>; *Fear and Fences: Europe's Approach to Keeping Refugees at Bay*, 17 November 2015, available at: <http://bit.ly/1T45UKa>; Human Rights Watch, 'Turkey: Syrians Pushed Back at the Border', 23 November 2015, available at: <http://bit.ly/1MwO6Wo>.

¹⁴ Norwegian Refugee Council et al., *Dangerous ground: Syria's refugees face an uncertain future*, January 2018, available at: <http://bit.ly/2nKoH5D>, 9.

¹⁵ Human Rights Watch, 'Turkey/Syria: Border Guards Shoot, Block Fleeing Syrians', 3 February 2018, available at: <http://bit.ly/2DXB2yi>. See also Council of Europe Special Representative for Migration and Refugees,

were physically abused and humiliated by soldiers at the border, before being pushed back to Syria.¹⁶ In a similar incident in **Gaziantep** in July 2017, it was reported that soldiers were arrested and court proceedings were initiated.¹⁷

In a recent report, Human Rights Watch referred to 137 incidents of interception of Syrians after crossing the border between December 2017 and March 2018. Nine people described 10 incidents between September 2017 and March 2018 where border guards shot at them as they tried to cross, killing 14 people and injuring 18. Syrians have been held in facilities at border-crossing points and security posts in Hatya and the “Friendship Bridge” on the Orontes River, before being pushed back by border guards in hundreds, at times thousands, according to the report.¹⁸

Investigations by media have confirmed that European Union Instrument for Pre-Accession (IPA) funds – €83 million – have been used for the purchase of Turkish surveillance equipment, including patrol cars.¹⁹

Beyond persisting difficulties relating to access to the territory, different organisations have made reference to cases of unlawful deportation from the territory. Human Rights Watch has reported allegations of Syrians being deported from **Antakya** by the police,²⁰ while Amnesty International has referred to around 200 Iraqi nationals forced to sign voluntary return forms in the **Van** Removal Centre and returned to Iraq at the end of May 2017.²¹

Furthermore, **Istanbul Atatürk Airport** continues to serve as a key international hub for connection flights from refugee-producing regions to European and other Western destinations for asylum. It should be noted that visa restrictions apply to Syrian nationals arriving from third countries by air and sea since 2016.

2. Removal and *refoulement*

Applicants for international protection generally have the right to remain on the territory of Turkey throughout the procedure.²² However, an exception to this rule was introduced in October 2016, providing that a deportation decision “may be taken at any time during the international protection proceedings” against an applicant for reasons of: (i) leadership, membership or support of a terrorist organisation or a benefit-oriented criminal group; (ii) threat to public order or public health; or (iii) relation to terrorist organisations defined by international institutions and organisations.²³

Report on the fact-finding mission to Turkey 30 May – 4 June 2016, 10 August 2016, available at: <http://bit.ly/2bnNllx>, para X.1.

¹⁶ Daily Mail, ‘Syrian refugees are beaten and made to dress in lingerie by Turkish soldiers intent on humiliating them after they fled across the border’, 3 August 2017, available at: <http://dailym.ai/2FKw1ck>. According to pictures shared by the article, the three refugees were forced to wear women’s underwear.

¹⁷ Bianet, ‘Soldiers using violence against refugees detained’, 31 July 2017, available at: <https://bit.ly/2pFZFGt>.

¹⁸ Human Rights Watch, ‘Turkey: Mass Deportations of Syrians’, 22 March 2018, available at: <https://bit.ly/2lFZjr8>.

¹⁹ The Black Sea, ‘No Way Out: The European Union is funding military equipment used by Turkey to stop refugees from fleeing the Syrian Civil War and entering the EU’, 23 March 2018, available at: <https://bit.ly/2ukjAzp>; Spiegel, ‘EU unterstützt Türkei bei Aufrüstung ihrer Grenzen’, 23 March 2018, available in German at: <https://bit.ly/2pMPRtg>.

²⁰ Human Rights Watch, ‘Turkey: Mass Deportations of Syrians’, 22 March 2018, available at: <https://bit.ly/2lFZjr8>.

²¹ Amnesty International, *Turkey 2017/2018*, available at: <http://bit.ly/1GWxwJZ>.

²² Article 80(1)(e) LFIP.

²³ Article 54(2) LFIP, as amended by Article 36 Emergency Decree 676 of 29 October 2016. The provision cites Article 54(1)(b), (d) and (k) LFIP, the latter inserted by Emergency Decree 676.

Removal decisions may be appealed within 15 days before the Administrative Court.²⁴ The appeal against a deportation decision, which is a remedy separate from remedies in the international protection procedure,²⁵ generally has automatic suspensive effect, although exceptions to the right to remain on the territory have been introduced in October 2016. Following Emergency Decree No 676, persons appealing against a removal decision have no right to remain where removal is ordered for reasons of: (i) leadership, membership or support of a terrorist organisation or a benefit-oriented criminal group; (ii) threat to public order or public health; or (iii) relation to terrorist organisations defined by international institutions and organisations.²⁶

This amendment effectively enables the unlawful deportation of asylum seekers on the aforementioned grounds, which remain largely vague and could be interpreted widely.²⁷ The reform introduced by the Decree has been criticised for facilitating and exacerbating risks of arbitrary deportations jeopardising the life and safety of refugees.²⁸

There have been cases of deportation on the basis of the amendment, including in **Izmir** and **Adana**.²⁹ Cases reported by lawyers refer to criminal investigations, followed by administrative detention for the purpose of removal, initiated for reasons including attempt to export forbidden materials or hostility with an employer.

Lawyers representing such cases refer to a pattern, according to which people are first arrested under a police operation on the ground of criminal investigations. If released by the prosecution office and acquitted in the criminal proceedings, they are then issued a removal decision and an administrative detention order for the purpose of removal under Article 54(1)(b), (d) and (k) LFIP.

Courts have often halted deportations to prevent *refoulement*.³⁰ Administrative Courts conduct first an objective then a subjective legal assessment as to the conditions in the country of origin and profile of the applicant on a case by case basis. For instance, the Administrative Court of Istanbul decided to halt the deportation from **Istanbul Atatürk Airport** to the country of origin of a Russian citizen who legally resided in Turkey but his entry had been prohibited on the basis of “being a foreign terrorist fighter” (Code “YTS89” or “G-87”) following a security check. In this judgment, the Administrative Court held that “the public authority could not provide concrete evidence collected by a real risk assessment on how the applicant had ties with a terrorist organisation.”³¹

Since first instance Administrative Court decisions are not shared with the public in Turkey, it is difficult for experts and lawyers to assess the effectiveness and quality of judicial review. However, the majority of stakeholders agreed that there is no uniform application of the *non-refoulement* principle in Administrative

²⁴ Article 53(3) LFIP. This time limit has been ruled to be in line with the Turkish Constitution: Constitutional Court, Decision 2016/135, 14 July 2016, available in Turkish at: <http://bit.ly/2DQwB8m>.

²⁵ Article 53 LFIP.

²⁶ Article 53(3) LFIP, as amended by Article 35 Emergency Decree 676 of 29 October 2016. The provision cites Article 54(1)(b), (d) and (k) LFIP.

²⁷ Izmir Bar Association, *Izmir Geri Gönderme Merkezlerinde Adalete Erişim Hakkı Çerçevesinde Yaşanan Sorunlar Raporu*, July 2017, available in Turkish at: <http://bit.ly/2Dyc87X>, 25.

²⁸ See e.g. Amnesty International, ‘Refugees at heightened risk of refoulement under Turkey’s state of emergency’, 22 September 2017, EUR 44/7157/2017. On the situation of persons coming from Central Asian countries, see HarekAct, ‘Central Asian migrants in Turkey at risk of being labelled as terrorists’, 23 November 2017, available at: <http://bit.ly/2ytEIQJ>.

²⁹ Information provided by Mülteci-Der, December 2017; Izmir Bar Association, January 2018; Adana Bar Association, February 2018.

³⁰ See e.g. Administrative Court of Ankara, Decision 2017/3192, 3 February 2017.

³¹ Administrative Court of Istanbul, Decision 2016/2765, 29 December 2016. See also Decision 2016/2646, 21 December 2016; Decision 2016/2593, 16 December 2016; Decision 2016/2535, 7 December 2016; Decision 2016/2542; Decision 2016/2344, 24 November 2016; Decision 2017/233, 15 February 2017.

Court reviews of deportation decisions. In one case reported by Amnesty International, the Administrative Court of **Aydın** failed to consider risks of ill-treatment upon return of a person to Syria and dismissed the appeal on the basis that it was not submitted within the deadline.³²

Even where the execution of removal is suspended by Administrative Courts, compliance with court orders is reported to be arbitrary and dependent upon the individual police officers in question. Lawyers from **Gaziantep** and **Izmir** also reported some cases of clients who were deported without notifying their lawyers, despite the existence of an interim measure protecting them from deportation.

Since the entry into force of Emergency Decree No 676, the only effective recourse for preventing removal is a complaint before the Constitutional Court together with a request for interim measures (see [Regular Procedure: Appeal](#)). The Constitutional Court has granted interim measures in different cases to safeguard individuals against removal.³³ There were approximately 700 applications lodged before the Constitutional Court to halt deportations in 2017. Another avenue for lawyers is to request a prohibition of exit from Turkey pending the outcome of the criminal proceedings to prevent deportation of their clients.

In an interim measure order, the Constitutional Court stated that “the person to be deported must prove that he would likely to be subject to ill-treatment depending on his subjective situation or that of the group to which he is affiliated. While evaluating the measure, the general situation of the country to be sent to, past experience of the applicant, proximity of the risk, the link between the applicant and the risk etc. should be taken into consideration.”³⁴

In a recent judgment issued after the Emergency Decree No 676, the Constitutional Court granted an interim measure in the case of an Uzbek national on the ground that a potential deportation would cause irreparable damages for the applicant and that there was a duty on the public authorities to collect and submit evidence to justify the deportation decision.³⁵

More recently in 2017, however, the Constitutional Court has started rejecting interim measure requests or granting interim measures for a limited period of one to three months, thereby requiring the applicant to file another request after that time.³⁶

3. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for asylum seekers to lodge their application?
 Yes No
2. If so, what is the time limit for lodging an application?

3.1. Making an application for international protection

According to LFIP, the PDMM is the responsible authority for receiving and registering applications for international protection.³⁷ Applications for international protection are made to the “Governorates” “in

³² Administrative Court of Aydın, Decision 2016/950, 3 November 2016.

³³ Information provided by the Adana Bar Association, February 2018.

³⁴ Constitutional Court, Decision 2014/19506.

³⁵ Constitutional Court, *Khaldarov*, Decision of 13 February 2017.

³⁶ Information provided by the Izmir Bar Association, March 2018.

³⁷ Turkey is administratively divided into 81 provinces. The provincial governorate is the highest administrative authority in each province. Therefore, provincial directorates of all government agencies report to the Office of the Governor. The agency responsible for registering all applications for international protection is the PDMM, which technically serves under the authority of the Provincial Governorate.

person”, indicating that applicants are expected to physically approach the PDMM and personally present their request.³⁸

Applications for international protection may not be made by a lawyer or legal representative. However, a person can also apply on behalf of accompanying “family members”, defined to cover the spouse, minor children and dependent adult children as per Article 3(1)(a) LFIP.³⁹ Where a person wishes to file an application on behalf of adult family members, the latter’s written approval needs to be taken.

According to the law, for applicants who are physically unable to approach the PDMM premises for the purpose of making an international protection request, officials from the PDMM may be directed to the applicant’s location in order to process the application.⁴⁰ In the same connection, registration interviews with unaccompanied minors and other persons who are unable to report to the designated registration premises in the province may be carried out in the locations where they are.⁴¹

In practice, however, the PDMM have not yet taken over the whole registration process of international protection applications to date. There is an ongoing transition period between PDMM and UNHCR / ASAM. As a result of the “joint registration” arrangement between international protection and UNHCR mandate RSD, persons seeking international protection have to physically appear before the UNHCR / ASAM registration centre in Or-An district, **Ankara**, which is also a part of the Ankara PDMM. This is the only location in Turkey where an international protection application can be registered, situated far from the city centre and thereby not easily accessible by potential applicants. The building has a capacity of 120 people and the security is maintained by a private security company. However, it has been observed that there is also a need for an ambulance service in case of emergency.

Article 65 LFIP does not lay down any time limits on persons for making an application as such, whether on territory, in detention or at the border. However, Article 65(4) appears to impose on applicants the responsibility of approaching competent authorities “within a reasonable time” as a precondition for being spared from punishment for illegal entry or stay. The assessment of whether an application has been made “within a reasonable time” is to be made on an individual basis.⁴² According to ASAM, people generally approach ASAM offices in 77 cities in 5-6 days following their first entry to Turkey in order to access basic services such as education and health. However, this time limit may be up to one year for potential applicants from rural areas who live far from the migration system mostly designed for urban refugees.⁴³

Potential applicants generally obtain information on where to go in order to be registered first through NGOs in the field, PDMM, their Syrian network or even smugglers. Potential applicants do not receive any financial or practical support to access the UNHCR / ASAM registration centre in **Ankara**.

ASAM takes registration applications from 7.30 am to 17.30 pm but if the potential applicant fails to come to the centre after 17.30 pm and presents vulnerabilities such as being a victim of gender-based violence or an unaccompanied child, then ASAM can provide financial assistance or accommodation at hotels. The office operates on a ‘first come first served’ basis, although people having special needs such as elderly people, pregnant women, unaccompanied children, women with children and persons with illness have priority. Persons obtain a number when arriving at the office and wait for their turn to register. As a result, there are long queues of people outside the building waiting to access the procedure. However,

³⁸ Article 65(1) LFIP.

³⁹ Article 65(3) LFIP.

⁴⁰ Article 65(1) LFIP Implementing Regulation.

⁴¹ Article 65(2) LFIP Implementing Regulation.

⁴² Article 65(1) LFIP Implementing Regulation.

⁴³ Information provided by ASAM, March 2018.

the staff in ASAM work until the queue is finished, which might lead long working hours until late at night. In their peak periods, ASAM reported a number around 1,500 applications per day. The number of average applications is now 500-600 applications per day.⁴⁴

3.2. Registering the application

The LFIP states that applications for international protection shall be registered by the PDMM.⁴⁵ Applicants can request and shall be provided interpretation services for the purpose of the registration interview and later the personal interview.⁴⁶ In practice, however, the registration process starts with the “joint registration” in ASAM’s office; this was previously named “pre-registration” and is basically a reception activity. The reception activity has three aims: (a) to conduct joint registration of international protection applicants, (b) to update their details such as domicile, identity number or satellite city, and (c) to identify applicants with special needs and to advise them. The joint registration process for those who obtain access to the building in Ankara is completed within one day.

After accessing the building, potential applicants are first subject to a check by ASAM staff who speak Arabic, Farsi and Somali in order to prevent double registration, and are then directed to the interview rooms. If it is identified that the applicant has special needs or sensitivity, the Protection Unit conducts a protection interview to assess needs of the applicant. In both cases, potential applicants undergo a joint registration interview. There are 4 rooms where DGMM officials carry out fingerprinting, as well as 10 rooms (5 in Arabic and 5 in Farsi language) for interviews with ASAM staff.

The main objective of the joint registration interview is to form the file of the applicants and to assign them to a satellite city depending on their preference and availability of cities (see [Freedom of Movement](#)). During the interview, basic information on the applicant and his or her personal story are gathered together on the interview form. If the applicant has concrete evidence of sensitivity or special needs such as a court order on gender-based violence or a medical report, these documents are also attached to the file but this is entirely up to the applicant. Subsequently, the applicant and ASAM on which satellite city is suitable for the applicant. If, for instance, the applicant is an LGBTI person, he or she might be willing to go to **Denizli** or **Eskişehir** where there is already an LGBTI refugee community. Then, the applicant obtains a first resettlement interview appointment from UNHCR and is also advised to register before the PDMM in the assigned satellite city.

Article 69 LFIP does not lay down any time limits for the completion of the registration process from the moment an international protection application is received by the PDMM, although the Implementing Regulation requires applications to be recorded “within the shortest time on the institutional software system” of DGMM.⁴⁷ The Regulation provides that application authorities shall notify the applicant a date for his or her registration interview during the application if possible, otherwise at a later stage.⁴⁸

Applicants are expected to register before the PDMM of the assigned satellite city in 15 days. The registration interview will serve to compile information and any documents from the applicant to identify identity, flight reasons, experiences after departure from country of origin, travel route, mode of arrival in Turkey, and any previous applications for international protection in another country.⁴⁹ Registration

⁴⁴ Information provided by ASAM, February 2018.

⁴⁵ Article 69(1) LFIP.

⁴⁶ Article 70(2) LFIP.

⁴⁷ Article 70(4) LFIP Implementing Regulation.

⁴⁸ Article 66(2) LFIP Implementing Regulation.

⁴⁹ Article 69(2)-(4) LFIP.

authorities may carry out body search and checks on personal belongings of applicants in order to confirm that all documents are presented.⁵⁰

Where an applicant is unable to present documents to establish his or her identity, registration authorities shall rely on analysis of personal data and information gathered from other research. Where such identification measures fail to provide relevant information, the applicant's own statements shall be accepted to be true.⁵¹ Where there are concerns that an applicant may have a medical condition threatening public health, he or she may be referred to a medical check.⁵² Information on any special needs shall also be recorded.⁵³

At the time of the application, the asylum seeker shall provide a hand-written and signed written statement from the applicant containing information about the international protection application in a language in which he or she is able to express themselves. The statement shall contain elements including the reasons for entering Turkey, as well as any special needs of the applicant.⁵⁴ Illiterate applicants are exempt from this requirement. Furthermore, application authorities shall also obtain any supporting documents that the applicant may have with him or her and fill in a standard "International Protection Application Notification Form", which will be delivered to the DGMM Headquarters within 24 hours.

Admissibility assessment at registration stage

Articles 72-74 LFIP lay down the criteria and procedure by which an application for international protection may be determined inadmissible (see [Admissibility Procedure](#)). According to Article 72(2) LFIP, an inadmissibility decision can be made "at any stage in the procedure" where the inadmissibility criteria are applicable. Therefore, the registration process may result in an inadmissibility decision. The Implementing Regulation also states that the PDMM is responsible for conducting "first examinations", namely assessing whether the claim may be declared inadmissible or falls under the [Accelerated Procedure](#).⁵⁵

Registration Document

At the end of the registration interview, all information recorded on the screen of the electronic system shall be precisely read back to the applicant who will have the opportunity to make corrections.⁵⁶ A printed version of the registration form filled in electronically is also handed to the applicant.⁵⁷ Following the completion of registration, the applicant shall be issued an International Protection Applicant Registration Document free of charge.⁵⁸ The Registration Document is valid for 30 days and may be extended by 30-day periods. It endows to the applicant the right to remain in Turkey.

The Registration Document is different from the International Protection Applicant Identification Card,⁵⁹ which is issued to applicants after they have reported to the PDMM of their assigned province. It should be noted that an International Protection Application Identification Card is not issued where the

⁵⁰ Article 69(2) LFIP; Article 69(4) LFIP Implementing Regulation.
⁵¹ Article 69(3) LFIP; Article 69(3) LFIP Implementing Regulation.
⁵² Article 69(6) LFIP.
⁵³ Article 70(5) LFIP Implementing Regulation.
⁵⁴ Article 65(5) LFIP Implementing Regulation.
⁵⁵ Article 73 LFIP Implementing Regulation.
⁵⁶ Article 70(6) LFIP Implementing Regulation.
⁵⁷ Article 70(7) LFIP Implementing Regulation.
⁵⁸ Article 69(7) LFIP; Article 71(1) LFIP Implementing Regulation.
⁵⁹ Article 76 LFIP.

application is deemed inadmissible or falls under the accelerated procedure.⁶⁰ However, in a sensitive case, ASAM managed to get International Protection Application Card for the applicant in the accelerated procedure.⁶¹

Whereas the International Protection Applicant Identification Card also contains a Foreigners Identification Number (FIN) assignment for each applicant, the Registration Document does not include a FIN assignment. Since a FIN designation is required for applicants to access services as asylum seekers, the Registration Document in itself does not provide an applicant access to services such as health care and education.

3.3. Applications from detention and at the border

While various state agencies may receive applications for asylum, Article 69(1) LFIP clearly designates the PDMM as the authority responsible for the registration of applications for international protection. Where an application for international protection is presented to law enforcement agencies⁶² on the territory or at border gates, the PDMM shall be notified “at once”, and shall process the application.⁶³ Applications for international protection indicated by persons deprived of their liberty shall also be notified to the PDMM “at once”.⁶⁴

Concerning access to international protection procedure from detention places and border locations, despite the legal safeguards provided by the LFIP to secure access to asylum procedure, there are indications that protection seekers intercepted and apprehended by security forces within mixed flows at land and sea border locations or at airport transit zones continue to encounter difficulties in having their applications for international protection registered.

Persons intercepted and apprehended on grounds of irregular presence or attempted irregular entry or exit are subject to deportation procedures within the framework of the LFIP. For persons in this situation, a removal decision must be issued within 48 hours of apprehension.⁶⁵ On the basis of the removal decision, a separate administrative detention for the purpose of removal decision may be issued.⁶⁶ The detention facilities dedicated to this purpose are named Removal Centres (see [Place of Detention](#)). In addition to the Removal Centres on territory, there is one facility in the transit zone of **Istanbul Atatürk Airport** and one in **Ankara Esenboğa Airport**, which serve to detain persons intercepted in transit or during an attempt to enter Turkey.

When a person expresses the intention to apply for international protection while being detained in a Removal Centre, the authorities of the centre transmit the information to UNHCR / ASAM in **Ankara**. In order for registration to be conducted, however, UNHCR / ASAM meet the applicant in person in the Removal Centre in order to hold the registration interview. Therefore, the pace of registration is affected by issues of capacity, varying distance of different Removal Centres from UNHCR / ASAM offices, as well as the requirement for UNHCR to obtain prior permission from DGMM in order to obtain [Access to Detention Facilities](#).

⁶⁰ Article 90(1) LFIP Implementing Regulation.

⁶¹ Information provided by ASAM, March 2018.

⁶² In Turkey, while National Police exercises law enforcement duties in residential areas and at border gates, the gendarmerie exerts police duties outside the residential areas.

⁶³ Article 65(2) LFIP.

⁶⁴ Article 65(5) LFIP.

⁶⁵ Article 53 LFIP.

⁶⁶ Article 57 LFIP.

Access to the procedure from detention also concerns persons readmitted by Turkey. Whereas Article 64 of the LFIP Implementing Regulation entrusts the Ministry of Interior with the establishment of a separate framework of procedures for persons readmitted by Turkey pursuant to readmission agreements, there has not been any such instrument regulating the access of readmitted persons to the international protection procedure to date.

In the context of the implementation of the EU-Turkey statement since 4 April 2016, Turkey has readmitted a total 1,467 persons from Greece, mainly originating from Pakistan, Syria, Algeria and Bangladesh.⁶⁷ Non-Syrian nationals have been transferred to and detained in the Removal Centre of Pehlivan köy in **Kırklareli**, and later in **Kayseri**.⁶⁸ According to reports in 2016 and 2017, attempts by returnees to apply for international protection in detention have been refused or not properly considered by the authorities in a number of cases.⁶⁹ Detainees face a number of obstacles including limited information on their rights, obstacles to contacting UNHCR and NGOs due to limited or no opportunity to use telephones, as well as barriers to granting power of attorney (see also [Legal Assistance for Review of Detention](#)).

The same process governs applications made in the transit zone of **Istanbul Atatürk Airport**, where registration can only be conducted by UNHCR / ASAM in person. Difficulties are reported in relation to the registration of claims at the airport, namely due to lack of capacity.⁷⁰ As persons intercepted in transit or prior to entry can be deported back to their country of origin or the country of transit from which they arrived in a short period of time, it must be assumed that most protection seekers in that situation do not have the opportunity to get in touch with UNHCR, lawyers or NGOs to seek assistance and intervention to prevent being deported and secure access to the international protection procedure. Organisations working with asylum seekers and the legal aid work of their bar associations are unaware of international protection applications being made at the airport since 2016.⁷¹

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: | 6 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2017: | Not available |

⁶⁷ DGMM, *Return statistics*, available at: <http://bit.ly/2AMI7g5>.

⁶⁸ European Commission, *Sixth progress report on the EU-Turkey statement*, COM(2017) 323, 13 June 2017; Information provided by the EU Delegation to Turkey, February 2018.

⁶⁹ See e.g. Council of Europe Special Representative for Migration and Refugees, *Report on the fact-finding mission to Turkey 30 May – 4 June 2016*, 10 August 2016, available at: <http://bit.ly/2bnNllx>, 9; Orçun Ulusoy and Hemme Battjes, *Situation of readmitted migrants and refugees from Greece to Turkey under the EU-Turkey statement*, VU Migration Law Series No 15, September 2017, available at: <http://bit.ly/2xaf7vm>, 22.

⁷⁰ Information provided by ASAM, February 2018.

⁷¹ Information provided by the International Refugee Rights Association, February 2018.

Applications for international protection shall be examined and decided on by DGMM.⁷² Specifically, the DGMM Department of International Protection is in charge of status determination activities carried out in the Headquarters and by the PDMM. Duties related to processing and eligibility determination of international protection applicants are to be carried out by expert DGMM staff occupying the “migration expert” and “assistant migration expert” positions at DGMM Headquarters and with PDMM.

In practice, the different procedural steps, namely joint registration and the joint registration interview, are still carried out by UNHCR and its implementing partner ASAM. The substantive interview and decision on the application is taken by the PDMM. The DGMM is still in the process of building the necessary expertise and implementation modalities as responsibility for international protection applications is being rolled out to the PDMM. As a result, substantial gaps in quality and experience, as well as coordination with DGMM, persist in different PDMM such as **Izmir** and **Muğla**.⁷³

DGMM has agreed a Pilot Roadmap with the European Asylum Support Office (EASO), which foresees *inter alia* training and workshops to selected DGMM officials based on EASO training modules. One such workshop took place in October 2017 on interview techniques,⁷⁴ while another held in November 2017 focused on inclusion and evidence assessment.⁷⁵

A decision shall be issued within 6 months from the day of registration.⁷⁶ However this 6 months interval is not a binding time limit as such, as the provision also instructs that in case an application cannot be decided within 6 months the applicant will be notified. Therefore, this time limit of 6 months foreseen for the processing of international protection applications in regular procedure is not binding on the DGMM.

In practice, severe delays are observed in the completion of the international protection procedure, against the backdrop of much higher numbers of **Temporary Protection** beneficiaries from Syria. Applicants may wait for several months before an interview with the PDMM, although delays may vary from one case to another.

On the other hand, the waiting period for interviews for **Resettlement** to a third country is also very long: Newly registered applicants in 2017 received interview appointments with UNHCR / ASAM for 2020 at the earliest,⁷⁷ thereby indicating waiting times of over two years before a personal interview and a decision on their application and resettlement to a third country.

1.2. Prioritised examination and fast-track processing

Persons with special needs shall be “given priority with respect to all rights and proceedings” pertaining to the adjudication of international protection applications.⁷⁸ In practice, persons with special needs such as women in advanced stages of pregnancy or unaccompanied children benefit from prioritisation in the registration of international protection applications with DGMM.⁷⁹

⁷² Article 78 LFIP.

⁷³ Information provided by Mülteci-Der, December 2017; Bodrum Women’s Solidarity Association, December 2017.

⁷⁴ EASO, ‘EASO Training Unit-DGMM Workshop on Interview Techniques Module in Valletta (17-19 October 2017)’, available at: <http://bit.ly/2ErT3Eb>.

⁷⁵ EASO, ‘EASO Training Unit - DGMM Workshop on Inclusion and Evidence Modules; Valletta, 21, 22 and 23 November 2017’, available at: <http://bit.ly/2FWgCIH>.

⁷⁶ Article 78(1) LFIP.

⁷⁷ The earliest date is given to Iranians, followed by Iraqis. UNHCR does not give any interview dates for Afghans: Information provided by ASAM, February and March 2018.

⁷⁸ Article 67 LFIP.

⁷⁹ Information provided by ASAM, February 2018; Mülteci-Der, December 2017.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure?
❖ If so, are interpreters available in practice, for interviews? Yes No Yes No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? Yes No
3. Are interviews conducted through video conferencing? Frequently Rarely Never

Under the regular procedure, DGMM is required to carry out a personal interview with applicants within 30 days from the day of registration,⁸⁰ to be conducted by personnel trained in fields such as refugee law, human rights and country of origin information.⁸¹ Personal interviews of international protection applicants must be conducted by the PDMM responsible for processing the application.

Applicants are notified of the assigned place and date of their personal interview at the end of their registration interview.⁸² Should the interview cannot be held on the assigned date, a new interview date must be issued.⁸³ The postponed interview date must be no earlier than 10 days after the previous appointment date. Additional interviews may be held with the applicant if deemed necessary.⁸⁴ In practice, however, applicants face significant delays, often up to several months, before a first interview.

The applicant may be accompanied in the interview by: (a) family members; (b) his or her lawyer as an observer; (c) an interpreter; (ç) a psychologist, pedagogue, child expert or social worker; and (d) the legal representative where the applicant is a child.⁸⁵

In personal interviews conducted with applicants who fall within the definition of persons with special needs, the particular sensitivities of the applicant shall be taken into consideration.⁸⁶ However no specific guidance is provided either in the LFIP or the Implementing Regulation as to whether the applicant's preference on the gender of the interpreter should and should not be taken into consideration.

Interpretation

Applicants shall be provided with interpretation services, if they request so, for the purpose of personal interviews carried out at application, registration and personal interview stages of the processing of their international protection request.⁸⁷

Regarding the quality of interpretation during personal interview, the personal interview shall be postponed to a later date where the interview official identifies that the applicant and the interpreter have difficulties understanding each other.⁸⁸ The interviewer shall inform the interpreter of the scope of the interview and the rules to be complied with.⁸⁹

⁸⁰ Article 75(1) LFIP.

⁸¹ Article 81(2) LFIP Implementing Regulation.

⁸² Article 69(5) LFIP.

⁸³ Article 75(4) LFIP.

⁸⁴ Article 75(5) LFIP.

⁸⁵ Article 82(1) LFIP Implementing Regulation.

⁸⁶ Article 70(3) LFIP.

⁸⁷ Article 70(2) LFIP.

⁸⁸ Article 86(2) LFIP Implementing Regulation.

⁸⁹ Article 83(3) LFIP Implementing Regulation.

separate directive shall be issued by DGMM to provide specifics on modalities of written notifications.⁹⁶ In practice, as of 2017 the decisions are in Turkish but translated by the PDMM in the language of applicants.⁹⁷

The LFIP provides two separate remedies against negative decisions issued under regular procedure, one optional administrative appeal remedy and one judicial appeal remedy. When faced with a negative status decision by DGMM under the regular procedure, applicants may:⁹⁸

1. File an administrative appeal with the newly created International Protection Evaluation Commissions (IPEC) within 10 days, and file an onward judicial appeal with the competent administrative court only if the initial administrative appeal is unsuccessful; or
2. Directly file a judicial appeal with the competent administrative court within 30 days without first exhausting the optional administrative appeal remedy at IPEC.

Both types of appeals have automatic suspensive effect. Under the LFIP, applicants shall generally be allowed to remain in Turkey until the full exhaustion of remedies provided by LFIP against negative decisions.⁹⁹

1.4.1. Administrative appeal before IPEC

Negative decisions in the regular procedure may be appealed at the International Protection Evaluation Commissions (IPEC) within 10 days of the written notification of the decision.¹⁰⁰

IPEC are envisioned as a specialised administrative appeal body and serve under the coordination of the DGMM Headquarters.¹⁰¹ One or more IPEC may be created under the auspices of either the DGMM Headquarters and/or PDMM.

Each Committee will be chaired by a DGMM representative, and will feature a second DGMM official as well as representatives of the Ministry of Justice and Ministry of Foreign Affairs. UNHCR may be invited to assign a representative in observer status. DGMM personnel assigned to the IPEC will be appointed for a period of 2 years whereas the Ministry of Justice and Ministry of Foreign Affairs representatives will be appointed for one-year term. IPEC are envisioned to serve as full-time specialised asylum tribunals as members will not be assigned any additional duties.

IPEC are competent to evaluate and decide appeals against the following decisions:¹⁰²

- a. Negative status decisions issued in the regular procedure;
- b. Other negative decisions on applicants and international protection status holders, not pertaining to international protection status matters as such;
- c. **Cessation** or **Withdrawal** of status decisions.

On the other hand, decisions on administrative detention, inadmissibility decisions and decisions in the accelerated procedure are outside the competence of IPEC.

⁹⁶ Article 100 LFIP.

⁹⁷ Information provided by ASAM, March 2018.

⁹⁸ Article 80 LFIP.

⁹⁹ Article 80(1)(e) LFIP.

¹⁰⁰ Article 80(1)(a) LFIP.

¹⁰¹ Article 115 LFIP.

¹⁰² Article 115(2) LFIP.

IPEC review the initial DGMM decision on both facts and law.¹⁰³ The Commission may request the full case file from DGMM if deemed necessary. IPEC are authorised to interview applicants if they deem necessary or instruct the competent PDMM to hold an additional interview with the applicant.

Whereas the LFIP does not lay down a time limit for the finalisation of appeals filed with IPEC, Article 100(3) of the Implementing Regulation provides that the Commission shall decide on the appeal application and notify the applicant within 15 days of receiving the application, which may be extended by 5 more days.

IPEC do not have the authority to directly overturn DGMM decisions. The Commission may either reject the appeal and thereby endorse the initial DGMM decision, or it may request DGMM to reconsider its initial decision in terms of facts and law.¹⁰⁴ Therefore, decisions by IPEC cannot be considered as binding on DGMM. If DGMM chooses to stick to its initial negative decision, the applicant will have to file a consequent judicial appeal with the competent administrative court.

In current practice, IPEC do not seem to examine appeals against negative decisions. It seems from lawyers and experts in the field that the IPEC is not an effective administrative appeal mechanism and applicants prefer filing a lawsuit before the Administrative Court rather than appealing before IPEC.¹⁰⁵

1.4.2. Judicial appeal at the Administrative Court

Negative status decisions in the regular procedure may also be directly appealed at the competent Administrative Courts within 30 days of the written notification of the decision.¹⁰⁶ There is no requirement for applicants to first exhaust the IPEC step before they file a judicial appeal against a negative decision. However, if they choose to file an administrative appeal with IPEC first, depending on the outcome of the IPEC appeal, they can appeal a negative IPEC decision onward at the Administrative Court.

Under Turkish law, Administrative Court challenges have to be filed in the locality where the act or decision in question was instituted. Depending on whether the status decision was issued by the DGMM Headquarters in Ankara or the PDMM in the applicant's assigned province, the appeal will have to be filed in the competent Administrative Court in that locality.¹⁰⁷

While the LFIP has not created specialised asylum and immigration courts, Turkey's High Council of Judges and Prosecutors shall determine which Administrative Court chamber in any given local jurisdiction shall be responsible for appeals brought on administrative acts and decisions within the scope of the LFIP.¹⁰⁸ In 2015, the Council passed a decision to designate the 1st Chamber of each Administrative Court as responsible for appeals against decisions within the scope of LFIP. That said, these competent chambers will continue to deal with all types of caseload and will not exclusively serve as asylum and immigration appeal bodies.

There are no time limits imposed on Administrative Courts to decide on appeals against negative international protection status decisions issued within the framework of the regular procedure.

¹⁰³ Article 100(1) LFIP Implementing Regulation.

¹⁰⁴ Article 100(2) LFIP Implementing Regulation.

¹⁰⁵ Information provided by ASAM, March 2018.

¹⁰⁶ Article 80(1)(ç) LFIP.

¹⁰⁷ In Turkey, not all provinces have Administrative Courts in location. Smaller provinces, which do not have an Administrative Court in location are attended by courts operating under the auspices of the nearest regional Administrative Court. The Administrative Court of each province is divided into several chambers which are designated with numbers.

¹⁰⁸ Article 101 LFIP.

Administrative Court applications are normally adjudicated and decided on the basis of written materials. In theory, an applicant can request a hearing, which may or may not be granted by the competent court.

Administrative Courts are mandated to examine the DGMM decision both on facts and law. If the application is successful, the judgment annuls the initial negative DGMM status decision, but does not overturn it as such. As per Article 28 of the Law on Administrative Adjudication Procedures, where an annulment judgment is delivered by the administrative court against an administrative act or decision, the relevant administrative agency is obligated to either revise the challenged act or decision or appeal the administrative court decision in the competent second instance administrative court within 30 days. Accordingly, the DGMM will have to either reconsider the initial eligibility assessment on the applicant and issue a positive decision within 30 days or file an onward appeal with the Council of State (*Danıştay*).

Administrative Courts have recently become more active in the area of international protection, leading to an increase in positive decisions on appeals in the course of 2017.¹⁰⁹ These decisions illustrate persisting gaps in the quality of first instance decisions. Especially the Administrative Courts of Ankara and Istanbul are regarded as the most expert and competent courts in refugee law issues. Both courts quite diligently examine whether the negative decisions on international protection application are in line with the *non-refoulement* principle and have annulled many decisions based on incorrect assessment on the part of the DGMM. For instance, in a case of Christian Iranian applicant,¹¹⁰ the Administrative Court of Ankara rejected the argument of the DGMM and ruled that, according to Article 93 LFIP, the DGMM should have collected information and evaluated the claim based on objective and subjective evidence such as the current condition of Christians in Iran based on UNHCR and international NGOs' reports, as well as the personal story of the applicant. The court also reminded that the DGMM should have assessed in each case that the applicant might be protected either as a refugee or conditional refugee, or under subsidiary protection.

This approach of the Court has been followed in other cases of applicants coming from Russia (Chechens), Somalia or Turkmenistan.¹¹¹ The Administrative Court of Edirne rejected the application of an Afghan woman who claimed that in case of rejection and deportation she would be ill-treated and tortured by her sister-in-law. The court relied on the evidence presented by the DGMM, such as the fact that she had lived with her sister-in-law for 20 years, that she had had another international protection application refused by the authorities, that she had refused to leave Turkey by her will and had left her satellite city without notifying authorities, and that she had been caught by the police during a security check in Kirikkale.¹¹² In a similar application of an Afghan national, the Administrative Court of Ankara upheld DGMM's rejection decision on the ground that the applicant's reasons to enter Turkey were solely economic.¹¹³

Interplay between the IPEC appeal and the judicial appeal

An administrative appeal application with IPEC will not bar applicants from using the Administrative Court appeal. However, if a person chooses to file both with IPEC and the competent Administrative Court, the IPEC appeal will not be processed.¹¹⁴ Therefore, applicants have to choose whether they want to use and

¹⁰⁹ Information provided by Mülteci-Der, December 2017. A compilation of Administrative Court rulings by the Izmir Bar Association can be found at: <http://bit.ly/2DmwHTU>.

¹¹⁰ Administrative Court of Ankara, Decision No 2015/849, 22 April 2015.

¹¹¹ Administrative Court of Ankara, Decision No 2015/491, 12 March 2016; No 2015/1601, 20 May 2015.

¹¹² Administrative Court of Edirne, Decision 2017/426, 21 March 2017.

¹¹³ Administrative Court of Ankara, Decision No 2015/177, 28 January 2015.

¹¹⁴ Article 101(3) LFIP Implementing Regulation; Article 10.2 Circular on International Protection.

exhaust the IPEC remedy before they consider the judicial remedy or whether they will instead bypass the IPEC remedy and directly pursue the judicial remedy.

If an appeal application is filed with IPEC and rejected, the applicant can file a consequent judicial appeal with the competent Administrative Court within 30 days of the notification from the IPEC.¹¹⁵

If the IPEC appeal application is successful and IPEC requests a reconsideration of the initial DGMM decision, the applicant will await the outcome of the requested reconsideration. If the reconsidered decision by DGMM is once again negative, the applicant can file a consequent judicial appeal with the competent administrative court within 30 days of the notification of the final DGMM decision.

1.4.3. Other remedies

Onward appeal at Council of State

In accordance with the Law on Administrative Adjudication Procedures, if the initial administrative court appeal is not successful, the applicants have the possibility of filing an onward appeal with the Council of State within 30 days. There is no time limit for the Council of State to decide the application. The Council of State decision on the onward appeal will constitute the final decision on the application since it cannot be appealed onward.

It is difficult to give an exact number of refused and accepted decisions by the Council of State. However, the following cases provide examples from recent case law:

- In a case rejected by the Administrative Court of Ankara, the Council State approved the court's decision on the international protection application of an Afghan family who had stated in their personal interview that their reason of entering Turkey was "to access better healthcare for their two disabled daughters" which is not a legal basis for the international protection.¹¹⁶
- In another case concerning an Iranian applicant who did not appear before the PDMM of the assigned satellite city, the Council of State approved the rejection decision of the Administrative Court of Konya which had ruled that the applicant had not presented any evidence or statement on his delay in discharging his administrative duty. The applicant had claimed that "he was under depression during this time" in his appeal before the Council of State.¹¹⁷

Individual complaint procedure before the Constitutional Court

An individual complaints procedure is available before the Constitutional Court, which is styled after the individual complaints procedure of the European Court of Human Rights (ECtHR) and is partially aimed at reducing the high number of complaints against Turkey at ECtHR. Persons can file an individual complaint with the Constitutional Court on claims of a violation of "any of the fundamental rights and liberties provided by the Turkish Constitution and safeguarded by the ECHR and its Protocols" within 30 days of the exhaustion of all existing administrative and judicial remedies.¹¹⁸

While individual complaints to the Constitutional Court do not carry suspensive effect, an urgent interim measure can be requested by the applicants as per Article 73 of the Rules of Court on account of "serious risk on the applicant's life, physical and moral integrity". This urgent application procedure by the

¹¹⁵ In this regard, the location of the IPEC processing the appeal will determine which administrative court shall be competent to receive the onward judicial appeal.

¹¹⁶ Council of State, 10th Chamber, Decision 2017/4288.

¹¹⁷ Council of State, 10th Chamber, Decision 2017/5137, 27 November 2017.

¹¹⁸ Articles 45-51 Law No 6216 on the Formation and Procedures of the Constitutional Court.

Constitutional Court in situations of imminent risk of deportation where the person concerned alleges a risk to his or her life or risk of torture if returned is similar in nature to the Rule 39 procedure of the ECtHR (see *Removal and Refoulement*).

In previous years there was only a small number of cases brought to the Constitutional Court by foreign nationals where the Court would agree to indicate interim measures to halt imminent deportation proceedings, while it would wait for a reply from the government prior to issuing an order. Currently, however, the Constitutional Court no longer waits for the government's submissions before granting interim measures.¹¹⁹

Although the individual complaint procedure at Turkey's Constitutional Court does not have automatic suspensive effect and a separate interim measure request must be filed and decided by the Court on a case by case basis, the European Court of Human Rights (ECtHR) found in *Sakkal and Fares v. Turkey* that this procedure constituted an effective remedy, taking into consideration case law from the Constitutional Court which has halted deportations from Turkey. The first interim measure was given in 2014 in a case of an Algerian political dissident who had been tortured and imprisoned due to his political opinions.¹²⁰ In practice, the Constitutional Court seems to grant interim measures on different issues such as access to a lawyer or prevention of *refoulement*.¹²¹

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in interview
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover
 Representation in courts
 Legal advice

All international protection applicants and status holders have a right to be represented by an attorney in relation to "all acts and decisions within the scope of the International Protection section of the LFIP", under the condition that they pay for the lawyer's fees themselves.¹²²

However, the actual supply of free of charge and reliable legal assistance to asylum seekers in Turkey currently remains very limited mainly due to practical obstacles.

In principle, a notarised power of attorney is required for a lawyer to represent the asylum seeker,¹²³ unless the applicant benefits from the Legal Aid Service, in which case the appointment letter is deemed sufficient to represent the applicant. As per the Union of Notaries Circular No 3 of 2 March 2016, the International Protection Applicant Registration Document is included in the list of documents accepted by

¹¹⁹ Information provided by Mülteci-Der, December 2017; Ankara Bar Association, January 2018.

¹²⁰ Constitutional Court, *Rida Boudraa*, Decision 2013/9673, 30 December 2013. See also Mülteci.net, 'Anayasa Mahkemesi İlk "Geçici Tedbir" Kararını Verdi', 24 February 2014, available in Turkish at: <https://bit.ly/2pKkXSi>.

¹²¹ ECtHR, *Sakkal and Fares v. Turkey*, Application No. 52902/15, Judgment of 7 June 2016, para 64. Although the Court had granted a Rule 39 interim measure on 26 October 2015, it dismissed the application as inadmissible.

¹²² Article 81(1) LFIP.

¹²³ On this point, see Constitutional Court, Decision 2015/87, 8 October 2015, available in Turkish at: <http://bit.ly/2E3xSlN>.

public notaries. Still, the power of attorney requirement entails additional financial costs and poses substantial obstacles to applicants in the [Admissibility Procedure](#) and [Accelerated Procedure](#).

1.5.1. Legal assistance at first instance

Lawyers and legal representatives can accompany applicants during the personal interview.¹²⁴ Furthermore, lawyers and legal representatives are also guaranteed access to all documents in the applicant's international protection file and may obtain copies – with the exception of documents pertaining to national security, protection of public order and prevention of crime.¹²⁵

International protection applicants and status holders are also free to seek counselling services provided by NGOs.¹²⁶

The above referenced safeguards, however, are inscribed as 'freedoms' as opposed to 'entitlements' that would create a positive obligation on the part of the Government to secure the actual supply and provision of legal counselling, assistance and representation services. In some cases, not necessarily linked to the international protection procedure, DGMM has prohibited lawyers from providing oral counselling to clients in the absence of a power of attorney. The Administrative Court of Ankara recently ruled, in a case concerning a Somali national whose claim was examined by the **Izmir** PDMM, that practice to be incompatible with the Advocates Law and the right to an effective remedy.¹²⁷

While there are a number of NGOs providing modest legal information and assistance services mainly in the big cities such as **Istanbul**, **Ankara** and **Izmir**, NGO providers do not have the resources and operational capacity to establish a significant level of field presence throughout the country. Considering the size of the international protection seeker population and Turkey's geographical dispersal policy (see [Freedom of Movement](#)), asylum seekers in most locations do not have the benefit of being able to draw from specialised legal counselling and assistance services by local NGOs.

1.5.2. Legal assistance in judicial appeals

Persons who do not have the financial means to pay a lawyer are to be referred to the state-funded Legal Aid Scheme (*Adli Yardım*) in connection with "judicial appeals" pertaining to any acts and decisions within the international protection procedure.¹²⁸ While at first sight this seems like a free legal aid provision, in reality the LFIP simply makes reference to the existing Legal Aid Scheme framework, which in theory should be accessible to all economically disadvantaged persons in Turkey, including foreign nationals.

With regard to the current Legal Aid Scheme practice, most cases concern appeals against: deportation decisions; detention decisions (see [Legal Assistance for Review of Detention](#)); negative decisions on international protection applications; and civil law cases concerning domestic violence and custody of children (see [Temporary Protection: Vulnerable Groups](#)).

Turkey's state-funded Legal Aid Scheme is implemented by the bar associations in each province subject to "means" and "merits" criteria. Despite efforts to mobilise the Legal Aid mechanism for asylum seekers and capacity-building activities by UNHCR and NGO actors, the current level of involvement of bar associations in the field of refugee law varies from one province to another.

¹²⁴ Article 75(3) LFIP.

¹²⁵ Article 94(2) LFIP.

¹²⁶ Article 81(3) LFIP.

¹²⁷ Article 94(2) LFIP.

¹²⁸ Article 81(2) LFIP.

Not all provinces have established legal aid services to asylum seekers, although more bar associations have become involved in the area of international and temporary protection in 2017. The **Izmir**, **Gaziantep** and **Ankara** Bar Associations have set up a separate list of lawyers specially trained in refugee law to deal *inter alia* with international protection procedures.¹²⁹ In addition, bar associations such as **Izmir**, **Muğla**, **Konya**, **Samsun** and **Antakya** have set up a dedicated Migration and Refugee Commission.¹³⁰ The **Adana** Bar Association has also set up a separate list of lawyers responsible for asylum cases. The list comprises of 88 individuals, 55 of whom had been trained by UNHCR and ASAM at the time of writing.¹³¹ The **Antakya** Bar Association does not have a separate list but its Legal Aid Service, comprising of 761 active lawyers, is connected to some specialised lawyers and may refer urgent cases thereto.¹³² In **Istanbul** and **Mersin**, on the other hand, the bar association has no specific arrangements in place to give priority to asylum cases and there does not seem to be a plan for such measures in the near future.¹³³

The Union of Bar Associations in Turkey has recently launched a new service for court staff and lawyers providing legal aid to Syrian and non-Syrian applicants in two languages in the framework of a joint project entitled “**Determination of Legal Aid Needs and Improvement of Legal Aid Service**” (SILA), funded by UNHCR and the Swedish Embassy in Turkey until September 2018.

One practical impediment on the way of more involvement by bar associations is the overall scarcity of legal aid funding made available to bar associations from the state budget. While the LFIP makes plentiful reference to the possibility of persons within the scope of the LFIP seeking free legal representation via the Legal Aid Scheme, it does not commit any additional financial resources for the bar associations to build dedicated operational capacities to extend services to asylum seekers and migrants who cannot afford to pay a lawyer. Nevertheless, EU funding under the Facility for Refugees in Turkey has been directed to UNHCR for a 25m € project launched in January 2018 for the provision legal aid to asylum seekers and refugees in 18 provinces.¹³⁴

Since the Legal Aid Scheme operates on the basis of a case by case means and merits consideration, each bar association board has a space of discretion that allows them to limit or extend their involvement in the refugee and immigration law cases as they see fit.

While technically all types of “lawyer services” fall within the scope of legal aid as per Turkey’s Law on the Legal Profession, in practice the Legal Aid Scheme in Turkey provides free legal representation to beneficiaries in relation with judicial proceedings as distinct from legal counselling and consultancy services short of recourse to a court of law. This is indeed a principle reaffirmed by Article 81(2) LFIP, which provides that international protection applicants may seek state-funded legal aid in connection with judicial appeals pertaining to any acts and decisions within the international protection procedure.

The costs associated with bringing a case before an administrative court in Turkey include notary fees for the power of attorney, sanctioned translations of identity documents, court application and other judicial fees and postal fees. Since the state-funded Legal Aid Scheme only covers a modest attorney fee, applicants are therefore required to cover these costs from their own resources, although some bar associations such as **Adana** and **Antakya** have received funding to cover notary and transportation

¹²⁹ Information provided by Mülteci-Der, December 2017; Ankara Bar Association, January 2018.

¹³⁰ Information provided by ASAM, February 2018.

¹³¹ Information provided by the Adana Bar Association, February 2018.

¹³² Information provided by the Antakya Bar Association, February 2018.

¹³³ Information provided by the Mersin Bar Association, February 2018.

¹³⁴ *Izgazete*, ‘Hukuksuz uygulamanın iptalini İzmir Barosu sağladı’, 20 January 2018, available in Turkish at: <http://bit.ly/2DI9UmO>.

costs.¹³⁵ Although there is a possibility to request a waiver of these costs from the judge, judges have a wide discretion in granting such exemptions and in some cases decline the request without providing any substantial reason.¹³⁶

The level of financial compensation afforded to lawyers within the state-funded Legal Aid Scheme is modest and is typically aimed to attract young lawyers at the early stages of their professional careers. The payments to legal aid lawyers are made on the basis of the type of legal action undertaken as opposed to hours spent on the case. Furthermore, it is very difficult for legal aid lawyers to get the bar association to cover any side expenses such as interpretation, translations or expert consultations. As a result, there are insufficient incentives for legal aid lawyers to dedicate generous amounts of time and effort into asylum cases.

In current practice, the actual availability of lawyers and NGO legal assistance providers for the majority of international protection applicants are significantly curtailed by shortage of resources and expertise on the part of providers. NGOs providing legal assistance to asylum seekers include ASAM, International Refugee Rights Association (*Mülteci Hakları Derneği*), Refugee Rights Turkey and Mülteci-Der among others. In the absence of any dedicated Government funds to fund legal assistance services by NGOs to asylum seekers, the limited amount of project-based external funding available to NGO providers, insufficient prioritisation of direct legal service activities in donor programmes and stringent bureaucratic requirements of project-based funding make it very difficult for specialised NGO legal service providers to emerge and prosper.

2. Dublin

Since Turkey is not a Member State of the EU, the Dublin system does not apply.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

According to Article 72(1) LFIP, there are 4 grounds on which an application may be considered inadmissible:

- (a) A **Subsequent Application** where “the applicant submitted the same claim without presenting any new elements”;
- (b) An application submitted by a person, who was previously processed as a family member and signed a waiver to give up on his or her right to make a personal application, where the person submits a personal application
 - o either after the rejection of the original application, without presenting any additional elements,
 - o or at any stage during the processing of the original application, without presenting any justifiable reason;
- (c) An application by a person who arrived in Turkey from a **First Country of Asylum**;
- (ç) An application by a person who arrived in Turkey from a **Safe Third Country**.

An inadmissibility decision can be taken “at any stage in the procedure” where ever the inadmissibility

¹³⁵ Information provided by the Adana Bar Association, February 2018; Antakya Bar Association, February 2018.

¹³⁶ The Council of State ruled in one case that the right to request waiver of th costs should be reminded and examined by the Administrative Court in each case: Decision No 2016/1830, 31 March 2016.

criteria are identified.¹³⁷ Therefore, technically an inadmissibility decision may be issued at any stage during the procedure whether during the registration process or the personal interview stage or during the evaluation of the application prior to the finalisation of the status decision.

However, the examination on inadmissibility criteria as per Article 72 LFIP and the accelerated procedure criteria under Article 79 LFIP must be carried out by the PDMM during the [Registration](#) stage.¹³⁸

Depending on the outcome of the inadmissibility assessment by the PDMM,

- ❖ If an applicant is considered to fall into criteria listed in (a) or (b) above, the PDMM will issue the inadmissibility decision and notify the DGMM Headquarters within 24 hours, however, there is no time limit for the finalisation of the inadmissibility assessment by the PDMM;
- ❖ If an applicant is considered to fall into criteria listed in (c) or (ç) above, the PDMM will refer the file to the DGMM Headquarters, which will finalise the inadmissibility determination and may or may not issue an inadmissibility decision. There is no time limit for the referrals to the DGMM Headquarters and the finalisation of the inadmissibility determination.

Inadmissibility decisions must be communicated to the applicant in writing.¹³⁹

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?
 - ❖ If so, are questions limited to identity, nationality, travel route? Yes No
 - ❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

Article 74(1) of the LFIP Implementing Regulation requires the PDMM to conduct an interview with the applicant prior to taking an inadmissibility decision.

An inadmissibility decision can be taken “at any stage in the procedure”.¹⁴⁰ Therefore, technically an inadmissibility decision may be issued at any point in the procedure, whether during the registration process or the personal interview stage or during the evaluation of the application prior to the issuance of a decision on the merits.

¹³⁷ Article 72(2) LFIP; Article 74(3) LFIP Implementing Regulation.

¹³⁸ Article 73 LFIP Implementing Regulation.

¹³⁹ Article 72(3) LFIP.

¹⁴⁰ Article 72(2) LFIP.

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?

- | | | |
|----------------------------|--|---|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it suspensive | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Inadmissibility decisions are outside the mandate of IPEC, therefore there is no formal administrative appeal mechanism as such to challenge an inadmissibility decision. They must be directly appealed at the competent Administrative Court.¹⁴¹

Moreover, inadmissibility decisions must be appealed within 15 days of the written notification of the decision, as opposed to 30 days in the [Regular Procedure: Appeal](#).¹⁴² The application to the Administrative Court carries automatic suspensive effect.

The 15-day time limit for appealing inadmissibility decisions was contested before the Constitutional Court as unconstitutional, on the basis that it was disproportionate in view of applicants' inability to obtain legal assistance in these cases ([Admissibility Procedure: Legal Assistance](#)). The Court found Article 80(1)(ç) LFIP to be compatible with the Turkish Constitution, holding that the rules on inadmissibility are not complex to such an extent as to prohibit applicants from challenging a negative decision in person within the 15-day deadline.¹⁴³

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

- | | | | |
|-------------------------------------|--|--|--|
| ❖ Does free legal assistance cover: | <input type="checkbox"/> Yes | <input type="checkbox"/> With difficulty | <input checked="" type="checkbox"/> No |
| | <input type="checkbox"/> Representation in interview | | |
| | <input type="checkbox"/> Legal advice | | |

2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?

- | | | | |
|------------------------------------|--|---|-----------------------------|
| ❖ Does free legal assistance cover | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| | <input checked="" type="checkbox"/> Representation in courts | | |
| | <input checked="" type="checkbox"/> Legal advice | | |

The rules and practice set out in [Regular Procedure: Legal Assistance](#) apply.

However, applicants whose claims are dismissed as inadmissible face obstacles in accessing legal representation for the purpose of lodging an appeal given that they are not issued an International Protection Application Identification Card on the basis of which power of attorney may be granted. Access to legal assistance is exacerbated by the shorter deadline of 15 days to lodge an appeal against an inadmissibility decision, compared to 30 days in the regular procedure.

¹⁴¹ Article 80(1)(a) LFIP.

¹⁴² Article 80(1)(ç) LFIP.

¹⁴³ Constitutional Court, Decision 2016/134, 14 July 2016, available in Turkish at: <http://bit.ly/2rU0GOE>.

4. Border procedure (border and transit zones)

The LFIP does not designate a specific border procedure as such although its Implementing Regulation mentions that PDMM shall be promptly notified of applications made at the border.¹⁴⁴

Applications made *after* the border crossing are subject to the general rules laid down by the LFIP. However, in relation to applications:

- Expressed before the border crossing proceedings, in the transit area;
- During the border crossing proceedings, at passport check counters;
- Made after a person was denied entry at border;

the competent DGMM authorities will be notified by the border authorities and brought in to handle the application. Designated officials from the PDMM “are to determine, as first matter of business, whether the application should be subject to the accelerated procedure as per criteria laid down in Article 79 LFIP.”¹⁴⁵

In practice, **Istanbul Atatürk Airport** and **Ankara Esenboğa Airport** have holding facilities where persons apprehended without valid documentation are held.

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedure, time limits)

Article 79(1) LFIP lays down 7 grounds that require the authorities to refer an application to the accelerated procedure for the determination of the international protection claim, where the applicant:

- (a) Has not raised any issues pertinent to international protection, while submitting his or her personal reasons when lodging an application;
- (b) Has misled the authorities by presenting false documents, or misleading information and documents, or by withholding information or documents that would have a negative impact on the decision;
- (c) Has destroyed or disposed of his or her identity or travel document in bad faith in an attempt to prevent determination of his or her identity or nationality;
- (ç) Has made an international protection request after he or she has been placed under administrative detention for the purpose of removal as per Article 57 LFIP;
- (d) Has applied for international protection solely for the purpose of preventing or postponing the execution of a decision that would lead to his or her deportation from Turkey;
- (e) Poses a danger to public order or security, or has previously been deported from Turkey on these grounds;
- (f) Files a subsequent application after his previous application was considered implicitly withdrawn pursuant to Article 77 LFIP.

Article 73 of the LFIP Implementing Regulation instructs the PDMM to conduct a first examination in order to assess whether the applicant can be subjected to accelerated processing.

In the handling of applications processed under the accelerated procedure the personal interview shall take place within 3 days of the application, and the status decision shall be issued within 5 days of the personal interview.¹⁴⁶ Where this time limit cannot be complied with, the applicant may be taken off the

¹⁴⁴ Article 67(1) LFIP Implementing Regulation.

¹⁴⁵ *Ibid.*

¹⁴⁶ Article 79(2) LFIP.

accelerated procedure and referred to the regular procedure.¹⁴⁷

In that regard, if the applicant was being detained as per Article 68 LFIP while his or her international protection request was being examined under the accelerated procedure, the administrative detention may continue despite the fact that the person is no longer subject to accelerated processing.

As discussed in [Detention of Asylum Seekers](#), Article 68 LFIP allows for the administrative detention of international protection applicants during the processing of their claim up to 30 days. Technically, an applicant subject to accelerated processing may or may not be detained depending on the competent PDMM's interpretation of the applicant's circumstances against the detention grounds.

It is not clear whether international protection applicants whose claims are made from detention are systematically subject to the accelerated procedure. However, according to the NGOs and lawyers in the field, the applications are subject to accelerated procedure and Removal Centre officers generally obey to the time limits set out in the law. However, decisions are not taken within the 8-day time limit.¹⁴⁸ In one case, the application was channelled in the accelerated procedure on 21 December 2016 and received a decision on 3 February 2017, thereby after 44 days.¹⁴⁹

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?
 Yes No
❖ If so, are questions limited to nationality, identity, travel route? Yes No
❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

In theory, according to LFIP the accelerated procedure shall entail a complete examination of the international protection application by the same standards as the regular procedure. The requirement on the part of DGMM to conduct a personal interview as per Article 75 LFIP also applies to applicants processed in accelerated procedure.

Article 80(2) of the LFIP Implementing Regulation provides that the accelerated procedure "shall not prevent the application to be assessed in detail". However, the assessment is not thorough and detailed in practice. Personal interviews of international protection applicants in Removal Centres are conducted by the Removal Centre officers and generally take 5-10 minutes.¹⁵⁰ Similar observations have been reported for interviews at the airport: cases of interviewers likely to 'manipulate' the applicant's statements and trying to conclude on economic needs as the reason for their entry into Turkey have been reported.

¹⁴⁷ Article 79(3) LFIP; Article 80(3) LFIP Implementing Regulation.

¹⁴⁸ Information provided by ASAM, February 2018.

¹⁴⁹ Administrative Court of Ankara, Decision 2017/3192, 29 December 2017.

¹⁵⁰ Information provided by ASAM, March 2018.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
- | | | |
|----------------------------|--|---|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it suspensive | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

There are several significant differences between appeals in the regular procedure and appeals in the accelerated procedure, regulated in Article 80 LFIP.

Firstly, status decisions taken within the framework of the accelerated procedure cannot be appealed administratively before IPEC. They must be directly appealed at the competent Administrative Court. The application to the administrative court carries automatic suspensive effect.

Secondly, unlike in cases originating from the [Regular Procedure: Appeal](#), the court must decide on the appeal within 15 days in appeals originating from the accelerated procedure.

Thirdly, the decision by the Administrative Court is final. It cannot be appealed before a higher court. This means that once and if the Administrative Court appeal is unsuccessful the international protection procedure is considered to have been fully exhausted, and therefore a deportation decision may be taken for the removal of the applicant.

Administrative Courts have examined cases in the accelerated procedure, in some cases annulling the first instance decision. For instance, in its ruling on an Iraqi woman who made her international protection application after 3 years after her entry into Turkey, the Administrative Court of Ankara assessed that claims on gender-based violence of the applicant had not been sufficiently assessed and examined by the public authorities, and annulled the negative decision.¹⁵¹

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
- | | | | |
|--|------------------------------|--|--|
| | <input type="checkbox"/> Yes | <input type="checkbox"/> With difficulty | <input checked="" type="checkbox"/> No |
|--|------------------------------|--|--|
- ❖ Does free legal assistance cover:
- | | | |
|--|--|--|
| | <input type="checkbox"/> Representation in interview | |
| | <input type="checkbox"/> Legal advice | |
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
- | | | | |
|--|------------------------------|---|-----------------------------|
| | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> With difficulty | <input type="checkbox"/> No |
|--|------------------------------|---|-----------------------------|
- ❖ Does free legal assistance cover
- | | | |
|--|--|--|
| | <input checked="" type="checkbox"/> Representation in courts | |
| | <input checked="" type="checkbox"/> Legal advice | |

The same rules as in the [Regular Procedure: Legal Assistance](#) apply. For an overview of difficulties encountered by applicants subject to accelerated procedure in detention when trying to access legal assistance services, see the section [Legal Assistance for Review of Detention](#).

¹⁵¹ Administrative Court of Ankara, Decision 2017/3192, 29 December 2017.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? Yes For certain categories No
 - ❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children? Yes No

According to Article 3(1)(l) LFIP, the “persons with special needs” category includes “unaccompanied minors, handicapped persons, elderly, pregnant women, single parents with minor children, victims of torture, rape and other forms of psychological, physical or sexual violence.”

1.1. Screening of vulnerability

The LFIP Implementing Regulation states that it “shall be primarily determined” whether the applicant is a person with special needs.¹⁵² Registration authorities are required to make an assessment during registration stage whether the applicant belongs in one of the categories defined as “persons with special needs”, and to make a note in the applicant’s registration form if he or she has been identified as such. An applicant may also be identified as a “person with special needs” later on in the procedure.¹⁵³

According to the law, DGMM may cooperate with relevant public institutions, international organisations and NGOs for the treatment of persons subjected to torture or serious violence.¹⁵⁴

No official mechanism for the identification of vulnerabilities in the asylum procedure has been established to date. However, during the joint registration of the application for international protection in **Ankara**, the joint registration interview conducted by UNHCR / ASAM enables the detection of specific needs of the applicant, which are then taken into consideration *inter alia* in the assignment of a “satellite city” in close coordination with the DGMM Headquarters (see [Freedom of Movement](#)).

1.2. Age assessment of unaccompanied children

While the LFIP does not contain any provisions on age assessment, its Implementing Regulation provides guidance regarding the role of age assessment in the identification of unaccompanied children applicants. The Regulation states that where the applicant claims to be of minor age, but does not possess any identity documents indicating his or her age, the governorates shall conduct a “comprehensive age determination” consisting of a physical and psychological assessment.¹⁵⁵ The applicant shall be notified as to the reason of this referral and the age assessment proceedings that will be undertaken.¹⁵⁶

If the age assessment exercise indicates without a doubt that the applicant is 18 years of age or older, he or she shall be treated as an adult applicant. If the age assessment fails to establish conclusively whether the applicant is above or below 18 years of age, the applicant’s reported age shall be accepted to be true.

¹⁵² Article 113(1) LFIP Implementing Regulation.

¹⁵³ Article 113(2) LFIP Implementing Regulation.

¹⁵⁴ Article 113(3) LFIP Implementing Regulation.

¹⁵⁵ Article 123(2)(b) LFIP Implementing Regulation.

¹⁵⁶ Article 123(2)(c) LFIP Implementing Regulation.

While neither the LFIP nor the Implementing Regulation make any provisions regarding the methodology to be used in age assessment examinations on international protection applicants, according to the guidelines of the State Agency for Forensic Medicine, for the purpose of age assessment examinations, physical examination and radiography data of the person (including of elbows, wrists, hands, shoulders, pelvis and teeth) are listed as primary sources of evaluation. No reference is made to any psycho-social assessment of the person. Also, according to the Ministry of Family and Social Policies' Directive of 2015 on unaccompanied children, PDMM issue a medical report on the physical condition of the children before placing them in Ministry premises.¹⁵⁷

In practice, bone tests are applied to assess the age of unaccompanied children referred to the Ministry of Family and Social Policies to be taken into care. Where the test result indicates an age above 17 or 18, the applicant is deemed an adult and not granted the benefit of the doubt. To stop this practice, legal actions from the Ankara Bar Association and ASAM have obtained protection orders for children in order to secure their placement in public institutions for children.¹⁵⁸ If the bone test determines the child to be younger than 17, the Ministry can also conduct a psychosocial assessment.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?
 Yes For certain categories No
❖ If for certain categories, specify which:

2.1. Adequate support during the interview

The LFIP makes a number of special provisions for “persons with special needs” including unaccompanied children. However, the current legislative framework overall falls short of providing comprehensive additional procedural safeguards to vulnerable categories of international protection applicants with the positive exception of unaccompanied children.

As regards the status determination interview, where persons with special needs are concerned, the applicant's sensitive condition shall be taken into account.¹⁵⁹

The LFIP Implementing Regulation instructs that status determination interviews with children shall be conducted by trained personnel, sufficiently informed on the child's psychological, emotional and physical development.¹⁶⁰ In status determination assessments on child applicants, the decision-making official shall give due regard to the possibility that the child may not have been able to fully substantially his or her request for international protection. Furthermore, if a psychologist, a pedagogue or a social worker was arranged to attend the interview, the expert's written report on the child shall also be taken into consideration.

It is understood from current practice that PDMM provide priority to unaccompanied children in registration process and personal interviews. Also, in January 2018, a few DGMM officials participated in a “Workshop on Vulnerabilities” organised by EASO, which focused on age assessment and the best

¹⁵⁷ Article 6 Directive on Unaccompanied Children.

¹⁵⁸ See e.g. 3rd Juvenile Court of Ankara, Decision 2017/712, 29 December 2017 based on Article 9 Law No 4395 on Child Protection.

¹⁵⁹ Article 75(3) LFIP.

¹⁶⁰ Article 123(2)(g) LFIP Implementing Regulation.

interests of the child.¹⁶¹ However, it is observed that there are problems in the placement of unaccompanied children between 16-18 years in the Ministry of Family and Social Affairs.

On the other hand, neither the LFIP nor its Implementing Regulation include LGBTI persons in the list of categories of “persons with special needs”. Difficulties have been reported with regard to the way in which applicants are interviewed about issues pertaining to sexual orientation and gender identity, ranging from inappropriate terminology or offensive questions to verbal abuse during registration interviews.¹⁶²

2.2. Prioritisation and exemption from special procedures

The law requires “priority” to be given to “persons with special needs” in all procedures, rights and benefits extended to international protection applicants.¹⁶³ Registration interviews with unaccompanied minors and other persons who are unable to report to the designated registration premises in the province may be carried out in the locations where they are.¹⁶⁴

Priority is awarded during the registration process with UNHCR / ASAM in practice. Yet vulnerable groups, like any other applicant, are still required to reach the UNHCR / ASAM office in **Ankara** with a view to registering their application, without receiving any support to do so.

Unaccompanied children are exempted from the **Accelerated Procedure** and they may not be detained during the processing of their application, since Article 66 LFIP unambiguously orders that unaccompanied minor applicants shall be referred to an appropriate accommodation facility under the authority of the Ministry for Family and Social Services.

No such provisions are made in relation to the status assessment on other categories of vulnerable applicants. With the exemption of unaccompanied children, applicants of the “persons with special needs” profile may be subjected to accelerated processing whether at the border or on the territory.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?
 Yes In some cases No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?
 Yes No

Article 69(4) LFIP provides that at the time of registration, responsible authorities shall request international protection applicants to provide information and documents related to reasons for leaving their country of origin and events that led to the application. This provision can be interpreted as a possibility for the applicant to submit a medical report in support of the application. In addition, there is no provision in the LFIP which bars individuals from presenting documents and information in support of their international protection application at any stage of the determination proceedings.

¹⁶¹ EASO, ‘EASO organises several activities under the EASO – Turkish Directorate General for Migration Management (DGMM) Pilot Roadmap in January 2018’, available at: <http://bit.ly/2E9w8dq>.

¹⁶² Kaos GL, *Waiting to be “safe and sound”: Turkey as an LGBTI refugees’ way station*, July 2016, available at: <http://bit.ly/2ynEqdO>, 33-37.

¹⁶³ Article 67 LFIP; Article 113(2) LFIP Implementing Regulation.

¹⁶⁴ Article 65(2) LFIP Implementing Regulation.

Current practice does not suggest that medical reports have been relied upon by applicants in the international protection procedure. However, medical reports are deemed as strong evidence supporting international protection applications and increase the possibility of obtaining a positive decision from the DGMM.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
 Yes No

According to Article 66 LFIP, from the moment an unaccompanied child international protection applicant is identified, the best interests of the child principle must be observed and the relevant provisions of Turkey's Child Protection Law¹⁶⁵ must be implemented. The child applicant must be referred to an appropriate accommodation facility under the authority of the Ministry for Family and Social Services.

The Child Protection Law reference in Article 66 LFIP is significant. Unaccompanied children in Turkey identified as such are taken under state care as per the procedures and provisions of the Child Protection Law. The Turkish Civil Code makes provisions for the appointment of a legal guardian to all children under state care, regardless of whether they are citizens or non-citizens.

According to the Turkish Civil Code,¹⁶⁶ all children placed under state care must be assigned a guardian. Specifically, all children who do not benefit from the custody of parents (*velayet*) must be provided guardianship (*vesayet*).¹⁶⁷ The assignment of guardians is carried by Peace Courts of Civil Jurisdiction (*Sulh Hukuk Mahkemesi*) and guardianship matters are thereafter overseen by Civil Courts of General Jurisdiction (*Asliye Hukuk Mahkemesi*). A guardian under Turkish Civil Code should be "an adult competent to fulfil the requirements of the task", not engaged in an "immoral life style" or have "significant conflict of interest or hostility with the child in question". Relatives are to be given priority to be appointed as guardians.¹⁶⁸ Therefore, as far as the legal requirements, qualified NGO staff, UNHCR staff or Ministry of Family and Social Services staff would qualify to be appointed as guardians for unaccompanied minor asylum seekers.

Guardians are responsible for protecting the personal and material interests of the minors in their responsibility and to represent their interests in legal proceedings.¹⁶⁹ Although not specifically listed in the provisions, asylum proceedings under LFIP would therefore clearly fall within the mandate of the guardians. As a rule, a guardian is appointed for 2 years, and thereafter may be reappointed for additional two terms.¹⁷⁰

In practice however, despite the unequivocal legislative requirements, unaccompanied children international protection applicants under state care are not still appointed guardians, as the Ministry for Family and Social Services chooses not to initiate the procedure for the appointment of guardians for asylum seeker children.¹⁷¹ Some bar associations such as **Adana** receive requests from unaccompanied children but cannot accommodate them as they fall outside the scope of the Legal Aid Scheme.¹⁷²

¹⁶⁵ Law No 4395 on Child Protection.

¹⁶⁶ Law No 4721 Civil Code.

¹⁶⁷ Article 404 Civil Code.

¹⁶⁸ Articles 413, 414, 418 Civil Code.

¹⁶⁹ Articles 445-448 Civil Code.

¹⁷⁰ Article 456 Civil Code.

¹⁷¹ Information provided by ASAM, February 2018.

¹⁷² Information provided by the Adana Bar Association, February 2018.

Nevertheless, successful litigation in one case led to the appointment of a guardian for an unaccompanied child in **Niğde**.¹⁷³ Also, the Ankara Bar Association has provided legal aid in protection orders from courts in order to have unaccompanied children over the age of 16 placed in Ministry of Family and Social Policies care.¹⁷⁴

The vast majority of unaccompanied children applying for international protection in Turkey originate from Afghanistan.¹⁷⁵ Criminal proceedings against police officers in the case of Lütfillah Tacik, an Afghan unaccompanied child with illness who was suspiciously killed in **Van**, are pending since 2014. Human rights organisations are closely following up on the case from due to the multiple vulnerabilities of the child. Legal involvement and representation of the child's parent living in a rural area of Afghanistan has not been realised to date due to the lack of power of attorney issued in the name of the lawyer.¹⁷⁶

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? Yes No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance Yes No
 - ❖ At the appeal stage Yes No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance Yes No
 - ❖ At the appeal stage Yes No

While the LFIP does not provide a specific dedicated procedure for the handling of subsequent applications, reference is made to subsequent applications in the legislative guidance concerning admissibility assessment and accelerated processing considerations.

According to Article 72(1)(a) LFIP, a subsequent application where “the applicant submitted the same claim without presenting any new elements” is inadmissible. In such a case, the PDMM will issue the inadmissibility decision and notify the DGMM Headquarters within 24 hours, however there is no time limit for taking an inadmissibility decision.

At the same time, Article 79(1)(f) LFIP foresees accelerated processing where the applicant “files a subsequent application after his previous application was considered implicitly withdrawn”. Accordingly, if a subsequent application successfully passes the inadmissibility check, it will be subject to accelerated processing.

The PDMM are responsible for the initial admissibility assessment on subsequent applications and the subsequent examination of the claim in accelerated procedure. Whereas the inadmissibility decisions are also finalised by the PDMM, status decisions in accelerated procedure will be referred to the DGMM Headquarters for finalisation based on the personal interview conducted by the PDMM.

While the law does not provide a definition of “subsequent application”, it is indicated that subsequent applicants, who “submit the same claim without presenting any new elements” shall be considered

¹⁷³ Information provided by ASAM, February 2018.

¹⁷⁴ Information provided by the Ankara Bar Association, March 2018.

¹⁷⁵ Information provided by ASAM, February 2018.

¹⁷⁶ Amnesty International, 'Uluslararası Af Örgütü Olarak Lütfillah Tacik Davasının Takipçisiyiz', 19 January 2016, available in Turkish at: <https://bit.ly/2lcnIDB>.

inadmissible. In the absence of any further legislative guidance, it is up to the discretion of the PDMM in charge of registering the application to determine whether or not the applicant “has presented any new elements”. This is very problematic.

On the positive side, the law does not lay down any time limits for lodging a subsequent application or any limitations on how many times a person can lodge a subsequent application.

Where a subsequent applicant is considered inadmissible, the person concerned will be subject to a removal decision and eventual deportation from Turkey, unless he or she resorts to appeal mechanisms available. Subsequent applicants whose claims are not considered inadmissible at registration stage, will be processed like any other applicant subject to accelerated procedure and will be protected from removal during the course of the status determination proceedings.

There is no sufficient information from practice to indicate how subsequent applications are treated at the moment. In a recent report, the Grand National Assembly reported 15 subsequent applicants in Turkey.¹⁷⁷

F. The safe country concepts

Indicators: Safe Country Concepts

- | | |
|--|---|
| 1. Does national legislation allow for the use of “safe country of origin” concept? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Safe country concepts come up in the [Admissibility Procedure](#) in Turkey’s international protection procedure. The LFIP provides “first country of asylum” and “safe third country” concepts but no “safe country of origin” concept. Where an applicant is identified to have arrived in Turkey from either a “first country of asylum” or a “safe third country”, an inadmissibility decision will be issued under Article 72 LFIP.

1. First country of asylum

Article 73 LFIP defines “first country of asylum” as a country (a) “in which the applicant was previously recognised as a refugee and that he or she can still avail himself or herself of that protection” or (b) “or where he or she can still enjoy sufficient and effective protection including protection against *refoulement*.”¹⁷⁸

Article 76 of the LFIP Implementing Regulation provides additional interpretative guidance as to what can be considered “sufficient and effective protection”. The following conditions must apply for an applicant to be considered to avail themselves of “sufficient and effective protection” in a third country:

- (a) There is no risk of well-founded fear of persecution or serious harm for the applicant in the third country concerned;
- (b) There is no risk of onward deportation for the applicant from the third country concerned to

¹⁷⁷ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

¹⁷⁸ Article 73 LFIP; Article 75 LFIP Implementing Regulation. The wording resembles the EU definition in Article 35 recast Asylum Procedures Directive.

another country where he or she will be unable to avail themselves of sufficient and effective protection;

- (c) The third country concerned is a state party to the 1951 Refugee Convention and 1967 Protocol and undertakes practices in compliance with the provisions of the 1951 Convention;
- (ç) The sufficient and effective protection provided by the third country concerned to the applicant shall persist until a durable solution can be found for the applicant.

2. Safe third country

For a country to be considered a “safe third country”, the following conditions must apply:¹⁷⁹

- (a) The lives and freedoms of persons are not in danger on the basis of race, religion, nationality, membership to a particular social group or political opinion;
- (b) The principle of *non-refoulement* of persons to countries, in which they will be subject to torture, inhuman or degrading treatment or punishment, is implemented;
- (c) The applicant has an opportunity to apply for refugee status in the country, and in case he or she is granted refugee status by the country authorities, he or she has the possibility of obtaining protection in compliance with the 1951 Refugee Convention;
- (ç) The applicant does not incur any risk of being subjected to serious harm.”

For a country to be considered a “safe third country” for an applicant, an individual evaluation must be carried out, and due consideration must be given to “whether the existing links between the applicant and the third country are of a nature that would make the applicant’s return to that country reasonable.”¹⁸⁰

Article 77(2) of the LFIP Implementing Regulation provides additional interpretative guidance as to the interpretation of the “reasonable link” criterion, by requiring at least one of the following conditions to apply:

- (a) The applicant has family members already established in the third country concerned;
- (b) The applicant has previously lived in the third country concerned for purposes such as work, education, long-term settlement;
- (c) The applicant has firm cultural links to the country concerned as demonstrated for example by his or her ability to speak the language of the country at a good level;
- (ç) The applicant has previously been in the country concerned for long term stay purposes as opposed to merely for the purpose of transit.

At present, there is no publicly available information as to whether DGMM Headquarters currently subscribes or will in the future subscribe to a categorical ‘list approach’ in making safe country determinations on international protection applicants. However, the safe country definitions in the LFIP and the LFIP Regulation very demonstrably require a personal assessment as to whether a particular third country can be considered a “first country of asylum” or “safe third country” for a specific applicant.

In practice, it is reported that in 2015 **Iran** was considered as a safe third country for Afghans who enter Turkey therefrom and that their applications are dismissed as inadmissible on this base. Currently, the DGMM applies the same approach to the application of Afghans entering Turkey from **Pakistan** which is also deemed a safe third country.¹⁸¹

On the other hand, Turkey several readmission agreements with third countries as a means of tackling irregular migration. Readmission agreements are defined as agreements in which the parties are under

¹⁷⁹ Article 74 LFIP. The wording resembles the EU definition in Article 38 recast Asylum Procedures Directive.

¹⁸⁰ Article 74(3) LFIP.

¹⁸¹ Information provided by ASAM, March 2018.

the obligation to recall the citizens who illegally reside in each other's territory and / or the citizens of the third country illegally passing on their territory. To date, Turkey has signed readmission agreements with Greece (2002), Syria (2003), Kyrgyzstan (2004), Romania (2004), Ukraine (2008), Russia (2011), Moldova (2013), Belarus (2014), the EU (2014), as well as Pakistan, Nigeria, Bosnia-Herzegovina, Yemen and Montenegro.

G. Relocation

As Turkey is not a Member State of the EU, relocation does not apply.

H. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? Yes With difficulty No
- ❖ Is tailored information provided to unaccompanied children? Yes No

According to Article 70 LFIP, during registration, applicants must be provided information regarding the international protection application and determination procedure, appeal mechanisms and time frames, rights and obligations as asylum applicants, including the consequences of failure to fulfil obligations or cooperate with authorities. If requested by the applicant, interpretation shall be provided for the purpose of interactions with the applicants at registration and status determination interview stages.

ASAM provides oral and written information to applicants on procedural steps, rights and obligations under joint [Registration](#). That said, this information is only accessed by those applicants who manage to arrive to **Ankara** on their own with a view to registering an application, without having received any information or assistance to access the UNHCR / ASAM office. This poses a critical barrier to effective access to the procedure. However, ASAM has offices in more than 70 cities in Turkey, including all satellite cities, and provides information to applicants at all stages.

To date, the DGMM has distributed 400,000 information brochures in Turkish, Arabic and English in order to encourage asylum seekers to register their applications and to inform them about their rights and obligations in Turkey.¹⁸²

The DGMM also operates a hotline service called Foreigners Communication Centre (Yabancı İletişim Merkezi, YİMER). It is possible to reach the centres which serves in Turkish, English, Russian and Arabic at any time of day. The DGMM is planning to increase the number of staff and the number of languages over time. The Centre has received over 250,000 calls since its opening on 20 August 2015. According to a recent Grand National Assembly report, YİMER has had many success stories, including those of 2,595 people whose boats were sinking and who were rescued in cooperation with the Coast Guard.¹⁸³

In addition, UNHCR has set up a platform (“[Help](#)”) which provides information in English, Turkish, Arabic and Farsi. Also, mainstream NGOs such as Support to Life, İnsan Kaynagini Gelistirme Vakfi (IKGV),

¹⁸² Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

¹⁸³ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

YUVA provide assistance and counselling. Applicants also receive information on the registration and other processes from smugglers.¹⁸⁴

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No

Article 81(3) LFIP acknowledges that international protection applicants and status holders are free to seek counselling services provided by NGOs. Since this article governs the provision of legal assistance and counselling services to all international protection applicants, it must be interpreted to also extend to international protection applicants in detention premises.

Applicants come into contact with [ASAM](#), the largest NGO and implementing partner of UNHCR in Turkey, upon registration in Ankara. ASAM has more than 70 offices across Turkey and operates a helpline in different languages. Other organisations such as [Refugee Rights Turkey](#) in **Istanbul** and [Mülteci-Der](#) in **Izmir** have helplines and can be accessed by phone. [IKGV](#) has 7 offices in Turkey and provides information and psycho-social support to approximately 200 people per week. [Support to Life](#) and [YUVA](#) are also mainstream organisations that are very active in the field, the former having presence in eight cities. The [International Blue Crescent](#) in **Istanbul** is focused more in social cohesion policies and has community centres mostly in border cities.

Faith-based organisations are also very active in assistance to applicants, [Türk Diyanet Vakfı](#), a state-funded faith agency based in **Ankara** targets mostly educated young Syrians and provide humanitarian aids, financial assistance and language classes. [İnsani Yardım Vakfı](#) is another faith-based organisation active nearly in each province of Turkey.

There are also NGOs helping vulnerable groups such as [KADAV](#) for women in **Istanbul**, [Kaos GL](#) based in **Ankara** assists LGBTI people living in cities such as **Denizli**, **Eskişehir** and **Yalova**. [Pozitif Yasam](#) based in **Istanbul** assists people living with HIV, while Red Umbrella Sexual Health and Human Rights Organisation is in the process of setting up five new community centres for LGBTI persons, sex workers and people living with HIV in Turkey.

Moreover, international protection applicants may also access NGOs carrying out resettlement-related activities, such as the International Catholic Migration Commission (ICMC) in **Istanbul**.

¹⁸⁴ Information provided by ASAM and IKGV, March 2018.

I. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? Yes No
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?¹⁸⁵ Yes No
❖ If yes, specify which:

1. Syria

Refugees from Syria are subject to a group-based, *prima facie*-type **Temporary Protection** regime in Turkey. The temporary protection regime currently in place covers Syrian nationals and Stateless Palestinians originating from Syria.

2. Iraq

While asylum seekers from Iraq are generally subject to the international protection procedure, in the period since February 2015 and until 2017 some Iraqi protection seekers in Turkey have in fact been registered by DGMM as “humanitarian residence permit” holders, outside the international protection system.

DGMM issued Circulars on 21 August 2014 and 12 February 2015 regarding the treatment of Iraqi protection seekers, according to which Iraqis would be able to choose either to apply for international protection or to receive a humanitarian residence permit. While the humanitarian residence permit is not an international protection status under LFIP, it does grant the right to legal stay and allows holders to choose where they want to live, whereas international protection applicants and status holders are subject to **Freedom of Movement** limitations and have to live in the province designated by DGMM. Humanitarian residence holders are provided a level of free health care, excluding medication costs, therefore lesser than what is afforded to international protection applicants.

As of the end of 2017, however, the policy of granting humanitarian residence permits to Iraqi nationals has been terminated. Following the cancellation of existing humanitarian residence permits, DGMM is in the process of conducting new interviews with Iraqi former permit holders with a view to registering them as international protection applicants. However, until they are effectively registered in the international protection procedure, former permit holders remain undocumented and thus deprived of rights to access basic services. The DGMM Headquarters conduct interviews for Iraqi Turkmens who live in Ankara, but the rest of interviews are conducted by the PDMM. According to a recent report of the Grand National Assembly, an estimated 60,000 Iraqi Turkmens reside in **Ankara**.¹⁸⁶

In 2017, 68,685 Iraqi nationals registered with DGMM as international protection applicants. While there are no available statistics on the number of Iraqis registered as humanitarian residence permit holders, the change in policy in 2017 is likely to affect the majority of Iraqis in Turkey. According to statistics from the International Organisation for Migration (IOM), out of a total of 35,930 “other” residence permits, the vast majority concern humanitarian residence permits for Iraqis.¹⁸⁷ According to the Turkish Red Crescent

¹⁸⁵ Whether under the “safe country of origin” concept or otherwise.

¹⁸⁶ Grand National Assembly, *Göç ve uyum raporu*, March 2018, 152.

¹⁸⁷ IOM, *Migrant Presence Monitoring*, August 2017, available at: <https://bit.ly/2G88Yt9>. More recent updates do not include the number of “other” residence permits: *Migrants’ Presence Monitoring*, January 2018, available at: <https://bit.ly/2IUVTkw>.

2017 Migration Report, a total of 21,220 Iraqi nationals resided in Turkey under a long-term residence permit, a humanitarian residence permit or a victim of human trafficking residence permit at the end of 2017.¹⁸⁸

IOM is conducting research on the situation of Iraqis to assess their needs and problems during this transitional process.

¹⁸⁸ Turkish Red Crescent, *2017 Migration Report*, December 2017.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
- | | | | |
|---------------------------|---|---|-----------------------------|
| ❖ Regular procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Admissibility procedure | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Accelerated procedure | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ First appeal | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Onward appeal | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Subsequent application | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? Yes No

1.1. The interval of eligibility for reception conditions

International protection applicants are entitled to “reception conditions” from the moment they make a “request for international protection” and continue to be eligible until they exhaust the international protection procedure in the meaning of a final negative status decision that cannot be appealed onward.

Under Articles 65 and 69, the LFIP differentiates between the act of “requesting international protection” (*uluslararası koruma talebinde bulunan*) which can be expressed to any state authorities and the “registration of an application for international protection” (*uluslararası koruma başvurusunun kaydı*) by DGMM, which is the competent authority as such. Therefore it must be interpreted that persons must be considered as international protection applicants from the time they approach state authorities and express a request to international protection. The actual registration of an applicant by DGMM may come later.

That said, holding a Foreigners Identification Number (FIN) is an essential prerequisite for all foreign nationals in procedures and proceedings regarding access to basic rights and services. International protection applicants are not assigned a FIN until they are issued an International Protection Applicant Registration Document after they have had their registration interview with UNHCR / ASAM in **Ankara**, and have then travelled to their assigned “satellite city” to report to the competent PDMM. In practice, given the obstacles to and corollary delays in accessing the international protection procedure (see [Registration](#)), the time lag between an asylum seeker’s intention to apply for international protection and the issuance of a FIN can be particularly long.

1.2. Restrictions on reception conditions by type of procedure

In the way of a global overview, with regards to: (a) information, (b) provisions for family unity, (c) and provisions for vulnerable persons, both regular procedure applicants and accelerated procedure applicants are subject to the same level of rights and benefits.

The end of the right to reception varies according to the type of procedure. As per Article 3(1)(ö) LFIP, the term “final decision” refers to

- “the status decision taken by the DGMM on an international protection application if the applicant chooses not to appeal it”;
- and “where the applicant appeals the status decision in court, the final court decision which cannot be appealed onward in a higher court of law”.

As elaborated in the [Asylum Procedure](#) chapter, the appeal mechanisms available to applicants processed in the various procedural modalities are different.

In the case of an applicant appealing a negative status decision taken under the regular procedure, the final decision by the Council of State (*Danıştay*) would be the final decision where by all available domestic remedies would have been exhausted, whereas in the case of an applicant appealing a decision in the accelerated procedure or an inadmissibility decision, the decision by the competent Administrative Court would be the final decision.

With regards to: (a) documentation; (b) freedom of movement and accommodation; (c) “material reception conditions” i.e. housing, social assistance and benefits, financial allowance; (d) healthcare; (e) vocational training; (f) schooling and education for minors; (g) and employment, there are differences in level and modalities of reception conditions committed to applicants processed in the regular procedure and those processed in the accelerated procedure.

Furthermore, applicants who are detained during the processing of their application and processed under the accelerated procedure – including those detained at border premises – are subject to specific reception modalities.

Applicants about whom an inadmissibility decision is taken – whether their application was being processed under the regular procedure or the accelerated procedure – will continue to be subject to the same reception regime as before, until the inadmissibility decision becomes a “final decision” as clarified above.

1.3. Means assessment

The LFIP introduces a means criterion for some of the reception rights and benefits and not for others. With regards to access to primary and secondary education and access to labour market, there is no means criterion. With regards to health care, social assistance and benefits and financial allowance, applicants are subject to a means criterion. The PDMM shall conduct this assessment on the basis of the following considerations:¹⁸⁹

- whether the applicants have the means to pay for their shelter;
- level of monthly income;
- number of dependant family members;
- any real estate owned in Turkey or country of origin;
- whether they receive financial assistance from family members in Turkey or country of origin;
- whether they receive financial assistance from any official bodies in Turkey or NGOs;
- whether they already have health insurance coverage;
- any other considerations deemed appropriate.

As per Article 90(1)(ç) LFIP, where it is determined that an applicant has “unduly benefited” from services, assistance and other benefits, they shall be obliged to refund costs in part or in entirety.

¹⁸⁹ Article 106(1) LFIP Implementing Regulation.

Furthermore, for applicants who fail to comply with the obligations listed in Article 89 LFIP or about whom a negative status decision was issued, the DGMM “may” reduce rights and benefits, with the exception of education rights for children and basic health care.¹⁹⁰

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

- | | |
|---|-----|
| 1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2017 (in original currency and in €): | N/A |
|---|-----|

While the LFIP does not employ the term of “reception conditions” as such, Articles 88 and 89 LFIP commit a set of rights, entitlements and benefits for international protection applicants, which thematically and substantially fall within the scope of the EU Reception Conditions Directive.

Articles 88 and 89 LFIP govern the level of provision and access that shall be granted to international protection applicants (and status holders) in the areas of education, health care, social assistance and services, access to labour market, financial allowance. Turkey does not commit the provision of shelter to international protection on applicants,¹⁹¹ but authorises DGMM to extend, on discretionary basis, state-funded accommodation to international protection applicants under the auspices of “Reception and Accommodation Centres”. At present there are only two such Reception and Accommodation Centres in operation, but one more facility is being renovated.¹⁹²

Rights and benefits granted to international protection applicants and status holders may not exceed the level of rights and benefits afforded to citizens.¹⁹³

2.1. Accommodation

The LFIP does not commit to providing shelter to international protection applicants. As a rule, international protection applicants and status holders shall secure their own accommodation by their own means.¹⁹⁴

That said, DGMM is authorised to set up Reception and Accommodation Centres, as discussed in [Types of Accommodation](#).¹⁹⁵

2.2. Financial allowance

International protection applicants who are identified to be “in need”, may be allocated a financial allowance by DGMM.¹⁹⁶ DGMM shall establish the criteria and modalities for this financial allowance, and the Ministry of Finance’s input will be sought in determining the amounts. Applicants whose applications are identified to be inadmissible and those processed in accelerated procedure are excluded from financial allowance.

It must be underlined that this is not a right but rather a benefit that “may be” allocated to “needy” applicant by DGMM on discretionary basis. DGMM is expected to be put in place implementation

¹⁹⁰ Article 90(2) LFIP.

¹⁹¹ Article 95 LFIP.

¹⁹² DGMM, *Removal centers*, available at: <http://bit.ly/2osejRh>.

¹⁹³ Article 88(2) LFIP.

¹⁹⁴ Article 95(1) LFIP.

¹⁹⁵ Article 95(2) LFIP.

¹⁹⁶ Article 89(5) LFIP.

guidelines, which may include guidance as to the specific criteria and procedure by which an applicant would be identified as “needy” for the purposes of financial allowance. In this regard, applicants are required to keep the competent PDMM informed of their up to date employment status, income, any real estate or other valuables acquired.¹⁹⁷ This indicates that such information may be a factor in the assessment of “neediness” for the purpose of financial allowance.

Currently, there is no implementation of Article 89(5) LFIP, and therefore the possibility of financial allowance to international protection applicants by the state remains only theoretical to date.

Since international protection applicants are first registered with UNHCR in practice, there is a limited possibility for UNHCR-registered asylum seekers to seek financial assistance from UNHCR, which is granted on exceptional basis in a relatively small number of cases.

2.3. Social assistance and benefits

International protection applicants identified “to be in need” can seek access to “social assistance and benefits”.¹⁹⁸ It is important to understand that the LFIP does not itself commit to providing social assistance and benefits to “applicants in need”; instead it merely refers international protection applicants to existing state-funded “social assistance and benefits” dispensed by the provincial governorates as per Turkey’s Law on Social Assistance and Solidarity. The Governorates dispense social assistance and benefits under this scheme by means of the Social Solidarity and Assistance Foundations – which, despite the misleading name, are government agencies structured within the provincial governorates.

According to the Law on Social Assistance and Solidarity, the Governorates dispense both in kind assistance such as coal and wood for heating purposes, food and hygiene items and financial assistance to “poor and needy residents” in the province, including foreign nationals. As provincial Governorates are already responsible for delivering social assistance and benefits as per the Law on Social Assistance and Solidarity, the reference in Article 79(2) LFIP is a mere confirmation of the principle that “poor and needy” international protection applicants can apply to the Social Solidarity and Assistance Foundation their assigned province of residence to seek subsistence assistance.

As such, it will be up to the provincial Social Solidarity and Assistance Foundation to determine whether they qualify the “poor and needy” threshold. Practice to date in this regard has been very inconsistent. Whereas some asylum seekers have been able to receive some amount of subsistence assistance in some provinces, whether in kind or in financial assistance, the criteria and procedure by which the Governorates assess applications has been inconsistent. Furthermore, the Social Assistance and Solidarity Foundations struggle with limited allocations and do not have the means to cover subsistence needs of all such “needy” asylum seekers residing in the province. Also, international protection applicants who have to leave their satellite cities for the purpose of work cannot access social assistance from their place of residence. The refugee influx from Syria has further strained these agencies and shallowed down their provisions for persons subject to the international protection procedure.

According to the list as of 2018, if the person in need is an adult, social assistance varies between 410-760 TL / 82-152 € and if the applicant goes into university the amount of assistance rises up to 928 TL / 186 €. There is also another quarterly financial assistance from the governorates that varies between 80-100 TL / 15-20 €. ¹⁹⁹

¹⁹⁷ Article 90(1) LFIP.

¹⁹⁸ Article 79(2) LFIP.

¹⁹⁹ Information provided by Ministry of Family and Social Policies, February 2018.

The Social Solidarity and Assistance Foundation also provides disabled home care assistance to families who have a disabled family member who is unable to cater for his or her daily needs without the care and assistance of another family member. This is a regular financial assistance provided to the caregiver.

There are also social assistance benefits granted by the Ministry of Family and Social Affairs. The social workers of the Ministry of Family and Social Affairs' social service units take the final decision in practice. Their evaluation is based on criteria such as the presence of a working family member, provision of social assistance from other bodies, the presence of an emergency situation or numbers of children in the household. There are biannual or yearly assessment periods upon which social workers might stop this assistance if they deem that the financial situation of the family has changed. According to SED regulation, from January 2018 to June 2018, CTE will provide 515 TL / 103 € for pre-school kids, 773 TL / 155 € for primary school students, 825 TL / 165 € for secondary school students.²⁰⁰ These allowances are available only for persons who can submit the school registration documents to the social service units of the Ministry.

In addition, the Ministry of Family and Social Affairs is launching a new assistance programme to increase the number of refugees speaking Turkish, in coordination with UNHCR. According to this upcoming project, the Ministry will grant 450 TL to adults and 200 TL to children as transportation assistance in exchange of registering in a Turkish language course.

Municipalities may also provide assistance to applicants for and beneficiaries of international protection. The types of assistance provided by the municipalities differ as they depend on the resources of each municipality. Assistance packages may include coal, food parcels, clothing and other kinds of non-food items. The eligibility criteria to receive assistance may also differ between municipalities.²⁰¹

The Turkish Red Crescent (*Kızılay*) is also an important actor in this field and is active in each city of Turkey as a public interest corporation. In most cases, their social assistance is not financial but in kind: distribution of wheelchairs to disabled persons, distribution of food, clothes or soup in winter for people in need. They have also a special fund for people with special and emergency needs. With the help of this fund, they can provide especially medical help such as buying a prosthesis or hearing instruments for children.²⁰²

ESSN

Beyond social assistance from the state, the EU has funded the Emergency Social Safety Net (ESSN) programme, which was launched on 28 November 2016 by the World Food Programme, the Turkish Red Crescent and the Ministry of Family and Social Policies, under the coordination of AFAD.²⁰³ Families under international or temporary protection and excluded from registered employment are eligible for assistance under ESSN, which extends a monthly allowance of 120 TL / 24 € per family member through a card.²⁰⁴ Applicants for international protection fall within the scope of this programme.

In the context of the ESSN, the Kızılay Food Card developed in cooperation with the World Food Programme offers a smart card technology developed for people in need to meet all their needs at food

²⁰⁰ Information provided by the Ministry of Family and Social Policies, February 2018.

²⁰¹ UNHCR, *Social and financial assistance*, available at: <https://bit.ly/2GjSOJ1>.

²⁰² Information provided by the Turkish Red Crescent, January 2018.

²⁰³ European Commission, '1 million refugees in Turkey reached by EU's Emergency Social Safety Net', 17 October 2017, available at: <http://bit.ly/2ztLNSN>.

²⁰⁴ World Food Programme, *FAQ on Emergency Social Safety Net*, December 2016, available at: <http://bit.ly/2o41iPQ>.

stores.²⁰⁵ International protection applicants who hold a FIN go to the Social Assistance and Solidarity Foundations of their satellite city and fill in an application form for a Kızılay Card. If the applicant has a disability, this should be proved by a medical report. Also, people with special needs are prioritised in practice. After 5-9 weeks, applicants can receive their cards ready to use from the contracted bank.

CCTE

In addition, another programme Conditional Cash Transfer for Education (CCTE) for children in education is financed by ECHO and implemented through a close partnership between Turkey's Ministry of Family and Social Policies, the Ministry of National Education, AFAD, the Turkish Red Crescent and UNICEF. The CCTE programme provides vulnerable refugee families with fortnightly cash payments to help them send and keep their children in school. Built on the existing social protection system for disadvantaged children in Turkey, the programme was expected to reach 230,000 refugee children by February 2018. A family can receive payment provided the child attends school regularly; a child should not miss school more than 4 days in one month.²⁰⁶

ECHO contributed €34 million for the ongoing school year and an additional €50 million for the 2018-2019 school year for the extension of the programme to refugee children in Turkey. With €84 million total funding this is EU's largest ever contribution to education in emergencies. The programme is also supported by the governments of Norway and the United States of America, with additional partners expected to join in the future.²⁰⁷

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions? Yes No
2. Does the law provide for the possibility to withdraw material reception conditions? Yes No

For applicants who “fail to comply with the obligations listed in Article 90(1)” or “about whom a negative status decision was issued”, the DGMM has the discretion to reduce rights and benefits, with the exception of education rights for minors and basic healthcare.²⁰⁸

Article 90(1) LFIP lists the obligations of international protection applicants as follows:

- (a) Report changes in their employment status to the competent DGMM Directorate within 30 days;
- (b) Report changes in their income, real estate and valuables in their belonging within 30 days;
- (c) Report changes in their residence, identity data and civil status within 20 days;
- (ç) Refund in part or in full costs incurred where is identified after the fact that he or she has benefited from services, assistance and other benefits although he or she actually did not fulfil the criteria;
- (d) Comply with any other requests by the DGMM within the framework of various procedural obligations listed in the LFIP for applicants.

Failure to report to the assigned “satellite city” (see [Freedom of Movement](#)) may also lead to restrictions on rights and benefits, with the exception of education and health care.²⁰⁹

²⁰⁵ Turkish Red Crescent, ‘The Turkish Red Crescent Food Card is Supporting all the Syrians’, 31 December 2015, available at: <https://bit.ly/2G8LjIT>; *Kızılaykart*, available in Turkish at: <https://bit.ly/2lQQf2G>.

²⁰⁶ European Commission, ‘In Turkey, the Conditional Cash Transfer for Education programme increases school attendance of Syrian and other refugee children’, 13 February 2018, available at: <https://bit.ly/2GaW25O>.

²⁰⁷ *Ibid.*

²⁰⁸ Article 90(2) LFIP.

²⁰⁹ Article 91(6) LFIP Implementing Regulation.

The principle expressed in Article 90(1)(ç) LFIP above on the obligation for applicants to refund undeserved services and benefits is further elaborated the provision in relation to free health care coverage.²¹⁰ Applicants “who do not have any health insurance coverage and do not have the financial means to pay for healthcare services”, are to be covered by the General Health Insurance scheme under Turkey’s public social security scheme.²¹¹ The General Health Insurance premiums of such beneficiaries will be paid for by the DGMM. The DGMM may require applicants to refund all or part of the premiums at a later time in consideration of the applicant’s financial means. Furthermore, where it is identified at a later time that the applicant actually did have health insurance coverage or sufficient financial means to pay for his or her own healthcare expenses, the DGMM shall terminate the General Health Insurance coverage of the applicant within 10 days and request the applicant to refund medical treatment and medication costs incurred previously.²¹²

The PDMM are responsible and authorised for making the assessment regarding an applicant’s eligibility for General Health Insurance coverage. It must be deduced that the decision to request an applicant to refund part or all health care expenses incurred for him or her shall be made in accordance with the same financial means criteria.

According to Article 90(2) LFIP, the decision to reduce or withdraw rights and benefits must be based on a “personalised assessment” by the competent PDMM. The applicant must be notified in written. Where he or she is not being represented by a lawyer or legal representative, he or she must be explained the legal consequences of the decision as well as the available appeal mechanisms.

Applicants can either file an administrative appeal against such a decision to reduce or withdraw reception rights with IPEC within 10 days of the written notification, or they can directly file a judicial appeal with the competent Administrative Court within 30 days.²¹³

IPEC do not have the authority to directly overturn DGMM decisions. The Commission may either reject the appeal application and thereby endorse the initial DGMM decision, or it may request DGMM to reconsider its initial decision in terms of procedure and merit. The requested reconsideration by DGMM may or may not lead to an overturning of the initial decision. If the DGMM chooses to stick to its initial negative decision, the applicant will have to file a consequent judicial appeal with the competent Administrative Court.

Judicial appeals with the competent Administrative Court, on the other hand, technically seek the annulment of the challenged act or decision of the administration. Therefore if the judicial appeal is successful, although the court decision itself does not overturn the DGMM decision, it requires the DGMM to either issue a new decision to comply with the court’s decision or appeal the court’s decision in the competent higher court of law. In practice, Administrative Court adjudication in Turkey is extremely lengthy and therefore could not be considered a practical and effective remedy to challenge a DGMM decision for the reduction or withdrawal of reception conditions.

²¹⁰ Article 89(3) LFIP.

²¹¹ Article 89(3)(a) LFIP.

²¹² Article 89(3)(b) LFIP.

²¹³ Article 80 LFIP.

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?
 Yes No
2. Does the law provide for restrictions on freedom of movement? Yes No

4.1. The “satellite city” system

Each applicant is assigned to a province, where he or she shall register with the PDMM, secure private accommodation on their own means and stay there as long as they are subject to international protection, including after obtaining status. This dispersal scheme is based on Article 71 LFIP, according to which the DGMM rarely refers an applicant to a Reception and Accommodation Centre but generally to take up private residence in an assigned province.

The LFIP Implementing Regulation elaborates the dispersal policy. It defines the concept of “satellite cities” as provinces designated by DGMM where applicants for international protection are required to reside.²¹⁴ While new applicants for international protection can initiate their application in a province not listed in the list, they may remain there until they are assigned and referred to a satellite city.²¹⁵

Currently, 62 cities in Turkey were deemed appropriate by DGMM as “satellite cities” for the referral of international protection applicants:²¹⁶

Satellite cities for international protection applicants: 2017			
Adana	Çorum	Karaman	Sakarya
Adıyaman	Denizli	Kars	Samsun
Afyonkarahisar	Düzce	Kastamonu	Siirt
Ağrı	Elazığ	Kayseri	Sinop
Aksaray	Erzincan	Kırıkkale	Şanlıurfa
Amasya	Erzurum	Kırşehir	Sivas
Ardahan	Eskişehir	Kilis	Şırnak
Artvin	Gaziantep	Konya	Tokat
Balıkesir	Giresun	Kütahya	Trabzon
Batman	Gümüşhane	Malatya	Uşak
Bayburt	Hakkâri	Manisa	Van
Bilecik	Hatay	Mardin	Yalova
Bolu	İğdır	Mersin	Yozgat
Burdur	İsparta	Nevşehir	Zonguldak
Çanakkale	Kahramanmaraş	Niğde	
Çankırı	Karabük	Ordu	

²¹⁴ Article 2(hh) LFIP Implementing Regulation.

²¹⁵ Article 66(3) LFIP Implementing Regulation.

²¹⁶ For the earlier list of cities as of August 2017, see Refugee Rights Turkey, *Avukatlar için mülteci hukuku el kitabı*, August 2017, available in Turkish at: <https://bit.ly/2G9X5Ti>, 409.

DGMM Headquarters in Ankara sometimes decide on the ‘opening’ or ‘closing’ of a “satellite city” and on referrals thereto depending on the capacity of each city. For example, due to overcrowding in provinces such as **Istanbul**, applicants are directed to remote and less populated provinces such as **Bayburt**, **Batman** and **Çorum** at the moment. The regulation of the “satellite city” system is not based on publicly available criteria, however, nor is there an official decision taken in respect of each applicant. Generally, it can be stated that metropolises and border cities do not figure among satellite cities.

Since there are only 2 fully operational Reception and Accommodation Centres with a capacity of 150 places, currently almost all international protection applicants are in self-financed private accommodation in their assigned provinces.

In practice, international protection applicants first have to approach UNHCR / ASAM in **Ankara** with a view to registering an application with UNHCR. During joint registration, they are able to choose their preferred province, provided that it is ‘open’ and has available places. Following that registration, they are given a referral letter indicating the province in which they are required to reside and which they need to reach in order to report to the PDMM. Once applicants report to their assigned province, they register their international protection request with the PDMM and find their own private accommodation in the province. Once they have an address, they are required to inform the PDMM.

4.2. Travelling outside the “satellite city” and sanctions

The PDMM has the authority to impose on applicants the obligation to reside in a specific address, as well as reporting duties.²¹⁷ In practice, applicants are not subject to strict reporting requirements, but their effective residence in the address declared to the PDMM is monitored if they do not appear before the PDMM for prolonged periods. In this case, the PDMM might conduct unannounced checks.

Any travel outside the assigned province is subject to written permission by the PDMM and may be permitted for a maximum of 30 days, which may be extended only once by a maximum of 30 more days.²¹⁸ According to ASAM, permissions to travel are usually granted by the PDMM on time.²¹⁹

Failure to stay in assigned province has very serious consequences for the applicant. International protection applicants who do not report to their assigned province in time or are not present in their registered address upon three consecutive checks by the authorities are considered to have “implicitly withdrawn” their international protection application.²²⁰ This has been applied in practice, for example in the case of an applicant assigned to **Çorum** who travelled to **Ankara** for personal safety reasons without informing DGMM.

Furthermore, applicants’ access to reception rights and benefits provided by the LFIP are strictly conditional upon their continued residence in their assigned province. The International Protection Applicant Identification Card issued to applicants in accordance with Article 76 LFIP, which serves to enable applicants’ access to health care, primary education and other services is considered valid documentation only within the bounds of the province where the document was issued. They may also be subject to [Reduction or Withdrawal of Reception Conditions](#) if they fail to stay in their assigned satellite city.

²¹⁷ Article 71(1) LFIP.

²¹⁸ Article 91(1)-(2) LFIP Implementing Regulation.

²¹⁹ Information provided by ASAM, February 2018.

²²⁰ Article 77(1)(ç) LFIP.

In practice, however, applicants may be subject to even more severe – and arbitrary – sanctions such as administrative detention in a Removal Centre, with a view to their transfer to their assigned province (see [Grounds for Detention](#)). It seems, however, that the rigour of sanctions for non-compliance with the obligation to remain in the assigned province varies depending on the nationality, sexual orientation or gender identity or civil status of the applicant (e.g. single woman) or simply due to the working relationship of the applicant with the PDMM staff. Afghan applicants, for example, often face stricter treatment than other groups.

It is possible for applicants to request DGMM to assign them to another province on grounds of family, health or other reasons.²²¹

Requests for a change in assigned province for other reasons may be granted by the DGMM Headquarters on exceptional basis.

Where an applicant is unhappy about his or her province of residence assignment and his or her request for reassignment is denied, he or she can appeal this denial by filing an administrative appeal with the International Protection Evaluation Commission (IPEC) within 10 days or filing a judicial appeal with the competent Administrative Court within 30 days. In reality however, the latter judicial remedy will be ill-suited for this purpose since the court proceedings will be lengthy.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of reception centres: ²²²	2
2. Total number of places in the reception centres:	150
3. Total number of places in private accommodation:	Not available
4. Type of accommodation most frequently used in a regular procedure:	
<input type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other	
5. Type of accommodation most frequently used in an accelerated procedure:	
<input type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input checked="" type="checkbox"/> Detention	

One of the most prominent shortcomings of Turkey’s previous domestic law framework for asylum was the failure to commit to providing state-funded accommodation to asylum applicants. Under Turkey’s dispersal policy for asylum seekers through “satellite cities”, persons seeking international protection in Turkey are assigned to a province and expected to secure their own self-financed accommodation in the assigned province. Applicants are obliged to stay in their assigned province for the duration of their asylum proceedings in Turkey and after they have obtained protection.

The LFIP has introduced limited improvement in this respect and notably falls behind the EU standard. Article 95(1) LFIP clearly establishes that as a rule, international protection applicants and status holders shall secure their own accommodation by their own means. Neither the LFIP nor the Circular on International Protection indicate any plans to offer international protection applicants financial assistance to cover housing expenses.

²²¹ Article 110(5) LFIP Implementing Regulation.

²²² Both permanent and for first arrivals.

However, the DGMM is authorised to set up Reception and Accommodation Centres to be used to address “accommodation, nutrition, healthcare, social and other needs” of “international protection applicants and status holders”.²²³ The Reception and Accommodation Centres referred to in Article 95 LFIP should not be confused with the “temporary accommodation centres”, the large-scale camps in the south of Turkey that accommodate refugees from Syria subject to the temporary protection regime (see [Temporary Protection: Housing](#)).

To date there are only two such Reception and Accommodation Centre in operation in the provinces of **Yozgat** and **Tekirdağ** with a modest capacity of 150 places, while a third centre in **Konya**, a dormitory for persons with special needs,²²⁴ is under renovation, with a planned capacity of 76 places.²²⁵ These centres are envisioned as short-stay facilities, where persons apprehended and wishing to apply for international protection may be hosted for a couple of days before being directed to **Ankara** to register their application. In practice, these centres are mainly available to applicants with special needs such as victims of gender-based violence, torture or physical violence, single women, elderly and disabled people.

In previous years, there was an expectation that 6 new Reception and Accommodation Centres would become operational with a cumulative accommodation capacity of 2,250 beds. These 6 centres were built within the framework of an EU twinning project and 80% of the construction budget has been financed by the European Commission. The locations chosen for the centres were **Izmir**, **Kırklareli**, **Gaziantep**, **Erzurum**, **Kayseri** and **Van**.²²⁶ However, following the EU-Turkey Action Plan on Migration of 29 November 2015 and the EU-Turkey statement of 18 March 2016, all 6 centres have been re-purposed to serve as Removal Centres (see [Place of Detention](#)).

In crisis situations involving urgent cases, NGOs may be able to arrange accommodation in hotels for individual applicants with special needs within the remit of their capacities. For instance, the Turkish Red Crescent has a dormitory of 14 rooms with a capacity of 30 places, open especially to refugees facing emergencies.²²⁷

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? Yes No
2. What is the average length of stay of asylum seekers in the reception centres? Not available
3. Are unaccompanied children ever accommodated with adults in practice? Yes No

As elaborated in section on [Types of Accommodation](#), currently the only two Reception and Accommodation Centres in **Yozgat** and **Tekirdağ** and have a modest capacity of 150 places taken together. Little is known by civil society as regards the conditions in the centres in practice.

While the current capacity of Reception and Accommodation Centres is extremely limited as compared to the size of the international protection seeking population in Turkey, Article 95 LFIP and the Ministry of

²²³ Article 95(2) LFIP.

²²⁴ Information provided by ASAM, February 2018.

²²⁵ DGMM, *Removal centers*, available at: <http://bit.ly/2osejRh>.

²²⁶ European Commission, *Fiche: IPA decentralised National Programmes*, Project TR 07 12 17, available at: <http://bit.ly/1Jujtxl>.

²²⁷ Information provided by the Turkish Red Crescent, January 2018.

Interior Regulation on the Establishment of Reception and Accommodation Centres and Removal Centres, dated 22 April 2014, lay down the parameters for the future operation and organisational structure of these facilities.

“Persons with special needs” will have priority access to free accommodation and other reception services provided in these facilities.²²⁸

Reception services provided in the reception and accommodation centres may also be extended to international protection applicants and status holders residing outside the centres,²²⁹ although in practice because of the dispersal policy, only applicants registered and residing in the same province as the Centre would be able to access any such services.

DGMM Headquarters shall provide the standards for the various types of reception services that will be provided in the Centres, which are yet to be published.²³⁰ However Article 4 of the Regulation on Reception and Accommodation Centres provides that a list of 9 general principles must be observed in all functioning and provision in the Centres, including prioritisation of persons with special needs, best interest of the child, confidentiality of personal data, due notification of residents and detainees on the nature and consequences of all proceedings they undergo, respect for right to religious affiliations and worship and non-discrimination.

Currently, almost all international protection applicants are subject to private accommodation in their assigned provinces on their own resources. Access to housing remains deeply challenging due to a range of factors, including high rental prices and onerous advance payment requirements from owners. Rent prices are very high, resulting two or three families living together in one place to be able to afford rent. Deposits are not paid back when the tenancy contract comes to an end, As a result, a large number of applicants remain exposed to destitution and homelessness, or accommodation in substandard makeshift camps.

Another obstacle affecting applicants' accommodation stems from marginalisation from local communities or other refugee populations, due to which people are forced to live districts far from city centre, hospitals, education centres and public buildings. Although the types of challenges vary depending on the province and the profile of the applicant, the most common problem is finding a suitable place to live in highly conservative **central and eastern Anatolian** cities. For instance, for applicants of African origin this issue demands more efforts due to prevalent racism. In other provinces such as **Hatay**, Afghan asylum seekers live in an isolated community far away from the centre of Antakya, due to discrimination from both local and Syrian populations. In **Ankara**, however, they generally reside in the Altındağ neighbourhood together with Syrian refugees. In **Istanbul**, an increasing number of Afghans settle in Küçüksu and Yenimahalle.²³¹ In **Adana** and **Mersin** they mostly live in rural areas under precarious conditions with together with Syrians.²³²

On 29 November 2017, media reported the case of 96 persons from Afghanistan and Pakistan kidnapped and locked in a basement by smugglers in **Istanbul**, suffering torture and starvation for one month.²³³ An

²²⁸ Article 95(3) LFIP.

²²⁹ Article 95(4) LFIP.

²³⁰ Article 14 Regulation on Reception and Accommodation Centres and Removal Centres.

²³¹ Yiğit Seyhan, 'The evolution of Afghan migration in Istanbul', 17 December 2017, available at: <http://bit.ly/2tkCRjH>.

²³² Information provided by the Adana Bar Association, February 2018; Maya Association, February 2018.

²³³ T24, 'Pakistan ve Afganistanlı 96 mülteciye bodrum katında 'işkence': Her gün dövdüler, aç bıraktılar', 29 November 2017, available in Turkish at: <http://bit.ly/2tGEJn8>.

earlier incident involving three Iranian refugees held in a house for 37 days and tortured by smugglers was reported on 29 July 2017.²³⁴

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

- | | |
|--|---|
| 1. Does the law allow for access to the labour market for asylum seekers?
❖ If yes, when do asylum seekers have access the labour market? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6 months |
| 2. Does the law allow access to employment only following a labour market test? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Does the law only allow asylum seekers to work in specific sectors?
❖ If yes, specify which sectors: | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 5. Are there restrictions to accessing employment in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

The LFIP allows international protection applicants to apply for a work permit but does not guarantee their access to the labour market. Asylum seekers may apply for a work permit after 6 months following the lodging date of their international protection application.²³⁵

The principles and procedures governing the employment of applicants or international protection beneficiaries shall be determined by the Ministry of Labour and Social Security in consultation with the Ministry of Interior.²³⁶ On that basis, a Regulation on Work Permit of Applicants for International Protection and those Granted International Protection was adopted on 26 April 2016, confirming that applicants may apply to the Ministry of Labour and Social Security for a work permit through an electronic system (*E-Devlet*) after 6 months from the lodging of their application.²³⁷

Applicants must hold a valid identification document in order to apply,²³⁸ meaning that those applicants who do not hold an International Protection Identification Card – due to **Admissibility** grounds or the applicability of the **Accelerated Procedure** – are not permitted to apply for a work permit. In any event, it would be difficult for these categories of applicants to obtain a right to access the labour market given the general 6-month waiting period to apply for a work permit.

An exemption from the obligation to obtain a work permit is foreseen for the sectors of agriculture and livestock works. In these cases, however, the applicant must apply for an exemption before the relevant

²³⁴ Sözcü, 'Kadıköy'den korkunç haber: Dehşet dolu 37 gün!', 29 July 2017, available in Turkish at: <http://bit.ly/2DkOG9z>.

²³⁵ Article 89(4)(a) LFIP.

²³⁶ Article 89(4)(ç) LFIP.

²³⁷ Articles 6-7 Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

²³⁸ Article 6(1)-(2) Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

Provincial Directorate of Labour and Work.²³⁹ The Ministry of Labour and Social Security may introduce province limitations or quotas in these sectors.²⁴⁰

More generally, the Regulation entitles the Ministry to impose sectoral and geographical limitations to applicants' right to employment, without providing further detail as to the applicable grounds for such restrictions.²⁴¹ In addition, applicants cannot be paid less than the minimum wage.²⁴²

In practice, it currently takes authorities 1-2 months to process work permit applications.²⁴³ Nevertheless, the number of work permits issued to the main nationality groups of asylum seekers in 2015 and 2016 remains meagre; figures for 2017 are not available. The following table refers to work permits issued to Afghan, Iraqi and Somali nationals, not necessarily limited to applicants for international protection:

Work permits issued to Afghan, Iraqi and Somali nationals: 2015-2016		
	2015	2016
Afghanistan	305	444
Iraq	692	1,031
Somalia	0	0

Source: Ministry of Labour and Social Security, Work permit statistics: <http://bit.ly/2j04WVH>

Applicants for international protection continue to face widespread undeclared employment and labour exploitation in Turkey, similar to temporary protection beneficiaries (see [Temporary Protection: Access to the Labour Market](#)).

The Regulation also foresees the possibility for applicants to have access to vocational training schemes organised by the Turkish Job Agency (İŞKUR).²⁴⁴ In practice, Public Education Centres under provincial Governorates and İŞKUR offer vocational courses to asylum seekers in many localities.

2. Access to education

Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children? Yes No
2. Are children able to access education in practice? Yes No

International protection applicants and their family members shall have access to elementary and secondary education services in Turkey.²⁴⁵

Turkey is party to the United Nations Convention on the Rights of the Child since 1995. The right to education is also recognised by Article 42 of the Turkish Constitution, which provides that “no one shall

²³⁹ Article 9(1) Regulation on Work Permit for Applicants for and Beneficiaries of International Protection. Provisionally, however, these applications are lodged with the Ministry of Labour and Social Security: Provisional Article 1 Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

²⁴⁰ Article 9(2) Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

²⁴¹ Article 18(1) Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

²⁴² Article 17 Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

²⁴³ Refugees International, *I am only looking for my rights: Legal employment still inaccessible for refugees in Turkey*, December 2017, available at: <http://bit.ly/2ylz434>, 5.

²⁴⁴ Article 22 Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

²⁴⁵ Article 89(1) LFIP.

be deprived of the right of learning and education". Turkey's Law on Primary Education and Training ²⁴⁶ provides that primary education is compulsory for all girls and boys between the ages of 6-13 and must be available free of charge in public schools. Currently the 8-year compulsory primary education is divided into two stages of 4 years each. Parents or guardians are responsible for registering school-age children to schools in time. Furthermore, the Basic Law on National Education also explicitly guarantees non-discrimination in extension of education services to children, "regardless of language, race, gender, religion".²⁴⁷

In order for a parent to be able to register his or her child to a public school, the family must have already initiated their international protection application and issued International Protection Applicant Identification Cards, which also lists the Foreigners Identification Number (FIN) assigned by the General Directorate of Population Affairs to each family member. This FIN registry is a prerequisite for school authorities to be able to process the child's registration.²⁴⁸ However, the Ministry of National Education instructs public schools to facilitate the child's access to school even where the family has not yet completed their international protection registration process at the PDMM. Children need to attend school in the province to which the family has been assigned (see [Freedom of Movement](#)).

Asylum-seeking children can also have access to private schools, which are subject to tuition fees. Such schools exist in **Ankara** for Libyan and Iraqi children, for example.

Since the language of education is Turkish, language barriers present a practical obstacle for asylum seeker children. There is no nationwide provision of preparatory or catch up classes for asylum-seeking children who will start their education in Turkey or who did not attend school for some time due to various reasons. In practice, unaccompanied children who are accommodated in state shelters are offered Turkish language classes provided in the shelters before they are enrolled in schools. For other asylum seeker children, while in theory they have access to Turkish classes provided by public education centres or the municipalities in their assigned province, in practice such language classes attuned for asylum seeker children are not universally available around Turkey. Neither does the Turkish educational system offer adaptation or catch-up classes to foreign children whose previous education was based on a different curriculum. However, community centres operated by the Turkish Red Crescent (*Kızılay*) across the country, currently in 20 cities, also offer Turkish language classes and other services to applicants (see [Content of Temporary Protection](#)).

Where the child has previous educational experiences prior to arrival to Turkey, he/she will undergo an equivalence assessment by Provincial Education Directorate to determine what grade would be appropriate for him/her to enrol. Particularly in cases where the family does not have any documents demonstrating the child's previous schooling, the equivalence determination may prove complicated.

Finally, although public schools are free, auxiliary costs such as notebooks, stationary and school uniforms will present a financial burden on parents, who are already finding it very difficult to make ends meet in their assigned provinces.

Regarding asylum seeker children with special needs, the Ministry of National Education instructs that where a foreign student is identified to be in need of special education, necessary measure shall be taken

²⁴⁶ Law No 222 on Primary Education and Training.

²⁴⁷ Law No 1738 Basic Law on National Education.

²⁴⁸ The specifics of the registration procedure are governed by a 23 September 2014 dated Ministry of National Education Circular No: 2014/21 regarding the Provision of Education and Training Services to Foreign Nationals.

in accordance with the Regulation on Special Education Services, which governs the provision of education services to children with physical and mental disabilities.²⁴⁹

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
 Yes No
2. Do asylum seekers have adequate access to health care in practice?
 Yes Limited No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
 Yes Limited No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
 Yes Limited No

Turkey's general health insurance scheme makes it compulsory for all residents of Turkey to have some form of medical insurance coverage, whether public or private. For persons whose income earnings are below a certain threshold and are therefore unable to make premium payments to cover their own medical insurance, the scheme extends free of charge healthcare coverage.²⁵⁰

Article 89(3) LFIP provides that "international protection applicants and status holders who are not covered by any medical insurance scheme and do not have the financial means to afford medical services" shall be considered to be covered under Turkey's general health insurance scheme and as such have the right to access free of charge healthcare services provided by public healthcare service providers. For such persons, the health insurance premium payments shall be paid by DGMM.

The same provision also states that where DGMM at a later stage identifies that an applicant is partially or fully able to pay their own health insurance premiums, he or she may be asked to pay back in part of in full the premium amount paid for by DGMM to the general health insurance scheme.

Although these provisions indicate that international protection applicants shall be subject to a "means" assessment before DGMM agrees to assume the payment of their health insurance premiums, in current practice no such means determination is carried out by PDMM and all applicants are extended free health care coverage under the general health insurance scheme.

On the other hand, while Article 89(3) LFIP designates that DGMM shall make the premium payments on behalf of international protection applicants and status holders, in current practice, the Ministry of Family and Social Services makes the payments in the framework of an arrangement between the two agencies. Despite the fact that currently DGMM does not appear to implement any means assessment for the purpose of health care coverage decision on applicants, this is foreseen in the law (see [Criteria and Restrictions to Access Reception Conditions](#)).

Article 90(2) of LFIP registers that for applicants who fail to comply with the obligations listed in Article 90(1) or about whom a negative status decision was issued, the DGMM "may" proceed to a [Reduction](#) of rights and benefits, with the exception of education rights for minors and basic health care. Therefore, it is legally possible for DGMM to reduce or withdraw free health care coverage for an international protection applicant, either for failure to comply with administrative requirements or pursuant to a negative

²⁴⁹ *Ibid.*

²⁵⁰ Law No 5510 on Social Security and General Health Insurance lays down the scope and modalities of Turkey's general health insurance scheme.

international protection status decision. That said, in current practice NGOs, experts and service providers are not aware of any such case.

1. Scope of health care coverage

Under the Turkish health system, differentiation is made among primary, secondary and tertiary public health care institutions:

2. Health stations, health centres, maternal and infant care and family planning centres and tuberculosis dispensaries that exist in each district in each province are classified as primary healthcare institutions;
3. State hospitals are classified as secondary health care institutions;
4. Research and training hospitals and university hospitals are classified as tertiary health care institutions.

Persons covered under the general health insurance scheme are entitled to spontaneously access initial diagnosis, treatment and rehabilitation services at primary health care institutions. These providers also undertake screening and immunisation for communicable diseases, specialised services for infants, children and teenagers as well as maternal and reproductive health services.

General health insurance scheme beneficiaries are also entitled to spontaneously approach public hospitals and research and training hospitals in their province. Their access to medical attention and treatment in university hospitals, however, is on the basis of a referral, from a state hospital. In some cases, state hospitals may also refer a beneficiary to a private hospital, where appropriate treatment is not available in any of the public health care providers in the province. In such a case, the private hospital is compensated by the general health care insurance scheme and the beneficiary is not charged.

In principle, referrals to university hospitals and private hospitals are only made for emergency and intensive care services as well as burn injuries and cancer treatment. That said, in situations of medical emergency, persons concerned may also spontaneously approach university hospitals and private hospitals without a referral.

General health insurance scheme beneficiaries' access to secondary and tertiary healthcare services is conditional upon whether the health issue in question falls within the scope of the Ministry of Health's Health Implementation Directive (SUT).

For treatment of health issues which do not fall within the scope of the SUT or for treatment expenses related to health issues covered by the SUT, which however exceed the maximum financial compensation amounts allowed by the SUT, beneficiaries may be required to make an additional payment.

According to SUT, persons covered by the general health insurance scheme are expected to contribute 20% of the total amount of the prescribed medication costs. In addition, beneficiaries are expected to pay 3 TL per medication item up to three items, and 1 TL for each item in more than three items were prescribed.

If persons have a chronic disease such as diabetes, hypertension, or asthma that requires taking medicine regularly, in this case, they can approach a state hospital and ask them to issue a medication report. By submitting the medication report to the pharmacy, they can be exempted from the contribution fee.

People can also approach public health centres (*toplum sağlığı merkezi*) in their satellite city to benefit from primary health services free of charge.

According to Article 67(2) LFIP, applicants who are identified as “victims of torture, rape and other forms of psychological, physical or sexual violence” shall be provided appropriate treatment with a view to mending the damages caused by such past experiences. However, as to the actual implementation of this commitment, guidance merely mentions that DGMM authorities may cooperate with relevant public institutions, international organisations and NGOs for this purpose.²⁵¹ That said, the free health care coverage of international protection applicants would also extend to any mental health treatment needs of applicants arising from such past acts of persecution. In any case, free health care coverage under the general health insurance scheme also extends to mental health services provided by public health care institutions. Provincial Directorates of Family and Social Policies also offer psychological assistance, although interpreters are not available in all of them.

A number of NGOs also offer a range of psycho-social services in some locations around Turkey with limited capacity. ASAM, IKGV, Support to Life, the Turkish Red Crescent and International Blue Crescent are some of the NGOs providing psycho-social support in different cities across Turkey.

2. Practical constraints on access to health care

Under normal circumstances, international protection applicants can access the full range of health care services under the general health insurance scheme only at public health care service providers in their assigned province of residence.

He or she must be already registered with the PDMM and issued an International Protection Applicant Identification Card, which also lists the FIN assigned by the General Directorate of Population Affairs to each applicant. This FIN designation is a prerequisite for hospitals and other medical service providers to be able to intake and process an asylum seeker.

The language barrier is a key problem encountered by asylum seekers in seeking to access to health care services. A major practical obstacle for refugees is that hospitals in Turkey give appointments to patients over telephone. Since hospital appointment call centres do not serve prospective patients in any language other than Turkish, foreign nationals need the assistance of a Turkish speaker already at appointment stage.

There is no nationwide system for the provision of interpretation assistance to international protection applicants and status holders, although NGOs in some locations offer limited services to accompany particularly vulnerable asylum seekers to hospitals. Communication between patient and doctor is carried out either by a Turkish speaker accompanying the patient or by field officers of NGOs working with limited capacity.

Where an international protection applicant has a medical issue, for which no treatment is available in his or her assigned province of residence, he or she may request to be assigned to another province to be able to undergo treatment (see [Freedom of Movement](#)). Article 110(5) of the LFIP Implementing Regulation allows applicants to request to be assigned to another province for health reasons.

²⁵¹ Article 113(1) LFIP Implementing Regulation.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
 Yes No

The “persons with special needs” category includes “unaccompanied minors, handicapped persons, elderly, pregnant women, single parents with minor children, victims of torture, rape and other forms of psychological, physical or sexual violence”.²⁵²

In addition to the measures set out in [Identification](#), the LFIP makes a number of special provisions regarding the reception services to be extended to “persons with special needs” including unaccompanied children. However, overall, the additional reception measures prescribed by the existing legislative and administrative framework are far from sufficient.

Special needs of applicants for international protection can be identified during the registration of the application with UNHCR / ASAM. Where possible, ASAM takes into account any special needs of the individual when arranging the assignment to a “satellite city”.

1. Reception of unaccompanied children

When it comes to unaccompanied children, Article 66 LFIP orders that the principle of “best interests of the child” shall be observed in all decisions concerning unaccompanied minor applicants. While applicants below the age of 16 shall be placed in children’s shelters or other premises under the authority of the Ministry for Family and Social Services, applicants who are above 16 years of age may also be accommodated in dedicated quarters within Reception and Accommodation Centres. However, the placement of children aged between 16-18 in Ministry facilities remains problematic in parts of Turkey.

2. Reception of survivors of torture or violence

According to Article 67(2) LFIP, applicants who are identified as “victims of torture, rape and other forms of psychological, physical or sexual violence” shall be provided appropriate treatment with a view to mending the damages caused by such past experiences. However, as to the actual implementation of this commitment, guidance merely mentions that DGMM authorities may cooperate with relevant public institutions, international organisations and NGOs for this purpose (see [Health Care](#)).

Gender-based violence against refugee women persists as a risk. On 31 August 2016, two Ugandan sisters were raped and beaten, resulting in one sister’s death in **Istanbul**.²⁵³ In some cases, the history of gender-based violence of female applicants might be used against them by public authorities that possess their private data through personal interviews. Also, according to incidents reported from **Eskişehir** and **Denizli**, interpreters who are not generally under oath might leak these types of information within small networks in the satellite cities. It is widely known by NGOs working with women that there are rape and sexual harassment incidents committed by public officers or third parties against single women and victims of gender-based violence. They have also observed that gender-based violence is not adequately assessed by DGMM as a ground of persecution and there is a pressing need for a special reception centre for victims of gender-based violence in Turkey. Some NGOs, municipalities provide places for short stays in case of emergency (see also [Temporary Protection: Vulnerable Groups](#)).

²⁵² Article 3(1)(I) LFIP.

²⁵³ Evrensel, ‘Violet ve Beatrice için adalet çağrısı’, 5 December 2016, available in Turkish at: <http://bit.ly/2z3QdyB>.

3. Reception of LGBTI persons

LGBTI persons are not mentioned as a category of “persons with special needs” in the LFIP. Nevertheless, their particular situation has been taken into consideration in the process of assignment of a “satellite city” in the past.²⁵⁴ UNHCR / ASAM mainly referred LGBTI persons to provinces such as **Eskişehir**, **Yalova** and **Denizli**, where communities were known to be more open and sensitive to this population. Due to capacity shortages in these provinces, however, applicants have more recently been directed to more conservative provinces such as **Yozgat**, where they face greater risks of discrimination.²⁵⁵

In many provinces, LGBTI applicants face additional challenges to reception, particularly due to the lack of state-provided accommodation and the requirement to secure their own accommodation. Especially for persons who do not fit in the predominant gender roles, housing may become more difficult to find but also precarious, as many fear the risk of being evicted by landlords if their orientation or identity is discovered.²⁵⁶ ASAM states that they refer trans applicants to the Transgender House (*Trans evi*) in **Istanbul** for short stays where the applicant has specific needs.²⁵⁷

In addition, trans persons who start or are undergoing gender reassignment process may face obstacles in securing treatment due to hospitals’ limited familiarity with this field, as well as restricted financial capacity to afford hormones which are not covered by social security.²⁵⁸ In general, they consult the nearest research and training public hospitals with medical councils responsible for deciding on medico-legal processes. For instance, applicants from **Denizli** consult Dokuz Eylül Public Hospital in **Izmir** while those in **Eskişehir** consult Hacettepe Public Hospital in **Ankara**. The very first ruling on the legal recognition of an Iranian trans woman’s application dated 2016 was published on 25 January 2018 and allowed her to proceed to gender reassignment.²⁵⁹

4. Reception of persons living with HIV

People living with HIV are also not explicitly identified as a group having special needs in the LFIP. There are few NGOs dealing with the basic needs of this group such as Positive Life in **Istanbul** and ASAM in **Ankara**. ASAM currently follows up on 10 people’s health care processes. Unfortunately, the information on their situation has not been made visible in the field so far.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

Upon joint registration with UNHCR / ASAM in **Ankara**, applicants for international protection are informed of the province (“satellite city”) to which they are assigned and where they have to report to the PDMM in order to receive their International Protection Applicant Identification Document.

²⁵⁴ Information provided by ASAM, February 2018.

²⁵⁵ See e.g. Deutsche Welle, ‘Suriyelilerin İstanbul’a kaydı durduruldu’, 6 February 2018, available in Turkish at: <http://bit.ly/2sjHtWS>.

²⁵⁶ Kaos GL, *Waiting to be “safe and sound”: Turkey as an LGBTI refugees’ way station*, July 2016, 37-39.

²⁵⁷ Information provided by ASAM, March 2018.

²⁵⁸ Kaos GL, *Waiting to be “safe and sound”: Turkey as an LGBTI refugees’ way station*, July 2016, 39.

²⁵⁹ Second Instance Civil Court of Denizli, Decision 2018/19, 25 January 2018.

In addition, the [Help](#) platform established by UNHCR provides information on rights such as education, employment and health care in English, Turkish, Arabic and Farsi.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
- Yes With limitations No

As stated in [Types of Accommodation](#), the only Reception and Accommodation Centres currently in operation to shelter international protection applicants are in the provinces of **Yozgat** and **Tekirdağ** and have a modest capacity of 150 places taken together.

Since Reception and Accommodation Centres are defined as open centres, Article 95 LFIP does not make any specific provisions concerning residents' access to family members, legal advisers and UNHCR. In relation to NGOs' access to Reception and Accommodation Centres specifically, according to Article 95(8), NGOs' "visits" to these facilities will be subject to the permission of DGMM.

Finally, Article 92(3) LFIP guarantees UNHCR's access to all international protection applicants. This access provision must be interpreted to extend to applicants accommodated in Reception and Accommodation Centres.

G. Differential treatment of specific nationalities in reception

On the one hand, given the dual system operated by Turkey, which distinguishes international protection from temporary protection, different reception arrangements are laid down for applicants for international protection and persons under temporary protection. A small fraction (228,429) of the population of temporary protection beneficiaries from **Syria** subject is sheltered in Temporary Accommodation Centres, whereas the vast majority of applicants for international protection are expected to find their own accommodation in their assigned provinces. As such, it could be argued that refugees from Syria who benefit from temporary protection in practice have a relatively better chance of getting state-funded shelter in Turkey compared to asylum seekers from other countries.

On the other hand, some instances of differential treatment within the population of international protection applicants have been observed by stakeholders in the field. It appears that certain groups such as **Afghans** face greater discrimination from authorities compared to other groups such as **Iraqi Turkmens**, namely in relation to strict enforcement of sanctions for violating residence restrictions.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2017: ²⁶⁰	Not available
2. Number of asylum seekers in detention at the end of 2017:	Not available
3. Number of Removal Centres:	18
4. Total capacity of Removal Centres:	8,276

The LFIP provides for two types of administrative detention:

- ❖ Administrative detention for the purpose of removal;²⁶¹ and
- ❖ Administrative detention of international protection applicants during the processing of their applications.²⁶²

Currently, most international protection applicants are not detained. Established practice is such that regardless of whether a person entered Turkey regularly or irregularly, if he or she approaches UNHCR to express an asylum request before being apprehended for irregular presence, generally speaking he or she will not be detained during the processing of their international protection application.

Categories of international protection applicants most commonly detained are:

- Persons who make an international protection application in border premises;
- Persons who apply for international protection after being intercepted for irregular presence and being placed in a Removal Centre, including persons readmitted to Turkey from another country;
- Persons issued a security restriction code such as the widely used foreign terrorist fighter (“*Yabancı Terrorist Savascı*, YTS89”) code.

Security restriction codes are one of the most debated administrative practices of DGMM, which is not governed by clear, publicly available criteria. The implementation and regulation of these codes is not set out in the law but likely in internal circulars and instructions within the administration. Experts and lawyers also know little on the background of these codes, although some conclusions may be drawn from available case law.

By way of example, “Code 82” and “Code 87” are known as terrorism-related security codes. The “N99 code” refers to breach of reporting obligations, the “C114 code” to a one-year restriction on entering the country, and the “V97 code” to fraud-related offences.²⁶³

The “YTS89” code seems to be applied widely, with approximately 67,000 persons issued such a code in 2017. The assessment of risks, conducted by the Risk Analysis Department at airports,²⁶⁴ is made with reference to broad criteria and in practice may be based on the appearance or point of entry of the individual e.g. **Hatay** or **Gaziantep**.²⁶⁵

²⁶⁰ Including *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention.

²⁶¹ Article 57 LFIP.

²⁶² Article 68 LFIP.

²⁶³ Information provided by the Gaziantep Bar Association, March 2018.

²⁶⁴ Karar, ‘Risk analiz merkezi kapılarını KARAR’a açtı’, 28 April 2016, available in Turkish at: <https://bit.ly/2GaDXEO>.

²⁶⁵ Information provided by the International Refugee Rights Association, February 2018.

Administrative Courts have not taken a uniform approach to the scrutiny of these codes, with some rulings annulling the issuance of codes for want of evidence and others upholding them.²⁶⁶

Statistics on detention and deportation of migrants are not available, although figures recently made available by the Minister of Interior refer to 5,978 irregular migrants and foreign fighters deported in the course of 2017, while another 61,000 have been banned from entering Turkey.²⁶⁷ The Minister also referred to 900 foreign fighters detained in Removal Centres.²⁶⁸ In **Izmir**, specifically, the number of detained migrants has decreased to 18,883 in the first ten months of 2017, compared to an increase to 36,683 and 39,800 in 2015 and 2016 respectively.²⁶⁹

There are no statistics available on the total number of asylum seekers detained in Turkey or the number of persons applying from detention across the country either. During the first ten months of 2017, out of the 3,535 irregular migrants detained in the **Aydin** Removal Centre, only 65 applied for international protection.²⁷⁰

While Removal Centres (*Geri Gönderme Merkezi*) are essentially defined as facilities dedicated for administrative detention for the purpose of removal, in practice they are also used to detain international protection applicants (see [Place of Detention](#)). According to DGMM, as of February 2018, there were 18 active removal centres in Turkey with a total detention capacity of 8,276 places.

The LFIP does not make any explicit and specific provisions as to the handling of the international protection applications of detained applicants other than requiring that applications of detained applicants must be finalised “as quickly as possible”.²⁷¹

However, the provisions concerning the [Accelerated Procedure](#) on territory and at borders, in conjunction with the grounds for detention of international protection applicants, indicate that certain categories of applicants subject to the accelerated procedure on territory, and all applicants subject to the accelerated procedure at the border, will stand a very high likelihood of being detained while their international protection claim is processed.

²⁶⁶ Information provided by the Izmir Bar Association, March 2018.

²⁶⁷ Vatan, ‘Bakan Soylu: Türkiye’de 900 yabancı savaşçı var!’, 28 January 2018, available in Turkish at: <http://bit.ly/2CjGds>.

²⁶⁸ *Ibid.*

²⁶⁹ Grand National Assembly, *Izmir-Aydin Geri Gönderme Merkezleri İnceleme Raporu*, November 2017, available in Turkish at: <http://bit.ly/2FYBdXF>.

²⁷⁰ *Ibid.*

²⁷¹ Article 68(5) LFIP.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
 - ❖ on the territory: Yes No
 - ❖ at the border: Yes No
2. Are asylum seekers detained during a regular procedure in practice?
 Frequently Rarely Never

1.1. Detention of international protection applicants

The decision to detain an international protection applicant is issued by the governorate of the satellite city in which the applicant resides. That being said, administrative detention of international protection applicants must be an “exceptional measure”.²⁷² Persons “may not be detained for the sole reason of having submitted an international protection application.”²⁷³

Article 68(2) LFIP identifies 4 grounds that may justify detention of international protection applicants:

- (a) In case there is serious doubt as to the truthfulness of identity and nationality information submitted by the applicant for the purpose of verification of identity and nationality;
- (b) At border gates, for the purpose of preventing irregular entry;
- (c) Where it would not be possible to identify the main elements of the applicant’s international protection claim unless administrative detention is applied;
- (c) Where the applicant poses a serious danger to public order or public security.

Notably, “risk of absconding” is not listed in Article 68(2) LFIP as a justifiable ground for detaining international protection applicants.²⁷⁴

Furthermore, the wording in Article 68(2) is optional, meaning that the identification of one of the 4 justifiable grounds listed above does not create a duty on the part of authorities to impose administrative detention.

Article 68(3) LFIP requires a personal assessment as to the need to detain, and the consideration of less coercive [Alternatives to Detention](#) before an administrative detention decision is issued.

Administrative detention of international protection applicants may not exceed 30 days under any circumstances and “shall be ended at once” where the initial ground justifying detention no longer applies.²⁷⁵ The competent authority may end detention at a later time following the detention order and put in place less coercive alternative measures.²⁷⁶

In practice, there is no substantial information on detention being ordered under Article 68 LFIP for the purpose of the international protection procedure.

²⁷² Article 68(2) LFIP; Article 96(1) LFIP Implementing Regulation.

²⁷³ Article 68(1) LFIP.

²⁷⁴ Note, however, that it figures among the grounds for pre-removal detention under Article 57(2) LFIP.

²⁷⁵ Article 68(5) LFIP.

²⁷⁶ Article 68(6) LFIP.

1.2. Pre-removal detention

The LFIP Implementing Regulation provides that where a person makes an application for international protection while detained in a Removal Centre, he or she will remain in detention without being subject to a separate detention order for the purposes of the international protection procedure.²⁷⁷ This not only runs contrary to the LFIP, which provides that applicants for international protection are protected from deportation, but also raises the risk that grounds for detention under Article 68 LFIP will not be adequately assessed with a view to maintaining or releasing an applicant from pre-removal detention.

In practice, persons are usually released after their application for international protection has been registered.²⁷⁸ This can nevertheless entail a prolonged period of pre-removal detention due to the obstacles to the [Registration](#) of applications from Removal Centres.

In addition, applicants for international protection may be subjected to pre-removal detention if they fall within the scope of the exceptions to the principle of *non-refoulement* (see [Removal and Refoulement](#)).

The Constitutional Court has recently clarified in its *B.T.* judgment that a person can only be detained in a police station for a maximum of 48 hours before being transferred to a Removal Centre.²⁷⁹ Nevertheless, persons falling under the “YTS89” code are generally arrested and detained in police stations for a period of one to four days, pending their transfer to a Removal Centre.

1.3. Detention without legal basis

Beyond detention in the international protection procedure and pre-removal detention, a number of migrants and asylum seekers are arbitrarily detained without legal basis. Firstly, persons who are apprehended outside their designated province (“satellite city”) may be detained in order to be transferred thereto. It nevertheless appears that detention is imposed on applicants who violate residence restrictions with varying rigour, often depending on different factors such as the nationality of the individual. In 2016, the Council of Europe Special Representative for Migration and Refugees several applicants for international protection were detained in Removal Centres after being apprehended outside their designated province (see [Freedom of Movement](#)). Others, namely those readmitted from Greece under the EU-Turkey statement, have been detained in Removal Centres even though many sought to apply for international protection.²⁸⁰

In addition, persons arriving at international airports are also held under a regime of detention, even though this occurs *de facto*. Turkey does not consider holding in transit zones as a form of detention, on the basis that “at any time inadmissible passengers can leave holding areas to travel to a country where they would like to go.”²⁸¹ In practice, it is widely reported that applicants of the international protection are held in facilities at the airport. In conformity with the law, the duration of assessment of the applications in

²⁷⁷ Article 96(7) LFIP Implementing Regulation.

²⁷⁸ Information provided by ASAM, February 2018.

²⁷⁹ Constitutional Court, *B.T.*, Decision 2014/15769, 30 November 2017, available at: <https://bit.ly/2IWjuS0>. The applicant was an Uzbek national who tried to exit Turkey and enter Greece with a counterfeit passport. B.T. was detained in **Sabiha Gökçen Airport** in Istanbul for 6 days before being transferred to **Kumkapı Removal Centre**. There, he applied for international protection and after 44 days he was released and assigned to **Sinop**. See also Anadolu Agency, ‘AYM'den Özbekistan vatandaşı için hak ihlali kararı’, 16 February 2018, available in Turkish at: <https://bit.ly/2plzGhq>.

²⁸⁰ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para XI. 2.

²⁸¹ Council of Europe, *Response of the Turkish Government to the report of the CPT on its visit to Turkey from 16 to 23 June 2015*, CPT/Inf (2017) 33, 17 October 2017, available at: <http://bit.ly/2G8tjL7>, 3.

the accelerated procedure does not exceed 2-3 days.²⁸² However, even though this is not formally regarded as a form of detention, as stated in the recent judgment of the Constitutional Court in *B.T.*, any detention beyond 48 hours is unlawful and constitutes a violation of the right to liberty.

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law? Reporting duties
 Surrendering documents
 Financial guarantee
 Residence restrictions
 Other
2. Are alternatives to detention used in practice? Yes No

With regards to alternatives to detention, Article 68(3) LFIP:

- ❖ Instructs authorities “to consider whether free residence in an assigned province and regular reporting duty as per Article 71 LFIP will not constitute a sufficient measure”;
- ❖ Provides the PDMM discretion “to provide other alternative measures instead of detention”; and
- ❖ Instructs that an administrative detention decision shall only be issued where the above listed alternative measures are not deemed sufficient.

The residence and reporting obligations set out in Article 71 LFIP involve residence in a designated Reception and Accommodation Centre, a specific location or a province, and reporting to the authorities at designated intervals.²⁸³

While the LFIP Implementing Regulation does not provide additional clarity on alternatives to detention, it states that an applicant who is released from administrative detention may be required “to fulfil other obligations besides mandatory residence and notification obligation.”²⁸⁴ It remains unclear what obligations could be imposed in this regard and whether these constitute alternatives to detention. More importantly, however, the Regulation refers to such obligations *after* detention is lifted rather than before it is ordered.

Alternatives to detention are not applied in practice.²⁸⁵

It is observed from the field that applicants who are released after the expiry of the maximum duration of pre-removal detention are obliged to regularly report to the PDMM.²⁸⁶ This is a problematic development, insofar as the imposition of reporting obligations to the PDMM is introduced as an additional restriction when detention may no longer be applied, rather than an alternative to detention. Applicants are often ordered to report to PDMM in provinces located far from their assigned satellite cities within tight deadlines, without necessarily possessing the means to get there. NGOs are aware of such cases where clients have been obliged to discharge their reporting duties in a distant city, two, three or even five days a week, thereby entailing disproportionate transportation and accommodation costs for applicants.²⁸⁷

²⁸² Information provided by ASAM, March 2018.

²⁸³ Article 71(1) LFIP.

²⁸⁴ Article 96(5) LFIP Implementing Regulation. Article 68(6) LFIP only refers to the obligations in Article 71 LFIP where detention is lifted.

²⁸⁵ Information provided by Ankara Bar Association, January 2018; Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018.

²⁸⁶ Information provided by Mülteci-Der, December 2017.

²⁸⁷ Information provided by the International Refugee Rights Association, February 2018; Red Umbrella Sexual Health and Human Rights Association, February 2018.

A similar case before the Administrative Court of Gaziantep concerned a Yemeni national subject to an administrative decision on reporting obligation five days per week in a city other than his assigned city. The Court annulled the decision on the ground that “the application of this duty will cause irreversible damages for the applicant residing in Istanbul in terms of his family unity and financial burden.”²⁸⁸ In a similar case on the weekly reporting obligation in Kırklareli imposed on an Iraqi national residing in Ankara, the Magistrates’ Court of Kırklareli found that reporting duties cannot be imposed in a city other than the place of residence of the applicant.²⁸⁹

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?

<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
-------------------------------------	--	--------------------------------
- ❖ If frequently or rarely, are they only detained in border/transit zones?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--
2. Are asylum seeking children in families detained in practice?

<input checked="" type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input type="checkbox"/> Never
--	---------------------------------	--------------------------------

Unaccompanied children international protection applicants should be categorically excluded from detention, since they must be placed in appropriate accommodation facilities under the authority of the Ministry for Family and Social Services.²⁹⁰

In 2017, practice improved in relation to unaccompanied children facing deportation proceedings. Such children are no longer detained in Removal Centres but are transferred to facilities of the Ministry for Family and Social Services.²⁹¹ However, concerns remain regarding the number of children – usually beggars or street vendors – arbitrarily detained in police stations.²⁹²

Families with children are generally detained, on the other hand. In 2017, “YTS89” codes, corresponding to “foreign terrorist fighters”, have been issued to infants detained with their families in **Izmir** (Harmandalı), thereby illustrating a lack of individualised assessment prior to ordering detention. The Izmir Bar Association and members of the Grand National Assembly have expressed concerns about this practice, all the more so since the coding system applied by the authorities has no legal basis.²⁹³ This practice has stopped at the time of writing.

Moreover, sex workers and (potential) victims of trafficking are also a category of persons detained in Removal Centres, though not necessarily engaging with the international protection procedure. Women from countries such as Russia, Azerbaijan, Kazakhstan and Kyrgyzstan are often held in Removal Centres of **Edirne**, **Izmir** (Harmandalı) and **Aydın**. In one judgment, the 2nd Magistrates’ Court **Aydın** upheld the detention order on grounds of “public security” issued to 8 foreign women who were informally working in a night club.²⁹⁴

²⁸⁸ Administrative Court of Gaziantep, Case No 2017/1302, 9 October 2017.

²⁸⁹ Magistrates’ Court of Kırklareli, Decision 2017/455, 28 February 2017.

²⁹⁰ Article 66(1)(b) LFIP.

²⁹¹ Information provided by Mülteci-Der, December 2017.

²⁹² *Ibid.*

²⁹³ Gazete Karınca, ‘İzmir’deki Geri Gönderme Merkezi’nde bebeklere “Yabancı Terörist Savaşçı” kodu verildi’, 2 December 2017, available in Turkish at: <http://bit.ly/2DHILNM>; Bianet, ‘HDP’li Kürkçü Sordu: Bebekleri ‘Terörist’ Olarak Kodluyor Musunuz?’, 12 December 2017, available in Turkish at: <http://bit.ly/2BNNPB3>.

²⁹⁴ 2nd Magistrates’ Court of Aydın, Decision of 6 April 2017.

4. Duration of detention

Indicators: Duration of Detention

1. What is the maximum detention period set in the law:	
❖ Detention in the international protection procedure	30 days
❖ Pre-removal detention	12 months
2. In practice, how long in average are asylum seekers detained?	Not available

Administrative detention of international protection applicants during the processing of their claim is permitted for up to 30 days.²⁹⁵ Pre-removal detention, on the other hand, may be ordered for 6 months, subject to the possibility of extension for another 6 months.²⁹⁶

In current practice, one notable problem concerns persons who were already in detention for the purpose of removal and subject to deportation proceedings by the time they made an application for international protection. Once they make an application for international protection, the earlier deportation decision and the associated deportation decision for the purpose of removal will no longer be justified, since international protection applicants are protected from deportation. If the authorities decide to keep the applicant in detention during the processing of the international protection claim in accordance with Article 68 LFIP, an Article 68 decision should be taken accordingly and communicated to the applicant. Nevertheless, the LFIP Implementing Regulation provides that such a separate detention decision is not necessary, thereby enabling the authorities to keep applicants for international protection in administrative detention for the purpose of removal.²⁹⁷

In current practice, it appears that this approach is followed. Provincial authorities fail to issue an Article 68 decision at all in these situations and assume that the previous Article 57 (pre-removal) decision is still valid as the basis of the person's deprivation of liberty. By the same token, provincial authorities fail to observe the very different procedural safeguards required by Article 68 and most notably within that the maximum time limit of 30 days.

Lawyers and other experts are aware of several such cases where the persons concerned were never communicated Article 68 detention orders and held in detention for more than 30 days while their asylum application was processed by DGMM. The provision of the Implementing Regulation and practice are clearly in violation of the requirement of the LFIP.

In practice, average detention periods may vary among different nationalities,²⁹⁸ or from one centre to another.

²⁹⁵ Article 68(5) LFIP.

²⁹⁶ Article 57(3) LFIP.

²⁹⁷ Article 96(7) LFIP Implementing Regulation.

²⁹⁸ Information provided by Mülteci-Der, December 2017.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? Yes No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? Yes No

The LFIP clearly differentiates between administrative detention in removal proceedings and administrative detention in international protection procedure, which are governed by Articles 57 and 68 respectively. In practice, however, detained applicants for international protection are held in Removal Centres.

1.1. Removal Centres

According to DGMM, as of February 2018, there were 18 active removal centres in Turkey with a total detention capacity of 8,276 places. A number of these centres – **Izmir** (Harmandalı), **Kırklareli**, **Gaziantep**, **Erzurum**, **Kayseri** and **Van** (Kurubaş) – were initially established as Reception and Accommodation Centres for applicants for international protection under EU funding, prior to being repurposed as Removal Centres (see [Types of Accommodation](#)):

The locations and capacities of these centres were listed as follows:

Capacity of pre-removal detention centres in Turkey	
Pre-removal detention centre	Detention capacity
<i>Existing centres</i>	
Adana	80
Antalya	170
Aydın	564
Çanakkale	400
Edirne	500
Erzurum 1	750
Erzurum 2	750
Gaziantep	750
Hatay	192
Istanbul (Silivri)	270
Istanbul (Binkılıç)	120
Izmir (Harmandalı)	750
Kayseri	750
Kırklareli (Pehlivan köyü)	750
Kocaeli	250
Muğla	88
Van	392
Van (Kurubaş)	750
Total existing	8,276
<i>Planned centres</i>	
Çankırı	750
Balıkesir	200

Adana	400
Malatya	400
Kütahya	400
Niğde	400
Şanlıurfa	600
Ağrı	400
Kocaeli	250
Istanbul (Container)	1,200
Istanbul (3 rd Airport)	700
Malatya	250
Ankara	500
Hatay	400
Bayburt	150
Tekirdağ	400
Total planned	7,400
Grand total	15,536

Source: DGMM, Removal centers: <http://bit.ly/2osejRh>.

Despite an existing number of 8,276 detention places, Removal Centres face capacity issues at the moment.²⁹⁹ Another 16 Removal Centres are being planned, totalling a capacity of 7,400 detention places. Therefore upon completion of these facilities the overall pre-removal detention capacity in Turkey would reach 15,536 places.

According to the observations of lawyers, it seems that different categories of persons are detained in different Removal Centres. For example, **Edirne** mainly accommodates irregular migrants intercepted while attempting to leave Turkey, while **Hatay**, **Erzurum** and **Gaziantep** accommodate persons identified as foreign terrorist fighters (“YTS89”).

Previously operating Removal Centres such as **Istanbul** (Kumkapı), **Ankara** and **Izmir** (Isikkent) have now been closed.

1.2. Border premises

There is one border facility for persons refused entry into Turkey at **Istanbul Atatürk Airport**. The authorities generally do not consider holding in transit zones as deprivation of liberty, although a Council of Europe report of 2016 refers to them acknowledging that persons held in such facilities are deprived of their liberty.³⁰⁰ Also, it is reported that there is one facility in Ankara **Esenboğa Airport** where mostly Iraqis flying directly from Bagdad to Ankara are held.³⁰¹

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice? Yes No
 ❖ If yes, is it limited to emergency health care? Yes No

All Removal Centres in Turkey are under the authority of DGMM.

²⁹⁹ Information provided by ASAM, February 2018; EU Delegation to Turkey, February 2018.

³⁰⁰ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para IX.1(a).

³⁰¹ Information provided by ASAM, March 2018.

The LFIP makes no explicit provision on conditions of detention of applicants for international protection. However, Article 4 of the Regulation on Accommodation Centres and Removal Centres provides that “The establishment, operation and operation of the Centres and the fulfilment of the services to be provided under this Regulation shall be carried out according to the following principles and procedures:

1. Protection of the right to life;
2. Human-centred approach;
3. Observing the best interests of the unaccompanied child;
4. Priority to applicants having special needs;
5. Confidentiality of personal information;
6. Informing the persons concerned about the operations to be performed;
7. Social and psychological strengthening of the housing;
8. Respect for the freedom of beliefs and worship of the people
9. Providing services to the residents without discrimination based on language, race, colour, sex, political thought, philosophical belief, religion, sect and similar reasons.”

In 2017, DGMM instructed all the mayoralities managing a Removal Centre to set up dedicated commissions comprising of experts, academics, civil society, officials from health and education institutions and municipality representatives, tasked with regular visits to the centres. The composition of the commission depends entirely on each mayoralty: for example, ASAM is a member of the commission in **Izmir**, whereas another NGO participates in the commissions of **Kayseri** and **Hatay**. Generally, however, the Turkish Red Crescent is present in these commissions.³⁰²

2.1. Material conditions in detention

Conditions in Removal Centres vary from one facility to another, although UNHCR considers the facilities to be in good condition overall.³⁰³ According to monitoring by Council of Europe bodies in 2015 and 2016, material conditions and the state of repair were overall satisfactory in **Aydın**, **Edirne**, **Izmir** (Harmandalı), **Tekirdağ**, **Van** and **Kırklareli** (Pehlivan köyü), the latter hosting persons readmitted from Greece throughout 2016.³⁰⁴ Nevertheless, hygiene issues and overcrowding were identified in Edirne and Van.³⁰⁵ Conditions are also reported to be adequate in **Çanakkale** currently.³⁰⁶

Previously operating Removal Centres such as **Istanbul** (Kumkapı) in Istanbul have been criticised for hosting migrants under particularly dire conditions.³⁰⁷ A series of judgments from the Constitutional Court against detention in Istanbul (Kumkapı) have brought about significant improvements in detention conditions in Turkey.³⁰⁸

³⁰² Information provided by ASAM, February 2018.

³⁰³ Information provided by UNHCR, February 2018.

³⁰⁴ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para IX.1(b)-(e); CPT, *Report of the visit to Turkey from 16 to 23 June 2015*, 17 October 2017, available at: <http://bit.ly/2zbXQWQ>, paras 19-20.

³⁰⁵ *Ibid.* See also Göçmen Dayanışma Ağı, ‘About the Kumkapı migrant riot’, 20 November 2016, available at: <http://bit.ly/2oVewib>.

³⁰⁶ Information provided by the Ankara Bar Association, February 2018.

³⁰⁷ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para IX.1(b)-(e); CPT, *Report of the visit to Turkey from 16 to 23 June 2015*, 17 October 2017, paras 19-20.

³⁰⁸ Constitutional Court, *F.A. and M.A.*, Application No 2013/655, Judgment of 20 January 2016; *A.V.*, Application No 2013/1649, Judgment of 20 January 2016; *T.T.*, Application No 2013/8810, Judgment of 18 February 2016; *A.S.*, Application No 2014/2841, Judgment of 9 June 2016; *I.S.*, Application No 2014/15824, Judgment of 22 September 2016.

However, lawyers have received reports of substandard conditions in **Hatay**, where persons have no access to shower or hot water, and only have 40 minutes of outdoor access.³⁰⁹ Incidents of violence, handcuffing and pressure to apply for “voluntary return” from guards have also been reported in Hatay.³¹⁰ Similar complaints were reported from applicants or foreigners released from **Gaziantep**. These especially referred to ill-treatment against persons with a “YTS89” code, including barriers to their access to water and hygiene.³¹¹ According to lawyers, poor detention conditions in Removal Centres are likely to be used as a tool to pressure migrants into opting for voluntary return.

Recently, media raised concerns about food safety in Removal Centres after 100 people were poisoned from food provided in **Kayseri**.³¹²

As regards border premises, the holding facility at **Istanbul Atatürk Airport** has two units, one for persons who have not made applications for international protection or whose claims are deemed inadmissible, and one for persons who have made an admissible claim for international protection.³¹³ While the former unit has systematically been the subject of critique by international bodies,³¹⁴ the latter unit was inaugurated on 20 April 2016 and has two dormitories – one for men and one for women – and a room for families and vulnerable persons, as well as a cafeteria. However, both units have no access to natural light or outdoor space.³¹⁵ It should be noted that neither lawyers in Istanbul nor UNHCR were aware of the existence of a second facility at the airport. Another facility exists in **Esenboğa Airport** in Ankara. The facility’s conditions are limited but better than conditions of Atatürk Airport. People have access to internet and phone, water and food during their stay in the airport.³¹⁶

2.2. Health care and activities

The LFIP does not make any specific provisions for detained international protection applicants with regards to access to health care and education. On the other hand, Article 14 of the Regulation on Accommodation Centres and Removal Centres guarantees this right.

Residents and detainees in both types of centres shall be provided “urgent and basic healthcare services which cannot be afforded by the person concerned”.³¹⁷ Also, access to psycho-social support service is possible.³¹⁸

In **Izmir** (Harmandalı), a recent monitoring visit of the Human Rights Commission of the Grand National Assembly of Turkey noted that there is one psychologist, 2 social workers present in the centre, as well as 4 health staff. A doctor is available on week days and one health staff member is available permanently, while a paediatrician visits twice a week.³¹⁹ A social worker and the psychologist are present

³⁰⁹ Information provided by the Izmir Bar Association, February 2018.

³¹⁰ See e.g. Dev Haber, ‘Antep Geri Gönderme Merkezin’de mülteciler ters kelepçeleniyor’, 25 December 2017, available in Turkish at: <http://bit.ly/2ETCOWC>.

³¹¹ Information provided by the Gaziantep Bar Association, March 2018.

³¹² Deniz Postası, ‘ŞOK! ŞOK! ŞOK! Geri Gönderim Merkezi’nde yüzlerce yabancı şahıs zehirlendi!’, 21 February 2018, available in Turkish at: <https://bit.ly/2I7p6r1>.

³¹³ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para IX.1(a).

³¹⁴ See e.g. CPT, *Report of the visit to Turkey from 16 to 23 June 2015*, 17 October 2017, paras 36-39.

³¹⁵ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para IX.1(a).

³¹⁶ Information provided by ASAM, March 2018.

³¹⁷ Article 14(1) Regulation on Reception and Accommodation Centres and Removal Centres.

³¹⁸ Article 14(2) Regulation on Reception and Accommodation Centres and Removal Centres.

³¹⁹ Grand National Assembly, *Izmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017, available in Turkish at: <http://bit.ly/2n38uZJ>.

during the processing of applications for international protection.³²⁰ **Aydın**, on the other hand, only has one staff member responsible for health care.³²¹

Izmir (Harmandalı) is equipped with a gym, a library, two spaces for religious practice, two playgrounds, television and internet stations, as well as a tailor and a hairdresser.³²²

In relation to the identification of vulnerabilities, DGMM and ASAM have signed a protocol on the identification of persons with special needs.³²³

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to:

- | | | | |
|-------------------|---|---|--|
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input checked="" type="checkbox"/> No |
| ❖ UNHCR: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |

Under Article 68(8) LFIP, detained applicants for international protection will be provided opportunities to meet with their legal representatives, UNHCR officials and notaries. The provision, however, fails to make explicit reference to the right of detained applicants to meet with NGO representatives. It is considered that this deliberate absence is meant to limit or deny detained applicants' access to NGO legal counsellors, which must be seen as an arbitrary reduction of the safeguard in Article 68 LFIP.

Detained applicants may also receive visitors.³²⁴ In this regard, all visits will be subject to permission. Visits to detained applicants at border premises are subject to permission from the Vice-Governor's Office in charge of the border gate. Visits to detained applicants on territory are subject to the permission of the DGMM official in charge of the facility. Request for visiting a detained applicant may be turned down where the "applicant's condition and the general circumstances are not suitable". This extremely vague formulation raises concerns that arbitrary restrictions may be imposed on visitors' access to the centres.

Detention authorities shall determine the duration of the approved meetings and visits. On the other hand, they are required to take measures to ensure confidentiality of the encounters.

3.1. Access of lawyers to Removal Centres

Regarding visits by lawyers, UNHCR and notaries, detention authorities should "present the opportunity" for such meetings to take place, but they will be subject to permission by the detention authority. In practice, however, access of these actors to detention places seems to vary from one Removal Centre to another.

According to an unpublished DGMM Circular of 17 December 2015, lawyers are only granted access to Removal Centres on the basis of written requests, and can only request a copy of documents deemed not

³²⁰ Information provided by Mülteci-Der, December 2017.

³²¹ Grand National Assembly, *İzmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017.

³²² Grand National Assembly, *İzmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017.

³²³ Information provided by ASAM, February 2018.

³²⁴ Article 68(8) LFIP.

to be confidential, provided they have a power of attorney.³²⁵ In practice, lawyers report difficult and arbitrary access to Removal Centres.³²⁶

Lawyers' access to detainees in **Izmir** (Harmandalı) is described by stakeholders as very problematic. Persons in detention have no access to a phone.³²⁷ According to the Commission on Migration and Refugees of the Izmir Bar Association, lawyers also have to correctly state the exact details of the detainee they are representing, as any error thereon leads to refusal of access to the Removal Centre.³²⁸ Lawyers are also subjected to long delays and security checks including arbitrary bodily searches before being able to interview clients.³²⁹ They were also systematically asked whether their clients have a "YTS89" code, in which case checks are more thorough, although this practice has changed in recent months.³³⁰ More generally, there have been allegations that detainees have not been allowed to meet with lawyers even where lawyers request to access them by name.³³¹

In **Izmir** (Harmandalı), the Grand National Assembly reported 423 visits by lawyers benefitting around 2,000 detainees out of the 17,848 irregular migrants detained in the centre during the first ten months of 2017.³³² In **Aydın**, on the other hand, where a total 3,535 irregular migrants were detained from January to October 2017. 145 visits by lawyers were recorded during that period.³³³

Serious barriers to access to Removal Centres are also reported in **Hatay**, **Adana** and **Mersin**. Lawyers are required to provide the full details of their client in the written request form, together with the power of attorney. The waiting period for obtaining access may range from one week to one month.³³⁴ Access is also severely restricted in **Erzurum**, where most detainees are persons under a "YTS89" code.³³⁵

Lawyers entering Removal Centres such as **Izmir** (Harmandalı), **Hatay**, **Adana** or **Mersin** are not able to see the actual conditions in the facilities, as they are only allowed to see their clients in highly secured meeting rooms equipped with cameras.³³⁶ In some centres the meeting room doors are open, thereby not guaranteeing confidentiality.

³²⁵ According to UNHCR, this procedure is established with a view to ensuring that persons accessing the centres are accredited lawyers and does not constitute a violation of the right to a lawyer: Information provided by UNHCR, February 2018.

³²⁶ DGMM Circular No 31386081-000-36499 of 17 December 2015 "Avukatların Ggm'lerdeki Yabancılarla Görüşme Talebi".

³²⁷ Information provided by UNHCR, February 2018.

³²⁸ Izmir Bar Association, *Izmir Geri Gönderme Merkezlerinde Adalet Erişim Hakkı Çerçevesinde Yaşanan Sorunlar Raporu*, July 2017, available in Turkish at: <http://bit.ly/2Dyc87X>, 8-9.

³²⁹ Information provided by the Izmir Bar Association, January 2018; Mülteci-Der, December 2017. See also Human Rights Association, 'Izmir Harmandalı Geri Gönderme Merkezi Hakkında Gözlem Raporu', 9 July 2017, available in Turkish at: <http://bit.ly/2G7ZGtq>.

³³⁰ Information provided by the Izmir Bar Association, January and March 2018.

³³¹ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para IV.2.

³³² Grand National Assembly, *Izmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017, 9. In addition, there were also 1,002 "transferred migrants" and 617 migrants violating work and residence permit conditions.

³³³ Grand National Assembly, *Izmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017, 20.

³³⁴ Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018. See also Grand National Assembly, *Izmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017.

³³⁵ Information provided by the International Refugee Rights Association, February 2018.

³³⁶ Grand National Assembly, *Izmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017, 20.

On the other hand, with regard to the **Çanakkale** Removal Centre which mainly accommodates Iraqi Turks, lawyers do not undergo special security checks and clients have the right to one phone call per day.³³⁷

3.2. Access of UNHCR and NGOs to Removal Centres

UNHCR does not have unhindered access to Removal Centres but has developed a modality with DGMM under Standard Operating Procedures jointly developed in May 2016, whereby access is authorised on an individual basis. So far UNHCR has been granted access to all Removal Centres. The same system is also in place for access to the **Istanbul Atatürk Airport** transit zone. Other than such regular visits, UNHCR communicates DGMM its requests for interviewing international protection applicants if the person has an application pending with UNHCR.³³⁸

Under this arrangement, UNHCR / ASAM therefore have to request and obtain access to a Removal Centre before being able to meet an applicant for international protection for the purpose of **Registration** of an application.

NGOs have no established protocols with DGMM for access to Removal Centres.³³⁹

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention? Yes No
2. If yes, at what interval is the detention order reviewed?

The decision to detain an international protection applicant during the processing of his or her claim must be communicated in writing.³⁴⁰ The notification letter must provide the reasons justifying detention and the length of detention. The applicant must also be notified of the legal consequences of the detention decision and available appeal procedure. However, the LFIP does not impose a requirement to provide this information in writing.

In practice, due to limited familiarity with the rights of lawyers on the part of Removal Centres' staff, applicants and their legal representatives rarely receive a copy of the removal decision and/or the detention order so as to know when the time limit for appeal starts running,³⁴¹ or receive documents without official signatures and seals. In other cases, lawyers are prevented from examining the case files of their clients. In **Hatay** and **Adana**, access to those documents is only possible after an appeal has been filed and the PDMM has been requested to submit the documents before the court.³⁴² Lawyers understand this as a measure to prevent them from quickly intervening in detention cases.

³³⁷ Information provided by the Ankara Bar Association, February 2018; UNHCR, February 2018.

³³⁸ Information provided by UNHCR, February 2018.

³³⁹ Information provided by ASAM, February 2018.

³⁴⁰ Article 68(4) LFIP.

³⁴¹ Information provided by the Izmir Bar Association, March 2018. This has been acknowledged as relevant to procedural obligations of the authorities: Administrative Court of Izmir, 6th Chamber, Decision 2017/511-5711, 6 April 2017.

³⁴² Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018.

UNHCR has also reported that access to information, including written information, and to interpretation services are among the areas where they are providing support to DGMM.³⁴³

While there is no requirement of automatic periodic review of the detention decision by either the judiciary or the detention authority itself in relation to detention in the international protection procedure,³⁴⁴ pre-removal detention must be reviewed by the governorate on a monthly basis.³⁴⁵

The decision to detain can be challenged at the competent Magistrates' Court through a non-suspensive appeal.³⁴⁶ The law does not set out a time limit for appealing detention, whereas the deadline to appeal a removal decision is 15 days.³⁴⁷ In practice, Magistrates' Courts in **Hatay** and **Adana** do not interpret these requirements strictly and have accepted appeals lodged after the lapse of the 15-day time limit.³⁴⁸

Article 101 LFIP authorises Turkey's High Council of Judges and Prosecutors to determine which Magistrates' Court chamber in any given local jurisdiction shall be responsible for appeals against detention decisions within the scope of LFIP. In November 2015, the Council passed a decision to designate the 2nd Chamber of each Magistrates' Court responsible for appeals against administrative detention decisions within the scope of LFIP. Thereby, there is an implicit intention to for one designated chamber in each local jurisdiction to specialise in matters of LFIP. That said, these competent chambers will continue to deal with all types of caseloads and will not exclusively serve as asylum and immigration appeal bodies.

The competent Magistrates' Court judge must decide on the judicial review application within 5 days. The decision of the Magistrates' Court is final; it cannot be appealed by either side before a higher court of law. However, there are no limitations on new appeals by the applicant to challenge his or her ongoing detention.³⁴⁹

Limited available statistics on appeals against detention for the Removal Centres of **Izmir** (Harmandalı) and **Aydın** for January to October 2017 suggest limited prospects of successfully challenging a detention order:

Appeals against detention by Removal Centre: 1 January – 31 October 2017		
	Izmir (Harmandalı)	Aydın
Accepted	17	3
Rejected	122	117
Pending	5	5
Total appeals	144	125

Source: Grand National Assembly, *Izmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017.

These figures are corroborated by the experience of lawyers in **Izmir**.³⁵⁰ In the **Hatay**, **Adana** and **Erzurum** Removal Centres, most appeals against detention are also rejected.³⁵¹ One of the rare positive

³⁴³ Information provided by UNHCR, February 2018.

³⁴⁴ Article 68(6) LFIP only states that detention may be lifted at any point.

³⁴⁵ Article 57(3) LFIP.

³⁴⁶ Article 68(7) LFIP; Article 96(6) LFIP Implementing Regulation.

³⁴⁷ Article 53(3) LFIP.

³⁴⁸ Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018.

³⁴⁹ Article 68(7) LFIP; Article 96(6) LFIP Implementing Regulation.

³⁵⁰ Information provided by the Izmir Bar Association, March 2018.

³⁵¹ Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018; International Refugee Rights Association, February 2018.

decisions in this area was issued by the Magistrates' Court of **Kirklareli** on the application of Rida Boudraa, the first applicant who obtained an interim measure from the Constitutional Court. The lawyer of the applicant appealed again against the administrative detention decision after the issuance of the judgment of the Constitutional Court and the Magistrates' Court accepted the application on the ground that "the applicant has a legal domicile and family life in Turkey and there is no risk of fleeing the country."³⁵²

One crucial gap in the LFIP provisions on detention concerns remedies against detention conditions.³⁵³ On 11 November 2015, the Constitutional Court ruled in the *K.A.* case that the mechanisms set out in LFIP "failed to foresee any specific administrative or judicial remedy which sets the standards of detention conditions and includes monitoring and review of the conditions" so as to ensure review of compatibility with relevant standards.³⁵⁴ The Court has reiterated this position in several cases in 2016,³⁵⁵ which – similar to *K.A.* – concerned detention conditions in the former Removal Centre of **Istanbul** (Kumkapı).

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
 Yes No
2. Do asylum seekers have effective access to free legal assistance in practice?
 Yes No

Detained international protection applicants must be given opportunity to meet with legal representatives, notary and UNHCR officials, if they wish so.³⁵⁶ At the same time, all international protection applicants and status holders have a right to be represented by an attorney in regards to "all acts and decisions within the scope of the International Protection section of the LFIP", under the condition that they pay for the lawyer's fees themselves.³⁵⁷

Persons who do not have the financial means to pay a lawyer are to be referred to the state-funded Legal Aid Scheme in connection with "judicial appeals" pertaining to any acts and decisions within the international protection procedure.³⁵⁸

However, the functioning of the Legal Aid Scheme in Turkey requires the applicant to approach the bar association to make a formal request for legal aid. It remains very difficult for a detained asylum seeker to access the legal aid mechanism by him or herself, especially since the authorities do not provide information on the right to legal assistance in a language understood by the individual.³⁵⁹ In most cases, either an NGO or UNHCR will alert the bar association and seek to ensure the appointment of a legal aid lawyer to the person. Lawyers appointed by Bar Associations have ties and work with NGOs in individual

³⁵² Magistrates' Court of Kirklareli, Decision 2016/2732, 24 October 2016.

³⁵³ For a discussion, see Refugee Rights Turkey, *A pressing need: The lack of legal remedy in challenging material conditions of foreigners under administrative detention in Turkey*, January 2017.

³⁵⁴ Constitutional Court, *K.A.*, Application No 2014/13044, Judgment of 11 November 2015. The Constitutional Court referred to Article 17 of the Turkish Constitution, which corresponds to Articles 3 and 13 ECHR.

³⁵⁵ Constitutional Court, *F.A. and M.A.*, Application No 2013/655, Judgment of 20 January 2016; *A.V.*, Application No 2013/1649, Judgment of 20 January 2016; *T.T.*, Application No 2013/8810, Judgment of 18 February 2016; *A.S.*, Application No 2014/2841, Judgment of 9 June 2016; *I.S.*, Application No 2014/15824, Judgment of 22 September 2016.

³⁵⁶ Article 68(8) LFIP.

³⁵⁷ Article 81(1) LFIP.

³⁵⁸ Article 81(2) LFIP.

³⁵⁹ Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018.

cases. However, it is observed from the field that no NGO has direct access to Removal Centres for the purpose of providing legal assistance. This is even impossible in practice if the applicant is classified as a foreign terrorist fighter.³⁶⁰

The requirement of a notarised power of attorney poses an additional constraint (see [Regular Procedure: Legal Assistance](#)). Since detained asylum seekers are not issued a Registration Document before they have had the possibility to register with UNHCR / ASAM in **Ankara**, it is impossible for them to notarise a power of attorney.³⁶¹ Nevertheless, the Administrative Court of Ankara has held that access to legal counselling is a basic human right and should be granted to refugees without the requirement of a power of attorney.³⁶²

Moreover, when a lawyer is appointed by a bar association to represent a person under the Legal Aid Scheme, the official appointment letter can serve as a temporary substitute in place of a notarised power of attorney. In practice, courts in some provinces such as **Izmir** and **Ankara** have started accepting representation of detained applicants under legal aid without power of attorney as of 2017.³⁶³

E. Differential treatment of specific nationalities in detention

There is no known policy of differential treatment of persons in detention on the basis of nationality, although according to observations from stakeholders, some Removal Centres detain specific population. For example, while few foreign fighters are held in **Edirne**, **Izmir** (Harmandalı) and **Hatay** detain mixed populations, including irregular migrants and foreign fighters, and **Gaziantep** mostly holds Syrian foreign fighters. **Çanakkale** mainly holds Iraqi Turkmens.

³⁶⁰ Information provided by the Ankara Bar Association, January 2018; Adana Bar Association, February 2018; Gaziantep Bar Association, March 2018.

³⁶¹ Izmir Bar Association, *Izmir Geri Gönderme Merkezlerinde Adalete Erişim Hakkı Çerçevesinde Yaşanan Sorunlar Raporu*, July 2017, 18-19. See also Refugee Rights Turkey, *Barriers to the right to an effective legal remedy: The problem faced by refugees in Turkey in granting power of attorney*, February 2016, available at: <http://bit.ly/1PLX9SH>.

³⁶² Evrensel, 'Yargı: Mülteciler vekaletnamesiz avukat hizmeti alabilir', 20 January 2018, available in Turkish at: <http://bit.ly/2CG9RCI>.

³⁶³ Information provided by Mülteci-Der, December 2017. See also District Court of Ankara, 10th Chamber, Decision 2017/1267, 20 December 2017.

Content of International Protection

The LFIP provides three types of individual “international protection” status in accordance with Turkey’s “geographical limitation” policy on the 1951 Refugee Convention.

1. Persons who fall within the refugee definition in Article of the 1951 Convention and come from a “European country of origin”³⁶⁴ qualify for **“refugee” status** under LFIP, in full acknowledgment of Turkey’s obligations under the 1951 Convention. The Turkish legal status of “refugee” under LFIP should afford rights and entitlements in accordance with the requirements of the 1951 Convention, including the prospect of long-term legal integration in Turkey. Only three persons have been recognised as refugees to date,³⁶⁵ although a recent report of the Grand National Assembly refers to 70 persons.³⁶⁶
2. Persons who fall within the refugee definition in Article of the 1951 Convention but come from a so-called ‘non-European country of origin’, are instead offered **“conditional refugee” status** under LFIP. The “conditional refugee” status is a Turkish legal concept introduced by the LFIP for the purpose of differentiating in treatment between 1951 Convention-type refugees originating from ‘non-European’ states and those originating from ‘European’ states. The Turkish legal status of “conditional refugee” under LFIP affords to beneficiaries a set of rights and entitlements lesser to that granted to “refugee” status holders and to “subsidiary protection” holders in some respects. Most importantly, “conditional refugee” status holders are not offered the prospect of long-term legal integration in Turkey and excluded from [Family Reunification](#) rights.
3. Persons who do not fulfil the eligibility criteria for either “refugee” status or “conditional refugee” status under LFIP, who would however be subjected to death penalty or torture in country of origin if returned, or would be at “individualised risk of indiscriminate violence” due to situations or war or internal armed conflict, qualify for **“subsidiary protection” status** under LFIP. The Turkish legal status of “subsidiary protection” fully replicates the subsidiary protection eligibility definition provided by the EU Qualification Directive. Similar to the “conditional refugee” status holders, “subsidiary protection” beneficiaries receive a lesser set of rights and entitlements as compared to “refugee” status holders and are barred from long-term legal integration in Turkey. Notably however, unlike “conditional refugees”, subsidiary protection beneficiaries are granted family reunification rights in Turkey.

³⁶⁴ For the purpose of “geographical limitation” in regards to the interpretation of the 1951 Convention, Government of Turkey considers Council of Europe member states as ‘European countries of origin’.

³⁶⁵ T24, ‘Türkiye’de 4.3 milyon göçmen yaşıyor; mülteci statüsünde 3 kişi var’, 17 January 2018, available in Turkish at: <http://bit.ly/2D4ByFa>.

³⁶⁶ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
 - ❖ Refugee status 3 years
 - ❖ Conditional refugee status 1 year
 - ❖ Subsidiary protection 1 year

According to the LFIP, foreign nationals who seek legal stay in Turkey are required to obtain a “residence permit”. Under Article 30(1) LFIP, there are 6 types of residence permits available to foreign nationals. Neither the International Protection Status Holder Identification Document issued to international protection status holders nor the Temporary Protection Identification Document issued to beneficiaries of [Temporary Protection](#) are identified as “residence permits” as such in Turkish law. The LFIP does not envision the granting of residence permits as such to either international protection status holders or beneficiaries of temporary protection.

The law instead identifies these categories of foreign nationals to be “exempt of the residence permit requirement” that apply to other categories of foreign nationals.³⁶⁷ They are instead envisioned to stay in Turkey on the basis of open-ended international protection status documents respectively. However, there are differences in the documents granted according to the protection status received by a beneficiary.

Whereas **refugees** are granted an International Protection Status Holder Identification Document with a validity period of 3 years,³⁶⁸ **conditional refugees** and **beneficiaries of subsidiary protection** are issued a document valid for 1 year.³⁶⁹ The International Protection Status Holder Identification Document, “shall substitute a residence permit” within the meaning of being equivalent to residence permit for the person concerned in the sense of authorising legal stay in Turkey.³⁷⁰

That being said, Implementing Regulation seems to disregard the rules set out in Article 83 LFIP insofar as it provides that persons granted international protection status will be issued an International Protection Status Holder Identification Document with open-ended validity which remains valid as long as it is not terminated by DGMM.³⁷¹

Therefore, in summary, it should be concluded that the current legislative framework in Turkey stops short of offering clear legislative guidance as to the duration of legal stay envisioned for international protection status holders regardless of what types of international protection the person concerned was granted. International Protection Status Holder Identification Documents granted to status holders are to “remain valid until terminated by DGMM”. That is, the discretion to terminate an International Protection Status Holder Identification Document and thereby the actual duration of legal stay afforded by an international protection status is left to the discretion of DGMM.

By default, in light of the *non-refoulement* obligation guaranteed by Article 4 LFIP and in the absence of [Cessation](#) or [Withdrawal](#) procedures, it is unclear whether there can be any other circumstances under

³⁶⁷ Article 20(1)(g) LFIP, citing Article 83; Article 93(2) LFIP Implementing Regulation.

³⁶⁸ Article 83(1) LFIP.

³⁶⁹ Article 83(2) LFIP.

³⁷⁰ Article 83(3) LFIP.

³⁷¹ Article 93(1) LFIP Implementing Regulation.

which the International Protection Status Holder Identification Document issued to an international protection status holder may be justifiably terminated.

On the other hand, from the vantage point of an international protection beneficiary, since International Protection Status Holder Identification Document cannot lead to [Long-Term Residence](#) in Turkey and since time spent in Turkey on the basis of an International Protection Status Holder Identification Document cannot count towards the fulfilment of the 5-year uninterrupted legal residence requirement for [Naturalisation](#), the legislative framework in Turkey fails to offer international protection status holders any prospect of long term legal integration in Turkey.

This approach adopted in LFIP and reinforced by the Implementing Regulation of LFIP should be interpreted as an extension of Government of Turkey's ongoing "geographical limitation" policy in relation to its obligations under 1951 Refugee Convention.

2. Civil registration

2.1. Civil registration of child birth

Birth registration is both a right and an obligation for foreigners including beneficiaries of international protection. Births that take place in Turkey need to be notified to the Population and Civil Registry Departments under the Governorates. Notification shall be done by the mother, father or legal guardian of the child. In the absence of parents or a legal guardian, the child's grandmother, grandfather, adult siblings or other persons accompanying the child shall notify the Population and Civil Registry Departments.

The notification needs to be made to the Population and Civil Registry Departments within 30 days. After birth registration, a birth certificate will be issued for the child. The registration process and the issuance of the certificate are free of charge.

Reporting the birth of the child to the PDMM is important as the child will be issued with an identity document certifying his or her legal status in Turkey.

Birth registration is important as it enables children to access rights such as education and health care. Birth registration proves the age of the child and protects the child from being vulnerable to protection risks such as trafficking, child labour, child marriage, illegal adoption and sexual exploitation. Birth registration also proves the parental linkage between the child and the parents and protects the unity of the family. It can also help family unification of the child with the parents in the future in case of family separation.

2.2. Civil registration of marriage

Turkish law is applied for all marriage procedures of international protection beneficiaries and applicants. Under Turkish law, a Turkish national and an applicant or beneficiary or two applicants or beneficiaries different nationalities can be married by the Turkish authorities. All marriages carried out by the Turkish authorities are subject to the Turkish Civil Code and related regulations.

Marriages are conducted by marriage officers at the Marriage Departments of municipalities. Couples intending to marry therefore need to submit the relevant documents to municipalities. Relevant documents are:

- Petition of the marriage: the couple must file a petition of marriage (*evlenme beyannamesi*), signed by both individuals applying to marry;
- Celibacy document certifying that the applicants are not already married;
- Medical report confirming that the applicants are free from diseases that would prevent them from getting married;
- International protection applicant registration document; international protection applicant identity document or international protection status holder identity document;
- Four photographs.

Non-official marriages are not recognised in Turkey. Only after the official marriage is a religious marriage (carried out by imams) permitted.

3. Long-term residence

The EU Long-Term Residence Directive does not apply to Turkey. However, as regards long-term resident status under Turkish law, Article 42(2) LFIP governing “long-term residence permits” in Turkey specifically provides that international protection beneficiaries are not eligible for transition to a long-term residence permit.

4. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	5 years
2. Number of citizenship grants to beneficiaries in 2017:	Not available

According to the Turkish Citizenship Law No 5901, there are three procedures for naturalisation of foreign citizens. Citizenship may be acquired through: (a) normal procedure; (b) marriage, and (c) exceptional circumstances. According to the normal procedure, the foreigner must have a valid residence permit in Turkey for 5 years. The foreigner with a valid residence permit must not leave Turkey more than 180 days during the 5-year residence period. If this period is exceeded, the 5-year period is restarted.

After the completion of 5 years, it is not possible to directly acquire citizenship. First, the Citizenship Committee makes an assessment of the economic status and social cohesion of the applicant. Afterwards, security checks are conducted by the local police and the National Intelligence Organisation and the collected information is sent to the General Directorate of Citizenship of the Ministry of Interior. If no issues are raised at the end of the security investigation, the applicant acquires the Turkish citizenship under a proposal of the General Directorate of Citizenship of the Ministry of Interior through the approval of the Minister of Interior.

The second way of acquiring Turkish citizenship is by marrying a Turkish citizen. If the marriage of the applicant lasts 3 years and is effective, the applicant can acquire the citizenship. However, the applicant again needs to be ‘cleared’ by a security investigation.

Citizenship based on exceptional circumstances is mostly granted to foreigners who bring industrial skills or contributing to the scientific, economic, cultural, social and sportive progress of Turkey, without any residence or temporal conditions. In this way, it is aimed at granting qualified people the Turkish citizenship as quickly as possible.

Access to citizenship is not provided to non-Syrian nationals in practice.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure? Yes No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

Article 85 LFIP sets out the grounds and procedural rules governing cessation of international protection status. The grounds for cessation include the following cases where a beneficiary:³⁷²

- a. Voluntarily re-avails him or herself of the protection of his or her country of origin;
- b. Voluntarily re-acquires the nationality of the country he or she has lost;
- c. Has acquired a new nationality and enjoys the protection of the country of new nationality;
- ç. Has voluntarily returned to the country of origin;
- e. May no longer refuse to avail him or herself of the protection of the country of origin or habitual residence on the ground that the circumstances on which the status was granted no longer apply.

In the assessment of change of circumstances, DGMM shall assess whether the change in the country of origin or habitual residence is significant and permanent.³⁷³ **Subsidiary protection** may also be ceased where circumstances have changed to such an extent that protection is no longer needed.³⁷⁴

Cessation is to be decided on an individual basis.³⁷⁵ Where cessation grounds apply, DGMM shall communicate the review of status to the beneficiary in writing. The beneficiary shall have the opportunity to present his or her reasons to continue receiving protection, orally or in writing.³⁷⁶ The Implementing Regulation refers to oral or written observations being submitted “within a reasonable period”, without specifying the timeframe in which the beneficiary should respond to DGMM.³⁷⁷

An appeal against a cessation decision may be lodged under the same conditions as in the [Regular Procedure: Appeal](#), before IPEC within 10 days or before the competent Administrative Court within 30 days.³⁷⁸

There are no cases of cessation of international protection status known and reported from stakeholders.

³⁷² Article 85(1) LFIP.

³⁷³ Article 85(2) LFIP.

³⁷⁴ Article 85(3) LFIP.

³⁷⁵ Article 97(3) LFIP Implementing Regulation.

³⁷⁶ Article 85(4) LFIP.

³⁷⁷ Article 97(1) LFIP Implementing Regulation.

³⁷⁸ Article 80(1)(a) LFIP.

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? Yes No
2. Does the law provide for an appeal against the withdrawal decision? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

Withdrawal (“cancellation”) of international protection status is governed by Article 86 LFIP. The law provides that status shall be withdrawn where a beneficiary: (a) by way of false documents, fraud, deceit, or withholding facts, was granted protection; or (b) should have been excluded from international protection.³⁷⁹

While LFIP does not expressly provide the same level of guarantees in withdrawal procedures as in [Cessation](#), as it makes no reference to a right of the beneficiary to present his or her observations,³⁸⁰ the possibility to submit oral or written observations “within a reasonable period” is provided in the Implementing Regulation.³⁸¹ The remaining rules and procedures are the same as in [Cessation](#).

There are a few cases reported on cancellation of international protection status in practice. In a ruling of 2016, the Administrative Court of **Bursa** upheld the withdrawal of international protection decision taken against an Iranian person who had breached his obligation to remain in his satellite city and had committed a crime in another city.³⁸²

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? Yes No
 - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? Yes No
 - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? Yes No

Family reunification is governed by Articles 34-35 LFIP. While the law allows **refugees** and **subsidiary protection beneficiaries** to be reunited by family members,³⁸³ under preferential conditions compared to other foreigners, **conditional refugees** are excluded from family reunification altogether. That is also implied the fact that international protection beneficiaries are not granted a [Residence Permit](#), whereas

³⁷⁹ Article 86(1) LFIP.

³⁸⁰ Article 86(2) LFIP.

³⁸¹ Article 98(1) LFIP Implementing Regulation.

³⁸² Administrative Court of Bursa, Decision 2016/784, 12 May 2016.

³⁸³ Article 34(1) LFIP; Article 30(1)(d) LFIP Implementing Regulation.

the law requires the sponsor to have resided in Turkey for more than one year on a residence permit.³⁸⁴ Refugees and subsidiary protection holders are expressly exempt from this condition, but conditional refugees are not.³⁸⁵

A refugee or beneficiary of subsidiary protection may reunite with the following family members:³⁸⁶

- Spouse, whereby only one spouse may benefit from family reunification in the case of polygamous marriages;³⁸⁷
- Minor children or minor children of the spouse;
- Dependent children or dependent children of the spouse.

As of 2017, however, the right to family reunification has been almost entirely suspended in Turkey. According to the observations of lawyers, PDMM do not allow international protection beneficiaries to apply for family reunification, unless the sponsor has been accepted for resettlement in another country and the family is to join him or her before departure.³⁸⁸

2. Status and rights of family members

Upon arrival in Turkey, family members receive a “family residence permit” of a maximum duration of validity of 2 years.³⁸⁹ Holders of this permit have access primary and secondary education institutions without obtaining a student residence permit.³⁹⁰

Adult family members on a family residence permit may apply to transfer to a short-term residence permit after 3 years of residence in Turkey.³⁹¹ However, this condition may be waived in cases where the spouse has been a victim of domestic violence,³⁹² or in the event of death of the sponsor.³⁹³

C. Movement and mobility

1. Freedom of movement

DGMM may restrict the residence of **conditional refugees** and **subsidiary protection** beneficiaries within a specific province and impose reporting requirements, for reasons of public security and public order.³⁹⁴ While LFIP makes no reference to **refugees**, who should enjoy freedom of movement across the territory of Turkey subject to the provisions of Article 26 of the 1951 Refugee Convention, the Implementing Regulation adds that such residence restrictions “may also be applicable for refugee status holders.”³⁹⁵

The Implementing Regulation complements Article 82 LFIP by adding criteria such as the “person’s request, his or her special situation, medical and educational situation, kinship relations, culture, personal

³⁸⁴ Article 35(1)(ç) LFIP.

³⁸⁵ Article 35(4) LFIP.

³⁸⁶ Article 34(1) LFIP; Article 30(2) LFIP Implementing Regulation.

³⁸⁷ Article 34(2) LFIP; Article 30(3) LFIP Implementing Regulation.

³⁸⁸ Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018; ASAM, March 2018.

³⁸⁹ Article 34(1) LFIP.

³⁹⁰ Article 34(4) LFIP.

³⁹¹ Article 34(5) LFIP.

³⁹² Article 34(6) LFIP.

³⁹³ Article 34(7) LFIP.

³⁹⁴ Article 82(1) LFIP; Article 110(4) LFIP Implementing Regulation.

³⁹⁵ Article 110(5) LFIP Implementing Regulation.

circumstances and capacity of the provinces” in the determination of the province where a conditional refugee or subsidiary protection holder will be allowed to reside.³⁹⁶

In practice, beneficiaries of international protection are subject to the “satellite cities” dispersal policy governing the movement of applicants (see [Reception Conditions: Freedom of Movement](#)).

2. Travel documents

Article 84(1) LFIP provides that **refugees** “shall be” provided (Refugee) Travel Documents as referred to in the 1951 Refugee Convention. DGMM shall determine the “format, content and duration of validity” of (Refugee) Travel Documents to be issued to refugee status holders in accordance with the 1951 Convention.³⁹⁷ Neither the law nor its Implementing Regulation set out a strict duration of validity for refugee travel documents.

As regards **conditional refugees** and beneficiaries of **subsidiary protection**, “if they make a request for a travel document”, their request “shall be evaluated” in reference to Article 18 of the Passports Law.³⁹⁸ Article 18 of Passport Law governs the issuing of special travel documents that may be issued to foreign nationals referred to as “passports with a foreign-nationals-only stamp” (*Yabancılarla Mahsus Damgali Pasaport*).

As such, conditional refugees and subsidiary protection holders are not issued Convention Travel Documents but “may be” issued another type of travel document referred to as “passport with a foreign-nationals-only stamp”. The wording used in Article 84(2) LFIP suggests that the decision as to whether or not to grant a travel document upon request by a conditional refugee or subsidiary protection holder is subject to the discretion of DGMM and is therefore not a right as such.

Under Article 18 of the Passports Law, there are two types of “passport with a foreign-nationals-only stamp”:

- The type that authorises either a single exit or a single entry and has a 1-month duration of validity; and
- The type that authorises a single exit and a single entry. The duration of validity of this type of passport is subject to Ministry of Interior discretion but “shall not be less than 3 months”.

No reports “passports with a foreign-nationals-only stamp” issued to conditional refugees or subsidiary protection holders currently in Turkey have been received to date.

3. Resettlement

UNHCR works in collaboration with DGMM to identify the most vulnerable cases and to assess eligibility for resettlement. The final decisions with regards to resettlement are taken by the receiving countries.

Conditional refugees face severe delays in accessing resettlement opportunities, often depending on the nationality of the beneficiary. For Iranian nationals, the earliest date for a resettlement interview with UNHCR is 2020 at the time of writing while Iraqis nationals are given appointments dates for 2024. However, UNHCR does not give any interview date for resettlement of Afghans.³⁹⁹

³⁹⁶ Article 110(1) LFIP Implementing Regulation.

³⁹⁷ Article 104 LFIP Implementing Regulation.

³⁹⁸ Article 84(2) LFIP; Article 104(2) LFIP Implementing Regulation.

³⁹⁹ Information provided by ASAM, February 2018.

The reduction in resettlement pledges in 2017 is highlighted as a serious challenge by UNHCR as further responsibility-sharing measures are needed to support Turkey.⁴⁰⁰ ICMC and IOM deal with the resettlement procedures to the United States of America which is the leading country of resettlement from Turkey. However, the resettlement procedure to the United States has been stopped at the moment. Since 2016, no migration officer has come to Turkey to conduct personal interviews with international protection holders who are on the list of UNHCR. ICMC and IOM are only intermediary organisations managing organisational and operational issues but they receive many requests from beneficiaries to accelerate the process.

D. Housing

Similar to the situation of applicants (see [Reception Conditions: Housing](#)), beneficiaries of international protection are expected to secure accommodation through their own means in Turkey.

E. Employment and education

1. Access to the labour market

With regard to the right to employment, the law draws a distinction between the different categories of international protection beneficiaries. **Refugees** and **subsidiary protection** holders have access to employment or self-employment after being granted status, on the basis of their International Protection Holder Identity Document without satisfying additional requirements.⁴⁰¹

These categories of beneficiaries also have preferential treatment with regard to the applicability of labour market tests. Any sectoral or geographical restriction on access to employment cannot be imposed on refugees or beneficiaries of subsidiary protection who have resided in Turkey for 3 years or are married to a Turkish citizen or have a Turkish child.⁴⁰²

Conversely, **conditional refugees** are subject to the same rules as applicants for international protection. They are required to apply for a work permit, or for a work permit exemption in the sectors of agriculture and livestock works, after 6 months of being granted protection.⁴⁰³ Therefore they may also be subject to sectoral or geographical limitations on access to the labour market (see [Reception Conditions: Access to the Labour Market](#)).

In practice, it seems that only a few conditional refugees are able to access work permits.⁴⁰⁴

2. Access to education

The LFIP draws no distinction between applicants for and beneficiaries of international protection in relation to access to education (see [Reception Conditions: Access to Education](#)).

⁴⁰⁰ Information provided by UNHCR, February 2018.

⁴⁰¹ Article 89(4)(b) LFIP; Article 4 Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

⁴⁰² Article 18 Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

⁴⁰³ Article 89(4)(a) LFIP; Articles 6 and 9 Regulation on Work Permit for Applicants for and Beneficiaries of International Protection.

⁴⁰⁴ Refugees International, *I am only looking for my rights: Legal employment still inaccessible for refugees in Turkey*, December 2017, available at: <http://bit.ly/2ylz434>, 5.

F. Social welfare

The LFIP draws no distinction between applicants for and beneficiaries of international protection in relation to social assistance (see [Forms and Levels of Material Reception Conditions](#)).

G. Health care

The LFIP draws no distinction between applicants for and beneficiaries of international protection in relation to health care (see [Reception Conditions: Health Care](#)).

Temporary Protection

A. Temporary protection in 2011-2014: political discretion and improvisation

Refugees from the conflict in neighbouring Syria began to arrive at Turkey's borders in March 2011 very quickly after the sparking of the unrest in Syria. Turkey and Syria share 877km of land borders. Immediately in response to the first arrivals, the Turkish political leadership conducted an 'open door' policy for the treatment of all refugee arrivals from 2011.

While during the initial months Turkey chose to refer to refugee arrivals from Syria using the terminology of "guests", Turkey's Minister of Interior eventually made a statement in October 2011 during a UNHCR-hosted conference in Geneva and announced that Turkey was implementing a "temporary protection" regime⁴⁰⁵ to refugees from Syria and that the policy was based on 3 core principles:

- (1) Turkey's borders shall remain open to persons seeking to cross the border to seek safety in Turkey;
- (2) No persons from Syria shall be sent back to Syria against their will; and
- (3) Basic humanitarian needs of the persons arriving from the conflict in Syria shall be met.⁴⁰⁶

In accordance with this approach, Turkey quickly begun to erect well-supplied camps in several border provinces to accommodate and provide for the refugees, the numbers of which gradually surpassed 100,000 by the summer of 2012.

While Turkey continued to invest in more camps in provinces of the border region, the number of refugees from Syria crossing the border spontaneously and taking residence in residential areas outside the camps continued to grow exponentially. Dedicated efforts to set up a registration scheme for the growing non-camp population were not initiated until early 2014, and even after that the registration and documentation process was not available, effective and consistent across the country to cope with an increasingly sizeable and dispersed population of refugees. Up until early 2015, the majority of these so-called "non-camp" refugees from Syria remained unregistered and unidentified and continued to move and disperse throughout the country including to big cities such as **Istanbul** in the Western parts of the country.

Another key characteristic of Turkey's policy in relation to refugees from Syria is that the Government of Turkey from the onset chose to take full charge of the setting up and management of camps and the registration and documentation of the population concerned as opposed to handing over these tasks to UNHCR and international relief actors. As will be elaborated in the sections below about the main components of Turkey's Temporary Protection scheme in its current shape, in creating an *ad hoc* temporary protection regime to accommodate the Syrian refugee influx outside the framework of Turkey's asylum system Turkey also kept UNHCR's direct involvement with this population at a minimum – mainly linked up to a modestly sized resettlement programme.

National Police and eventually the newly established Directorate General of Migration Management (DGMM) have been in charge of registration and documentation of temporary protection beneficiaries.

⁴⁰⁵ It must be observed that while the "temporary protection" branding appears to have been loosely inspired by the EU "temporary protection" concept, the legal and practical specifics of the "temporary protection" regime Turkey put in place do not carry much resemblance to the framework laid down by the EU Temporary Protection Directive.

⁴⁰⁶ UNHCR Turkey, *Information Notice Regarding Syrian Nationals Seeking International Protection*, 23 November 2011.

Ministries of Health and Education have been in charge of matters related to educational activities and provision of state-funded free health care services to temporary protection beneficiaries respectively. To date the involvement and contributions of national and international NGO service providers in helping to address gaps in health care, subsistence, psychosocial and other needs has been relatively modest.

B. The Temporary Protection Regulation of 22 October 2014

Article 91 LFIP envisions the possibility of the implementation of a temporary protection regime, in situations of “mass influx” for refugees. The article however does not directly provide any elaboration regarding principles, content and procedures to be applied to persons concerned. Instead, it stipulates the adoption of a separate Council of Ministers Regulation on “temporary protection” to lay down the specifics and implementation framework of any such “temporary protection” practices to be carried out.

While the LFIP itself fully came into force in April 2014, it was not until October 2014 that the Temporary Protection Regulation (TPR) was finally published. As such, the TPR came to constitute the main piece of domestic legislation that was now to govern and regulate Turkey’s existing *de facto* temporary protection practice that was already in place since 2011.

It is important to emphasise that the TPR not only provides the legislative framework for the existing temporary protection regime already in place for refugees from Syria, but it elaborates generally the “temporary protection” concept provided by Article 91 LFIP and thereby constitutes the legal reference for the possible implementation of Article 91 to other, prospective “mass influx” situations going forward. Technically, the TPR is not a law but secondary legislation on the basis of Article 91 LFIP. It was published on 22 October 2014 and has been in force since then with immediate effect.

The TPR defines, among other matters: the temporary protection concept and its core elements; the procedure for the declaration and termination of a temporary protection regime on the basis Article 91 LFIP; the criteria for individual eligibility for temporary protection; the procedure for requesting and obtaining temporary protection status; the procedural safeguards for persons within the scope of the temporary protection regime; and the link between the “temporary protection” regime and the separate international protection procedure that applies to individually arriving protection seekers.

The TPR provides that under normal circumstances a temporary protection regime is to be declared by a dedicated Board of Ministers Decision. And yet, considering that a *de facto* temporary protection regime was already in place at the time of the publication of the TPR on 22 October 2014, the Turkish Government opted to formalise the existing “temporary protection” regime for protection seekers from Syria by means of a provisional article incorporated in the main text of the TPR itself – as opposed to issuing a separate Council of Ministers Decision. Provisional Article 1 TPR specifically establishes a temporary protection regime for “Syrian nationals, stateless people and refugees originating from Syria” and provides a number of key transitional measures concerning the treatment of persons within the scope of this declaration who were already in Turkey by the time the TPR was published.

A. General

1. Scope and activation procedure

Temporary protection within the scope of Article 91 LFIP is a discretionary measure that may be deployed in situations of mass influx of refugees where individual processing of international protection needs is impractical due to high numbers.⁴⁰⁷ As such, temporary protection within the framework of TPR is not defined as a form of international protection but a complementary measure used in situations where individual international protection eligibility processing is deemed impractical.

The legal basis of TPR is Article 91 LFIP. Therefore, technically as a piece of secondary legislation, the provisions and implementation of the TPR must be compliant and consistent with the general normative framework laid down by the LFIP itself.

A temporary protection regime is to be declared by a Council of Ministers decision.⁴⁰⁸ The declaration decision shall elaborate the scope of beneficiaries and start date of the “temporary protection” regime, and – if deemed necessary – its duration.⁴⁰⁹ It may or may not designate a limitation on the implementation of the temporary protection regime to a specific region in Turkey. An existing temporary protection regime in place is to be terminated by a Council of Ministers decision.⁴¹⁰

2. Responsible agencies

DGMM is designated as the competent agency authorised to make decisions on individual eligibility of persons for temporary protection in Turkey in light of the scope laid down by the Council of Ministers declaration decision and the general eligibility criteria laid down in TPR.⁴¹¹ The main issues that fall under the responsibility of the DGMM regarding temporary protection are: identifying which foreigners are covered by temporary protection; conducting registration procedures and collecting biometric data; managing voluntary returns; issuing Foreigner Identification Numbers (FIN); evaluating requests for change of residence; and conducting resettlement procedures to third countries.

The Turkish Government’s Disaster and Relief Agency (AFAD) was in charge of building and managing the camps that are used to accommodate temporary protection beneficiaries (see [Housing](#)).⁴¹² Furthermore, Article 26 TPR designated AFAD as the “coordinating agency” with regard to the delivery of services and entitlements by relevant Ministries and Government agencies to temporary protection beneficiaries, including those in the fields of health care, education, access to labour market, social benefits and assistance and interpretation. The AFAD Circular on the Administration of Services for Temporary Protection Beneficiaries of 18 December 2014 provides further guidance on the specifics of services and entitlements to be delivered in each field. Following a reform of March 2018, however, responsibility for accommodation and other services now lies with DGMM.⁴¹³

⁴⁰⁷ Articles 1 and 3 TPR.

⁴⁰⁸ Article 9 TPR.

⁴⁰⁹ Article 10 TPR.

⁴¹⁰ Article 11 TPR.

⁴¹¹ Article 10 TPR.

⁴¹² Article 37 TPR.

⁴¹³ Regulation 2018/11208 amending the Temporary Protection Regulation.

Temporary protection beneficiaries are barred from making a separate international protection request in Turkey in accordance with LFIP.⁴¹⁴ By the same token, as a general policy agreed among UNHCR and DGMM, UNHCR does not register temporary protection beneficiaries and carry out refugee status determination (RSD) proceedings under its mandate. However, UNHCR does register and process a relatively small number of temporary protection beneficiaries on an exceptional basis, mainly for the purpose of resettlement but also for protection reasons in a small number of cases.

3. Discretion to limit or suspend the temporary protection measures

The Council of Ministers has the authority to order “limitations” on temporary protection measures in place, or the “suspension” of existing measures for a specific period or indefinitely, “in the event of circumstances threatening national security, public order, public security and public health”.⁴¹⁵

In such a case, the Council of Ministers shall have the discretion to determine the specifics of the treatment existing registered temporary protection beneficiaries and measures that will be applied to persons within the scope of the temporary protection regime who approach Turkey’s borders after the “limitation” or “suspension” decision.

Such very broadly and vaguely defined limitation or suspension measures are different from the actual termination of a temporary protection regime by means of a Council of Ministers decision in accordance with Article 11 TPR.

4. Individual eligibility for temporary protection

As per Article 10 TPR, DGMM is designated as the competent agency authorised to make decisions on individual eligibility of persons for temporary protection in Turkey in light of the scope laid down by the Council of Ministers declaration decision and the general eligibility criteria laid down in TPR.

4.1. Groups covered by TPR in place for persons from Syria

The principal characteristic and justification of the temporary protection approach generally is to swiftly attend to protection needs of a large number of protection seekers in a situation of mass influx of refugees where individual processing and assessment of international protection needs is considered both impractical and unnecessary. The temporary protection approach is meant to categorically apply to and benefit all persons falling within the scope of beneficiaries formulated by the host Government, without any personalised assessment of international protection needs.

Turkey’s TPR provides that under normal circumstances a temporary protection regime is to be declared by a dedicated Council of Ministers Decision. This Council of Ministers decision declaring a temporary protection regime on the basis of Article 91 LFIP, in response to a “mass influx” of foreign nationals, is to spell out the scope of beneficiaries who shall benefit from temporary protection.

While generally a Council of Ministers decision is required for the declaration of a temporary protection regime, in the case of the present temporary protection regime in place for persons escaping the conflict in Syria, the Turkish Government opted to formalise the existing *de facto* “temporary protection” regime already in place since 2011 by means of a provisional article incorporated in the main text of the TPR itself – as opposed to issuing a separate Council of Ministers Decision.

⁴¹⁴ Article 16 TPR.

⁴¹⁵ Article 15 TPR.

Provisional Article 1 TPR specifically establishes that “Syrian nationals, stateless people and refugees” who have arrived in Turkey, whether individually or as part of a mass movement of people, due to events unfolding in Syria, are eligible for temporary protection in Turkey.

Stateless Palestinians from Syria

This formulation appears to indicate that in addition to Syrian nationals, also stateless persons originating from Syria, including members of the substantial stateless Palestinian population who were resident in Syria at the time of the beginning of the conflict in 2011, are covered by the Turkey’s “temporary protection” regime in its current shape. Indeed, the current practice on the ground in Turkey, is consistent with this interpretation. Stateless Palestinians from Syria are registered as “temporary protection” beneficiaries.

Non-Syrian refugees arriving from Syria

The formulation also refers to “refugees” arriving in Turkey, due to events unfolding in Syria. The interpretation of this reference is, however, more complicated. According to Article 61 LFIP, Turkish law defines “refugee” as a person that fulfils the criteria laid down in Article 1 of the 1951 Refugee Convention, who also originates from a European country – which Turkey interprets as a country that is a member of Council of Europe. Therefore, according to this narrow definition provided by Turkish law, any nationals of third countries that are not members of Council of Europe, cannot be considered “refugees”. Since the TPR is a piece of secondary legislation on the basis of Article 91 LFIP, any legal terms mentioned in the TPR should be interpreted as they are defined in the LFIP itself. Therefore, nationals of Iraq, Iran or other countries who may have been residing in Syria as refugees in the broad meaning of the word, are not covered by Turkey’s temporary protection regime currently in place for protection seekers from Syria. Therefore, any such non-Syrian refugees moving onward from Syria to Turkey are instead referred to the international protection procedure established by the LFIP.

“Directly arriving from Syria”

Provisional Article 1 TPR contains a phrasing which in practice is interpreted by border officials as a requirement for prospective beneficiaries to arrive directly from Syria, as opposed to travelling to Turkey from or via a third country.

The provision speaks of persons who “arrive in our borders” or “have crossed our borders”, whether “individually” or “as part of a mass movement of people”. As such, it actually does not articulate a clear requirement of arriving directly from Syria at all. A person taking a plane from a third country and landing in a Turkish airport may be perfectly understood to have “arrived in our borders” “individually”. Since 8 January 2016, however, Turkey no longer operates a visa-free regime for Syrians who enter by sea or air.

The imposition of visa requirements for persons coming by sea or air has been combined with strict enforcement of Provisional Article 1 TPR. Accordingly, DGMM only admits into the temporary protection regime Syrians who arrive directly from Syria.⁴¹⁶

The cut-off date of 28 April 2011

Provisional Article 1 TPR also provides a cut-off date for purpose of inclusion in the temporary protection regime. It provides that persons who have arrived from Syria from 28 April 2011 or later are to be exclusively processed within the framework of the temporary protection regime. As such, they shall be

⁴¹⁶ Zeynep Kivilcim, ‘Lesbian, gay, bisexual and transsexual (LGBT) Syrian refugees in Turkey’, 2016, 29.

barred from making a separate international protection application. If they have already made an application for international protection before the publication of the TPR on 22 October 2014, these applications shall be suspended and the persons concerned will instead be processed as temporary protection beneficiaries.

Any persons who had arrived in Turkey prior to 28 April 2011 and had already made an application for international protection are given the option of choosing whether they wish to remain within the international protection procedure framework or benefit from temporary protection. The number of Syrian nationals concerned by this provision is however very limited, since the population of Syrian asylum seekers in Turkey back in early 2011 before the beginning of the conflict in Syria was quite low.⁴¹⁷

Syrian nationals with regular “residence permits”

Similarly, any Syrian nationals who have been legally resident in Turkey as of 28 April 2011 or later, on the basis of a regular residence permit completely outside the asylum framework – like other nationalities of legally residing foreigners – are allowed the option of continuing their legal residence in Turkey on this basis, unless they wish to register as temporary protection beneficiaries. In fact, the relatively small number of Syrian nationals who have been continuing to arrive in Turkey legally with valid passports in the period since the adoption of the TPR on 22 October 2014 still maintain this option.

In order for a foreign national to request and obtain a residence permit after they arrive in Turkey, they need to have legally entered the country with a valid passport and either on the basis of a short-stay visa or visa-exemption grounds depending on the nationality. Indeed, shortly before the beginning of the conflict in Syria, Turkey and Syria had agreed on a visa-free regime, which is considered still in force and grants Syrian nationals visa-free entry to Turkey for a 3-month period. A relatively small number of Syrian nationals have continued to arrive in Turkey by taking advantage of this possibility. This population of legal entrants do indeed have the option of applying for a regular residence permit in Turkey – outside the temporary protection framework. These are persons who were able to enter Turkey on valid travel documents and did not indicate a request for protection as refugees and instead opted to be subject to general rules of legal residence.

Since such Syrian nationals living in Turkey on grounds of a regular residence permit are therefore not registered as temporary protection beneficiaries, they will not have access to the rights and services granted under the TPR and treated like other nationalities of legally resident foreigners.

That said, such Syrian nationals who have arrived in Turkey legally on visa exemption grounds, or currently live in Turkey on the basis of a residence permit, are free to apply and register as temporary protection beneficiaries, if they wish so. One problem encountered by such Syrian residence permit holders is that when and if the validity period of their passport expires and they do not generally manage to have it extended, they are no longer eligible for an extension of their Turkish residence permit either. Persons in that situation in any case will have no choice but to register as temporary protection beneficiaries in order to maintain legal stay in Turkey. However, it is reported that there are some Syrians who are able to extend their passports at the Syrian Consulate in **Istanbul**.⁴¹⁸

⁴¹⁷ As of 31 December 2010, there were only 224 Syrian nationals registered with UNHCR and Turkish authorities as asylum seekers: Information provided by UNHCR Turkey, December 2015.

⁴¹⁸ Information provided by ASAM, February 2018.

4.2. Exclusion from and cancellation of temporary protection

The following categories of persons are excluded of benefitting from temporary protection in Turkey:⁴¹⁹

1. Persons for whom there is serious reason to believe that they have been guilty of acts defined in Article 1F of the 1951 Convention;
2. Persons for whom there is serious reason to believe that they have engaged in acts of cruelty, for whatever rationale, prior to arrival in Turkey;
3. Persons who have either participated in or provoked crimes or acts referred to in 1 and 2 above;
4. Persons, who, having participated in armed conflict in country of origin, have not permanently ceased armed activities after arrival in Turkey;
5. Persons proven to have engaged, planned or participated in terrorist activities;
6. Persons who have been convicted of a serious crime and therefore deemed to be presenting a threat against society; and those who are deemed to present danger to national security, public order and public security;
7. Persons, who prior to their arrival in Turkey, committed crimes that would be punishable with a prison sentence in Turkey, and have left country of origin or residence in order to avoid punishment;
8. Persons convicted of crimes against humanity by international courts;
9. Persons who commit any of the crimes listed in Article 4(7) of the Turkish Criminal Code i.e. crimes related to state secrets and espionage.

DGMM is responsible and authorised to carry out and finalise the exclusion assessments and to communicate exclusion decisions to the persons concerned. Where it is identified that an existing beneficiary fall within the exclusion grounds listed above, their temporary protection status shall be cancelled.⁴²⁰ Such cancellation is applied in practice for temporary protection holders designated as foreign fighters, for example.

4.3. Cessation for an individual beneficiary

Temporary protection status shall cease for a particular beneficiary in the following circumstances:⁴²¹

- Voluntary departure from Turkey;
- Benefitting from the protection of a third country;
- Admission to a third country on humanitarian grounds or for resettlement.

Cessation of temporary protection status in accordance with Article 12 TPR considerations presents an issue in relation to treatment of so-called repeat arrivals. Admission of persons who have previously benefitted from temporary protection in Turkey but subsequently left Turkey on their own initiative, is subject to the discretion of DGMM.⁴²² DGMM is authorised to grant or deny admission to Turkey and renewed access to temporary protection status upon repeat arrival to Turkey.

While Article 13 TPR does not elaborate the principles on the basis of which DGMM shall make the determination on repeat arrivals, the link to cessation grounds under Article 12 TPR suggests that DGMM will seek to determine whether the previous grounds for cessation still apply. Therefore, one can deduce that a consideration would have to be given by DGMM as to whether the person concerned can still avail of the protection and long term stay in the third country to which he or she had travelled previously.

⁴¹⁹ Article 8 TPR.

⁴²⁰ Article 12 TPR.

⁴²¹ Article 12 TPR.

⁴²² Article 13 TPR.

In any case, the decision as to whether to not to once again extend temporary protection to a person upon repeat arrival is entirely within the discretion of the DGMM. It is implicit in Article 13 that where DGMM refuses to extend temporary protection to a person upon repeat arrivals, “general terms and conditions” regarding entry, stay and expulsion of foreign nationals provided by the LFIP shall apply to the person concerned.

Although Article 13 TPR does not spell out the content of such “general terms and conditions”, one can legally interpret the applicable provisions of the LFIP as follows:

- Where the person concerned has arrived in Turkey with a valid travel document, he or she may seek legal entry to Turkey on a short-term visa or visa-exemption grounds and subsequently seek legal residence in Turkey on the basis of a residence permit;
- Where the person concerned is refused entry to Turkey for any reason and expresses an objection or fear of return to the third country he or she came from, she can make a request for international protection at the border, which DGMM would be required to process.

Therefore, refusal to grant renewed temporary protection status upon repeat arrival does not necessarily mean that the person concerned shall be denied access to territory. It should not prevent him or her to make an individual international protection request at the border either.

There are some cessation cases reported by lawyers in practice. For example, it was reported that approximately 200 Syrians in **Mardin** living near the border have had their temporary protection status ceased after they crossed the border for reasons such as visiting their relatives or checking their property in Syria and subsequently came back to Turkey. These persons have not been adequately informed by the authorities at the border on their obligations under temporary protection and the consequences of leaving the country. In another case from **Hatay**, an ill elderly Syrian man crossed the border to visit his relatives in Syria and when he returned to Turkey his temporary protection status had been ceased. His lawyer filed an appeal and found out that the authorities had made him sign a “voluntary return document” without understanding the consequences thereof. The man needs medical treatment but cannot access health services due to cancellation of his status.

The question of cessation has also arisen in the context of readmissions of Syrian nationals from Greece to Turkey under the EU-Turkey statement. An amendment to the TPR was introduced on 5 April 2016 to clarify that Syrian nationals, who entered Turkey after 28 April 2011 and who transited irregularly to the Aegean islands after 20 March 2016, “may” be provided temporary protection.⁴²³

As part of the implementation of the statement, the Ambassador of the Permanent Delegation to the EU stated in a letter of 12 April 2016 that “each Syrian national returned to Turkey who previously enjoyed the temporary protection status, or who transited the country and did not previously enjoyed the temporary protection status, and who do not have a profile that could bring them under the scope of the exclusion clauses... will be granted such status in accordance with the [TPR] and other relevant legislations.”

Based on available figures at the time, UNHCR reported in December 2016 that out of 82 readmitted Syrians, it could only confirm that 12 persons had obtained or re-acquired temporary protection status in Turkey.⁴²⁴

⁴²³ Provisional Article 1(6) TPR, as inserted by Article 1 Regulation 2016/8722 of 5 April 2016.

⁴²⁴ UNHCR Greece, ‘Response to query related to UNHCR’s observations on Syrians readmitted to Turkey’, 23 December 2016, available at: <http://bit.ly/2B5lykY>. See also Euractiv, ‘Turkey blocks UNHCR access to Syrian refugees’, 19 January 2017, available at: <http://bit.ly/2BFsuYp>.

DGMM statistics refer to 275 Syrian “irregular immigrants” readmitted by Turkey from 4 April 2016 to 22 March 2018.⁴²⁵

B. Access to temporary protection and registration

1. Admission to territory

While Article 6 TPR provides that all persons within the scope of the Regulation shall be protected from *refoulement*, the overall framework laid down by the TPR fails to explicitly guarantee the right of access Turkish territory for prospective beneficiaries. Persons approaching Turkey’s borders without a valid travel document may or may not be admitted to territory within the discretion of the provincial Governorate.⁴²⁶

Furthermore, the Council of Ministers has the discretion to order either “limitations” or “suspension” of existing temporary protection measures in place “in the event of circumstances threatening national security, public order, public security and public health”, including the possibility of the imposition of “additional measures concerning the mass movement of people both along Turkey’s borderline or beyond Turkey’s borderline”.⁴²⁷ This formulation appears to indicate that the Turkish Government may choose to seal Turkey’s borders to persons seeking temporary protection in Turkey, either for a specific period or indefinitely, where considerations of national security, public order, public security and public health are deemed to require so. In practice, the physical barriers erected along the Syria-Turkey border and reported violence, including shootings, at the border (see [International Protection: Access to the Territory](#)) in 2017 have had the effect of preventing access for a substantial number of Syrians trying to enter Turkey.

The particular situation of a group of 2,000 people who have entered Turkey but have no access to temporary protection is worth noting. These people live in makeshift camps in Derecik, **Hakkâri** under dire conditions without protection from cold weather or access to services or the authorities.⁴²⁸

2. Registration under temporary protection

While the PDMM are formally in charge of temporary protection registration as of 1 November 2017,⁴²⁹ the registration interviews were previously conducted by officers from the Provincial Police Directorates and mainly took place the premises of either provincial or one or several district police directorates, depending on the location – under the supervision and authority of the PDMM. In provinces such as **Izmir**, the PDMM undertook responsibility for registration of temporary protection beneficiaries in November 2016.⁴³⁰ In **Adana**, the PDMM did not start registration until May 2017.⁴³¹

DGMM collects biometric data, including fingerprints, during registration and maintains electronic files for each beneficiary in the agency’s electronic file management system named “Göç-Net”. The Göç-Net database is an internal portal only available to DGMM staff purported to facilitate registration procedures.⁴³²

⁴²⁵ DGMM, *Return statistics*, available at: <http://bit.ly/2AMI7g5>.

⁴²⁶ Article 17 TPR.

⁴²⁷ Article 15 TPR.

⁴²⁸ Evrensel, ‘2 bin mülteci bu kışı da çadırlarda karşıladı’, 25 November 2017, available in Turkish at: <https://bit.ly/214Wqip>.

⁴²⁹ Ministry of Interior, Response to Human Rights Watch, 15 March 2018, available at: <https://bit.ly/2unxG2Y>.

⁴³⁰ Information provided by Mülteci-Der, December 2017.

⁴³¹ Information provided by Adana Bar Association, February 2018.

⁴³² Information provided by Izmir PDMM, December 2017.

1.1. Security checks and pre-registration

As discussed in the section on [Individual Eligibility](#) Article 8 TPR makes provisions for exclusion of persons from temporary protection, without however designating a procedure for the exclusion assessment. However, as Article 22 TPR instructs that persons who are determined to fall within the exclusion grounds shall not be issued a Temporary Protection Identification Card. Therefore, it is implicit from this provision that the registration interview should also entail the exclusion screening of applicants.

In practice, this has been crystallised through a pre-registration phase prior to temporary protection registration introduced in March 2016. Pre-registration is conducted with a view to conducting security checks within a period of 30 days, the modalities of which are set out in an unpublished Circular. Syrians readmitted to Turkey from Greece under the EU-Turkey statement are also channelled under pre-registration.⁴³³

PDMM are responsible for pre-registration as of 1 November 2017.⁴³⁴ In many locations around Turkey, due to high numbers, lack of interpreters and the conduct of security checks, applicants are given pre-registration appointments and face substantial delays before registering, which may vary from one province to another; in **Manisa**, persons may wait for up to 7-8 months.⁴³⁵ Applicants also face other practical impediments to registration such as errors on the part of DGMM officials, which may only be corrected following time-consuming legal intervention.⁴³⁶

The delay in registration leads to problems in accessing health care and other services, which require the beneficiary to have a Temporary Protection Identification Card and a Foreigners Identification Number (FIN), which is listed on the Card.

It should be noted, however, that certain categories of vulnerable groups are issued a Temporary Protection Identification Card without waiting for the 30-day period of pre-registration. This includes: (a) children aged 0-12; persons in need of urgent medical treatment; pregnant women; elderly persons; and unaccompanied children.⁴³⁷ In practice, people with special needs such as women in advanced stages of pregnancy benefit from prioritisation in the registration procedure in provinces such as **Izmir**.⁴³⁸

1.2. Completing registration before the PDMM

After the completion of the pre-registration phase, the applicant is required to appear before the PDMM within 30 days in order to obtain the Temporary Protection Identification Card. Failure to appear before the PDMM 15 days after the expiry of that 30-day time limit without a valid reason leads to the activation of a “V-71” code. “V-71” suspends the registration procedure and can only be lifted after the PDMM confirms the continuation of the procedure or after search and apprehension records are registered in the database.⁴³⁹

⁴³³ UNHCR Greece, ‘Response to query related to UNHCR’s observations on Syrians readmitted to Turkey’, 23 December 2016, available at: <http://bit.ly/2B5lykY>. See also Euractiv, ‘Turkey blocks UNHCR access to Syrian refugees’, 19 January 2017, available at: <http://bit.ly/2BFsuYp>.

⁴³⁴ DGMM Circular of 27 November 2017 on principles and procedures for foreigners under temporary protection.

⁴³⁵ Information provided by Mülteci-Der, December 2017.

⁴³⁶ Information provided by Adana Bar Association, February 2018.

⁴³⁷ DGMM Circular of 27 November 2017 on principles and procedures for foreigners under temporary protection.

⁴³⁸ Information provided by Mülteci-Der, December 2017.

⁴³⁹ DGMM Circular of 27 November 2017 on principles and procedures for foreigners under temporary protection.

According to DGMM, as of 21 December 2017, a total of 3,412,368 persons were registered as temporary protection beneficiaries in Turkey (see [Statistics](#)). It must be noted however that, as elaborated in the section on [Freedom of Movement](#), the DGMM has not always imposed reporting requirements on registered beneficiaries. Therefore, there was no way for DGMM to know how many of the registered beneficiaries continue to reside in a given province or are still in Turkey for the same reason. In light of the above, the DGMM's registration statistics must be treated with caution and may either overstate or understate the actual numbers depending on how many registered beneficiaries are no longer in Turkey and how many refugees from Syria have never registered with authorities.

Towards the end of 2017 and early 2018, some provinces suspended registration:

Hatay has suspended registration as of 1 November 2017 following a Governor Instruction of 30 October 2017, with the exception of: (a) new born children of beneficiaries registered in Hatay; (b) medical cases; and (c) persons willing to voluntarily return to Syria.

Istanbul was also reported to have suspended registration as of 25 January 2018, with the exception of: (a) newly born children; (b) medical cases such as pregnant women and seriously ill persons, based on submission of medical reports; (c) family reunification cases; (d) school enrolment; (e) LGBTI individuals; and (f) applicants already pre-registered. The suspension of registration was reportedly aimed at preventing further concentration of refugees in urban centres which has already put a strain on public services.⁴⁴⁰ The suspension has been denied by the authorities, however.

3. Appeal

Unfavourable decisions and practices that may negatively affect persons within the scope of the temporary protection regime on the basis of TPR would include: (a) denial of access to territory either at the instance of first arrival or upon repeat arrival; (b) exclusion from temporary protection; (c) deportation decisions in violation of *non-refoulement*; (d) punishment for irregular entry or presence; (e) arbitrary denials of access to rights and services provided by the TPR to temporary protection beneficiaries; and (f) cases such as divorce, domestic violence or exploitation among others.

Since the TPR itself does not have a dedicated provision listing specific remedies for persons concerned against unfavourable decisions and practices, all acts and actions of competent authorities within the scope of the TPR are subject to general rules of accountability derived from Turkish administrative law – unless there is a dedicated specific remedy provided in the LFIP itself, which is the legal basis of TPR.

Of the possible unfavourable decisions and practices identified above, there is a specific dedicated remedy provided by the LFIP against deportation decisions. According to Article 53 LFIP, deportation decisions can be challenged at competent Administrative Court within 15 days. Appeals against deportation decisions have automatic suspensive effect, with the exception of appeals against deportation decisions for reasons of: (i) leadership, membership or support of a terrorist organisation or a benefit-oriented criminal group; (ii) threat to public order or public health; or (iii) relation to terrorist organisations defined by international institutions and organisations.⁴⁴¹ The competent Administrative Court is required to finalise the appeal within 15 days. Administrative Court decisions on deportation appeals are final, may not be appealed onward in a higher court.

⁴⁴⁰ Deutsche Welle, 'Suriyelilerin İstanbul'a kaydı durduruldu', 6 February 2018, available in Turkish at: <http://bit.ly/2sjHtWS>.

⁴⁴¹ Article 53(3) LFIP, as amended by Article 35 Emergency Decree 676 of 29 October 2016. The provision cites Article 54(1)(b), (d) and (k) LFIP.

All other scenarios of possible unfavourable decisions and practices identified above are subject to general rules of accountability derived from Turkish administrative law. Under Article 125 of the Turkish Constitution, all acts and actions of the administration are subject to judicial review. According to Article 7 of the Law on Administrative Court Adjudication Procedures, acts and actions of the administration must be challenged within 60 days at competent administrative courts. Applications with administrative court generally do not carry automatic suspensive effect, but applicants may file an associated halt of execution request, which may or may not be granted. There is no general time limit on administrative courts for the finalisation of the appeal. Unfavourable judgments of administrative courts can be challenged in the higher administrative court.

4. Legal assistance

Article 53 TPR guarantees the right to be represented by a lawyer in relation to matters of law and procedure vis-a-vis authorities. It also makes a reference to the provisions of state-funded legal aid (*Adli Yardım*) enshrined in the Attorneyship Law, which provides for state-funded legal counsel to persons who cannot afford to pay a lawyer. In Turkey, the state-funded legal aid is delivered by provincial bar associations, subject to considerations of means and merits (see [International Protection: Regular Procedure: Legal Assistance](#)).

While the TPR as a matter of principle confirms that persons within the scope of temporary protection can apply to bar associations for state-funded legal aid, in current practice bar associations in Turkey, including those in **Hatay** and **Adana** hosting significant refugee populations, appoint legal aid lawyers to only a small number of temporary protection beneficiaries due to limitations of legal aid funding. The Hatay and Adana Bar Associations received no more than 35-40 applications for legal aid from Syrian refugees in 2017.⁴⁴²

While more bar associations have become involved in the area of temporary protection in 2017, throughout the year lawyers have had to adapt to an increasing number of cases involving divorce, custody of children and violence against refugee women and children.⁴⁴³

Another obstacle relates to the requirement of a notarised power of attorney (see [International Protection: Regular Procedure: Legal Assistance](#)). As per the Union of Notaries Circular No 3 of 2 March 2016, the Temporary Protection Identification Document is included in the list of documents accepted by public notaries. However, some notaries remain reluctant to grant power of attorney on the basis of such documents. In **Izmir**, for example, only one notary in Konak and one in Menemen districts issue a limited power of attorney for persons under temporary protection.⁴⁴⁴ Also in **Adana**, only two notaries can issue a power of attorney.⁴⁴⁵

Article 51 TPR guarantees persons concerned and their legal representatives' access to file and documents, with the exception of "information and documents pertaining to national security, public order, protection of public security, prevention of crime and intelligence". This excessively broad, blanket space of exception generates the risk that in certain situations lawyers representing persons seeking to challenge their treatment will be prevented from being able to access all relevant information. In the current regional context and security environment, with a heavy emphasis on the identification and prevention of persons with alleged links to terrorist groups, the restrictions allowed by Article 51 TPR on lawyers' access to file is concerning.

⁴⁴² Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018.

⁴⁴³ Information provided by Mülteci-Der, December 2017; Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018.

⁴⁴⁴ *Ibid.*

⁴⁴⁵ Information provided by the Adana Bar Association, February 2018.

On a separate note, Article 51 TPR also provides guarantees for the confidentiality of personal information and documents.

C. Detention in the temporary protection framework

As a rule, temporary protection beneficiaries should not be detained. The TPR does not feature any explicit provision governing administrative detention of persons within the scope of temporary protection laying down grounds and procedural safeguards that apply. Article 35 TPR does, however, provide that beneficiaries who fail to comply with the obligations set out in the Regulation may be temporarily or permanently prevented from residing outside a Temporary Accommodation Centre. Where this provision is applied, beneficiaries are forbidden from leaving the camp, thereby being *de facto* in a state of detention.

As discussed in the section on [Housing](#), camps for Syrians officially referred to as Temporary Accommodation Centres were established and run by AFAD. Since October 2015, however, DGMM manages the camp based in the Düzici district of **Osmaniye** province and began to use it as a *de facto* detention centre mainly to hold selected Syrian nationals. This was done ahead of the general transfer of responsibility for camp management and service provision from AFAD to DGMM, following an amendment to the TPR in March 2018.⁴⁴⁶

Under a Circular of 25 July 2014, this provision is relevant to beneficiaries who threaten public order or security *inter alia* by begging or living on the street.⁴⁴⁷ On the basis of this Circular, cases of Syrians confined within camps and not being allowed to leave after being arrested for homelessness or begging have been reported in previous years.⁴⁴⁸ This practice continues to be applied to groups such as Dom who are arrested for begging or for living in tents. Dom families are forcibly transferred to the camp based in the Düzici district of **Osmaniye** and cannot leave unless they sign voluntary return documents.⁴⁴⁹

In addition, detention has also been – arbitrarily – imposed in some cases as a sanction against temporary protection beneficiaries who violate their obligation to stay in their assigned province, although this is not likely to occur systematically. For example, temporary protection beneficiaries apprehended for irregular exit by sea are transferred to Removal Centres and are held there until the completion of pre-registration, unless they pose a threat to public safety and security.⁴⁵⁰

As detailed by the Council of Europe Special Representative for Migration and Refugees in 2016, residents in **Osmaniye** (Düzici) are not free to leave the camp at will, and some persons had been in the camp for periods exceeding one month. The centre is surrounded by barbed-wire fence and entry is controlled by security officers, while staff reportedly carried handcuffs and truncheons.⁴⁵¹ Additionally, UNHCR does not have unhindered access to the centre as it needs to submit requests for permission five

⁴⁴⁶ Article 37(3) TPR, as amended by Regulation 2018/11208.

⁴⁴⁷ Ministry of Interior Circular 2014/429 of 25 July 2014.

⁴⁴⁸ Zeynep Kivilcim, 'Legal violence against Syrian female refugees in Turkey', *Female Legal Studies*, 2016, citing Amnesty International, *Europe's gatekeeper*, 2015.

⁴⁴⁹ Information provided by the Kirkayak Cultural Centre, February 2018.

⁴⁵⁰ Information provided by ASAM, February 2018.

⁴⁵¹ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, paras VI.1(b) and XI.2(f).

working days in advance, while 4 out of 16 requests submitted between April and December 2016 were rejected by the authorities.⁴⁵²

The practice of *de facto* detention in Düziçi has continued throughout 2016 and early 2017 in respect of Syrian nationals readmitted by Turkey under the EU-Turkey statement.⁴⁵³ Later in 2017, however, a change of practice occurred, whereby returning Syrian nationals were placed in the İslahiye 2 Temporary Accommodation Centre, located in **Gaziantep** province.⁴⁵⁴ Information on the regime applicable in this centre is not available.

Temporary protection beneficiaries may be subject to detention for the purpose of removal (see [International Protection: Grounds for Detention](#)) where their status is cancelled or they fall within the exceptions to the principle of *non-refoulement*. These measures have been applied namely to persons deemed to be foreign fighters or involved in terrorism-related activities.

⁴⁵² UNHCR Greece, 'Response to query related to UNHCR's observations on Syrians readmitted to Turkey', 23 December 2016, available at: <http://bit.ly/2B5lykY>. See also Euractiv, 'Turkey blocks UNHCR access to Syrian refugees', 19 January 2017, available at: <http://bit.ly/2BFsuYp>.

⁴⁵³ European Commission, *Fifth progress report on the implementation of the EU-Turkey statement*, COM(2017) 204, 2 March 2017.

⁴⁵⁴ European Commission, *Sixth progress report on the implementation of the EU-Turkey statement*, COM(2017) 323, 13 June 2017.

Content of Temporary Protection

The temporary protection framework laid down by the TPR, first and foremost, provides a domestic legal status to beneficiaries granting legal stay in Turkey;⁴⁵⁵ protection from punishment for illegal entry or presence⁴⁵⁶ and protection from *refoulement*.⁴⁵⁷

While the temporary protection framework is by definition conceived as a temporary and transitional measure, in fact the temporary protection regime currently in place for refugees from Syria does not have a maximum time limit, nor does it strictly guarantee access to the individual international protection procedure for beneficiaries in the event of termination of the temporary protection regime.

Several actors are active in the provision of services and activities aiming at promoting the integration of temporary protection beneficiaries in Turkey, against the backdrop of increasing recognition of their long-term settlement prospects in the country.⁴⁵⁸ Overall coordination is carried out by the Turkish Red Crescent (*Kızılay*), which runs 20 community centres for migrants in 16 locations across the country. Municipalities also have a central role in the provision of services and integration support through projects. Despite these welcome measures, the lack of a national integration plan leads to fragmentation and lack of coordination in the area of integration.

International NGOs have also been active in border provinces since the beginning of the Syrian conflict. In 2015, for example, there were approximately 150 NGOs including international NGOs in **Gaziantep**. However, it has been observed from the field that, as of 2015, the state began to take a stricter approach against international NGOs by applying a series of administrative actions such as:

- Closure of organisations by Emergency Decree: IMPR, one of the former implementing partners of UNHCR was closed down by Emergency Decree No 677 in May 2017;
- Closure of organisations due to irregularities in their statute: the American Bar Association office in **Gaziantep** was closed down due to irregularities, as their statute mentioned Ankara and not Gaziantep as the city of activity;
- Limitation of organisations' activities: Save the Children's activities have been limited due to the fact that they were offering language courses without notifying the Ministry of Education and the PDMM.
- Administrative fines due to non-compliance with obligations stemming from social security legislation, work permits of foreigners, protection of Turkish currency and valuable bonds: these have been imposed on the Danish Refugee Council and at least seven other NGOs.

Currently, the scope of international NGOs' activities is limited and under close monitoring by the competent PDMM. They generally conduct cross-border activities in Syria in collaboration with AFAD, DGMM and other authorities. They face severe delays in obtaining residence permits for their foreign workers.

⁴⁵⁵ Article 25 TPR.

⁴⁵⁶ Article 5 TPR.

⁴⁵⁷ Article 6 TPR.

⁴⁵⁸ Turkish National Police Academy, *Mass immigration and Syrians in Turkey*, November 2017, 21.

A. Status and residence

1. Temporary protection identification document

The TPR provides a registration procedure and envisions the issuing of Temporary Protection Identification Documents (*Gecici Koruma Kimlik Belgesi*) to beneficiaries upon registration.⁴⁵⁹ This card serves as the document asserting the concerned person's status as a beneficiary of temporary protection.

Temporary Protection Identification Documents also list a Foreigners Identification Number (FIN) assigned to each beneficiary by the Directorate General of Population and Citizenship Affairs. In Turkey, all legally resident foreign nationals are assigned FIN which serve to facilitate their access to all government services. International protection applicants and status holders within the framework of LFIP are also given such FIN. Currently, FIN assigned to all categories of legally resident foreign nationals, including temporary protection beneficiaries, categorically start with the digits of 99.

There is an ongoing problem regarding registration and documentation that affects temporary protection beneficiaries who were registered by authorities before the TPR of 22 October 2014. In Turkey, foreign nationals are assigned a Foreigners Identification Number (FIN) by the Directorate General of Population and Citizenship Matters.

The various different types of registration documents issued to beneficiaries before the TPR came into force, either did not include a FIN assignment or featured a FIN that started with the digits of 98, whereas all the other categories of legally resident foreign nationals in Turkey – including international protection applicants and beneficiaries – are assigned FIN that start with the digits of 99.

However, for a technical reason having to do with the electronic infrastructure governing the delivery of public services, FIN that started with the digits of 98 could not be processed by public agencies, including the public **Health Care** institutions for the purpose of general health insurance coverage of beneficiaries.

In order for temporary protection beneficiaries to start accessing healthcare coverage, an initial activation needs to be made, by which ever public health care provider they approached first, in the electronic infrastructure of Turkey's Social Security Agency (SGK). It appears that this activation step is not possible unless the person concerned has a FIN that starts with the digits of 99.

Although the DGMM and the Directorate General of Population and Citizenship Affairs have worked out a way for previously registered temporary protection beneficiaries to be assigned or reassigned new FIN that start with the digits of 99, in practice due to faults and delays, not all such previously registered temporary protection beneficiaries have at present been able to obtain their new numbers.

Notable improvement has been witnessed in 2017 with regard to this issue. The verification and update process of data of Syrians under temporary protection before 31 December 2016 is still pending, in close cooperation with the UNHCR. According to the DGMM, the verification procedure is undertaken now in Kahramanmaraş, Hatay, Mersin, Adana, Kilis, İstanbul, Osmaniye, Gaziantep, Mardin, Şanlıurfa, Kayseri, Çanakkale, Nevşehir, Tekirdağ, Manisa, Sakarya, Denizli, Aydın, Burdur, Isparta, Edirne and Muğla.⁴⁶⁰ 350 staff speaking Arabic language are recruited for this project and work in 133 mobile registration

⁴⁵⁹ Article 2 TPR.

⁴⁶⁰ DGMM, 'Türkiye'de Geçici Koruma Kapsamında Bulunan Yabancıların Kişisel Verilerinin Doğrulanması', 22 March 2018, available in Turkish at: <https://bit.ly/2p1ttBt>.

desks. The verification is free of charge and compulsory, otherwise Syrians cannot access basic services. The project is aimed to be finished in 6 months.⁴⁶¹

Furthermore, Article 25 TPR explicitly excludes temporary protection beneficiaries from the possibility of long term legal integration in Turkey. According to Article 25, the Temporary Protection Identification Document issued to beneficiaries does not serve as “residence permit” as such, may not lead to “long term residence permit” in Turkey in accordance with Articles 42 and 43 LFIP.

Approximately 40-50 Yazidi refugees living in villages in Beşiri, **Batman** province have been refused Temporary Protection Identification Documents by the Batman PDMM following a reported slowdown in the Ministry, due to which they have been unable to access health care. Despite serious attempts by the head of the local authority (*muhtar*), this problem persisted for a long time but is reported to have been resolved at the time of writing.⁴⁶²

2. Naturalisation

Time spent in Turkey as a temporary protection beneficiary may not be interpreted to count into the fulfilment of the requirement of 5 years uninterrupted legal residence as a precondition in applications for Turkish citizenship (see [International Protection: Naturalisation](#)). At the time of writing, around 1,000 Syrians who came before 2011 have acquired Turkish citizenship through the normal procedure, while 4,500 Syrians have acquired Turkish citizenship through marriage to a Turkish citizen.⁴⁶³

In September 2017, the Ministry of Interior announced that approximately 50,000 citizenship applications from Syrian nationals had been submitted.⁴⁶⁴ About 12,000 applications for citizenship by Syrians have been accepted in the past 10 years.⁴⁶⁵ Citizenship is granted on the basis of certain profiles and criteria such as skills which could contribute to Turkey.⁴⁶⁶

In the last period, a new process in the framework of citizenship under exceptional circumstances is underway to grant Turkish citizenship to foreign investors and thus ensuring capital flow to Turkey. According to this planned arrangement, in exchange for purchasing property of at least \$1 million or investing in fixed capital of at least \$2 million, or creating new employment for at least 100 people or depositing in Turkey at least \$3 million with a reservation of not withdrawing it for three years or of buying governmental bonds of \$3 million with a reservation of not selling them for three years, or acquiring investment fund of \$1.5 million.⁴⁶⁷

Persons holding work permits are generally able to access citizenship more smoothly than others. In practice, however, the processing speed of naturalisation applications varies. According to the International Blue Crescent, which has 15 employees who have obtained Turkish citizenship, applications may be concluded within periods reaching up to 2 years.⁴⁶⁸

⁴⁶¹ *Ibid.*

⁴⁶² Information provided by the Batman Bar Association and the Local Authority for Yazidi Villages in Beşiri, December 2017.

⁴⁶³ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

⁴⁶⁴ Anadolu Agency, ‘Turkey processing citizenship for 50,000 Syrians’, 14 November 2017, available at: <http://bit.ly/2E4KyzG>.

⁴⁶⁵ CNN, ‘Son 10 yılda Türk vatandaşı olan Suriyeli sayısı açıklandı’, 22 September 2017, available at: <http://bit.ly/2EnU4Ny>.

⁴⁶⁶ Anadolu Agency, ‘Turkey processing citizenship for 50,000 Syrians’, 14 November 2017, available at: <http://bit.ly/2E4KyzG>.

⁴⁶⁷ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

⁴⁶⁸ Information provided by the International Blue Crescent, February 2018.

The government has also initiated a preliminary study to offer Turkish citizenship to qualified Syrians. In this context, the situation of about 10,000 families has been examined in collaboration with DGMM. This total corresponds to 20,000 persons. Collected information on the families has started being discussed in the Citizenship Commission. The processing of these cases is a long process, since a significant part of the information on Syrians is based on their own statements.⁴⁶⁹

The legal status of children born in Turkey was discussed by a recent report of the Refugee Rights Commission of the Grand National Assembly.⁴⁷⁰ According to the report, as many as 276,000 children born in Turkey are stateless (*haymatlos*), since they hold neither Syrian nor Turkish identification papers.⁴⁷¹ According to NGOs, as many as 500 Syrian children are born every week in Turkey.⁴⁷²

3. Link to international protection

As per Article 16 TPR, persons within the scope of the temporary protection regime in place are explicitly barred from making a separate application for international protection status in Turkey within the framework of the LFIP. Any requests for international protection presented to competent authorities shall not be processed as long as the temporary protection regime is in place.

This principle is also reiterated in Provisional Article 1 TPR, which provides the specifics of the temporary protection regime declared for protection seekers from Syria. Persons who arrived on 28 April 2011 or later shall be barred from making a separate “international protection” application. If they did already make an application for international protection before the publication of the TPR on 22 October 2014, these applications shall be suspended and the persons concerned will instead be processed as “temporary protection” beneficiaries.

This approach in itself is typical of temporary protection measures and is also mirrored by the EU Temporary Protection Directive, for example, which loosely inspired Turkey’s “temporary protection” conception by the same name.

What is concerning, however, in this connection is the fact that the TPR does not provide a strict guarantee for beneficiaries to access the individual international protection procedure in the event of a termination of the temporary protection regime in place.

As per Article 11, where a temporary protection regime is terminated, the Board of Ministers decision for termination may or may not order a specific course of action concerning treatment of former beneficiaries. In Article 11, it is provided that the decision “may”:

- “order the return of all former beneficiaries to country of origin” – which would appear to imply a concerning categorical denial of access to “international protection” procedure for any of the former “temporary protection” beneficiaries; or
- “order the granting of a relevant individual “international protection” status to all former beneficiaries on prima facie/group basis – which is meant to say without carrying out status determination on individual basis; or
- “allow for the individual processing and determination of any “international protection” requests made by former beneficiaries” – where the “may and “or” wording would indicate that this shall be subject to Board of Ministers discretion; or

⁴⁶⁹ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

⁴⁷⁰ *Ibid.*

⁴⁷¹ Hürriyet, ‘Meclis’e rapor: Türkiye’nin haymatlosları’, 19 January 2018, available in Turkish at: <http://bit.ly/2DGdCJr>.

⁴⁷² Information provided by the International Blue Crescent, February 2018.

- “allow for continued stay of former beneficiaries in Turkey subject to conditions to be laid down within the framework of the LFIP” – which appears to indicate some form of legal residence status outside the “international protection” framework.

Furthermore, as discussed in [Limitation and Suspension](#), temporary protection measures may be “limited” or “suspended” by the Council of Ministers, “for a specific period of time or indefinitely”, in the event of circumstances threatening national security, public order, public security and public health. In such a case, the Council of Ministers shall have the discretion to decide on the specifics of the treatment of existing temporary protection beneficiaries – which once again indicates a course of action that does not explicitly guarantee access to individual international protection procedure for persons concerned in the event of such a discretionary “limitation” or “suspension”.

Lastly on this question, as discussed in [Scope](#), decision declaring a temporary protection regime in response to a specific situation of mass influx, “may or may not” elaborate a set duration for the temporary protection measure and terms and conditions for its extension beyond this set initial duration. Therefore, the TPR leaves it up to the discretion of the Council of Ministers to determine whether to impose a specific time limit to the “temporary protection” regime declared or declare it “indefinitely” and thereby subject to termination at any time on the basis of Council of Ministers discretion. Indeed, in the Provisional Article 1 TPR, which provides the specifics of the temporary protection regime Turkey declared for protection seekers from Syria, no such time limit is provided.

In light of these aspects of the TPR framework presented above, it must be concluded that from a forward-looking point of concern from the vantage point of beneficiaries, Turkey’s temporary protection concept fails to provide a sufficiently secure and predictable legal status to persons concerned, since:

- A temporary protection regime implemented within the framework of the TPR does not have a set duration; it can be “limited”, “suspended”⁴⁷³ or “terminated”⁴⁷⁴ any time based on the discretion of Turkey’s Council of Ministers;
- Where the TPR does not provide an explicit and strict guarantee for persons concerned to be given an opportunity to file an individual international protection application, if they have lingering reasons as to why they should not be returned to country of origin.

B. Family reunification

Article 49 TPR appears to grant “temporary protection” beneficiaries the possibility of “making a request” for family unification in Turkey with family members outside Turkey. While the article provides that DGMM shall “evaluate such requests” and may cooperate with relevant international organisations and NGOs if deemed necessary, it is important to emphasise that the wording and specifics of this provision do not indicate strictly a right to family reunification on the part of beneficiaries. It is rather worded as a possibility subject to the discretion of DGMM.

In practice, NGOs receive many requests in family reunification through emails. The Turkish Red Crescent is a major actor working on family reunification applications, especially reunification of children with their families in Turkey. According to their statistics as of July 2017, they received 323 requests, of which 300 from Syrian families. Up until now, the Turkish Red Crescent has realised 10 reunifications in Turkey through information verifications and checks in the country of origin. They also provide accompaniment in case of child reunification in Turkey.

⁴⁷³ Article 15 TPR.

⁴⁷⁴ Article 11 TPR.

According to Article 3 TPR, a beneficiary's spouse, minor children and dependent adult children are defined as family members. The article also stipulates that in the case of unaccompanied children, "family unification steps shall be initiated without delay without the need for the child to make a request".

As of 2017, however, the right to family reunification has been almost entirely suspended in Turkey. According to the observations of lawyers, PDMM do not allow temporary protection beneficiaries to apply for family reunification, unless the sponsor has been accepted for resettlement in another country and the family is to join him or her before departure.⁴⁷⁵

C. Movement and mobility

1. Freedom of movement

The temporary protection declaration decision of the Council of Ministers may contain the implementation of temporary protection measures to a specific region within Turkey as opposed to country-wide implementation.⁴⁷⁶ The Council of Ministers has the authority to order "limitations" on temporary protection measures in place, or the "suspension" of existing measures for a specific period or indefinitely, "in the event of circumstances threatening national security, public order, public security and public health".⁴⁷⁷ In such a case, the Council of Ministers shall have the discretion to determine the specifics of the treatment existing registered "temporary protection" beneficiaries and measures that will be applied to persons within the scope of the "temporary protection" regime who approach Turkey's borders after the "limitation" or "suspension" decision.

In fact, without the need for a Council of Ministers decision on "limitation" or "suspension" of temporary protection measures, Article 33 TPR provides that temporary protection beneficiaries are "obliged to comply with administrative requirements, failure of which will result in administrative sanctions". Among other requirements, they may be "obliged to reside in the assigned province, temporary accommodation centre or other location" and comply with "reporting requirements as determined by provincial Governorates". This provision clearly authorises DGMM to limit freedom of movement of temporary protection beneficiaries to a particular province, a particular camp or another location.

However, it was not until August 2015 that Turkish Government authorities imposed a dedicated instruction to introduce controls and limitations on the movement of Syrians within Turkey. On 29 August 2015, an unpublished DGMM Circular ordered the institution of a range of measures by provincial authorities to control and prevent the movement of Syrians inside Turkey.⁴⁷⁸ Its existence became known when security agencies particularly in the southern provinces began to act on this instruction and started intercepting Syrians seeking to travel to western regions of the country. It appears that the impetus behind this measure was to halt the growing irregular sea crossings of Syrian nationals to Greek islands along the Aegean coast. Following the EU-Turkey statement, movement restrictions have been enforced more strictly vis-à-vis temporary protection beneficiaries. Obtaining permission to travel outside the designated province has become more difficult, while routine unannounced checks in the registered addresses of beneficiaries have also increased.⁴⁷⁹

⁴⁷⁵ Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018; ASAM, March 2018.

⁴⁷⁶ Article 10 TPR.

⁴⁷⁷ Article 15 TPR.

⁴⁷⁸ DGMM Circular No 55327416-000-22771, 29 August 2015, on "The Population Movements of Syrians within the Scope of Temporary Protection".

⁴⁷⁹ Council of Europe Special Representative for Migration and Refugees, *Report of the fact-finding visit to Turkey*, 10 August 2016, para IV.5.

Movements of temporary protection beneficiaries seem to continue, nevertheless. DGMM statistics on apprehensions for irregular migration do not discern irregular entries from irregular exits from Turkey, yet indicate that the majority of apprehensions occur in western and southern provinces. By the end of 2017, Syrians were the main nationality concerned, with 50,217 out of the total number of 175,752 apprehensions.⁴⁸⁰ More specifically, the Coast Guard has reported a total of 21,937 persons apprehended at sea in 2017, compared to 37,130 apprehensions in 2016.⁴⁸¹

Temporary protection beneficiaries may also move between provinces *inter alia* to seek employment. This is often the case for Syrians living in **Şanlıurfa** or **Istanbul** and relocating to **Ankara** for work opportunities. To reduce informal employment, the Ministry of Employment and Social Security has provided employers with the possibility to make one official declaration before a public notary that a beneficiary is starting employment, in order for that beneficiary to transfer his or her place of residence within 30 days. However, due to obstacles in obtaining a work permit (see [Access to the Labour Market](#)), and to the fact that employers do not actively make the necessary official declarations, they are not able to change their address from the place of first registration to Ankara.

The DGMM Circular of 27 November 2017 specifies that PDMM may introduce reporting obligations on temporary protection beneficiaries by means of signature duty. Failure to comply with reporting obligations for three consecutive times without valid excuse may lead to cancellation of temporary protection status.

Beneficiaries may request a travel authorisation document in order to travel outside the province in which they are registered. The document is issued at the discretion of the competent Governorate and may not exceed 90 days in duration, subject to a possible extension for another 15 days. The beneficiary is required to notify the Governorate upon return to the province. Failure to do so after the expiry of the 90-day period leads to a “V-71” code entry, as a result of which the person’s status is considered to be implicitly withdrawn. The “V-71” code is deactivated if the person approaches the PDMM with valid justification, following an assessment of the case.

2. Travel documents

Article 43 TPR refers to Article 18 of the Passport Law on the matter of travel documents for beneficiaries of temporary protection in Turkey. Article 43 of TPR provides that if temporary protection beneficiaries make a request for a travel document, these requests “shall be evaluated” in the framework of Article 18 of the Passport Law.

As described above, Article 18 of the Passport Law envisions the two types of “passport with a foreign-nationals-only stamp” (*Yabancılarla Mahsus Damgalı Pasaport*) with different durations of validity – as differentiated above.

And therefore, Turkey’s current temporary protection framework does not foresee the provision of (Refugee) Travel Documents to temporary protection beneficiaries within the meaning of the 1951 Convention.

Experts are not aware of any such “passports with a foreign-nationals-only stamp” issued to a temporary protection beneficiary. That being said, there are cases of temporary protection beneficiaries being

⁴⁸⁰ DGMM, *Irregular migration statistics*, available at: <http://bit.ly/2BO8chL>.

⁴⁸¹ Coast Guard, *Irregular migration statistics*, available at: <http://bit.ly/2oiGMaZ>.

allowed to travel on their Syrian passports to third countries for private purposes, where in fact in some cases these individuals encounter difficulties in entering Turkey upon return.

3. Resettlement and family reunification departures

3.1. Resettlement and family reunification departure procedure

Temporary protection beneficiaries are barred from making a separate international protection request in Turkey in accordance with LFIP. By the same token, as a general policy UNHCR Turkey does not register temporary protection beneficiaries and carry out refugee status determination (RSD) proceedings under UNHCR's Mandate. However, UNHCR does register and process a relatively small number of temporary protection beneficiaries on exceptional basis, mainly for the purpose of resettlement but also for protection reasons in a small number of cases.

Until 2015, UNHCR had largely been relying on its own implementing for the purpose of initial pre-identification of cases among "temporary protection" beneficiaries for possible resettlement consideration. The UNHCR Turkey Resettlement Unit in turn carries out screening on such pre-identified cases and finalises the selection of cases that are in turn submitted to resettlement countries. UNHCR refers to six main groups when determining the refugees to be resettled in third countries: persons with medical needs; victims of torture; persons in need of legal or physical protection; persons in need of family reunification; children; and young people at risk.

Starting in 2015 however, the DGMM has also started to pre-identify cases for resettlement consideration among the registered temporary protection caseload through the PDMM and make referrals to UNHCR in lists. When UNHCR identifies the applicants most in need of resettlement from these lists, it presents them to the countries that agree to relocate the files prepared for them. The final decision is given by the third countries. The third countries examine the files and decide whether to accept the relevant applicants, especially after conducting their safety surveys. IOM organises the implementation of health checks, the preparation of travel document and the cultural orientation of those accepted for resettlement.

Departure of temporary protection beneficiaries to third countries for the purpose of resettlement is subject to the permission of the DGMM.⁴⁸² A so-called "exit permission" must be issued in order for a beneficiary to be allowed to exit Turkey to a third country either for the purpose of a temporary visit or on a permanent basis for the purpose of resettlement.

The same "exit permission" requirement also applies to temporary protection beneficiaries in process to depart from Turkey for the purpose of family reunification with family members in third countries. And again by the same token, Syrians seeking a family reunification departure from Turkey must first register with DGMM as a "temporary protection" beneficiary before they can subsequently request and obtain an "exit permission" to leave Turkey to a third country.

In practice, Syrians and others in the resettlement procedure as well as persons seeking to leave Turkey for family reunification reasons occasionally encounter problems and delays in obtaining the necessary "exit permission" from DGMM, which may in turn lead to delays in departure.

On the question of "exit permission" requirement both for resettlement and family reunification purposes, one should clarify the separate regime that applies to the relatively small number of Syrian nationals who are present in Turkey legally but outside the "temporary protection" framework. As explained in [Individual](#)

⁴⁸² Article 44 TPR.

Eligibility, these are Syrian nationals who have arrived in Turkey with valid passports and been allowed to enter by reference to the visa exemption in place for Syrians dating back to the time before the Syria conflict. Some of these legally arrived Syrians have subsequently obtained regular “residence permits” within the 3-month time frame allowed by the visa-exemption, and continue to live in Turkey on that basis. Others may have arrived in Turkey legally with passports recently and may be currently present in Turkey on visa-exemption grounds valid for 3 months. These Syrian nationals who are present Turkey legally either on “residence permits” or visa-exemption grounds, still have valid Syrian passports, would not need an “exit permission” in order to depart from Turkey to third countries. That said, since they are not beneficiaries of “temporary protection”, they will not be identified and processed for resettlement by UNHCR either, and therefore they do not have access to resettlement. However, in the case of family reunification departures, theoretically if they manage to obtain a visa from the target family unification country, they will be free to leave from Turkey to which ever third country they wish - the way other foreigners can, that is, without any “exit permission” requirements. In practice, however, since the vast majority of Syrians in Turkey have not entered Turkey on valid travel documents, they will need to first register as “temporary protection” beneficiary and seek the required “exit permission” if they wish to leave Turkey for family reunification reasons. In practice, especially for persons with special needs, DGMM prioritises applications and accelerates procedures to some extent. IOM in cooperation with the German government has assisted more than 20,000 family reunification application of Syrians as of 2016.⁴⁸³

According to DGMM statistics, a total 13,744 refugees have been transferred to third countries from 2014 to 21 March 2018.

3.2. The 1:1 resettlement scheme

The EU-Turkey statement of 18 March 2016 established a specific resettlement procedure (“1:1 scheme”), under which one Syrian national would be resettled from Turkey to EU Member States for each Syrian national returned from Greece to Turkey, taking into account the UN vulnerability criteria.⁴⁸⁴

In practice, participation in resettlement may vary from one region to another. For example, while temporary protection beneficiaries residing in **Istanbul** and **Izmir** may generally be interested in resettlement under the 1:1 scheme, this is not an option pursued by people living in **Gaziantep** or **Hatay**.⁴⁸⁵

Between 4 April 2016 and 21 March 2018, the following numbers of refugees had been resettled to the EU under the 1:1 scheme:

Resettlement of Syrian refugees under 1:1 scheme: 21 March 2018	
Country of destination	Number of resettled persons
Germany	4,480
Netherlands	2,609
France	1,399
Finland	1,002
Belgium	823
Sweden	742

⁴⁸³ UN Turkey, ‘IOM Türkiye, 20 binden fazla Suriyelinin Almanya Aile Birleşimi İçin Başvuruda Bulunmasına Yardımcı Oldu’, available in Turkish at: <https://bit.ly/2GsjavU>.

⁴⁸⁴ Council of the European Union, *EU-Turkey statement*, 18 March 2016, para 2.

⁴⁸⁵ Information provided by the EU Delegation to Turkey, February 2018.

Spain	429
Italy	332
Austria	213
Luxembourg	206
Portugal	123
Lithuania	84
Latvia	76
Croatia	59
Estonia	46
Malta	17
Total	12,640

Source: DGMM, Temporary protection: <http://bit.ly/1Np6Zdd>.

D. Housing

1. Temporary Accommodation Centres

The TPR does not provide a right to government-provided shelter as such for temporary protection beneficiaries. However, Article 37(1) TPR authorises AFAD to build camps to accommodate temporary protection beneficiaries. These camps are officially referred to as Temporary Accommodation Centres.⁴⁸⁶ Whereas responsibility for the management of the camps was entrusted to AFAD, DGMM is the authority responsible for their management following an amendment to the TPR of March 2018.⁴⁸⁷

Articles 23 and 24 TPR authorise DGMM to determine whether a temporary protection beneficiary shall be referred to one of the existing camps or allowed to reside outside the camps on their own means in a province determined by DGMM. Article 24 TPR authorises DGMM to allow temporary protection beneficiaries to reside outside the camp in provinces to be determined by DGMM. It also commits that out of temporary protection beneficiaries living outside the camps, those who are in financial need may be accommodated in other facilities identified by the Governorate.

As of 21 December 2017, there were 21 such large-scale camps accommodating a total of 228,524 temporary protection beneficiaries, spread across 10 provinces in Southern Turkey in the larger Syria border region.⁴⁸⁸ The cost of operation of the camps and service provision therein is gradually increasing.⁴⁸⁹

Conditions in the temporary accommodation centres are assessed as good overall. However, beyond the Turkish Red Crescent and NGOs with formal cooperation agreements, other organisations have access to the camps only upon request.⁴⁹⁰

In 2015, a camp exclusively hosting Yazidi refugees was set up by the municipality of **Batman**. This camp was established at the municipality's initiative without prior consultation with the government.⁴⁹¹ Following

⁴⁸⁶ Article 3 TPR.

⁴⁸⁷ Article 37(3) TPR, as amended by Regulation 2018/11208.

⁴⁸⁸ DGMM, *Temporary protection*, available at: <http://bit.ly/1Np6Zdd>.

⁴⁸⁹ Turkish National Police Academy, *Mass immigration and Syrians in Turkey*, November 2017, 20-21.

⁴⁹⁰ Information provided by the International Blue Crescent, February 2018.

the appointment by the government of new mayors in 93 municipalities after July 2016, however, shelter of Yazidis is no longer provided in this camp. Approximately 250 people also live in 7-8 villages in Beşiri, **Batman**.

AFAD has set up a camp for 1,500 Yazidis in Midyat, **Mardin** province. The camp consists of two sections, one for Syrians and one for Iranian Yazidis. There are 14 neighbourhoods with 670 tents in the first section and 15 with and 1,330 tents in the second section. There is a total of 3,623 people in the camp. Residents are provided a food card with 85 TL per month. The camp has two separate schools, one for Syrian children the other for Yazidi children. 198 children receive education in the camp. Each neighbourhood in the camps is represented by a *muhtar* and requests are communicated to the authority of the camp through the *muhtar*. People have permission to live outside the camps for 6 months 15 days.⁴⁹²

There are also reports of Yazidis living in **Istanbul**, although their exact number is not known.⁴⁹³

Yazidis in the camp and villages live in tents which do not offer adequate shelter from weather conditions, especially high temperatures during the summer. Residents have requested to be housed in containers but there has been no progress in this respect so far. Hygiene conditions such as access to clean water is also challenging in tents,⁴⁹⁴ while the contribution to the cost of medication is also difficult.

2. Urban and rural areas

While the overall size of the temporary protection beneficiary population sheltered in the camps is not insignificant at all, albeit declining, the vast majority of the current population subject to Turkey's temporary protection regime reside outside the camps in residential areas in southern Turkey (**Gaziantep, Hatay, Adana, Mersin, Kilis, Kahramanmaraş**) as well as other regions of the country, including the large western cities of **Istanbul, Bursa** and **Izmir**.

As of 21 December 2017, the total population of temporary protection beneficiaries registered with Turkish authorities was listed as 3,412,368, of which less than 7% were accommodated in the Temporary Accommodation Centres, whereas 3,183,879 were resident outside the camps (see [Statistics](#)). More than half of the 3.4 million Syrians were registered in 4 out of the 81 Turkish provinces (**Istanbul, Şanlıurfa, Hatay** and **Gaziantep**). Another 300,000 to 400,000 unregistered Syrians are estimated to be living in urban centres.⁴⁹⁵

While **Istanbul** hosts the largest number of registered temporary protection beneficiaries, this only corresponds to 3.6% of its population. Conversely, temporary protection beneficiaries correspond to 17.7% of the population in **Gaziantep** and 23.8% in **Şanlıurfa**, and outnumber the local population of **Kilis**.⁴⁹⁶

“While a substantial part of the refugees who do not stay in the centers reside in houses they rent either through their own means or with the support of NGOs or individual citizens, a percentage of them stay in blighted neighborhoods of cities which were evacuated as part of urban

⁴⁹¹ Batman Human Rights Platform, *Batman'daki sığınmacı ve mültecilere ilişkin 24 sayfalık gözlem ve tespit raporu*, March 2015, available in Turkish at: <http://bit.ly/2lC8kaU>.

⁴⁹² Grand National Assembly, *Göç ve uyum raporu*, March 2018.

⁴⁹³ Information provided by Batman Bar Association, December 2017.

⁴⁹⁴ Information provided by Local Authority for Yazidi Villages in Beşiri, December 2017.

⁴⁹⁵ International Crisis Group, *Turkey's Syrian refugees: Defusing metropolitan tensions*, January 2018, available at: <http://bit.ly/2BCrMto>, 17.

⁴⁹⁶ DGMM, *Temporary protection statistics*, 21 December 2017.

transformation projects. It must be noted that those living in these neighborhoods live their lives under harsh circumstances and are deprived of healthy housing conditions. Although the refugees who can afford to rent a house are assumed to have no problems, it must be taken into account that the vast majority of refugees have poor economic conditions. The refugees in poor economic conditions live in groups or are forced to live in low-cost and unhealthy houses to decrease their housing costs... Their living spaces are mostly small, dark, humid and unhealthy apartments on the ground or basement levels. The unhealthy conditions of these flats directly affect refugees' state of health and cause various health problems."⁴⁹⁷

The level of inclusion of temporary protection beneficiaries varies from one province to another. While Syrians are generally well integrated in **Hatay**, many in **Adana** and **Mersin** under squalid conditions in tents set up in agricultural areas.⁴⁹⁸

Incidents of tension and violence locals against Syrians have also been reported. One incident of attempted mass lynching occurred on 16 July 2016 in Sıtel (‘‘Little Aleppo’’), located Altındağ, **Ankara**, where approximately 40,000 refugees are residing.⁴⁹⁹ The situation has worsened in 2017 with as many as 181 social tension and criminal incidents recorded throughout the year, while many more are likely to be unreported.⁵⁰⁰ In **Mersin**, tensions in the neighbourhood of Adanalıođlu in April 2017 led to the evacuation of Syrian refugees.⁵⁰¹ In 2016, Syrians' houses in the Beysehir district in **Konya** were attacked by locals following a fight between Syrian and Turkish men. Local people said: ‘‘We do not want Syrians in Beysehir anymore.’’⁵⁰²

In the past, there have been incidents of forced evictions of beneficiaries *inter alia* in the context of urban transformation projects. In **Ankara**, a project in the municipality of Onder led to the demolition of Syrian refugees' houses, as well as electricity and water cuts for days, for the purpose of road development. This action was carried out without taking into consideration their housing needs, despite an order from the Council of State which had annulled the relevant decision.⁵⁰³ Legal actions brought by the Ankara Bar Association in this regard are still pending before the courts.⁵⁰⁴

E. Employment and education

1. Access to the labour market

1.1. Legal conditions and obstacles to access in practice

Temporary protection beneficiaries have the right to apply for a work permit on the basis of a Temporary Protection Identification Card, subject to regulations and directions to be provided by the Council of

⁴⁹⁷ Turkish National Police Academy, *Mass immigration and Syrians in Turkey*, November 2017, 20-21.

⁴⁹⁸ Information provided by the Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018.

⁴⁹⁹ For more information, see Ankara Bar Association, Press Release, available in Turkish at: <http://bit.ly/2FoQYFQ>; Mazlumder, *Sıtel bölgesinde yaşıyan Suriyeli sığınmacıların*, 16 July 2016, available in Turkish at: <http://bit.ly/2FqdzCb>.

⁵⁰⁰ International Crisis Group, *Turkey's Syrian refugees: Defusing metropolitan tensions*, January 2018, 3-4.

⁵⁰¹ CNN, ‘Mersin’de mahalleli ve Suriyeliler arasında gerginlik’, 18 April 2017, available in Turkish at: <http://bit.ly/2EGNXEZ>.

⁵⁰² T24, ‘Konya’da Suriyelilerin evi taşlandı!’, 12 July 2016, available in Turkish at: <https://bit.ly/2J1E0R2>.

⁵⁰³ Kaos GL, ‘Ankara’da mültecilerin yaşadığı evler yıkılıyor’, 31 July 2015, available in Turkish at: <http://bit.ly/2DLmfql>.

⁵⁰⁴ Kaos GL, ‘uriyeli mülteciler rant dolayısıyla mağdur ediliyor’, 5 August 2015, available in Turkish at: <http://bit.ly/2FpGHcr>.

Ministers.⁵⁰⁵ The Regulation on Work Permit for Foreigners under Temporary Protection, adopted on 15 January 2016, regulates the procedures for granting work permits to persons under temporary protection.

Temporary protection beneficiaries are required to apply for a work permit in order to access employment.⁵⁰⁶ An application for a work permit may be lodged following 6 months from the granting of temporary protection status,⁵⁰⁷ by the employer through an online system (*E-Devlet Kapisi*) or by the beneficiary him or herself in the case of self-employment.⁵⁰⁸

The Regulation foresees an exemption from the obligation to obtain a work permit for seasonal agriculture of livestock works.⁵⁰⁹ In that case, however, beneficiaries must apply to the relevant provincial governorate to obtain a work permit exemption.⁵¹⁰ The Ministry of Labour may also limit the number and provinces where temporary protection beneficiaries may work under seasonal agriculture of livestock jobs.⁵¹¹

Beyond special rules in the context of agriculture and livestock work, the Regulation prohibits beneficiaries from applying for professions which may only be performed by Turkish nationals.⁵¹²

When deciding on the granting the right to apply for a work permit, the Ministry of Labour and Social Security takes into consideration the province where the beneficiary resides as a basis.⁵¹³ However, it may cease to issue work permits in respect of provinces which have been determined by the Ministry of Interior to pose risks in terms of public order, public security or public health.⁵¹⁴

The Ministry may also set a quota on temporary protection beneficiaries based on the needs of the sectors and provinces.⁵¹⁵ The number of beneficiaries active in a specific workplace may not exceed 10% of the workforce, unless the employer can prove that there would be no Turkish nationals able to undertake the position. If the workplace employs less than 10 people, only one temporary protection beneficiary may be recruited.

The work permit fee is 537 TL / 119 €. ⁵¹⁶ Under the Regulation, temporary beneficiaries may not be paid less than the minimum wage.⁵¹⁷

The table below outlines the number of work permits issued to Syrian nationals between 2011 and 2017. While the Ministry of Labour was not able to provide statistics on the number of work permits issued in 2017 upon request,⁵¹⁸ these were published at a later stage.⁵¹⁹

⁵⁰⁵ Article 29 TPR.

⁵⁰⁶ Article 4(1) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵⁰⁷ Article 5(1) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵⁰⁸ Article 5(2)-(3) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵⁰⁹ Article 5(4) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵¹⁰ *Ibid.*

⁵¹¹ Article 5(5) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵¹² Article 6(2) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵¹³ Article 7(1) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵¹⁴ Article 7(2) Regulation on Work Permit for Foreigners under Temporary Protection.

⁵¹⁵ Article 8 Regulation on Work Permit for Foreigners under Temporary Protection.

⁵¹⁶ Refugees International, *I am only looking for my rights: Legal employment still inaccessible for refugees in Turkey*, December 2017, available at: <http://bit.ly/2ylz434>, 5.

⁵¹⁷ Article 10 Regulation on Work Permit for Foreigners under Temporary Protection.

⁵¹⁸ Information provided by the Ministry of Labour, Request No 1800080248, 19 January 2018.

⁵¹⁹ Ekonomistler Platformu, 'Suriyelilerin Türkiye'deki İş Gücü Durumu', available in Turkish at: <http://bit.ly/2EKMjCf>.

Work permits issued to Syrian nationals: 2011-2017							
	2011	2012	2013	2014	2015	2016	2017
Male	96	194	724	2,384	3,739	12,145	19,326
Female	22	26	70	157	280	1,145	1,644
Total	118	220	794	2,541	4,019	13,290	20,970

Source: Ministry of Labour and Social Security, Work permit statistics: <http://bit.ly/2j04WVH>; Ekonomistler Platformu: <http://bit.ly/2EKMjCf>.

As illustrated in the table above, the number of work permits issued to temporary protection beneficiaries has increased following the adoption of the Regulation on 15 January 2016. During 2017, Syrians represented 24.5% of work permits granted to foreigners in Turkey. By the end of 2017, between 6,000 and 8,000 businesses were owned by Syrian nationals.⁵²⁰ Nevertheless, these figures still represent a minimal fraction (1.2%) of the 1,733,809 registered temporary protection beneficiaries between the age of 19 and 64 in Turkey.⁵²¹

Civil society organisations are an important employer for Syrians under temporary protection. According to stakeholders, there were 150 national and international NGOs and about 14,000 employees working in **Gaziantep** by the end of 2015. However, as of that date, the state started strictly monitoring international NGOs working at the border. Irregularities on the part of international NGOs in relation to the obligation to employ people with work permits have led to a significant number of administrative fines. In one case, the Magistrates' Court of **Hatay** has annulled such a fine on the ground that it is incompatible with the special protection provisions for humanitarian aid NGOs in the Law on Work Permit of Foreigners and the Refugee Convention.⁵²²

Despite the legal framework introduced in 2016 to regulate access to the labour market for temporary protection beneficiaries, substantial gaps therefore persist with regard to access to employment in practice. Beneficiaries receive little or no information on the work permit system, as the number of community centres providing information about such opportunities remains limited; 20 centres in 16 cities at the time of writing.⁵²³ There are seven such centres in **Istanbul**, where a large population of Syrian refugees is residing.

1.2. Working conditions

Temporary protection beneficiaries in Turkey are impacted by the widespread practice of undeclared employment under substandard working conditions and low wages.⁵²⁴ Undeclared employment flourishes in the agricultural sector, particularly in provinces such as **Adana**.⁵²⁵ Despite initiatives such as a recent UNHCR-funded agricultural skills training in southeastern Turkey,⁵²⁶ Syrians work long hours – in many cases exceeding 11 hours a day – for 38 TL / 8.37 €, a portion of which is withheld by “handlers” (*elciler*)

⁵²⁰ Refugees International, *Legal employment still inaccessible for refugees in Turkey*, December 2017, 2, 5; International Crisis Group, *Turkey's Syrian refugees: Defusing metropolitan tensions*, January 2018, 17.

⁵²¹ DGMM, *Temporary protection statistics*, 21 December 2017.

⁵²² 1st Magistrates' Court of Hatay, Decision 2016/180, 31 March 2016.

⁵²³ For more information, see Turkish Red Crescent, *Syria crisis: Humanitarian relief operation*, September 2017, available at: <http://bit.ly/2Fsj2YZ>.

⁵²⁴ Refugees International, *Legal employment still inaccessible for refugees in Turkey*, December 2017, 7.

⁵²⁵ Information provided by the Adana Bar Association, February 2018.

⁵²⁶ Food and Agricultural Organisation, 'Syrian refugees acquire agricultural job skills and work opportunities in Turkey', 29 November 2017, available at: <http://bit.ly/2z44zPs>.

who act employment agents.⁵²⁷ In other provinces such as **Muğla**, undeclared employment frequently occurs in the construction sector.⁵²⁸ In **Istanbul**, a report published by the United Metalworkers' Union (*Birleşik Metal İşçileri Sendikası*) on the situation of Syrian refugees in the textile industry.⁵²⁹ According to the report, the wages of 46% of Syrian and of 20% of Turkish workers are below the minimum wage level. It can be said that the minimum wage is not applicable in textile ateliers operating without licence (*Merdivenaltı atölyeleri*). In terms stratification of wages in the labour market, Turkish men are at the top, followed by Turkish women, while Syrian men close to the bottom and Syrian women at the bottom. 99.6% of Syrian men and all Syrian women in this sector are informally employed without social security.

Unacceptable labour conditions in urban centres have often led to large-scale movements such as a November 2017 strike of shoemakers (*saya*) in major cities including **Istanbul**, **Izmir**, **Adana**, **Gaziantep**, **Konya** and **Manisa**, demanding lawful employment and better working conditions in workshops.⁵³⁰

Poor health and safety conditions at work are also a matter of concern. According to figures from the Worker Health and Safety Council (*İsci Sağlığı ve İş Güvenliği Meclisi*), 67 refugees lost their lives in 2015 and 96 in 2016, while this number is expected to be higher for 2017. Deaths in the workplace have mostly occurred in the agricultural and construction sectors.⁵³¹

Women, in particular, face significant challenges in obtaining effective access to the labour market. This is due, on the one hand, to obstacles such as lack of childcare and lack of information and training opportunities.⁵³² On the other hand, traditional gender roles assigned to women as caretakers, especially in southern Turkey regions such as **Şanlıurfa**, mean that women's access to public space is limited compared to men, while training opportunities mainly revolve around traditional vocations such as hairdressing or sewing.⁵³³ In addition, where they do take jobs outside their homes, women in the textile sector often face discrimination and ill-treatment. This is namely the case for ateliers operating without licence (*Merdivenaltı atölyeleri*) in **Istanbul**, where women and girls work in the rear of basements and in windowless rooms for long hours.⁵³⁴

The Turkish labour market also presents particular risks for children, given the widespread phenomenon of child labour in areas such as textile factories,⁵³⁵ as well as restaurants in cities such as **Ankara**. In the textile sector, approximately 19% of the workforce is underage, while this number is as high as 29% in

⁵²⁷ On **Izmir**, see Association of Bridging People, 'Seasonal agricultural labor in Turkey: The case of Torbalı', 13 December 2017, available at: <http://bit.ly/2AupjAr>. On **Adana**, see Development Workshop, *Fertile lands: Bitter lives – The situation analysis report on Syrian seasonal agricultural workers in the Adana plain*, November 2016, available at: <http://bit.ly/2BL7EJH>; IRIN, 'The never-ending harvest: Syrian refugees exploited on Turkish farms', 15 December 2016, available at: <http://bit.ly/2CKijRs>.

⁵²⁸ Information provided by Bodrum Women's Solidarity Association, December 2017.

⁵²⁹ United Metalworkers' Union, *Suriyeli Sığınmacıların Türkiye'de Emek Piyasasına Dahil Olma Süreçleri ve Etkileri: İstanbul Tekstil Sektörü Örneği*, June 2017, available in Turkish at: <http://bit.ly/2DIrq6p>.

⁵³⁰ Göçmen Dayanışma Ağı, 'About saya (shoe-upper) workers' resistance', 1 December 2017, available at: <http://bit.ly/2B8UCSo>.

⁵³¹ Worker Health and Safety Council, 'Savaştan kaçıp geldiler iş cinayetinde can verdiler', 12 September 2017, available in Turkish at: <http://bit.ly/2DWzIqY>.

⁵³² Refugees International, *Legal employment still inaccessible for refugees in Turkey*, December 2017, 5, 11-12.

⁵³³ Rejane Herwig, 'Syrian Women's multiple burden at the labour market and at home', 3 December 2017, available at: <http://bit.ly/2kNpSQ8>; 'Strategies of resistance of Syrian female refugees in Şanlıurfa' (2017) 3:2 *Movements*, available at: <http://bit.ly/2CK78bN>.

⁵³⁴ Papatya Bostancı, '"Çalışanı Meşgul Etmeyin": Merdivenaltı Tekstil Atölyelerinde Mülteci Kadın Olmak', 30 September 2017, available in Turkish at: <http://bit.ly/2CLBLNF>.

⁵³⁵ European Commission, *Education and Protection Programme for Vulnerable Syrian and Host Community School-aged Children, in Lebanon, Jordan and Turkey*, Ares(2017)3292256, 30 June 2017, available at: <http://bit.ly/2BMs0SK>, 4. See also Deutsche Welle, 'Small hands, big profits: Syrian child labor in Turkey', 5 December 2017, available at: <http://bit.ly/2BLmlqF>; Financial Times, 'A day on the factory floor with a young Syrian refugee', 20 September 2017, available at: <http://on.ft.com/2hh9Tbh>; BBC, 'Child refugees in Turkey making clothes for UK shops', 24 October 2016, available at: <http://bbc.in/2ey7Zka>.

respect of Syrians. Syrian working children under the age of 15 are much more visible in the industry than Turkish children.⁵³⁶ The Worker Health and Safety Council has documented the case of a 5-year-old Syrian child forced to work in **Gaziantep** in 2017.⁵³⁷ On the other hand, child labour in the agricultural sector is a widespread problem in **Adana**. The Adana Bar Association visited refugees working in the fields of the Doğankent district during 2017 and raised awareness on children's basic needs such as clothing and shoes.⁵³⁸

2018 has been declared as the year of the fight against child labour in Turkey. The Ministry of Employment and Social Security announced a six-year National Action Plan to Fight Against Child Labour in 2017. A new project of 10 million TL was announced for NGOs and public authorities to conduct activities in 10 pilot cities during this period.⁵³⁹

2. Access to education

2.1. Basic education

Under Turkish law, "basic education" for children consists of 12 years, divided into 3 levels of 4 years each. All children in Turkish jurisdiction, including foreign nationals, have the right to access "basic education" services delivered by public schools.

All children registered as temporary protection beneficiaries have the right to be registered at public schools for the purpose of basic education.

Public schools

Public schools in Turkey are free of charge. They instruct in Turkish and teach a standardised Turkish Ministry of Education curriculum, and are authorised to dispense certificates and diplomas to foreign national children with full validity.

In order to enrol in public schools, children and their parents need to have completed their "temporary protection" registration and issued Temporary Protection Beneficiary Identification Cards. Children who are not yet registered can be temporarily enrolled as a "guest student" which means that they can attend classes but will not be provided any documentation or diploma in return, unless they subsequently complete their temporary protection registration and are officially admitted by the school.⁵⁴⁰

Where a foreign national child is enrolled at public schools, the Provincial Directorate of Education is responsible to examine and assess the former educational background of the student and determine to which grade-level the child should be registered. In case there is no documentation regarding the past educational background, the Provincial Directorate shall conduct necessary tests and interviews to assess the appropriate grade-level to which student shall be assigned.

⁵³⁶ United Metalworkers' Union, *Suriyeli Sığınmacıların Türkiye'de Emek Piyasasına Dahil Olma Süreçleri ve Etkileri: İstanbul Tekstil Sektörü Örneği*, June 2017, available in Turkish at: <http://bit.ly/2D1rq6p>.

⁵³⁷ Worker Health and Safety Council, 'Göçmen çocuk sömürüsü: 5 yaşında çocuklar çalıştırılıyor', 28 March 2017, available in Turkish at: <http://bit.ly/2FoFzpu>.

⁵³⁸ Adana Bar Association, 'Baromuz Doğankent çadır bölgesindeki Suriyeli mülteci çocukları ziyaret etti', 17 January 2018, available in Turkish at: <http://bit.ly/2Hv1w89>.

⁵³⁹ National Action Plan for the Fight against Child Labour, 29 March 2017, available in Turkish at: <https://bit.ly/2GhE6q0>.

⁵⁴⁰ Bianet, 'Suriyeli Olmayan Mülteci Çocukların Eğitime Erişimleri Yok', 31 May 2017, available in Turkish at: <https://bit.ly/2pG75JK>.

As of the end of September 2017, the state of enrolment of school-age children under temporary protection regime is reported as follows:

Enrolment of school-age children under temporary protection regime: September 2017	
Estimated number of children at school age	976,200
Number of children enrolled	618,948
- <i>In temporary education centres in camps</i>	83,246
- <i>In temporary education centres outside camps</i>	260,416
- <i>In public schools</i>	351,135
Rate of enrolment	65%

Source: Grand National Assembly, Göç ve Uyum Raporu, March 2018.

According to the schooling rates of the pupils attending primary and secondary education centres in 2017, the enrolment rates were 35% in pre-school, 98% in primary school, 53% in secondary school and 23% in high school.⁵⁴¹ Based on these figures, the higher level of schooling is at primary school age while the lowest level is at high school age. The difference among these rates is mostly linked to the high level of child labour in the job market.

At the same time, the rate of discrimination, prejudice and bullying remains high in public schools, both from fellow pupils and teachers. Refugee children are not offered additional Turkish language classes so as to be able to follow the curriculum effectively.

Access to education remains problematic for Yazidi refugee children, who mainly reside in **Batman** and **Mardin**. The Ministry of Education allocated an empty primary school to Yazidi children in Beşiri, Batman and employed two school teachers and a pre-school education teacher. Children can only learn the Turkish language in this school. However, the language barrier between Yazidi children and school teachers poses a major barrier thereto.

Moreover, teachers are not necessarily aware of psychological traumas of children and there is no specific psychological support service provided to children. The local authority of Yazidi villages in Beşiri stated that there are two girls who have directly witnessed and been subjected to ISIS violence, who suffer from post-traumatic stress disorder. Only once did a Ministry of Youth and Sport team come and play with children in the villages; there is no regular psychological support service provided for victims of ISIS violence.⁵⁴²

Temporary Education Centres

The Ministry of Education Circular 2014/21 on “Education Services for Foreign Nationals” of 23 September 2014 for the first time introduced the concept of Temporary Education Centre (*Geçici Eğitim Merkezi*) and provided a legal framework for the supervision and monitoring of the aforementioned private schools run by Syrian charities – which had hitherto existed outside the regulatory framework of the Turkish Ministry of Education and were therefore categorically unlawful but tolerated by the provincial authorities.

⁵⁴¹ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

⁵⁴² Information provided by Local Authority for Yazidi Villages in Beşiri, December 2017.

By September 2017, a total 404 Temporary Education Centres had been set up across 20 provinces in Turkey, offering courses in Arabic and intensive Turkish language courses to 291,039 children.⁵⁴³ Temporary Education Centres are specifically defined as schools established and run for the purpose of providing educational services to persons arriving in Turkey for temporary period as part of a mass influx. As per the Circular, the establishment and operations of such entities as well as the curricula they will teach are subject to the regulations and approval of the Provincial Directorate of Education. That said, since this Circular mainly aimed to regulate and incorporate the large number of existing private schools run by Syrian charities, the existing schools were invited to seek protocols with the Provincial Directorate of Education in order to regularise their activities and be allowed to continue to operate provided that they comply with the operational and curriculum requirements laid down by the Ministry of Education. Under the new regulations, Temporary Education Centres are also required and assisted to provide Turkish classes to their students.

By and large, the children accommodated in the camps have unimpeded and virtually full access to basic education mainly at Temporary Education Centres administered inside the camps. On the other hand, children of school age outside the camps, had the option of either attending a public school in the locality, which teach the Turkish school curriculum and instruct in Turkish, or a Temporary Education Centre.

There are approximately 1,000 Turkish and 11,500 volunteer Syrian teachers in Temporary Education Centres. UNICEF provides financial assistance to 10,000 volunteer Syrian teachers. In this context, a fee of 600 TL / 120 € per month is paid to the teachers in Temporary Accommodation Centres and 900 TL per month is paid to those working outside camps. The remaining 1,500 volunteer teachers are financially supported by NGOs.⁵⁴⁴

Such private Syrian schools are generally not free. They charge students varying amounts of fees. It remains unclear what legal validity any diplomas or certificates issued by the temporary education centres will have going forward, while the Provincial Directorate of Education authorities are authorised to determine such questions if and where the child is subsequently admitted to a public school or a university in Turkey. Another challenge concerns the quality of education provided in Temporary Education Centres, since courses are taught by Syrian volunteers who are in need of remuneration and professionalization.⁵⁴⁵

In 2016, the Ministry of Education launched a project called "Syrian children: Supporting the Integration of the Turkish Education System" between the Ministry of Education and the EU Delegation to Turkey in the framework of the Facility for Refugees in Turkey. The project aims to support the activities of the Ministry of Education for the integration of refugee children into the public education system, under a plan to phase out Temporary Education Centres across the country. The duration of the project is limited to 2 years starting from 3 October 2016.⁵⁴⁶

As of September 2016, all Syrian children entering kindergarten or first grade have to be enrolled in Turkish schools and not Temporary Education Centres. The Ministry of Education has also encouraged children entering fifth and ninth grade to register at Turkish schools.

⁵⁴³ Hürriyet, 'Gov't directs Syrian refugee children to Turkish schools', 3 September 2017, available at: <http://bit.ly/2FqqVhs>.

⁵⁴⁴ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

⁵⁴⁵ Information provided by the Adana Bar Association, February 2018.

⁵⁴⁶ Hürriyet, 'Gov't directs Syrian refugee children to Turkish schools', 3 September 2017, available at: <http://bit.ly/2FqqVhs>. See also International Crisis Group, *Turkey's Syrian refugees: Defusing metropolitan tensions*, January 2018, 18.

At the time of writing, Temporary Education Centres were still operational in the main urban areas, including **Istanbul, Ankara and Adana**. In **Izmir**, 14,937 out of a total 32,309 children at school age (46.2%) are receiving education according to the Izmir Provincial Directorate of National Education. Out of those, 13,611 are enrolled at schools and 1,326 in temporary education centres.⁵⁴⁷

Despite these measures, there is still a substantial number of children out of education.⁵⁴⁸ According to DGMM, about 18,000 children in pre-school age have no access to education. In **Şanlıurfa** alone, approximately 140 schools would be needed to meet the demand.⁵⁴⁹

2.2. Higher education

Temporary protection beneficiaries also have the right to higher education in Turkey. In order to apply and register with an institution of higher education, students are required to have completed either the 12 years of Turkish “basic education” or an equivalent educational experience. Children who have attended a certified “temporary education centre” can also be approved to have fulfilled that requirement on the basis of the equivalence determination carried out by the competent Provincial Directorate of Education.

In Turkey, admission to universities is subject to the requirement of taking a standardised university entrance examination and additional requirements by each university. Students who started their university studies in Syria but were not able to complete them, may ask universities to recognise the credits (courses) that they have passed. The decision whether to recognise courses passed in Syria is made by each university and may differ from one department to another.⁵⁵⁰

The Council of Ministers has announced that tuition fees for Syrian students have been waived for the 2017-2018 academic year for state universities; this is not the case for private universities. Students will still need to cover the costs of local transportation, books and living expenses. There are a number of organisations providing scholarships to Syrian students for higher education study in Turkey. These organisations include: the Presidency for Turks Abroad and Related Communities (YTB), UNHCR through the DAFI scholarship programme, and NGOs (e.g. SPARK). Scholarships awarded through YTB and DAFI cover the costs of tuition and pay students a monthly allowance for accommodation and living expenses.⁵⁵¹

Turkish classes and vocational training

Temporary protection beneficiaries, regardless of their age, can also benefit from free of charge language education courses as well as vocational courses offered by “Public Education Centres” structured under each Provincial Directorate of Education. Some NGOs also provide free language courses and vocational courses to temporary protection beneficiaries in some localities.

F. Social welfare

The law draws no distinction between temporary protection beneficiaries and applicants for and beneficiaries of international protection in relation to social assistance (see [Forms and Levels of Material Reception Conditions](#)).

⁵⁴⁷ Grand National Assembly, *Izmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017, 16-17.

⁵⁴⁸ Information provided by Bodrum Women’s Solidarity Association, December 2017.

⁵⁴⁹ Information provided by the International Blue Crescent, February 2018.

⁵⁵⁰ UNHCR, *Education*, available at: <https://bit.ly/2E5kEXt>.

⁵⁵¹ *Ibid.*

G. Health care

1. Conditions for free health care

All registered temporary protection beneficiaries, whether residing in the camps or outside the camps, are covered under Turkey's general health insurance scheme and as such have the right to access free of charge health care services provided by public health care service providers.⁵⁵² Persons who are eligible for temporary protection but have not yet completed their registration have only access to emergency medical services and health services pertaining to communicable diseases as delivered by primary health care institutions.

Temporary protection beneficiaries are only entitled to access health care services in the province where they are registered. However, where appropriate treatment is not available in the province of registration or where deemed necessary for other medical reasons, the person concerned may be referred to another province.⁵⁵³

It is important to point out that Syrian nationals who reside in Turkey on the basis of a regular "residence permit" (see [Individual Eligibility](#)) and therefore are not registered as temporary protection beneficiaries, cannot benefit from free health care services available to persons under temporary protection regime. That said, one of the key requirements for obtaining a regular "residence permit" is to have a private health insurance policy valid for the duration of the "residence permit" sought. Thus, persons who stay in Turkey on the basis of regular "residence permits" are expected to rely on the coverage of their own private health insurance where necessary.

1.1. Scope of health care coverage

Under the Turkish health system, differentiation is made among primary, secondary and tertiary public health care institutions. Health stations, health centres, maternal and infant care and family planning centres and tuberculosis dispensaries that exist in each district in each province are classified as primary healthcare institutions. State hospitals are classified as secondary health care institutions. Research and training hospitals and university hospitals are classified as tertiary health care institutions.

Temporary protection beneficiaries are entitled to spontaneously access initial diagnosis, treatment and rehabilitation services at primary health care institutions. These providers also undertake screening and immunisation for communicable diseases, specialised services for infants, children and teenagers as well as maternal and reproductive health services.

Temporary protection beneficiaries are also entitled to spontaneously approach public hospitals in their province. Their access to medical attention and treatment in university and research and training hospitals, however, is on the basis of a referral from a state hospital.⁵⁵⁴ In some cases, state hospitals may also refer a beneficiary to a private hospital, where appropriate treatment is not available in any of the public healthcare providers in the province. In such a case, the private hospitals are compensated by the general healthcare insurance scheme curity and the beneficiary is not charged.

⁵⁵² Article 27 TPR.

⁵⁵³ Basak Bilecen and Dilara Yurtseven, 'Temporarily protected Syrians' access to the healthcare system' (2018) 15:1 Migration Letters 133, 118.

⁵⁵⁴ *Ibid.*

There are also Migrant Health Centres established for Syrian beneficiaries of temporary protection with Arabic-speaking staff available in some provinces. Syrians can approach these centres as primary health care institutions.

As a rule, referrals to university hospitals and private hospitals are only made for emergency and intensive care services as well as burn injuries and cancer treatment. This is confirmed in practice in **Hatay, Adana** and **Mersin**, where temporary protection beneficiaries cannot access the research and training hospitals without a medical doctor referral.

Temporary protection beneficiaries' access to secondary and tertiary health care services is conditional upon whether the health issue in question falls within the scope of the Ministry of Health's Health Implementation Directive (SUT). For example, prosthetic surgery is not covered by health care services in **Adana**, thereby posing an important obstacle.⁵⁵⁵

For treatment of health issues which do not fall within the scope of the SUT or for treatment expenses related to health issues covered by the SUT, which however exceed the maximum financial compensation amounts allowed by the SUT, beneficiaries may be required to make an additional payment.

Free health care coverage for registered temporary protection beneficiaries also extends to mental health services provided by public health care institutions. A number of NGOs are also offering a range of psycho-social services in some locations around Turkey with limited capacity.

1.2. Medication costs

According to SUT, persons covered by the general health insurance scheme are expected to contribute 20% of the total amount of the prescribed medication costs. The same rule also applies also to temporary protection beneficiaries, while the rest was previously covered by AFAD. Following an amendment to the TPR in March 2018,⁵⁵⁶ medication costs invoiced after 16 March 2018 are reimbursed DGMM, while AFAD remains responsible for the reimbursement of costs invoiced prior to that date.⁵⁵⁷

In addition, beneficiaries are expected to pay 3 TL / 0.66 € per medication item up to three items, and 1 TL / 0.22 € for each item in more than three items were prescribed.

That said, in terms of access to medication, complications and inconsistent implementation are observed across the country. The Ministry of Health Directive on "Healthcare Services to be provided to Temporary Protection Beneficiaries" dated November 2015 was expected to resolve the ongoing implementation problems and inconsistencies going forward. The Union of Pharmacies has complained to AFAD about the lack of coordination as regards the responsible body before which beneficiaries can claim the coverage of medication costs.⁵⁵⁸ In practice, the number of Syrians facing difficulties with regard to this issue is not insignificant.

To begin with, before the adoption of this Directive, pharmacies in some provinces, including Istanbul, were reluctant to provide medication to temporary protection beneficiaries because of ongoing delays in reimbursement payments to pharmacies. Although the new Directive promises to resolve the delays in

⁵⁵⁵ Information provided by the Adana Bar Association, February 2018.

⁵⁵⁶ Article 27 TPR, as amended by Regulation 2018/11208.

⁵⁵⁷ Union of Pharmacists, 'Geçici Koruma Altındaki Yabancılara Ait Reçeteler Hakkında', 19 March 2018, available in Turkish at: <https://bit.ly/2uxeBvq>.

⁵⁵⁸ Union of Pharmacists, Letter to AFAD, 23 January 2016, available in Turkish at: <https://bit.ly/2E5sQXE>.

payment, it is reported that at least some pharmacies are still reluctant to provide medication to “temporary protection” beneficiaries due to past problems.

Another inconsistency in the practices before the Directive concerns the percentage of medication costs beneficiaries are actually required to contribute. It is reported that whereas in some provinces temporary protection beneficiaries are expected to pay a 20% contribution like Turkish citizens covered under the general health insurance scheme, on a positive diversion in some other provinces medication costs of “temporary protection” beneficiaries are fully covered with no contribution by the beneficiary.

2. Obstacles to access in practice

The language barrier is one of the key problems encountered by temporary protection beneficiaries in seeking to access health care services.⁵⁵⁹ Although there are interpreters available in some public health institutions in some provinces in the south of Turkey, in most health care facilities no such interpretation services are available. A major practical obstacle for refugees is that hospitals in Turkey give appointments to patients over telephone. Since hospital appointment call centres do not serve prospective patients in any language other than Turkish, foreign nationals need the assistance of a Turkish speaker already at appointment stage.

The Ministry of Health operates a free hotline that provides limited distance interpretation services to temporary protection beneficiaries, doctors and pharmacists. However, the hotline does not provide any general counselling to beneficiaries about the healthcare system or assistance in obtaining appointments at hospitals. The Danish Refugee Council also operates a limited free hotline service providing interpretation services to Syrians in Arabic and Turkish for the purpose of facilitating interactions with healthcare providers. The Turkish Red Crescent, for its part, provides an interpreter and a social worker under its Child Protection Centre project, who accompany children at hospitals in **Ankara** where needed. The Numune and Dişkapı State Hospitals in Ankara also have one interpreter each.

The Turkish Red Crescent also runs community centres providing services on health and protection. 20 centres are currently operational in 16 cities, while the aim is to reach 40 centres in the future. These centres identify the needs of temporary protection beneficiaries e.g. accessing health care, and also offer psycho-social support.⁵⁶⁰

Vulnerable and marginalised groups such as sex workers face more acute challenges to accessing services, including information on sexual health, due to the fact that they do sex work informally, often through intermediaries – who in some cases are perpetrators of discrimination and violence – and under heavy working conditions.⁵⁶¹ A number of Syrian sex workers recently interviewed by Red Umbrella Sexual Health and Human Rights Association were unaware of HIV testing and counselling centres and had limited knowledge of health care facilities they could go to if needed.⁵⁶²

The issuance of a FIN is also an obstacle to accessing health care, although improvements have been marked in this regard (see [Temporary Protection Identification Document](#)).⁵⁶³

⁵⁵⁹ Basak Bilecen and Dilara Yurtseven, ‘Temporarily protected Syrians’ access to the healthcare system’ (2018) 15:1 Migration Letters 133, 118.

⁵⁶⁰ For more information, see Turkish Red Crescent, *Syria crisis: Humanitarian relief operation*, September 2017, available at: <http://bit.ly/2Fsj2YZ>.

⁵⁶¹ Red Umbrella Sexual Health and Human Rights Association, *Syrians under “temporary protection” in Turkey and sex work*, 2017, 65-71.

⁵⁶² *Ibid*, 67-68.

⁵⁶³ Information provided by Mülteci-Der, December 2017.

H. Guarantees for vulnerable groups

As with the LFIP, the TPR also contains definitions of “persons with special needs” and “unaccompanied children” and provides for additional guarantees.

According to Article 3 TPR, “unaccompanied minors, persons with disability, elderly, pregnant women, single parents with accompanying children, victims of torture, sexual assault or other forms of psychological, physical or sexual violence” are to be categorised as “persons with special needs”.

The TPR and other related secondary legislation providing the legal framework and procedures for the provision of services to temporary protection beneficiaries identify the Ministry of Family and Social Policies as the responsible authority for “persons with special needs”.

As provided by the AFAD Circular 2014/4 on “Administration of Services to Foreigners under the Temporary Protection Regime”, “services such as accommodation, care and oversight of unaccompanied minors, persons with disabilities and other persons with special needs are the responsibility of Ministry of Family and Social Policies. The Ministry is responsible for the referral of vulnerable persons to children centres, women shelters or other appropriate places.”

Being identified and registered as a “person with special needs” entitles beneficiaries to additional safeguards and prioritised access to rights and services. They should be provided “health care services, psycho-social assistance, rehabilitation and other support and services free of charge and on priority basis, subject to the limitations of capacity.”⁵⁶⁴

1. Unaccompanied children under temporary protection

The same article defines an “unaccompanied minor” as “a child who arrives in Turkey without being accompanied by an adult who by law or custom is responsible for him or her, or, a child left unaccompanied after entry into Turkey, provided that he or she did not subsequently come under the active care of a responsible adult”.

Turkey is a party to the Convention on the Rights of the Child and domestic child-protection standards are generally in line with international obligations. According to Turkish Law, unaccompanied children, once identified, should be taken under state protection with due diligence under the authority of the Ministry of Family and Social Policy.

Article 48 TPR provides that unaccompanied children shall be treated in accordance with relevant child protection legislation and in consideration of the “best interests” principle. The 20 October 2015 dated Ministry of Family and Social Policies Directive on Unaccompanied Children provides additional guidance regarding the rights, protection procedures and implementation of services for unaccompanied children. The Directive designates the PDMM as the state institution responsible for the identification, registration and documentation of the unaccompanied children. PDMM are also entrusted the responsibility of providing shelter to unaccompanied children until the completion of the age assessment, health checks and registration/documentation procedures upon which the child is referred to the Ministry of Family and Social Policies.

⁵⁶⁴ Article 48 TPR.

Once the PDMM refers the child to the relevant Provincial Ministry of Family and Social Policies Child Protection Directorate, temporary protection beneficiary unaccompanied children aged 0-12 are to be transferred to a child protection institution under the authority of the Ministry of Family and Social Policies. Unaccompanied children between the ages of 13-18, who do not demonstrate any special needs may be placed in dedicated “child protection units” providing services within the premises of camps under the authority of the Provincial Child Protection Directorate under the Ministry of Family and Social Policies.

According to the TPR, unaccompanied children are mainly housed in Ministry of Family and Social Policies shelters but may also be placed in Temporary Accommodation Centres if appropriate conditions can be ensured.⁵⁶⁵

In practice, unaccompanied children between the ages of 0-18 are transferred to the nearest Provincial Child Protection Directorate. These children are not only Syrians, but include children from Afghanistan, Iraq, Somalia and South Africa. Unaccompanied children are placed in the child protection units established by the Ministry in **Ağrı, Konya, Yozgat, Gaziantep, Bilecik, Erzincan, Istanbul and Van**. There are currently 288 children in these centres. 8 children are being cared for by families. Socio-economic support services are provided to 450 children who live with their families.⁵⁶⁶

The Turkish Red Crescent also runs a “Child Protection Centre” (*Çocuk Koruma Merkezi*) under a pilot project launched in March 2017. Its difference from child protection centres run by the Ministry of Family and Social Policies lies in its primary role in preserving integration and social inclusion of refugee children. There is only one such centre established at the moment, located in Altındağ, **Ankara**, close to the Ankara community centre managed by the Red Crescent. Children benefitting from the Child Protection Centre live with their families. There, they benefit from a range of activities for children aged 6-18, including drama and music lessons and Turkish language courses, soon to be followed by Arabic language courses.⁵⁶⁷

In accordance with the cooperation protocol signed between the Ministry and İnsani Yardım Vakfı in 2015, a “Children Life Centre” is being established in Reyhanlı, **Hatay**. The centre has child care homes where basic education, housing, health and rehabilitation services will be provided. It is planned that 990 orphan children will be cared for in 55 places, of which 20 for girls and 35 for boys. According to a recent report of the Grand National Assembly, a total of 53,253 children living outside camps have lost one parent, while 3,969 children in camps have lost their father, 390 have lost their mother and 290 have lost both.⁵⁶⁸

Although according to the Civil Code children who are under state protection must be appointed a legal guardian or a trustee, it is observed that in practice unaccompanied children under the temporary protection regime are not appointed any legal guardian. Since the abovementioned 20 October 2015 dated Directive does not provide any further instructions regarding the appointment of a guardian or a trustee, it is expected that this problem will continue at least in short term. The Directive however provides that each child placed under state protection shall be appointed an “advisor” from Provincial Ministry of Family and Social Policies Directorate, who will be responsible for the child’s adaptation in the facility and oversee his/her participation in educational and other support activities.

The psychosocial well-being of Syrian children in Turkey has been visibly impacted from the traumatic effects of war and flight, as well as deprivation, lack of opportunities for social interaction, and limited

⁵⁶⁵ Article 30(3) TPR, as inserted by Regulation 2018/11208. The previous provision in Article 23(4) TPR has been repealed by the amendment.

⁵⁶⁶ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

⁵⁶⁷ For more information, see Turkish Red Crescent, *Syria crisis: Humanitarian relief operation*, September 2017, available at: <http://bit.ly/2Fsj2YZ>.

⁵⁶⁸ Grand National Assembly, *Göç ve Uyum Raporu*, March 2018.

access to basic services. According to a European Commission report, citing figures by the government, an estimated 25% of Syrian children suffer from sleeping disorders.⁵⁶⁹

2. Women and girls under temporary protection

2.1. Protection from domestic violence

As regards the protection of women, Article 48 TPR refers to Turkey's Law No 6284 on Protection of the Family and Prevention of Violence, and the Implementing Regulation of this law, which provides a series of preventive and protection measures for women who are either victim or at risk of violence. These guarantees are particularly important in light of the persisting risks of gender-based violence or even death generally affecting women in Turkey.⁵⁷⁰ Incidents of such violence in 2017 include the rape of a pregnant Syrian woman, who was subsequently murdered with her 10-month-old baby in the province of **Sakarya**.⁵⁷¹

Women subjected to or at risk of domestic violence or sexual or gender-based violence by people other than family members must be protected by the competent state authorities. When a woman contacts the police or any other state institution or a third party informs the authorities, depending on the case, either preventive or protective measures should be taken. Temporary protection beneficiary women can also benefit from these measures.

On the basis of a referral from either the police, women can be referred to Centres for the Elimination and Monitoring of Violence (*Şiddet Önleme ve İzleme Merkezi, ŞÖNİM*) run by the Ministry of Family and Social Policies, municipalities or NGOs. In Bodrum, **Muğla**, for example, in addition to an operational ŞÖNİM, the Bodrum Municipality is in the process of setting up a new shelter, to become operational soon in 2018.⁵⁷²

The problem, however, is that the overall number and capacity of the women shelters in Turkey falls very much short of the need. According to a media report, there were a total of 137 shelters in 2016, of which 101 ŞÖNİM, 32 municipality shelters and 4 NGO shelters; according to experts, the number of centres should be around 8,000 to cater for existing needs.⁵⁷³ Since women shelters are meant to accommodate both Turkish and foreign nationals in the locality, temporary protection and international protection beneficiary women shall also be affected by the capacity problems.⁵⁷⁴ That said, stakeholders in **Hatay, Adana** and **Mersin** report no major problems with regard to access of Syrian women victims of domestic violence to ŞÖNİM.⁵⁷⁵

⁵⁶⁹ European Commission, *Education and Protection Programme for Vulnerable Syrian and Host Community School-aged Children, in Lebanon, Jordan and Turkey*, Ares(2017)3292256, 30 June 2017, available at: <http://bit.ly/2BMs0SK>, 4.

⁵⁷⁰ For 2017 figures on killings and sexual abuse, see Hürriyet, '409 women killed, 387 children sexually abused in Turkey: 2017 Report', 2 January 2018, available at: <http://bit.ly/2lYHgC6>. See also Observatory for Human Rights and Forced Migrants in Turkey, *A Year of Impunity: A one year visual database of migration-related human rights abuses*, July 2017, 14.

⁵⁷¹ Hürriyet, 'Pregnant Syrian woman raped, killed with baby in Turkey's northwest', 7 July 2017, available at: <http://bit.ly/2z3hUaE>. See also Refugee News Turkey, 'Turkey jails two for life over murder of a female Syrian refugee and her baby', 16 January 2018, available at: <http://bit.ly/2mS4jzV>.

⁵⁷² Information provided by Bodrum Women's Solidarity Association, December 2017.

⁵⁷³ Gazete Duvar, 'Türkiye'de 137 sığınma evi var, en az 8 bin olmalı', 29 November 2017, available in Turkish at: <https://bit.ly/2GgWH5D>.

⁵⁷⁴ Information provided by ASAM, February 2018.

⁵⁷⁵ Information provided by Antakya Bar Association, February 2018; Adana Bar Association, February 2018; Mersin Bar Association, February 2018.

In urgent cases, women who are not accommodated in ŞÖNİM may also stay at “mercy houses” run by municipalities for 2-3 days. Such houses are run by the municipalities of Altındağ, Yenimahalle, Ulus and Central Municipality in **Ankara**, for example.

Another related practical limitation is that, although the law clearly provides that both women at risk of violence and women who have actually been subjected to violence should be able to access shelters, in practice due to capacity problems only women who have actually been subjected to violence are offered access to existing shelters. In most cases, shelters also inquire into the women’s claim to ascertain that violence is “certain” and request evidence such as an assault report or a criminal investigation.

As a rule, women placed in shelters can stay in the facility up to 6 months. This period can be extended on exceptional basis.

The Regulation on Women’s Shelters also clearly indicates that for a woman to be admitted to a shelter, she is not required to provide a valid identity document. However, a Temporary Protection Identification Document is required of women seeking to be admitted to shelters in practice.

Practice indicates persisting obstacles to effective protection of women from domestic violence. In **Muğla**, for instance, where child marriages remain very frequent among Syrians, women and girls face an array of difficulties, ranging from delays of up to one day in police stations, to the regular tendency of authorities to bring the perpetrator to the police station against the will of the victim for the purposes of reconciliation. Women are placed in shelters only if they refuse such reconciliation.⁵⁷⁶ According to organisations assisting refugee women and girls, there is limited awareness and involvement in these cases on the part of the Muğla Bar Association.⁵⁷⁷

2.2. Polygamous and arranged marriages

In addition to violence, protection of women and girls below 18 involved in arranged marriages and unofficial polygamous marriages – including “second wives” and girls sold into marriage by their families – is another important and persisting concern,⁵⁷⁸ exacerbated with the increase in arrivals of Syrian refugees.⁵⁷⁹ While both practices are criminalised under Turkish law, polygamous marriages are legally recognised in Syria and women are not always aware of the differences between the two countries’ legal framework and their rights therein.

Despite criminalisation in Turkish law, in practice temporary protection beneficiaries have limited opportunities to claim the relevant legal safeguards and protection measures for lack of sufficient public information and crucially very short supply of counselling and legal assistance services available to refugee women. In addition, public authorities such as health care institutions often refrain from discharging their legal obligation to inform the police of child marriage cases when treating child brides and mothers.⁵⁸⁰ Where they do inform the authorities, police officers refrain from investigating the cases.⁵⁸¹

⁵⁷⁶ Information provided by Bodrum Women’s Solidarity Association, December 2017. The organisation has accompanied several pregnant girls aged 15 to give birth at hospitals.

⁵⁷⁷ *Ibid.*

⁵⁷⁸ See Deutsche Welle, ‘Kadınlar ikinci eş bulma sitelerine karşı isyanda’, 21 December 2017, available in Turkish at: <http://bit.ly/2CF5Q5b>. See also Red Umbrella Sexual Health and Human Rights Association, *Syrians under “temporary protection” in Turkey and sex work*, 2017, 103.

⁵⁷⁹ Zeynep Kivilcim, ‘Legal violence against Syrian female refugees in Turkey’, *Female Legal Studies*, 2016.

⁵⁸⁰ Information provided by Bodrum Women’s Solidarity Association, December 2017. The organisation has accompanied several pregnant girls aged 15 to give birth at hospitals in **Muğla**. See also Heinrich Böll Foundation, ‘High underage pregnancy rates among refugee children rattle Turkey’, 29 January 2018,

Initiatives such as the Child Protection Centre run by the Turkish Red Crescent in Altındağ, **Ankara** offer information to women on early pregnancy, child marriage, sexual harassment, reproductive rights and contraception. ASAM also runs Women's Health and Counselling Centres in a number of provinces including **Mersin**, providing language courses and health care among other services.⁵⁸² The International Blue Crescent also provides related services in their community centres in **Gaziantep**, **Şanlıurfa** and **Kilis**.⁵⁸³

That said, the issue of arranged marriages is not confined to women in Turkey. Reports have also documented cases of refugee men sold into marriage.⁵⁸⁴

2.3. The situation of sex workers

Furthermore, specific groups such as sex workers are in a particularly vulnerable position due to the frequent interpretation of sex work as conduct threatening public order or public health in Turkey.⁵⁸⁵

In particular, the amendment of the LFIP by Emergency Decree No 676, excluding from *non-refoulement* guarantees those persons who *inter alia* pose a threat to public order or public health, could have a targeting effect on sex workers who benefit from temporary protection. In this regard, it is noted that sex workers were among the 376 people detained in the **Aydın** Removal Centre at the time of the Commission on Human Rights of the Grand National Assembly visit on 25 October 2017, for instance.⁵⁸⁶

3. Torture survivors under temporary protection

Both LFIP and TPR identify "torture survivors" among persons with special needs. Torture survivors, like all other temporary protection beneficiaries, have access to a range of healthcare services in public hospitals, including psychiatric assistance. There are also a small number of NGOs that specialise in treatment and rehabilitation services to torture survivors.

4. LGBTI persons under temporary protection

Persons belonging to lesbian, gay, bisexual, transgender and intersex populations are not defined by the TPR as a category of "persons with special needs". The lack of a gender-sensitive registration procedure under TPR has an impact on their ability to disclose their sexual orientation or gender identity or being registered as persons with special needs.⁵⁸⁷ In practice, despite the fact that their access to **Resettlement** is usually prioritised, they still face severe delays of approximately two years before having the possibility to be resettled.⁵⁸⁸

available at: <http://bit.ly/2BM185I>, referring to at least 5 Syrians among the 115 underage pregnant girls treated by Kanuni Sultan Süleyman Training and Research Hospital in **Istanbul**. See also Hürriyet, 'Suriyeli 14 yaşındaki çocuğun hamile olduğu ortaya çıktı', 29 December 2017, available in Turkish at: <http://bit.ly/2seuu91>, on a 14-year-old pregnant girl in Düziçi, **Osmaniye**.

⁵⁸¹ Information provided by Mülteci-Der, December 2017.

⁵⁸² Information provided by ASAM, February 2018.

⁵⁸³ Information provided by the International Blue Crescent, February 2018.

⁵⁸⁴ News Deeply, "'I Was Something She Bought': Syrian Men Marry To Survive', 21 February 2018, available at: <http://bit.ly/2sPp58E>.

⁵⁸⁵ Red Umbrella Sexual Health and Human Rights Association, *Syrians under "temporary protection" in Turkey and sex work*, 2017, available at: <http://bit.ly/2nWo6B3>, 53-54. The report draws on interviews with 26 Syrian sex workers, as well as a range of authorities and civil society organisations.

⁵⁸⁶ Grand National Assembly, *İzmir-Aydın Geri Gönderme Merkezleri İnceleme Raporu*, November 2017.

⁵⁸⁷ Zeynep Kivilcim, 'LGBT Syrian refugees in Turkey', 2016, 31.

⁵⁸⁸ *Ibid.*

LGBT refugees feel unsafe and vulnerable due to a climate of widespread discrimination, although they generally perceive Turkish host communities as more tolerant than Syrian communities.⁵⁸⁹ They are also targeted by hate crime and violence. On 25 July 2016, a Syrian man in **Istanbul** was reportedly kidnapped by a group of men, repeatedly raped and beaten before being murdered.⁵⁹⁰ A case against the perpetrators is currently pending before the Criminal Court.⁵⁹¹

Syrian trans women, including trans sex workers, are faced with discriminatory – in some cases violent – treatment in their contacts with authorities, ranging from dealings with police authorities, to registration with DGMM, or to accessing health care services or housing.⁵⁹² In one hate crime incident reported on 17 December 2016 in **Istanbul**, a trans woman sex worker was murdered by a person posing as a client.⁵⁹³

Sexual orientation is also a factor hindering people's access to housing, as temporary protection beneficiaries living in crowded apartments with other Syrian nationals are often forced to leave or to consent to sexual abuse when their sexual orientation is revealed.⁵⁹⁴ In other cases, discrimination coming from family members or local communities pushes trans persons to move to larger cities in Turkey.⁵⁹⁵ Even in large cities such as **Istanbul**, however, LGBT persons face barriers in terms of access to health care and many report being unable to approach official health care institutions, but rather refer to UNHCR implementing partners.⁵⁹⁶

The **Hatay** Bar Association recently supported the case of a trans woman living in a Temporary Accommodation Centre who sought gender reassignment surgery and change of gender. The court has granted the necessary permission for surgery to take place at a state hospital.⁵⁹⁷

5. Ethnic and religious minorities under temporary protection

Members of ethnic minorities, such as Roma, Dom and Lom groups from Syria, prefer not to reside in temporary accommodation centres due to their preference to move across the country, but also due to discrimination by officials and other ethnic groups residing in those camps.⁵⁹⁸ In **Gaziantep**, these groups generally live in rural areas, work in seasonal agricultural work and refrain from registering out of fear of being discriminated by the public authorities.⁵⁹⁹

According to the findings of the Kirkayak Cultural Centre, the schooling rate of children is very low, as approximately 1-2% are schooled, generally in Temporary Education Centres. Children studying at public schools often face peer bullying, stigmatisation and discrimination. The Kirkayak Cultural Centre reported that discrimination comes from not only public authorities but also Syrian non-Roma refugees. In one case relating to transportation difficulties faced by 60 Dom children and the allocation of a school bus for

⁵⁸⁹ *Ibid*, 32-33.

⁵⁹⁰ Kaos GL, 'İstanbul'da Suriyeli eşcinsel mülteci öldürüldü', 3 August 2016, available in Turkish at: <http://bit.ly/2BiCwKf>.

⁵⁹¹ Kaos GL, 'Wisam Sankari davası ertelendi', 19 September 2017, available in Turkish at: <http://bit.ly/2AV7s7Q>.

⁵⁹² Red Umbrella Sexual Health and Human Rights Association, *Syrians under "temporary protection" in Turkey and sex work*, 2017, 88-89, 97.

⁵⁹³ Kaos GL, 'Suriyeli trans kadın İstanbul'da öldürüldü', 20 December 2016, available in Turkish at: <http://bit.ly/2CdWsCq>.

⁵⁹⁴ Zeynep Kivilcim, 'LGBT Syrian refugees in Turkey', 2016, 34.

⁵⁹⁵ *Ibid*, 95-96. See also RFI, 'Life as a transgender refugee in Turkey', 10 June 2016, available at: <http://bit.ly/2j1jh4c>.

⁵⁹⁶ Zeynep Kivilcim, 'LGBT Syrian refugees in Turkey', 2016, 34.

⁵⁹⁷ Information provided by the Antakya Bar Association, February 2018.

⁵⁹⁸ Development Workshop, *Dom migrants from Syria: Living at the bottom*, November 2016, available at: <http://bit.ly/2j2BwpQ>.

⁵⁹⁹ Information provided by Kirkayak Cultural Centre, February 2018.

them by the temporary school administration on allocation of a school bus for Dom children, it was found out that the main obstacle was the discriminatory attitude of Syrian families who did not want their children to receive education with Dom children. Moreover, the assessment on appointing the child to primary or secondary education is based either on their age or on their knowledge of Turkish language and in either case the integration of child into the school cannot be ensured.⁶⁰⁰

These groups mostly work under worse conditions than non-Roma Syrian refugees in seasonal agricultural work. In rural areas, families are generally live together. However, in big cities, they prefer not to be visible and live separated from each other. In general they work in big farms in Central Anatolian provinces such as **Konya**, **Eskişehir** or **Aksaray** but face substantial abuse and financial exploitation, reaching levels as low as half of the daily fees given to non-Roma Syrians.

They are under temporary protection however they generally have the old version of identity cards such as visitor cards and “98 FIN” cards. They do not comply with their duties of reporting that is why they have major difficulties in accessing to basic services.

Kirkayak Cultural Centre has an online needs assessment map to identify humanitarian aid needs of Dom refugees because humanitarian aid or social assistance might not be provided in the districts that these groups live in. Soon, the centre will be opening and managing a new social service unit with funding from ECHO to cover protection, support services and psychosocial support.⁶⁰¹

There are also approximately 1,000 Christian Syrians living in **Ankara**, although their situation in practice does not differ from that of other beneficiaries of international protection.

⁶⁰⁰ *Ibid.*

⁶⁰¹ *Ibid.*