

## Observations on the Situation of Refugees in Turkey, 22 April 2016

### **Registration for Temporary Protection**

It has been reported from various provinces - especially from the provinces near the border with Syria, such as Hatay, Gaziantep and Şanlıurfa - that since February 2016, registration of people for temporary protection (TP) has been getting difficult and that there is almost a suspension of issuing of TP registration cards.

Last year in Izmir, there existed five registration centres where police took ID details, finger prints and photos of those who wanted to register, and issued TP ID cards which enabled people under TP to get access to public services, including health and education. The number of registration offices was reduced to two and, as of today (April 18, 2016), the information is that one of two registration centres has been closed and that there is only one office left that gives appointment dates for registration. Registration itself is done at a later date.

In Izmir and elsewhere, the new process takes some months before people are able to finalise their TP registration and receive their TP cards. In line with the new procedure, those who want to make their TP registration have to get an appointment first. When they approach the Foreigners' Police Office, which gives the appointments, they are asked the names of family members and are initially given an appointment date slip (only with the date of the appointment on it). In Izmir, appointments are available only once a week, on Mondays; those who want to register have to attend on that day. According to information received, the earliest appointment date available (as of April 13, 2016) is June 30, 2016. On the date of the appointment, all family members who are not yet registered, including children, go to the Foreigners' Police Office again, where their ID details, fingerprints and photos are taken. They are interviewed, their registration process is completed and they are issued TP ID cards by the Provincial Directorate of Migration Management (PDMM).

On April 18, 2016, Mülteci-Der accompanied some applicants as they went to Izmir Foreigners' Police Office to get appointments. There was a relatively big crowd outside and people were not allowed in: they were expected to form a line outside the door. People were taken inside in groups of five. Some who tried to sneak in were taken outside in a rough manner. One officer shouted at people to get in a queue, saying: "*Act like humans, don't act like animals.*" Another officer who was watering flowers in the garden sprayed water on people waiting for appointments. The officers later got angry with the waiting crowd because people did not queue, and told them at around 10.40 in the morning that they had stopped giving appointments for the day. They gave no further information about when they would start giving appointments again.

Mülteci-Der was informed by a number of people who wanted to register for TP that they approached the authorities several times to get an appointment for registration but returned empty handed. Some gave up trying, despite the risk of not getting access to services.

According to the testimony given by one applicant of Mülteci-Der on April 6, 2016, his whole family is registered and have TP cards, except for his two sons aged 11 and 13. He is trying to register them and has been going to the registration centre run by the police every Monday for the past two months. However, he has not managed to get an appointment so far. His children are in a vulnerable situation now, as they cannot access education and health services without a TP card.

According to the information given to Mülteci-Der by sector partners, at the beginning of March 2016 they were informed by the authorities that the registration process, which was suspended during the first two months of 2016, was re-opened. They were also informed that those who want to register would be subject to strict interviews and background checks.

However, testimonies from partners based in the cities close to the Syrian border suggest that the suspension still continues in several cities in the South-East of Turkey. Reasons for suspension differ from one province to another. Some of the reasons given by the officials are: “waiting lists”, “computer breakdowns” and even an open acknowledgement that “people were not being registered because they would be deported”. Testimonies highlighted that some Syrians were arrested while trying to get registered. Rumours suggest that arrests are resulting in deportations.

### **“Voluntary” returns / deportations of Syrian Refugees**

Since the end of the summer 2015, Mülteci-Der has received several claims that suggest a disturbing deterioration of protection of Syrian refugees in Turkey which involved forced voluntary returns and deportations.

One of these incidents concerned a group of Syrians who opened a Facebook group called “Crossing No More” on September 1, 2015, to raise awareness of Europe’s border policies and demand safe passages to Europe. They organised a rally in Edirne to march to the Greek border. They started the protest on September 15, and many Syrians living in different parts of Turkey joined the rally. On that day, buses going from Istanbul to Edirne refused to carry Syrians. A number of Syrians who wanted to go to Edirne got stuck in Istanbul coach station, Esenler Otogar. At Edirne, security forces were stationed on the highway and blocked Syrians from marching to the border. Some could not pass this barricade and had to stay in the bushy area next to the highway; others were blocked at Edirne coach station; some were sent straight back to whichever city they came from. The bus companies had been warned that if they carried Syrians to other cities, they would be considered smugglers, hence their refusal to serve Syrians. Some protesters were forcefully sent back to cities that they were registered in. The governor said the Syrians had been convinced to go back to their original cities on September 22. According to a news article, the governor gave protesters until then to leave Edirne. Many Syrians left that day, and only 500 continued with the demonstration. Those people were forcefully put on buses and were sent to other cities, and those who resisted were forcefully taken to Edirne removal centre (<http://www.diken.com.tr/edirne-valisinin-istedigi-oldu-suriyeliler-kentten-gonderildi-direnenler-gozaltinda/>). Detained protesters were first taken to Aydın removal centre and then to Erzurum removal centre. Contrary to the public statements of the authorities, some of the protesters were apprehended and detained. Some of the protesters who were detained in Erzurum were sent back to Syria:

*“I was deported to Syria in late November 2015. I came to Turkey 1 year 9 months ago. I*

*entered Turkey legally. I was living in Istanbul with my family. I joined the demonstration in Edirne. I was there. Around 150 of us were taken to centres in Edirne and close to Edirne, such as Kırklareli, Tekirdağ. From these centres we were first sent to Aydın and then to Erzurum removal centre. Erzurum centre was really difficult. The treatment was really bad. The conditions too... They deported us group by group. There were 5 groups – not all groups were deported. I was in the fourth group. They handed us and our passports over to an Islamist group called Ahrar Sham. They asked our ethnicity. I told them that I am an Arab. I do not know why they asked but it must matter to them since they asked. After these interrogations they gave us back our passports. They were not nice to us. They were not nice to the women. They asked the women whether they had taken off their headscarves in Turkey. I stayed in Syria for two days and then I had to enter back illegally. Now I am afraid to go to authorities and register through the temporary protection system. I am not sure what I signed. They made me sign something before I was deported. Maybe it said ‘I will not come back to Turkey’. I do not know.”<sup>1</sup>*

Around the same time, in Izmir and Bodrum, which became hubs for irregular sea crossings to the Greek islands in the Aegean Sea, several Syrians were randomly picked up after street raids, apprehended and detained. They were transferred to the Düziçi reception facility near Osmaniye and Adana. Mülteci-Der was contacted by some of those detained in Düziçi, and was told that people were handcuffed for about 15 hours during the drive from Izmir to the Düziçi camp. Although they were told by the authorities that they were not being detained but were being accommodated in the camp, they were not allowed to leave the premises. According to their testimonies, they were told that they would stay in camps indefinitely or could opt to go back to Syria. In the end, many felt obliged to sign “voluntary” return documents in order to get out of detention and hence were sent to war-torn Syria.

There are Syrians who gave testimonies to Mülteci-Der relating the experience:

*“I signed voluntary return papers because I can no longer stay here. I am angry. Some Turkish people attacked my cousin but it was us who were accused of the attack. I was with him when the Turkish people attacked him. The police took everybody to the station. We appeared before a judge; the judge let all of us go. But because we are Syrians, they brought us to this centre. There are a lot Syrians like me who agree to go back because they cannot stand detention. Deportation takes 7-10 days; if you do not agree to go back it takes months. I think they are listening to our phone calls, so people do not want to speak too much on the phone.”<sup>2</sup>*

In another such case, at the beginning of January 2016, Mülteci-Der received a letter from a Turkish citizen whose husband was a Syrian refugee. In her letter, she explained that her husband M. was apprehended in November 2015 at Istanbul Esenler coach station while waiting for the arrival of her and their child. They were all taken to a police station, then she and the child were released but her husband was taken to Kumkapı removal centre. He was accused of being involved in a crime, although she claimed there was no evidence in the file to suggest his involvement in the alleged crime; neither his name nor his finger prints matched

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<sup>1</sup> Mülteci-Der’s interview with a Syrian man who was previously detained in Aşkale RC, December 2015

<sup>2</sup> Mülteci-Der’s interview with a Syrian man, detained at Ankara RC, December 16, 2015

those included in the crime file. After about 10 days' detention in Kumkapı removal centre he was transferred to Erzurum Aşkale removal centre in the Eastern part of Turkey. For nearly two months the woman did not see or hear from her husband although she went to Aşkale-Erzurum in order to see him. She went to the removal centre at least twice; first alone, and then with a lawyer. She was initially told that her husband was not there and then, when she went with a lawyer, the removal centre manager openly acknowledged after checking his file that it was strange that he had been apprehended and detained as the name and the finger prints in the crime file did not belong to him. Nonetheless, they were not allowed to see him; neither was he released.

Later in January, M. contacted Mülteci-Der and said that after the protest and breakdown of events in Aşkale removal centre on December 28-29, 2015, non-Syrian detainees in the removal centre were transferred to other removal centres in the country, while Syrian detainees, including himself, were forced to sign "voluntary return" documents and deported to Syria on January 5, 2016. After some days in Syria, he managed to re-enter irregularly into Turkey. At the time of his contact with Mülteci-Der, he was planning to go irregularly to Europe.

Mülteci-Der received other claims of forced voluntary return of Syrian refugees in recent months. Some claim that people are deported without signing any documentation, while others claim that people are tricked into signing the forms (they are only in written in Turkish) or pressurised into signing with the threat of indefinite detention, etc.). Any signing of the forms would not pass a minimum standard of informed consent, so the expulsions should be considered as forced returns / refoulement, and not voluntary returns.

According to the information given to Mülteci-Der by some sector partners, they are aware of the details of at least six direct cases of deportations involving Syrian civilian men, women and children, and anecdotally of at least 30 more cases. In these cases, people have entered Turkey irregularly (Turkish borders are closed) and have either tried to register with the relevant authorities or have been apprehended while in transit. It is claimed that people are often detained (reportedly in official camps such as Güvecci Camp, or in ad hoc spaces) until they are returned to Syria, or are returned immediately. There is reportedly one enclosed basketball centre in Batman Province that currently detains 1,000 people, including women and children.

Another rather odd case came to the attention of Mülteci-Der on December 16, 2015, in which the deportation of three Syrian children aged between 6 and 11 without their parents became almost imminent. The three siblings, together with their parents, were registered under TP and had been living in Izmir. One day, when their relative (a sister-in-law), together with her own baby and the three siblings, was selling tissues in the street a car stopped near them. She thought the car had stopped to take them to a hospital, because one of the children had just fallen and was crying. They were told to get in the car. They did so, and were driven to the removal centre. When the parents learnt about the detention of their three children, they went to the centre but were told by the authorities that the children were to be sent either to an orphanage or a camp. The parents, thinking that they would never see their children again if they were sent to an orphanage, felt obliged to agree that they were sent to the camp, as long as they were with the sister-in-law. Later, the family was informed that the camp had not accepted the children, so they were to be deported to Syria. They were asked to pay for the

travel expenses. Mülteci-Der was told by the family that they could not let the children be detained in the removal centre any longer and they would go back to Syria alongside their children. Meanwhile, they applied to the bar association for legal help to stop the arbitrary return of their children to Syria. Their lawyer appealed to the court for the end of the detention and the return of the children to their parents. Mülteci-Der made contact with the DGMM and the Ministry of Family and Social Policies. The children were released from detention a few days later, in the period between December 9 and 27, 2015. The court's decision came about a month later: ironically, it indicated that the detention of the children had not been lawful, but since the parents had given their consent for the children to be sent to a camp, it was possible to do so. This court decision was, no doubt, in contradiction to the best interests of the children, which Turkey has to respect pursuant to its national legislation and international obligations.

### **People re-admitted from the Greek Islands**

Following the understanding between Turkey and the EU reached on March 18, 2016, those who irregularly arrived at the Greek islands in the Aegean after March 20 would be re-admitted to Turkey under the Readmission Protocol between Greece and Turkey; those who are readmitted, according to the understanding, are to be classified based on their countries of origin. Accordingly, Syrians will be allowed to stay in Turkey under TP while non-Syrians will be returned to their countries – in other words, deported.

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

A second group of 124 were re-admitted on April 8; 20 were from Samos, 50 from Kos and 45 from Lesbos. (One person was not accepted by the authorities in Turkey and taken back to Greece.) 111 of the people in the group were from Pakistan, 4 from Iraq, 4 from India, 2 from Bangladesh, 1 from Morocco, 1 from Egypt and 1 from Palestine.

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

Readmitted Syrians are said to be flown directly to Adana, near the Düziçi camp. It was announced that after their registration, they would be released from detention to be accommodated in other camps or, as many chose, to try and fend for themselves outside the camps.

Pursuant to Article 12 (1) of the Temporary Protection (TP) Regulation of Turkey, TP beneficiaries who leave Turkey for a third country in either an irregularly or regular manner lose their TP status; they will also be marked in the system as being banned from re-entry into the country. For Syrian **citizens** who are re-admitted from the Aegean Islands who had arrived at the islands after March 20, 2016, Turkey added a temporary clause in the TP Regulation. Accordingly, regardless of their previous TP registration in Turkey, if they request after being readmitted, they **may be** granted TP.<sup>3</sup>

However, it is worth highlighting the following points:

- 1) The modification does not guarantee any automatic access (or re-access) to TP for Syrian citizens, as protection **may** be granted upon request. There is no clarification as to what will happen to those who will not be granted TP after being readmitted from the Aegean islands.
- 2) This modification covers only Syrian **citizens**, but not stateless persons or refugees coming from the Syrian Arab Republic, unless they arrived after April 28, 2011.
- 3) The modification is only for Syrian citizens who arrive at the Aegean islands after March 20, 2016; there is no provision for Syrian citizens who arrived at the Aegean islands before this date. Neither does it cover Syrians who enter Greece from the land border and/or those who will be readmitted from other European countries.

Despite this new amendment to the TP Regulation, it is, therefore, still ambiguous how Syrian citizens, stateless persons and refugees who have fled Syria will be treated once they are readmitted to Turkey under the EU-Turkey deal. In view of the recently deteriorating protection of Syrian refugees in Turkey as mentioned above and the developments since the end of the summer 2015, there is concern that some readmitted Syrian refugees may well be excluded from TP or they may be forced to live in a camp against their wishes, or they may be intimidated and/or made to feel obliged to ask for “voluntary” return to Syria.

The challenge for non-Syrians who have been or will be readmitted to Turkey may, however, be even greater. According to the Law on Foreigners and International Protection, those who breach the terms and conditions for legal entry into or exit from Turkey will be given deportation orders.<sup>4</sup> Even if they previously registered their asylum claims with the authorities, their asylum application will be considered withdrawn and they will be detained pending deportation.<sup>5</sup> It is possible to apply for international protection from detention/removal centres. However, the asylum application will be assessed under the

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<sup>3</sup> The Council Of Minister Decision, No. 2016/8722, April 5, 2016

<sup>4</sup> Article 54 (1) (h) of LFIP,  
[http://www.goc.gov.tr/files/files/YUKK\\_I%CC%87NGI%CC%87LI%CC%87ZCE\\_BASKI\(1\)\(1\).pdf](http://www.goc.gov.tr/files/files/YUKK_I%CC%87NGI%CC%87LI%CC%87ZCE_BASKI(1)(1).pdf)

<sup>5</sup> Article 54 (1) (i) of LFIP,  
[http://www.goc.gov.tr/files/files/YUKK\\_I%CC%87NGI%CC%87LI%CC%87ZCE\\_BASKI\(1\)\(1\).pdf](http://www.goc.gov.tr/files/files/YUKK_I%CC%87NGI%CC%87LI%CC%87ZCE_BASKI(1)(1).pdf)

accelerated procedure that takes only eight days.<sup>6</sup> The fairness of the accelerated procedure is rather doubtful. As a matter of fact, during 2014, after the LFIP came into force, no Afghan asylum seeker was given access to asylum under the accelerated procedure. Furthermore, asylum applications from detention/removal centres are assessed to determine whether a person is given access to international protection. If the result is positive they are not granted statuses, they are only given access to the asylum procedure and considered an international protection applicant (i.e. asylum seeker). If the result is negative, they are issued deportation orders. Deportation orders are also issued to those who do not apply for asylum.

They have the right to appeal against a deportation order within 15 days, which will temporarily suspend the deportation procedure. They have the right to employ a paid lawyer or to apply for free legal aid in order to appeal against rejection and deportation orders. However, in practice the situation is rather different, as is explained below.

For non-Syrians who were or will be re-admitted to Turkey, getting access to asylum and to legal aid, like for other detainees, may well be difficult. However, their chances could be even slimmer and more challenging. Statements by the authorities are already being made, in a euphemistic manner, that non-Syrian returnees would be presented with travel documents to return to their countries – actually meaning that they would be deported, probably without being given any chance to apply for asylum, even in cases involving risks of violating the non-refoulement principle. It is also likely that since many would be re-admitted from Greece after their asylum application is rejected, the authorities in Turkey may well justify the prompt inadmissibility of asylum applications and deportations decision by arguing that they had already been assessed and rejected in Europe.

On April 4, 2016, when the first group was re-admitted to Turkey, Mustafa Toprak, the governor of Izmir, who was in Dikili with the head of the DGMM, explicitly said that the re-admitted non-Syrians would immediately be transferred to Kırklareli removal/detention centre where *“travel documents for them will be promptly prepared and formalities will be completed in line with international laws. They would be either re-admitted if we already have a re-admission agreement with their countries of origin or, if there is no such agreement, then again they would be returned to their countries with travel documents”*.<sup>7</sup>

The semi-official news agency Anatolian News Agency (AA) wrote on April 5, 2016, that an Afghanistan national and father of six, Aoyop Muhammed (aged 61), who was among those readmitted, told an AA reporter: *“We need to live. We learned that they would send us back to our country. There is war in Afghanistan. How can we stay there? Can we escape from the Taliban or ISIS?”* Another Afghan man, Abdulbeshir Yusuf (aged 35), was among the re-admitted group; he was trying to re-unite with his parents who were in Germany. Abdulbeshir Yusuf told AA: *“They must not deport us. We do not know why we were deported [from Greece]. If there were no war in our country, would we try going to Europe? We had much*

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<sup>6</sup> Article 79 (1) (ç) and (f)

[http://www.goc.gov.tr/files/files/YUKK\\_I%CC%87NGI%CC%87LI%CC%87ZCE\\_BASKI\(1\)\(1\).pdf](http://www.goc.gov.tr/files/files/YUKK_I%CC%87NGI%CC%87LI%CC%87ZCE_BASKI(1)(1).pdf)

<sup>7</sup> Statement to the press members by Izmir Governor Mustafa Toprak, Dikili April 4, 2016, published on the official web page of Izmir Governorship on April 6, 2016,

<http://www.Izmir.gov.tr/0096>

*better living standards in our country. We had one meal in a day [in Greece]. Why would we want to go there, if there were no war?"<sup>8</sup>*

Mülteci-Der was informed by refugee rights activists in Greece that there might be some people among those who were readmitted to Turkey on April 4 and 8 in need of international protection. With a list of names provided to Mülteci-Der, Ayşegül Yılmaz Karaağaç, a lawyer affiliated with the organisation, went to the removal centre in Pehlivan köy-Kırklareli on April 14 and 15, 2016. On the first day, she was initially stopped at the gates and told that she could not see any detainees without power of attorney. Then she was allowed to present her list to the authorities in the removal centre. Allegedly, none of the names on the list were in the centre, although somehow she was given the correct spellings while she was writing her formal petition to see the people whose names were on the list. The following day, she presented her petition to the Kırklareli Provincial Migration Management requesting permission to see 25 people readmitted from Greece. When she arrived at the removal centre, which is situated 50 km from the city centre, she was once again asked for power of attorney and kept waiting at the gate for an hour. She was eventually let in, but was informed by the management of the removal centre that she would not be given permission to see the people on her list. This was because of the direct verbal information/order from the Directorate General of Migration Management, stating that, until a new regulation concerning readmitted people from the Aegean islands was completed, no lawyer, including her, would be given access to detainees. When she asked to be given in writing the official decision that she would not be allowed to see the listed detainees, the removal centre officer declined to do so, saying that he could not give her a written refusal as it is a violation of law not to allow lawyers to see detainees. The lawyer, as proof that she was refused to see the detainees, wrote a brief report outlining the situation, which was also signed by the manager of the Pehlivan köy-Kırklareli removal centre.

### **Right Violations at removal/detention centres:**

Despite these safeguards in the law, in practice it is rather difficult for persons in detention to get access and enjoy their rights, including access to asylum. This is because:

- 1) They need to submit their asylum claims in person. This means that even if a person in need of international protection has a lawyer, the lawyer cannot make the asylum application on his/her behalf.
- 2) They need to submit their asylum claim in a written form, but their access to pen and paper is mostly impossible. Quite a lot of people are known by Mülteci-Der to have had their requests from the officers at removal centres for pen and paper denied and consequently, because they could not submit an asylum petition, to have been deported.
- 3) They are not properly informed about their rights, so many do not know that they could apply for asylum from detention and that they could ask for free legal aid which is necessary to appeal against detention, rejection and deportation orders.
- 4) In some cases detainees were intentionally misinformed that if they were to apply for asylum they would be detained for months. This in many cases discouraged people from asking for access to asylum.

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<sup>8</sup> Eşper Ayaydın, Anatolian News Agency, Izmir, April 5, 2016, <http://aa.com.tr/tr/turkiye/iade-edilen-gocmenler-ulkelerine-donmek-istemiyor/549538>



- 5) Access to free legal aid is not automatic and detainees are not informed properly. It is very rare for detainees to know about their right to legal aid and how to access it.
- 6) It is at the discretion of the relevant bar association to accept or refuse to give free legal aid. Although some bar associations, like Izmir, Ankara and Istanbul, are sympathetic to applications from detention centres, many are reluctant to accept and extend legal aid to foreigners in detention, including asylum seekers or refugees, without proof of lack of means or without the application being made in person. Both conditions are impossible to meet for people in detention. Some bar associations, on the other hand, fail to extend legal aid to foreigners for reasons of lack of capacity and funding, lack of knowledge and sensitivity, or because they give priority to citizens of their own country.
- 7) For both paid or free legal aid lawyers, it is extremely difficult to get power of attorney, as their clients often do not have a valid passport or ID card.
- 8) In some removal/detention centres, lawyers – even if they submit their power of attorney – are not given access to see their clients or clients-to-be in person, or to see their files.
- 9) Administrative courts which deal with negative asylum decisions, deportation and rights violation cases, as well as peace criminal judges who deal with detention, lack knowledge, experience and the will to challenge administrative decisions.
- 10) Lack of proper and impartial translation facilities at detention/removal centres hampers access to asylum and other rights, and impedes communication with lawyers.

An Afghan family who had lost four members in a shipwreck contacted Mülteci-Der in March 2016 to seek legal counsel and assistance in finding the bodies of their loved ones and to petition for the release of the elderly brother and his family, who had been apprehended before the shipwreck and detained at the removal/detention centre in Aydın, on the Aegean coast of Turkey. Prior to the visit to the removal centre, Mülteci-Der was not able to make contact with the people in question because detainees at Aydın removal centre – in a systematic manner and for a long time – have not been allowed to receive phone calls from the outside. They themselves could hardly ever call their families as they are allowed to use the public phones very rarely. Therefore, Mülteci-Der’s team, consisting of a lawyer and a Farsi translator, went to Aydın removal centre on March 8, 2016, to see the detained Afghan family and another Afghan national who, Mülteci-Der was told by relatives, was a prominent journalist in Afghanistan and was threatened because he was reporting news that were undesirable for the authorities. He was at risk of refoulement. When the Mülteci-Der team arrived at the centre, no permission was given to see the detainees because of the alleged “heavy workload” of officers. The Mülteci-Der team was only able to mention the reasons of their visit and to explain the stories of the people they wanted to see. Whereas the family was released on the night of the same day, Mülteci-Der was unable to gain any information as to the fate of the other Afghan man. Mülteci-Der had also contacted DGMM regarding the release of the remaining deceased relatives as the other family members waited for them for the funeral (the bodies of two of the victims had been discovered).

Mülteci-Der received several pieces of evidence from other lawyers who were not allowed to examine the files of their clients; neither were they given permission to see their clients in other removal centres. For example, 11 national NGOs including Mülteci-Der, on January 1, 2016, issued a press release regarding the now infamous removal/detention centre at Aşkale (Erzurum). It asked, “What is happening in Aşkale Removal Centre?” and brought to public attention the violation of rights that were taking place at the centre in Erzurum. Like the one

in Kırklareli, it had been constructed with the financial support of the EU and was opened in the autumn of 2015. It soon became almost ‘the Guantanamo of Turkey’ as the detainees were allowed no contact with the outside world. They were not permitted to call or see their families or their lawyers. There were allegations that some detainees were kept incommunicado in cells and badly treated and beaten, from November 2015 until the beginning of 2016 when, following a riot there, the detainees were transferred to other removal centres in different provinces of Turkey.

Two lawyers, Abdulhalim Yılmaz of the Istanbul Bar Association and Tahir Tosolar of the Antalya Bar Association, went to Aşkale removal centre on November 26, 2015, to see their clients, examine their files and get power of attorney for some other detainees. They were denied access to their clients and their files, and were told by the manager of the removal centre that they should submit written petitions to see their clients and – depending on the workload, human resources and physical capacity at the centre – they would receive answers in about two weeks. The father of a detainee at Aşkale had a very similar experience – he came to the centre but was not allowed to see his son. Despite warning that such acts were a breach of the law, the lawyers left Aşkale without seeing their clients. Since they did not receive any answers to their earlier applications, days before their second visit to Aşkale removal centre they made written applications once again to see their clients.

Abdulhalim Yılmaz and another lawyer, Nurali Çitil, the work partner of Tahir Tosolar, went once more to see their clients at Aşkale, on December 28-29, 2015. Their visit coincided with a riot by the detainees who were panicking about rumours that some would be deported despite the serious risk of refoulement. After being kept waiting for two days at the gates of the removal centre, their attempt to see their clients failed once again. While they were there, riot police were called in to the centre. On December 29, the roads to the centre were blocked and buses came to the centre to transfer many detainees to other removal centres all over Turkey. Despite the fact that the lawyers should – by law – have been notified of any decision concerning their clients, neither was given any information, and their clients were transferred to other removal centres. Two clients of Tosolar and Çitil and their clients’ families were deported while their cases were still at the Constitutional Court.

On December 29, 2015, Mülteci-Der was informed about 12 Tajikistan nationals who were detained at Aşkale removal centre. They were claiming asylum because their lives and freedom were under serious threat in their country of origin. However, their asylum requests were not registered and there was an imminent risk of deportation. Mülteci-Der wrote to the DGMM about these claims and the Tajikistanis’ well-founded fear of persecution in their countries, and warned the authorities of a possible violation of the non-refoulement principle and a violation of the right to seek asylum. Mülteci-Der demanded their access to the asylum procedure and withdrawal of deportation orders for them. However, with no assessment of their asylum claims, 11 of the 12 were deported, despite the risks for them in Tajikistan.

On January 1, 2016, the media reported that a young Syrian refugee, Dilo Dervish, had died on December 31, 2015, while being detained at the Aşkale removal centre. He was arrested in Adana on August 19, 2015, after participating in a protest. He was accused of being a member of an illegal organisation. He was released by the court but was taken directly from the

courthouse to the removal centre. Later he was transferred to the Aşkale removal centre; his lawyer was informed that he would be freed after the formalities were completed. However, only his dead body was released from the Aşkale removal centre. Official statements claimed that he committed suicide in his cell. His lawyer spoke to the media, asking how a young man, 1.8 metres tall, who was very happy that he would be released soon, could hang himself to a bunk bed and die.<sup>9</sup> Dilo Dervish's lawyer was not allowed to see the cell he died in or to speak with other detainees who might have had some idea about how Dilo had died.

The profiles of the detainees at Aşkale are various: some were accused of being a threat to public security or being foreign fighters with a G87 code (restriction to enter the country) in their files. For most of them, there was no concrete proof, official investigation or court case.

People who marched in September 2015 to Edirne, to the land border with Greece and Bulgaria, in order to protest against the closed borders to refugees and to highlight the risks involved in irregular sea crossings, which reached their peak in 2015, were also among the detainees at Aşkale removal centre.

The Turkish press reported on the case of N.B.. She had been a student at Aleppo University before the war and participated in the protest march to Edirne. During the march she was apprehended in Edirne, detained in Aydin removal centre and then transferred to Aşkale removal centre. Her family was not informed about her whereabouts. Her brother spoke to the media: *“My elder sister just disappeared. We have no idea where she may be. I called Erzurum Court House, I called the police, and I spoke with a woman from the migration management and said, ‘my mother is sick and worried, we are all worried. Please just let us know that she is fine,’ but she told me not to call that number again and hung up. We are worried that she might have been sent back to Syria.”* Her father was a well-known scriptwriter in Syria; after fleeing Syria he has to sell cigarettes in Hatay in order to earn a living. He went to Aşkale removal centre hoping to see his daughter and give her some clean clothes. He was told, “It is forbidden.” He asked the authorities what his daughter was accused of and how long she was going to be detained, but he was told that no information would be given to them.<sup>10</sup>

On February 18, 2016, Mülteci-Der interviewed the lawyer Taner Kılıç, of the Izmir Bar Association in Izmir, regarding the asylum files he attended as a lawyer.

One of his cases involved a Chechen widow, Albika,<sup>11</sup> and her three young children, one of whom was born in 2014, the others in 2015. After losing her husband, who was an imam in Syria, she decided to bring her children to Turkey; they were trying to enter Turkey

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<sup>9</sup> Bianet, <http://bianet.org/bianet/insan-haklari/170800-1-80-boyundaki-dervis-kendini-atkiyla-ranzaya-nasil-asar>

<sup>10</sup> Cumhuriyet “The Bekir family is searching for their daughter”, 08.11.2015, [http://www.cumhuriyet.com.tr/haber/turkiye/410517/Bekir\\_ailesi\\_kizlarini\\_ariyor.html](http://www.cumhuriyet.com.tr/haber/turkiye/410517/Bekir_ailesi_kizlarini_ariyor.html)

<sup>11</sup> For security reasons her name has been changed here.

irregularly but were apprehended at the border with Syria. Upon her apprehension she immediately informed the authorities at the border that she wanted to apply for asylum in Turkey. Her asylum claim was noted in the official minutes of her first interview at the border. The family was transferred to the removal centre in Hatay where they were detained for nearly two months, during which the asylum claim was not processed any further. In November 2015, they were transferred to the Izmir removal centre. Izmir PDMM took the deportation order for Albika and her three children. Albika contacted the lawyer Taner Kılıç, who took one the case of Albika and some other cases – that of a Chechen couple and their young child, and that of a single man, all detained in Izmir removal centre. The others, too, had been apprehended in Hatay, but not at the border, although the information in their file stated that they had been arrested while trying to cross the border.

*“Detainees are not informed properly about their rights. For example, when I checked my clients’ files, I saw a five-page information note about the rights, but it was all in Turkish – and they do not know Turkish. The information note in their own language was put in their files later on when the cases were taken to the court. Of course, it was given an earlier date, as if they had been properly notified at their arrival to the removal centre.”*

Kılıç says that their earlier asylum claims were not processed and that all, including the children, were issued deportation orders and entry bans on grounds of public security. So he told all of them to submit asylum petitions written in their own language. But the petitions of the others were given back to them without any registration, while Albika’s, again with no registration, was “lost”. Later it was found in the drawer at the removal centre by the lawyer and with his intervention was finally placed in her file.

In the meantime, he applied to the administrative court in order to stop their deportation to Russia. Kılıç says: *“Because of these irregularities, I especially wanted to attend their asylum interviews. Not only did I inform the authorities verbally about this request, but I also faxed my request and sent it several times to the official email address of the Izmir PDMM; I know they received my emails because I later saw them in their files. I also told my clients to request my attendance at their interviews.”* Despite all those repeated requests, he was not informed about the interview dates – neither was he informed that his clients’ request to have their lawyer during the interviews was deemed to be inadmissible and improper by the authorities of Izmir PDMM, who decided to close their asylum files. Izmir PDMM sent the administrative court official information indicating that since the mentioned persons wanted to make their asylum applications via a lawyer and they declined signing the minutes of their interview, their asylum claims would not proceed and the files were transferred to the irregular migration section. The court, with reference to this information from the PDMM, rejected the request to stop deportation because the applicants had waived their asylum claims. Only when he received the final decision from the court was their lawyer, Kılıç, able to learn about everything that had happened: *“I was furious. I, as their lawyer, requested to be informed of the interview date. While I was still waiting for this, they were already being interviewed, the court was already given the information that they had no asylum claim – which was not true. The court decision was received by the PDMM ... and I learnt about all of this through the notification from the court, but not from the PDMM, which is supposed to*

*notify me about all decisions and orders. As soon as I received the court verdict, I contacted via phone and email the Izmir PDMM and the General Directorate. I immediately condemned their actions towards my clients, which clearly infringed on the law. Then I also learnt that on the night of the court verdict, all my clients were transferred to the Aşkale removal centre in Erzurum, again without prior notification to me.”*

Some weeks later he was notified by Izmir PDMM that officials there had written to Erzurum PDMM to inform them about his clients’ asylum claims. Lawyer Kılıç thinks that it was, in a way, a recognition by DGMM and Izmir PDMM of their grave mistakes and violations of rights. But his clients’ asylum claims were not proceeded in Erzurum, either. Or in Bursa, where they were transferred to when the protests broke out in the Aşkale Removal Centre at the end of December 2015. *“The asylum requests were not taken into consideration by four separate PDMMs in Hatay, Izmir, Erzurum and Bursa; however, their petitions were in their files when I checked during their last stop in Bursa,”* says lawyer Kılıç.

On January 6, 2016, as a last resort under national legislation, he applied to the Constitutional Court for an interim decision to have their deportations stopped. Upon the request by the constitutional Court (C.C.), DGMM wrote to the C.C., stating that the claim that there was a risk of persecution if the applicant was deported to Russia would be assessed, and that if this was found to be so, the deportation to Russia might not take place. This, however, would not mean that she could not be deported to a safe third country where she would not be subjected to torture or ill treatment. It was also stated that the country of deportation would be selected on the merits of the non-refoulement principle.<sup>12</sup> The Constitutional Court, on January 20, decided to stop the deportation because the risk towards her life or physical and psychological safety was deemed too serious. She and her children were released in the first week of February, but once again her lawyer was not informed of this prior to her release. At the time of Mülteci-Der’s interview, lawyer Kılıç was concerned about the safety of his client, because she simply disappeared after her release. He said *“I am concerned, because I have learned that on the day after her release her family’s house in Russia was visited by some people who knew about her release and who told the family that they would find and kill her. This is very suspicious - at that time even I did not know that she had been released. My suspicion is further reinforced because while she was still at the Bursa RC, the officers told her that a relative was there to see her. She refused to see that person, because she did not have any relative in Turkey who could possibly visit her. Nonetheless the man was allowed in to speak with her, and told her that he knew her late husband and her family and would help her if she accept to go to Chechnya with him.”*

In the above-mentioned case regarding the Chechen couple, almost the same happened, only that since they had valid passports, they had agreed to be sent to a third safe country. This was agreed by the DGMM, too. Lawyer Kılıç says, *“I was confident that they were to be deported*

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<sup>12</sup> Interim decision by the Constitutional Court, App. No. 2016/220, January 20, 2016 <http://www.kararlaryeni.anayasa.gov.tr/BireyselKarar/Content/dc1f5baf-97a1-4c82-b8f0-297176907fc2?wordsOnly=False>

*to another country which was safe for them. They also wanted this. It was agreed with the DGMM that they would not be returned to Russia where there is real risk of persecution for them, and everything was arranged for their departure to a safe third country. However, one morning I received a call from one of their relative, informing me that the couple were on a plane to Russia. They had had the opportunity to secretly inform the family. I was indeed shocked. I was told that the family now tried to get them freed; they sold all their possessions... ”*

On access to asylum and rights violations: *“If these things happen to the clients of ‘tough’ lawyers like us, can you imagine what happens to those without a lawyer? Authorities do not comprehend the fact that access to asylum is a basic right!”*

Banning lawyers from seeing their clients and their files is a clear violation of the Law on Foreigners and International Protection (LFIP) Article 59(1) (b), which states that foreigners in removal centres must be allowed to have see and have access to their lawyers. Under the same law it is also illegal to ban family members from seeing their relatives in detention/removal centres, or to deny them access to a telephone.

Not allowing lawyers to be present at asylum interviews is a clear breach of LFIP Article 75 (1), which states that upon request of the applicant, his/her lawyer may attend the interview as an observer.

## **Right to Life**

On October 29, 2015 two young Syrian opposition journalists living in Saniurfa were murdered in their own house. Ibrahim Abdulkadir (20) was the editor-in-chief of an Arabic Ayn Vatan newspaper published in Sanliurfa, while Firaz Hamadi was a reporter for the same newspaper. Both were also affiliated with a citizen journalism group called “Raqqqa is Being Slaughtered Silently”, which reports on atrocities committed both by ISIS and the Syrian regime. Both journalists had received threats from ISIS, who later claimed responsibility for the brutal murdering of Ibrahim Abdulkadir and Firaz Hamadi. One of the killers was known to the victims: he had convinced them that he escaped from ISIS and had moved in with them. It is reported in the media that three of the suspected killers escaped back to Raqqqa, while a fourth is now considered to be in Germany.<sup>13</sup>

This event demonstrates the dangers for opponents of the Syrian regime or ISIS. Turkey seems not to be taking the necessary steps to protect the opposition voices.

There was a continuation of the killings two months later, with the murder of Naji Al Jarf. This man, a well-known human rights activist and opposition journalist and director from Syria, had escaped from the harassment and threats by the Syrian regime and had been living in Gaziantep for over two years. He was publishing a magazine called Alhita (“Wheat”), which supports democracy and human rights and had just finished a documentary on the

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<sup>13</sup> <http://www.milliyet.com.tr/infaz-timi-kamerada--gundem-2195058/> & <http://www.amerikaninsesi.com/content/bir-isid-cinayetinini-anatomisi/3196382.html>

atrocities of ISIS in Aleppo. He received several threats both from ISIS and the Syrian regime and had applied to the Turkish authorities for close protection. Since he felt that he and his family were no longer safe in Turkey, they had asked for asylum in France. Their case was accepted and they were to leave for France on December 28. However, on December 27, Naci Al Jarf was shot dead with a silenced pistol on a street in Gaziantep. His killing in broad daylight in a country where he had taken refuge was seen as a clear signal to the secular Syrian opposition voices in Turkey, and it also demonstrated the failure of the Turkish authorities to protect the lives of well-known Syrian opposition figures in Turkey. Yet, no security precautions were even taken at his funeral, an event that was attended by many of his associates.<sup>14</sup>

According to Şenay Ozden, who is a member of Hamish, a Syrian-Turkish cultural NGO, “*all three murders have created real fear among the Syrian opposition members living in Şanlıurfa and Gaziantep. Now, many of them feel that Turkey is not safe for them.*” She said to Mülteci-Der that, especially following the murder of Naji Al Jarf, prominent members of the democratic Syrian opposition are considering to apply for asylum in European countries which no doubt would result in the weakening of their impact on the future of Syria.<sup>15</sup>

Another Syrian journalist, Muhammed Zahir al-Sherkat, aged 36, was shot in the neck at close range by a masked assailant in a street in Gaziantep on April 10, 2016 and severely injured. He had previously survived another assassination attempt in Syria and started working with Halab Today. However, following the second assassination attempt, he later died in the hospital. He had been receiving threats from ISIS, as his programmes took a stance against that group and others.<sup>16</sup>

### **Ban to enter the country**

According to information given by the Ministry of Interior to the Parliament on April 19, 2016, Turkey, while trying to combat ISIS, deported 3,392 foreigners from 96 different countries and issued entry restrictions for 41,027 foreigners from 128 different countries.<sup>17</sup> There is no doubt that the problem of foreign fighters trying to go to Syria via Turkey or foreigners affiliated with armed groups in Syria trying to enter via Turkey is an important

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<sup>14</sup> According to a press release by Gaziantep Governorship Office, the police carried out a thorough investigation on the killing of Naji El Jerf and found that there were two people involved in the shooting. One person accused of the killing has been arrested; bomb-making equipment, fire arms, weapons and silencers were found at his house. <http://www.haberler.com/suriyeli-gazeteciyi-2-kisinin-oldurdugu-1-supheli-8041089-haberi/>

<sup>15</sup> Interview with Şenay Ozden, 21.02.2016. We thank Şenay Özden for the information she shared with us regarding the killings of Ibrahim Abdulkadir, Firaz Hamadi and Naji El Jerf.

<sup>16</sup> Aljazeera, April 13, 2016, <http://www.aljazeera.com/news/2016/04/syrian-journalist-shot-isil-turkey-dies-160413074030033.html>

<sup>17</sup> Milliyet, April 20, 2016, <http://www.milliyet.com.tr/icisleri-bakani-efkan-ala-ankara-yerelhaber-1326286/>

issue that occupies the national and international agenda. There is great pressure on Turkey to intensify its fight against foreign fighters in the country. However, there are indeed peculiarities in Turkey's efforts in this respect as several people, without concrete proof, official investigation or court decision regarding their involvement in the fighting in Syria and/or criminal armed groups seemed to be arrested, detained and sometimes deported in a clear infringement of the non-refoulement principle.

Since October 2015 in particular, several cases of refugees who were, without proof, suspected of being involved in a criminal act or of being foreign fighters have come to the notice of Mülteci-Der. In the above-mentioned interview with Lawyer Taner Kılıç, Mülteci-Der was told that in two different cases the lawyer had attended, children as young as one year old were issued with G87 restriction codes.

In a case that was brought to the attention of Mülteci-Der by Şenay Özden, a Syrian academician found himself in a removal centre following his visit to his relatives in Turkey. When he was leaving Turkey for a third country where he was working and for which he had a resident permit, he was stopped at the airport passport check and accused of using a forged passport. However, his passport was genuine and had been used several times before when he visited Turkey. Later he was told that his passport was actually not forged but that there was a different problem that prevented his exit from the country. He was transferred from the airport to a removal centre where he was detained for about 10 days. This was on the basis of information by Turkish intelligence forces, according to which his passport number was on a list of suspected ISIS members. However, there was no truth in the alleged connections with the ISIS; the only truth was that he was from Raqqa, a city that is known to be the headquarters of ISIS in Syria. The man was banned from entry into Turkey. Despite the proof presented to the RC authorities about his background and professional work and despite the risk that he could lose his job and resident permit in the third country where he had been living for some time, he was kept in detention without any sound evidence. It was only when the case reached the courts that it was decided that in the absence of any sound evidence of involvement with criminal acts or for being a member of the ISIS that he could not be detained.<sup>18</sup> The court lifted the detention order and decided to return his passport to him. Upon his release, he was deported to the third country where he had been living. However, the entry ban on his passport was not removed by the administration and the court case continues.

### **Open door policy and “safe spaces” within Syria**

Although Turkey still publicly claims that it continues its open door policy for refugees fleeing Syria and does not return people to Syria, it is clear that all border crossings with Syria are closed to now. Also there are allegations in the media that those who try to cross into Turkey irregularly are prevented and sometimes shot at by Turkish forces.

Another case was brought to the attention of Mülteci-Der by the nephew of a man called Mahmoud al Matar. Mahmoud al Matar was in his sixties and he, together with his wife, two daughters and son decided to leave Raqqa, their home city, because of the deteriorating

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<sup>18</sup> Interview with Şenay Özden, 21.02.2015



situation there. On March 22, 2016 the family tried to irregularly cross into Turkey from Reyhanlı, Hatay. It was night time and they were shot at from the Turkish side of the border. Mahmoud al Matar died there. His family was able to collect his dead body only 30 hours later because of fear of losing another family member. The family believes that the shots were fired by Turkish soldiers and say that there was no warning before fire was opened.<sup>19</sup>

It is a well-known fact that tens of thousands of Syrian civilians have been waiting in the unofficial camps on the Syrian part of the border since the recent bombing of Aleppo in February 2016. Prime Minister Ahmet Davutoglu, speaking at the Conference of Donors to Syria, confirmed on February 4 that at least 70,000 civilian refugees were approaching the border with Turkey.<sup>20</sup> However, Turkey has so far not allowed those refugees into the country and they are at severe risk to their lives at the ten informal camps on the other side of the border. Indeed, on April 14, 2016, Iğde, Havar, Kilis and Hameyn refugee camps across the Turkish city of Kilis were attacked by ISIS forces. It was reported in the media that one woman and one child died at the attack on Iğde camp, where 10,000 people were living. During the attack, ISIS put several tents in the camps on fire and kidnapped several people.<sup>21</sup>

This event demonstrates that claims that there are ‘safe areas’ inside Syria, where safe returns can be made to, are not at all likely.

*NOTE: These observations were made in the context of the Refugee Support Program in the Aegean a project by PRO ASYL.*

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<sup>19</sup> Interview with the nephew of Mahmoud al Matar, April 20, 2016

<sup>20</sup> <http://t24.com.tr/haber/basbakan-davutoglu-suriye-donorler-konferansinda-konusuyor,326833>

<sup>21</sup> <http://www.cnnturk.com/turkiye/turkiye-sinirindaki-siginmaci-kamplarina-isis-saldirisi>