

Turkey: between hospitality and hostility

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Recent political developments and changes in Turkey's asylum law have had a significantly injurious impact on the safety and legal certainty of refugees in Turkey.

As unrest in the Middle East persists and the road to Europe has been blocked in both practical and legal terms, Turkey's status as the country in the world hosting the largest number of refugees¹ is bound to continue. The functioning of Turkey's asylum system and the effectiveness of protection in Turkey have therefore become of the utmost importance for all parties involved.

In 2014 a Law on Foreigners and International Protection in Turkey entered into force. This new law increases the legal certainty for asylum seekers and refugees since, by establishing the rights of the refugee population, it gives refugees the possibility of enforcing those rights in a national court. It also increases the predictability and legality of the administration's decisions.

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However, Turkey has retained a geographical limitation to the 1951 Refugee Convention, meaning that refugee status is granted only to those coming from European countries. Applicants from other countries who fulfil the same substantive criteria may be offered 'conditional refugee' status, and the vast majority of asylum seekers and refugees currently in Turkey fall under this temporary protection. This regime explicitly includes those Syrians who were returned to Turkey from the islands in the Aegean Sea after the EU-Turkey deal was struck.²

Although undoubtedly the new law has improved the legal position of asylum seekers and refugees in Turkey, a series of events have seriously affected its implementation. The closure of borders in several European countries and the resulting growth in the number of refugees that are clearly going to remain in Turkey have brought about a change of attitude among the host population,

who are now less welcoming than they were when Syrian refugees began arriving in 2011 and 2012. Furthermore, internal disputes at government level have led to a considerable change in personnel within government institutions, which in turn has had a negative impact on the development of the new institutional structure entrusted with the administration of the new law. Knowledge built up through twinning projects with non-governmental organisations (NGOs) or EU Member State institutions has been lost and decisions are not being taken on time, leading to a growing backlog in applications for asylum; in some provinces new applications are – unofficially – not even being accepted until the backlog has disappeared.

The country has been in a state of emergency since 21 July 2016 as a result of the failed coup d'état on 15 July. This state of emergency has triggered the replacement of normal legislative procedure with



UNHCR/Andrew McConnell

Levent Topçu plays with young Syrian refugees at the accommodation he provided for them in Torbali, Turkey. Mr Topçu is part of a Facebook group of friends who created an association called Unity Solidarity to help people in need. Mr Topçu and his friends renovated an abandoned building, making it habitable for several families. He also employs six Syrians at his factory. "We only have one life and we have an obligation to help," he says.

legislation through presidential decrees. These presidential decrees can regulate or amend any area of law, and can also limit political rights and duties. They can therefore also limit the rights of those who have come to Turkey in search of protection. Democratic and constitutional checks on the legislative process are at present minimal.

Deportation and *refoulement*

As a result of amendments to the Turkish Law on Foreigners and International Protection made by a presidential decree in October 2016, applicants for and even beneficiaries of international protection who are suspected to be involved in terrorist or criminal organisations or who are deemed to pose a threat to public order, public safety or public health can be issued with an immediate removal decision. Even leaving aside the problematic issue of the interpretation of terms such as ‘terrorism’ and ‘public safety’ under Turkish law, this presidential decree opens the way for infringements of international refugee law.

In some cases, especially those concerning former employees of international NGOs that have fallen from favour, deportations to Syria have been ordered – and can be effected without recourse to a judge. It is possible to appeal a removal decision, though a relatively new procedure in Turkey, and this procedure may be used to suspend deportation to Syria under international law; deportation to another country regarded as safe by Turkey is then considered by the administration as an alternative. However only a handful of lawyers in Turkey are familiar with this procedure, and it is not well known among the refugee population. The risk of *refoulement* as the direct result of the enduring state of emergency in Turkey is therefore much greater than before.

Implications for NGOs

Due to the state of emergency and the resulting legal and political scene it is difficult for NGOs to keep abreast of changes in the relevant legislation, and to offer effective legal assistance and counselling to refugees and asylum seekers. The work of many

international NGOs is also now regarded with suspicion by the authorities. A growing number of international NGOs have been investigated, had their staff arrested and/or had their official registration – necessary to operate in Turkey – refused for renewal, cancelled or kept pending for an excessive period of time. International NGOs who offered cross-border humanitarian aid in Syria from their offices registered in cities in the east of Turkey, such as Gaziantep, particularly face these and other discouraging practices, and some of these organisations have been banned from operating across Turkey. While Turkish NGOs are mostly allowed to continue their operations, their geographical and topical scope tends to be limited and so a lack of coordination persists. Furthermore, their staff are often reliant on training and funds provided by or through international NGOs. The presence of international NGOs is therefore of paramount importance to effectively protect the refugee population in Turkey.

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1. According to data from UNHCR, the UN Refugee Agency, Turkey hosts just over 3.4 million refugees; Turkish authorities and researchers estimate this figure to be up to 3.9 million.

2. The EU-Turkey Statement of March 2016 aimed at stopping the flow of irregular migration via Turkey to Europe <http://bit.ly/EU-Turkey-2016> See Tunaboylu S and Alpes J (2017) ‘The EU-Turkey deal: what happens to people who return to Turkey?’ *Forced Migration Review* issue 54 www.fmreview.org/resettlement/tunaboylu-alpes

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