Country Fiche

TURKEY

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<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>3RP</td>
<td>Regional Refugee and Resilience Plan</td>
</tr>
<tr>
<td>AFAD</td>
<td>Disaster and Emergency Management Presidency (Turkey)</td>
</tr>
<tr>
<td>AIDA</td>
<td>Asylum Information Database</td>
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<tr>
<td>ASAM</td>
<td>Association for Solidarity with Asylum-Seekers and Migrants</td>
</tr>
<tr>
<td>CAT</td>
<td>Convention against Torture</td>
</tr>
<tr>
<td>CCTE</td>
<td>Conditional Cash Transfer for Education</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
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<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
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<tr>
<td>DAAD</td>
<td>Deutscher Akademischer Austauschdienst</td>
</tr>
<tr>
<td>DGMM</td>
<td>Directorate General of Migration Management</td>
</tr>
<tr>
<td>DRC</td>
<td>Danish Refugee Council</td>
</tr>
<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
</tr>
<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>ESSN</td>
<td>Emergency Social Safety Net (ESSN)</td>
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<tr>
<td>FRIT</td>
<td>Facility for Refugees in Turkey</td>
</tr>
<tr>
<td>GCR</td>
<td>Global Compact on Refugees</td>
</tr>
<tr>
<td>GIZ</td>
<td>German Agency for International Cooperation</td>
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<td>HRW</td>
<td>Human Rights Watch</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
</tr>
<tr>
<td>LFIP</td>
<td>Law on Foreigners and International Protection</td>
</tr>
<tr>
<td>MFA</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>NOAS</td>
<td>Norwegian Organisation for Asylum Seekers</td>
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<td>NGO</td>
<td>Nongovernmental Organization</td>
</tr>
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<td>Abbreviation</td>
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<td>--------------</td>
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<tr>
<td>PDMM</td>
<td>Provincial Directorate of Migration Management</td>
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<td>RSD</td>
<td>Refugee Status Determination</td>
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<td>SETA</td>
<td>Sector Education and Training Authority</td>
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<td>TPR</td>
<td>Temporary Protection Regulation (Turkey)</td>
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<tr>
<td>TVET</td>
<td>Turkish Vocational Education and Training</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>UNFPA</td>
<td>United Nations Population Fund</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<tr>
<td>WFP</td>
<td>World Food Programme</td>
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<td>WHO</td>
<td>World Health Organization</td>
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Executive summary

Today, Turkey hosts the largest refugee population in the world, including more than 3.6 million Syrians and 330,000 registered refugees and asylum seekers of other nationalities (UNHCR Turkey Operational Update 2020). Turkey is a party to the Convention relating to the Status of Refugees (Refugee Convention) and the 1967 Protocol but maintains a geographical limitation. With this limitation, Turkey is not obliged to grant refugee status to asylum seekers coming from outside Europe. Turkey is a party to the core human rights treaties such as: the Convention against Torture (CAT), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), the European Convention on Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The Constitution of the Republic of Turkey guarantees certain fundamental human rights to citizens and foreigners alike. Since 2012, foreigners whose fundamental rights and freedoms (as set forth in the ECHR and guaranteed by the Turkish Constitution) have been violated by a Turkish public authority can submit an individual application before the Constitutional Court. The European Court of Human Rights (ECtHR) decided that this procedure constitutes an effective remedy capable of affording redress for the violations of the rights secured under Articles 2 and 3 of the ECHR in Sakkal and Fares v. Turkey App no 52902/15 (ECtHR, 7 June 2016). The individual application procedure became an important legal venue to resist removal for persons who, if deported, would face a real risk of being subjected to treatment contrary to Article 2 or Article 3 of the ECHR.

Turkey’s first asylum law namely the Law on Foreigners and International Protection (LFIP) was adopted in 2013 and entered into force in 2014. The LFIP introduced clear safeguards against refoulement and crucial rights for asylum seekers and refugees in Turkey (Ineli-Ciger 2019). The LFIP also founded the Directorate General of Migration Management (DGMM), an authority established under the Ministry of Interior, which now oversees the implementation and coordination of all asylum and migration issues in Turkey.

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UNHCR was de facto conducting refugee status determination (RSD) in Turkey while, as of 8 September 2018, the DGMM together with the Provincial Directorates of Migration Management (PDMMs) has been processing international protection applications.

Following the unrest and escalating conflict in Syria, Turkey declared that it would pursue an open-door policy for Syrians seeking refuge at its territories in 2011 (UNHCR, Turkey 3RP Regional Refugee & Resilience Plan 2017–2018). In 2011, Syrians were able to enter Turkey without a visa; however, this policy ended in 2016 when Turkey introduced visa requirements that only applied to Syrians arriving to Turkey by air or sea. In the beginning, upon crossing the border, Syrians were directed to the refugee camps near the border and were referred to as ‘guests’ by public authorities whilst their legal status was unclear (Ineli-Ciger 2014, 28; Memişoğlu and Ilgıt 2017, 324). These camps where Syrians are accommodated are called ‘Temporary Accommodation Centers’ by the DGMM. The Turkish Disaster and Emergency Management Presidency (AFAD) initially coordinated Turkey’s response to the Syrian influx. However, the legal authority regarding coordination and management of Temporary Accommodation Centers, was transferred from AFAD to the DGMM in March 2018.

With the entry into force of the LFIP and the Temporary Protection Regulation (TPR) in 2014, the temporary protection regime implemented for the protection of Syrians fleeing the armed conflict has been brought into the legal sphere (Ineli-Ciger 2014, 28, 29). Turkish laws grant those Syrians registered as temporary protection beneficiaries protection from refoulement, a limited right to work, access to health care, education, social assistance and permission to stay legally in Turkey until the temporary protection regime ends. Despite these generous safeguards, many Syrians face challenges accessing protection standards prescribed by Turkish law, and even minimum basic treatment such as food and shelter (Ineli-Ciger 2017, 576, 577; ECHO 2020).

Turkish law does not guarantee housing for Syrians. Syrians were initially accommodated in camps or Temporary Accommodation Centers run by AFAD though the number of temporary protection beneficiaries residing among the Turkish community in urban, peri-urban and rural areas rose significantly in recent years (3RP Country Chapter 2019/2020 Turkey). The Turkish government began closing down Temporary Accommodation Centers in 2018. There are only seven centres left and as of October 2020, 59,394 Syrians are known to be living in Temporary Accommodation Centers (DGMM 2020). In 2016, Turkey introduced a right for Syrians to apply for work permits though the number of
work permits issued to Syrians was as low as 65,000 in January 2020 (T24 2019).

As for education, Syrian children have a right to education in Turkey although up to 38% of Syrian children of school age remain out of school or have no access to any education opportunities (3RP Country Chapter 2019/2020 Turkey). Moreover, the recent COVID-19 outbreak made it more difficult for Syrians and other refugees to access basic necessities of life (Turkish Red Crescent and International Federation of Red Cross and Red Crescent Societies 2020; International Relief 2020).

With the adoption of the EU-Turkey Joint Action Plan in 2015 and the EU-Turkey Statement of March 2016, Turkey became a crucial partner for the EU in migration management, more specifically in the prevention of irregular arrivals to Europe. The Statement, in a sense, created a legal and political limbo that acts as a deterrence tool (Ineli-Ciger and Ulusoy 2020). Compatibility of the agreed measures under the EU-Turkey Statement with international and European refugee law and human rights law standards was widely questioned and criticized by many authors (Peers and Roman 2016; Roman, Baird and Radcliffe 2016; Amnesty International 2017; Ulusoy and Battjes 2017; Tometten 2018; Moreno-Lax and Giuffré 2019; Ineli-Ciger 2019; Öztürk and Soykan 2019; Kaya 2020).

In the Statement, the EU promised the disbursement of the initially allocated €3 billion (now €6 billion) under the Facility for Refugees in Turkey (FRIT) and ensure funding of further projects for persons under temporary protection identified with swift input from Turkey before the end of March. One of the few positive outcomes of the EU-Turkey Statement can be identified as these projects, which supported Syrians in Turkey. The Facility, which became operational in 2016, provides a mechanism to coordinate the mobilisation of resources made available under both the EU budget and additional contributions from Member States integrated into the EU budget as externally assigned revenues. International organizations including but not limited to UNHCR, UNFPA, UNICEF, WFP, WHO, UNDP, ILO, IOM and WHH and NGOs such as Save the Children, GIZ, Danish Red Cross, Médecins du monde, Concern Worldwide, Danish Refugee Council, Mercy Corps, DAAD and ASAM are among implementing partners of the FRIT (FRIT 2020). Another regional initiative established to effectively respond to the Syrian refugee crisis is the Regional Refugee and Resilience Plan (3RP). This initiative provides support to Turkey in meeting the most pressing needs of Syrians under temporary protection and vulnerable host community member
and through cash and in-kind assistance. UNHCR, IOM, UNDP, WHH, UNFPA, UNICEF, UN Women together with NGOs including DRC, Save the Children, Children of One World and ASAM are among the 3RP partners that support the Turkish government.

Turkey has been quite active throughout the drafting and adoption process of the Global Compact on Refugees (GCR). During the drafting process of the GCR, Turkey has repeatedly affirmed the need for equitable and meaningful burden and responsibility sharing and identified easing the pressures on host states in large influx situations as one of the most important objectives of the GCR. Turkey has so far made eight pledges in relation to the GCR (GCR Digital Platform 2020). Turkey pledged to improve access of Syrian children to education, support voluntary return of Syrians and work towards acceding to the 1961 Convention on the Reduction of Statelessness. There are no data yet available on the extent these pledges are being implemented.

1. Introduction

1.1. Historic overview

The Republic of Turkey throughout the course of its history has been a country of origin, transit and destination (IOM 2020). Turkey’s Constitution of 1924 foresaw that the people of Turkey regardless of their religion and race were, in terms of citizenship, to be Turkish and as such would enjoy equal rights before the law (Article 88 of Turkey’s Constitution of 1924; Kirişçi 2000, 1) The first Turkish Settlement Law adopted in 1934 offered the possibility for individuals of Turkish descent/ethnicity and culture to be settled in Turkey (Kirişçi 2000, 6). Until the end of the Second World War, more than 840,000 people of which the majority came from Balkan countries migrated to Turkey. This includes the population exchange between Turkey and Greece in 1923 (Kirişçi 2000, 7).

EU-Turkey relations were initiated within the framework of an association regime that was based on the Agreement Establishing an Association between the European Economic Community and Turkey (Ankara Agreement), which was signed in 1963. The Agreement (in particular Article 12) set an eventual goal namely, freedom of movement for workers between the Community and Turkey (Çiçekli 1999). With the signing of the Labour Recruitment Agreement between Turkey and Germany in the 1960s, a great number of Turkish citizens immigrated to Germany and some other European countries (Turkish FMA 2020). Following the establishment of a customs union in 1995, the European Council granted Turkey the status of a candidate country. The accession negotiations began in 2005 although to date there has not been much progress (İneli-Ciger 2019).
In 1989, Turkey opened its borders and granted citizenships to more than 310,000 asylum seekers and refugees from Bulgaria, many with Turkish origins (İçduyu and Aksel 2012). Turkey also granted refugees to thousands of persons fleeing conflicts associated with the dissolution of the Former Republic of Yugoslavia; for instance, Turkey transferred more than 8000 Kosovar refugees from Macedonia and Albania to Turkey through Humanitarian Transfer Programmes and granted them resident permits (Ineli-Ciger 2018). Turkey, due to its strategic location, has also been a transit country for most migrants and refugees and a necessary stop on their way to Europe. According to a 2012 study, 700 000 irregular migrants were apprehended in Turkey between 2000–2010; whereas nearly 68% of those could be considered as persons who wished to transit through Turkey to reach Europe (İçduyu and Aksel 2012, 23). Turkey’s transformation over the course of the last decades into a transit and a destination country necessitated a comprehensive policy to manage mass migration and asylum flows (İçduyu and Aksel 2012, 64).

Apart from the Settlement of Law of 1934, Turkey’s main piece of legislation dealing with mass population movements and asylum matters until the entry into force of the Law on Foreigners and International Protection in 2014 was Regulation No. 1994/6169 on the Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey. This regulation, which sought to identify the principles and procedures to be applied to foreigners who arrived at Turkish borders, introduced a very strict time limit to lodge asylum claims and made no reference to core human rights of asylum seekers and refugees (Kirişçi 2001, 67). Besides, Regulation No. 1994/6169 neither mentioned the principle of non-refoulement nor provided any safeguards against prolonged detention of asylum seekers and refugees (Ineli-Ciger 2019, 123). The implementation of these restrictive provisions and the problematic practices of the Turkish authorities towards refugees and asylum seekers attracted criticism from many commentators (Frelick 1997, 8–12). Moreover, prior to the adoption of the LFIP, the European Court of Human Rights found that Turkey violated Articles 3, 5 and 13 of the ECHR in cases concerning deportation, detention and treatment of refugees and asylum seekers (Ineli-Ciger 2019, 124). Turkey has made a number of changes to its asylum laws and policies since 2000 as part of the EU accession process with the aim of facilitating the harmonisation of Turkish migration and asylum laws with that of the EU acquis (Kaya 2020, 114). The most
important outcome of this process can be identified as Turkey’s first asylum law, namely the Law on Foreigners and International Protection (LFIP), which was adopted in 2013 and entered fully in force in 2014. With the adoption of the LFIP and the TPR, the protection of the Syrians has been brought into the legal sphere.

1.2. Main debates in the academic literature

There are many sources both in English and Turkish relating to the status and rights of refugees and especially Syrians in Turkey. While the literature initially focused on the status and reception of Syrians in Turkey (Ineli-Ciger 2014; İçduygu 2015; Yıldız and Uzgören 2016; Memişoğlu and İlgi 2017), more recent academic works concern integration of Syrians into Turkish society (Erdoğan 2017; Baban et al. 2017; Kanat and Üstün 2015; İçduygu and Şimşek 2016; Akçapar and Şimşek 2018; Gürsoy and Ertaşoğlu 2019) and Syrians’ access to education, healthcare and the labour market (Bidinger 2015; Bircan and Sunata 2015; Yıldız 2019; Çelik and İçduygu 2019; Oktay 2017; Çetin and İçduygu 2019).

There is also plenty of literature on the influence of the European Union, UNHCR and the European Court of Human Rights on the adoption and implementation of Turkish asylum laws and policies (Kaya 2009; Baklacoğlu 2009; Özer and Özgür 2010; Soykan 2012; Kirişçi 2012; Gökalp Aras 2013; İçduygu 2014; Güleç 2015; Birgün and Aşikoğlu 2017; Ineli-Ciger 2019; Üstübici 2019; Eksi 2019). Furthermore, a number of reports critically analysing Turkish asylum laws and policies exist (AIDA 2020; NOAS 2018; RESPOND 2020). There is plenty of literature relating to the EU-Turkey Statement of March 2016 discussing legal problems that the arrangements agreed under the Statement pose (Ulusoğ and Battjes 2017; Carrera, den Hertog and Stefan 2017; Alpes et al. 2017; Şimşek 2017; Soykan and Öztürk 2019; Kaya 2020; Smeets, Sandrino, and Beach 2020; Ineli-Ciger and Ulusoy 2020). However, apart from one-sided data published by the EU such as the EU-Turkey Statement of 2016 progress reports and FRIT Factsheets, there are few recent studies critically analysing the results and effectiveness of the EU-Turkey Statement, assessing how the funding provided by the EU and the Member States under the Statement is spent and how it impacts protection of asylum seekers and refugees in Turkey (Alpes et al. a 2017; Ulusoy and Battjes 2017; Reslow 2019; Kaya 2020; Tantardini and Tolay 2020). Moreover, there are no comprehensive studies focusing on Turkey’s contribution to the Global Compact on Refugees (GCR) or how Turkey implements the GCR.
1.3. Latest policy developments and current main issues in the refugee and asylum governance debate

Following an attempted coup, Turkey declared a state of emergency on 20 July 2016 and submitted a formal notice of derogation to the Council of Europe, foreseen under Article 15 of the ECHR. Following the declared State of Emergency, Turkey amended a number of articles in the LFIP and removed suspensive effect of deportation appeals for leaders, members or supporters of a terrorist organization or a criminal organization; persons who pose a public order, public security, or public health threat; or are reported by international terrorists and those suspected of terrorism (Articles 35, 36, and 37 Emergency Decree with the Force of Law KHK/667). The state of emergency ended on 19 July 2018. In 2018, the Turkish Constitutional Court declared the said amendment contrary to the fundamental rights secured under the Turkish Constitution. Changes made following the attempted coup, in particular those relating to the abolition of suspensive effect in deportation appeals were largely reversed with the latest amendment of the LFIP in December 2019.

Following transformation of Turkey’s long-standing parliamentary system into a presidential system in 2018, the LFIP has once again been amended, notably giving the President more power in shaping asylum and migration policies (RESPOND 2020, 18, 19). Provisions of the LFIP referring to the authority of the Council of Ministers were replaced with those referring to the authority of the Turkish President. Prior to the adoption of the LFIP, UNHCR was de facto conducting RSD in Turkey, while as of 8 September 2018, the DGMM and the PDMMs were processing international protection applications. The LFIP has been amended with the adoption of Law 7196 on 6 December 2019. Some of the amendments concern the following issues: detention of foreigners in transit zones (Art. 7), detention of unaccompanied minors (Art. 58 and 76), alternatives to immigration detention (Art 57/a), deportation appeals (Art. 53 and 54) and interception of detained migrants’ electronic and communication devices (Art. 53). The 2019 amendment introduced alternatives to detention to Turkish laws and shortened the duration to lodge an appeal against a deportation order from 15 days to 7 days.

Following an attack on the Turkish troops in Idlib which led to the death of more than 36 Turkish soldiers in February 2020, Turkish President Erdogan declared that he had opened his country’s borders for migrants to cross into Europe, saying that Turkey could no longer handle the numbers fleeing the war in Syria (New York Times 2020). In response to this, the Greek government closed its
borders with Turkey and declared that it would not process the asylum applications of those entering illegally.

With the COVID-19 outbreak beginning in Turkey in March 2020 and the adoption of measures to fight the outbreak, many refugees and asylum seekers lost their jobs and faced difficulties in accessing health care, online education and meeting basic needs (Turkish Red Crescent and International Federation of Red Cross and Red Crescent Societies 2020). A recent study suggests that among the Syrians surveyed: “87% reported someone in their household lost their job because of the outbreak; 71% reported that they cannot access health services; and 81% reported urgent unmet needs.” (Relief International 2020). Whereas another study noted that among surveyed refugee households: 69% lost employment due to COVID-19, 78% reported an increase in expenses and costs of basic necessities; and 31% reported that their children do not have access to online education/curriculum (Turkish Red Crescent and International Federation of Red Cross and Red Crescent Societies 2020).

2. Asylum and refugee statistics

Turkey is home to the world’s largest refugee population: there are four million refugees and asylum-seekers in Turkey including more than 3.6 million Syrian nationals (UNHCR Operational Update 2020). Under Turkish laws, the refugee status, conditional refugee status that is granted to refugees who do not originate from Europe and subsidiary protection status fall under the scope of international protection. Hence, whilst status determination relating to these categories of protection is one and the same, under Turkish laws temporary protection falls outside the scope of international protection and is subject to different procedural rules.

According to the DGMM, 66 127 persons applied for international protection status in Turkey in 2016, whereas this number was 64.232 in 2015 (2016 Turkey Migration Report). There were 112.415 and 114.537 asylum applications in 2017 and 2018, respectively. In 2019, 56 417 international protections applications were lodged (DGMM 2020). Main nationalities of asylum seekers in 2019 were Afghans, Iraqis and Iranians (DGMM 2020). In November 2019, the Turkish Ministry of Interior declared that the total number of international protection status holders in Turkey as 324 161 (Sputnik News 2019). The DGMM accepted 23 886 international protection applications in 2016 (2016 Turkey Migration Report). Aside from this figure, no recent data are available on the recognition rates or asylum appeal results.
The number of Syrians registered as temporary protection beneficiaries in Turkey is 3,626,734 (DGMM 2020). Only 59,394 Syrians (less than 2% of all temporary protection beneficiaries) are staying in government funded temporary accommodation centres (DGMM 2020). Nearly half of the Syrians in Turkey are children (3RP Country Chapter - Turkey 2020). In 2018, there were 34,570 Syrians holding work permits (Ministry of Labour, Family and Social Services 2018). Although no formal statistic is available, in January 2020, the Turkish Minister of Interior mentioned in an interview that more than 65,000 Syrians were holding a work permit (T24 2019). It is estimated that nearly a million Syrians are working without a work permit in Turkey (ILO 2020).


Between 2014 and 2019, 16,354 Syrians have been resettled to 16 countries including Canada, the United States, the United Kingdom, Norway and Sweden (DGMM 2020). A total of 26,515 Syrians had been resettled from Turkey to 20
Member States under the 1:1 resettlement scheme established within the scope of the EU–Turkey Statement of March 2016 (DGMM 2020).

### RESettlement of Syrians in the 3rd Countries within 2014-2019

<table>
<thead>
<tr>
<th>NO</th>
<th>COUNTRY</th>
<th>TOTAL</th>
</tr>
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<tr>
<td>1</td>
<td>CANADA (UNHCR)</td>
<td>4,864</td>
</tr>
<tr>
<td>2</td>
<td>USA</td>
<td>3,944</td>
</tr>
<tr>
<td>3</td>
<td>CANADA (direct)</td>
<td>2,445</td>
</tr>
<tr>
<td>4</td>
<td>ENGLAND</td>
<td>2,449</td>
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<tr>
<td>5</td>
<td>NORWAY</td>
<td>1,925</td>
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<td>6</td>
<td>SWEDEN</td>
<td>168</td>
</tr>
<tr>
<td>7</td>
<td>AUSTRALIA</td>
<td>115</td>
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<td>8</td>
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<td>58</td>
</tr>
<tr>
<td>9</td>
<td>BELGIUM</td>
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<td>10</td>
<td>LUXEMBOURGS</td>
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<td>11</td>
<td>ROMANIA</td>
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<td>LIECHTENSTEIN</td>
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<td>NETHERLANDS</td>
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<tr>
<td>16</td>
<td>FRANCE</td>
<td>1</td>
</tr>
</tbody>
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**General Total**: 16,354

*By the date of 14.10.2020

### Statistical Data Related to Syrian Refugee Who Left Country in the Scope of One to One Policy

<table>
<thead>
<tr>
<th>COUNTRY</th>
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<td>GENERAL TOTAL</td>
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</tr>
<tr>
<td>GERMANY</td>
<td>9,613</td>
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<tr>
<td>FRANCE</td>
<td>4,549</td>
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<td>NETHERLANDS</td>
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<td>FINLAND</td>
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<td>SWEDEN</td>
<td>1,963</td>
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<td>BELGIUM</td>
<td>1,303</td>
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<td>SPAIN</td>
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<td>ITALY</td>
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<td>PORTUGAL</td>
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<td>CYPRUS</td>
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<td>AUSTRIA</td>
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<td>LUXEMBOURGS</td>
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<td>LITHUANIA</td>
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<td>BULGARIA</td>
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<td>DENMARK</td>
<td>24</td>
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</tbody>
</table>

*By the date of 14.10.2020

The total number of migrants in Turkey is reported to be 5.9 million (UN DESA 2019). DGMM releases yearly data on irregular entries and border interceptions. For instance, 99,288 irregular migrants were intercepted between January and October 2020 whereas this number was 454,662 in 2019 (DGMM 2020) As of June 2020, the number of persons holding a short term or a long-term residence permit was 1,023,312 (DGMM 2020). Top nationalities of foreign residents holding a residence permit in 2019 were Iraq (141,818), Turkmenistan (133,169), Syria (117,579), Azerbaijan (67,845), Iran (67,164), Afghanistan (46,443), Uzbekistan (44,021) and Russia (39,277) (DGMM 2020)
3. Asylum governance instruments

The main asylum governance instruments in Turkey can be identified as the Law on Foreigners and International Protection and the Temporary Protection Regulation. The EU-Turkey Statement of March 2016 might also be identified as an asylum governance instrument considering its impact on Turkish asylum and migration policies.

3.1 Turkish Law on Foreigners and International Protection & Mobility Pathways to Turkey

The entry into force of the Law on Foreigners and International Protection in 2014 marked the beginning of a new era in Turkish asylum law. For the first time in Turkey’s history the LFIP made an explicit reference to the prohibition of *refoulement*. Article 4 of the LFIP incorporated the principle of *non-refoulement* in a clear manner by noting “*No one within the scope of this of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion.*” This provision applies to all foreigners in Turkey including but not limited to international protection applicants, international protection status holders and temporary protection status holders.

Article 55 of the LFIP endorses the principle of *non-refoulement* by noting a deportation order shall not be issued with respect to those foreigners where there are serious indications to believe that they shall be subjected to the death penalty, torture, inhuman or degrading treatment or punishment in the country to which they shall be returned. Article 55 of the LFIP also foresees deportation orders not to be issued with respect to the following: foreigners who, if removed, would face risk due to serious health condition(s), age or, pregnancy in case of travel; those who would not be able to receive treatment in the country to which they shall be returned while undergoing treatment for a life-threatening health condition; victims of human trafficking supported by the victim’s assistance programme and victims of serious psychological, physical or sexual violence, until their treatment is completed. Article 46 of the LFIP foresees the individuals who cannot be deported under Article 55 of the LFIP to receive humanitarian residence permits that are valid up to one year. Despite these explicit guarantees against *refoulement* provided in the LFIP, HRW, Amnesty International and AIDA reported a number of instances where the principle of


non-refoulement has been breached – in particular Syrians who were forcibly sent back by the Turkish authorities (Amnesty 2016; HRW 2019; AIDA 2020). Turkish authorities have consistently denied these claims (Turkish Ministry of Foreign Affairs Press Release 2016).

As for mobility pathways for asylum seekers and refugees to Turkey, the LFIP incorporates a number of provisions on admission of potential asylum seekers to the Turkish territories and their access to international protection procedures. The LFIP requires foreigners to possess a valid travel document, visa or residence or work permit to enter Turkey although the LFIP explicitly notes that the conditions governing the entry of foreigners to Turkey should not interfere with the right to seek asylum. Turkey mostly requires visas from nationals of refugee-producing countries: for instance, nationals of Afghanistan, Sudan, Pakistan, Myanmar, Iraq and Somalia require a visa to enter Turkey whereas Iranian passport holders are visa-exempted for their travels to Turkey up to 90 days (Turkish MFA 2020). Since 2011, Turkey has officially maintained an open-door policy towards Syrians although over the years, many temporary border closures have been recorded at the Turkey-Syria border and Turkey’s borders with Syria continue to be strictly managed (UNHCR 2019). Syrians were able to enter Turkey without a visa; however, this policy ended in 2016 when Turkey introduced visa requirements only for Syrians arriving to Turkey by air or sea. Turkey built a 764-kilometer long wall along its border with Syria in 2018 to prevent irregular crossings. According to AIDA, the wall was not able to stop irregular crossings completely and “it has exacerbated difficulties in crossing the Turkish-Syrian border” (AIDA 2020). It should be also mentioned that Turkey also built a 144-kilometer wall on its Iranian border in 2018 (AIDA 2020). Although Turkey offered resettlement to different groups in need of refuge in the past (see Section 2.1) it currently does not have a resettlement programme or allow asylum seekers an opportunity to seek asylum at its embassies. Visa requirements, border closures, the walls built on Turkey-Iran and Turkey-Syria borders and absence of any complementary pathways available for refugees to reach Turkey cumulatively make it hard for many potential asylum seekers and refugees to enter Turkey regularly. According to DGMM, 454 662 irregular migrants have been apprehended in Turkey (as of October 2020) (DGMM 2020). In July 2020, 60 migrants mostly from Afghanistan, Pakistan and Iran died in Lake Van near Turkey’s border with Iran when the fishing boat carrying them was capsized (New York Times 2020). Migrants were trying to cross the lake in an attempt to avoid police checkpoints on the highways on their way to western Turkey (New York Times 2020).
More and more refugees and asylum seekers resort to using migrant smugglers to help them enter Turkey and continue to their journey to Europe (Yıldız 2020, 5). Turkey is a party to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. Article 79 (1) of the Turkish Penal Code notes “Any person who, by illegal means and with the purpose of obtaining, directly or indirectly, a material gain: a) enables a non-citizen to enter, or remain in, the country, or b) enables a Turkish citizen or a non-citizen to go abroad, shall be sentenced to a penalty of imprisonment for a term of three to eight years and a judicial fine of up to ten thousand days.” In 2019 Turkey apprehended 8,996 migrant smugglers whereas this number was 3289 in 2020 (this is as of October 2020) (DGMM 2020).

International protection applications should be lodged with the Governorates though one can also present an asylum claim in administrative detention or at the Turkish borders to the law enforcement units. The DGMM and the PDMMs (that are responsible for RSD), are required to take into account both the personal circumstances of the applicant and current general conditions of the country of origin. Four main protection statuses are foreseen under the LFIP: the refugee, the conditional refugee, the subsidiary protection and the temporary protection statuses. Under Turkish law, temporary protection is not accepted as one of the international protection categories. An international protection applicant who originates from Europe and is determined to be a refugee, as defined under Article 1(A)(2) of the Refugee Convention following a status determination by the DGMM, is granted refugee status. Refugees are entitled to receive the rights foreseen in the Convention relating to the Status of Refugees. An applicant for international protection who does not originate from Europe and is recognised as a refugee on the basis of the Refugee Convention is granted conditional refugee status. The conditional refugee status provides less protection compared to that available to refugees coming from Europe. Conditional refugees receive temporary resident permits and are entitled to access to education, social assistance and health care, though they may work only six months after having submitted their asylum applications. The LFIP introduced another protection category, the subsidiary protection status, modelled after Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (Recast Qualification Directive).
Subsidiary protection beneficiaries receive temporary resident permits and are entitled to access to education, social assistance, health care and labour market and enjoy the right to family unification. Notably, none of these three protection statuses can be transferred to long-term resident statuses. Considering that before the LFIP, Turkish laws only recognised the refugee status, the LFIP has contributed significantly to the protection of asylum seekers and refugees in Turkey by introducing additional protection categories and clarifying rights attached to these categories.

The LFIP uses the term ‘persons with special needs’ to refer to vulnerable asylum seekers and international protection beneficiaries. Persons with special needs include “an unaccompanied minor; a disabled person; an elderly person; a pregnant woman; a single mother or a single father with an accompanying child; or a person who has been subjected to torture, rape or other serious psychological, physical or sexual violence”. Article 67 of the LFIP requires persons with special needs to be given priority with respect to the rights and actions relating to international protection procedures and foresees victims of torture, sexual assault or other serious psychological, physical or sexual violence to receive adequate treatment. Article 66 of the LFIP foresees the best interests of the child to be considered at all times and unaccompanied minors seeking asylum to be referred to protective care. Today, the DGMM and the PDMMs are responsible for identifying persons with special needs during asylum interviews and afterwards. However, since the takeover of the RSD from UNHCR in 2018 no data are available on how this identification process is conducted (AIDA 2020).

The LFIP incorporates clear administrative and judicial remedies against negative asylum decisions and deportation orders in Turkey. Turkish law requires the DGMM to issue asylum and deportation decisions in writing, to inform the affected persons about the reasoning of these decisions and how these decisions can be challenged. Appeals against negative asylum decisions and deportation orders can be lodged before the Administrative Courts whereas appeals against Administrative Court decisions relating to international protection decisions can be submitted before the Regional Administrative Courts. The LFIP provides for the right to access free legal assistance and representation in asylum and deportation appeals for those who cannot afford it; furthermore, with the latest amendment of the LFIP in 2019, all deportation appeals once again have suspensive effect. Despite the clearly outlined safeguards provided under Turkish laws, a considerable number of persons detained in Removal Centres face serious difficulties in accessing the right to effective remedy (AIDA 2020; Kaya
The fact that in December 2019 the time limit to appeal deportation orders was shortened from 14 days to 7 days makes it even more difficult for those detained in Removal Centres to lodge an appeal against deportation decisions and ultimately access the right to effective remedy. This raises a serious concern since the absence of the effective remedies for those detained in Removal Centres pending deportation increases the risk of refoulement.

3.2 Temporary Protection Regulation and Protection of Syrians in Turkey

When the conflict and violence began in Syria in 2011, Turkey declared that it would maintain an open-door policy towards Syrians, initially referring to them as ‘guests’ (Koca 2016; Memişoğlu and İlgi 2017). Before the entry into force of the LFIP and the Temporary Protection Regulation in 2014, the legal status and rights of Syrians in Turkey were neither clear nor governed by a structured legal framework. With the adoption of the LFIP and the Temporary Protection Regulation (which can be identified as the second asylum governance instrument), protection of the Syrians has been brought into the legal sphere (Ineli-Ciger 2014). In light of this, the Temporary Protection Regulation, which entered into force on 22 October 2014, can be identified as an important asylum governance instrument especially considering today it governs the legal status and rights of nearly 3.6 million Syrians in Turkey.

3.2.1 Rights and entitlements of the temporarily protected persons

Article 91 of the LFIP provides, “Temporary protection may be provided for foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection.” Previously the Council of Ministers now only the Turkish President has the authority to decide which groups are to be granted the temporary protection status and when the temporary protection regime will come to an end. Until the temporary protection regime is terminated, asylum applications of temporary protection beneficiaries will not be processed by the Turkish authorities. Today, all Syrians, Palestinian refugees and stateless persons living in Syria seeking refuge in Turkey are eligible, as a group, to receive the temporary protection status in Turkey (Provisional Article 1 of the TPR).

As temporary protection beneficiaries in Turkey, Syrians are entitled to protection from refoulement: Article 6 of the TPR explicitly notes: no temporary protection beneficiary shall be returned to a place where he or she may be
subjected to torture, inhuman or degrading punishment or treatment or where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion. The TPR offers Syrians access to health care, labour market, education, social assistance and permission to stay legally in Turkey until the temporary protection regime is terminated. Many Syrians face challenges accessing protection standards prescribed by Turkish laws and even minimum basic treatment such as food and shelter (Ineli-Ciger 2017, 576, 577; ECHO 2020). More than 98% of Syrians in Turkey live outside of camps in urban, peri-urban and rural areas among the Turkish community (DGMM 2020). Besides camps, no public housing options exist for Syrians (Akar and Erdoğan 2019, 930).

According to Article 26 of the TPR, temporary protection beneficiaries may be provided with social assistance, though there is no obligation to do so. Syrians may also benefit from social and financial assistance offered by different organizations and government bodies (UNHCR 2020). The bodies that provide assistance to Syrians include the Emergency Social Safety Net (ESSN); the Social Assistance and Solidarity Foundations (SASF); Social Service Centres that operate under the Provincial Directorates of Family and Social Policies and municipalities.

Syrians as temporary protection beneficiaries have the right to access healthcare services provided by public hospitals and other public health care institutions. In 2016, Migrant Health Centres, which offer free health care to Syrians have been established with the financial support provided by the EU. Today, there are 187 Migrant Health Centres around Turkey (AIDA 2020). The health care services for Syrians used to be free; however, with the amendment of the LFIP in December 2019, temporary protection beneficiaries may be asked to pay a contribution fee determined by the Ministry of Interior Affairs to access primary and emergency health care services and medicines. Vulnerable individuals still have a right to access free healthcare (AIDA 2020).

Under Turkish laws, Syrians also have the right to education and a limited right to work (Articles 5, 31, 48, 49 and 53 of the TPR). In January 2016, Turkey adopted the Regulation concerning Work Permits of Temporary Protection Beneficiaries, which introduced a right to apply for work permits for Syrians who have been granted temporary protection status for more than six months. To this date, very few have obtained a work permit; The Turkish Minister of Interior mentioned in an interview in January 2020 that more than 65,000 Syrians were holding a work permit (T24 2019). According to ILO, “Out of 2.16 million Syrians of working age in Turkey, 1 million are estimated to participate in the labour market, most of
them informally in low-skilled and low-paid jobs.” (ILO 2020). This is due to a number of reasons including: the fact that only employers can apply for the work permits; the cost and length of the application process as well as inadequate formal job opportunities make it harder for Syrians to obtain work permits and work legally (European Parliament Directorate General for Internal Affairs Study 2016; Ineli-Ciger 2017). Moreover, the right of Syrians to access the labour market is not absolute: work permits can be restricted to certain provinces. Furthermore, according to Article 7 and 8 of the Regulation Concerning Work Permits of Temporary Protection Beneficiaries, the number of Syrians cannot exceed 10 per cent of the total staff in a workplace whereas businesses where fewer than 10 people work can hire only one Syrian. Finally, the unemployment rate in Turkey is already quite high at 14%; hence Syrians have to compete with Turkish nationals to find jobs (Trading Economics 2020). To sum up, although Turkish laws offer Syrians a limited right to work, thousands of Syrians in Turkey still work illegally, without access to the minimum wage or social security benefits (Ineli-Ciger 2017). It should be also mentioned that as a result of the COVID-19 outbreak in Turkey, many Syrians lost their jobs: according to a recent study 87% of the surveyed Syrians in Istanbul, Izmir, Manisa, Gaziantep, Kilis and Reyhanlı reported someone in their household lost their job because of the outbreak (Relief International 2020, 7).

The TPR, similar to the LFIP, adopts the term ‘persons with special needs’ and defines it as “among those holding a temporary protection status an unaccompanied minor; a disabled person; an elderly person; a pregnant woman; a single mother or a single father with an accompanying child; or a person who has been subjected to torture, rape or other serious psychological, physical or sexual violence”. According to Article 48 of the TPR, temporary protection status holders with special needs are to be given free access to health care, psychological and social support and rehabilitation services and should be given priority in accessing assistance and support. Under Article 48 of the TPR, female temporary protection status holders who are being subjected to domestic violence are to be protected under Turkish domestic violence laws and for such cases the Turkish authorities are responsible for taking preventative and protective measures as soon as possible. Finally, unaccompanied minors are to be housed in shelters and homes designated by the Ministry of Family, Labour and Social Services. This ministry is also responsible for coordinating and implementing social assistance programs and psychological and social support for persons with special needs.
The LFIP or the TPR does not recognize LGBTI as a vulnerable group hence, there is no gender-sensitive recognition or registration procedure for LGBTI asylum seekers. According to the Asylum Information Database (AIDA), LGBTI individuals feel unsafe and vulnerable in Turkey and Syrian trans women, including trans sex workers, are faced with discriminatory – in some cases violent – treatment in their contacts with authorities (AIDA 2020; Kivlicim 2016).

Although the rights of temporary protection status holders foreseen under the TPR seem generous, they do not fully correspond to the rights of refugees outlined in the Refugee Convention. Turkish laws protect temporary protection status holders from refoulement, do not penalize irregular entry or stay in Turkey (article 65(4) of the LFIP) and offer temporary protection status holders’ access to identity cards and education and these are in line with articles 22, 27, 31 and 33 of the Refugee Convention. However, Turkey has imposed restrictive measures on the employment of Syrians for the protection of the national labour market and these restrictive measures also apply to Syrians who have completed three years’ residence in Turkey as well as those who have a Turkish spouse or a child with Turkish nationality. (This does not fully correspond to Article 17 of the Refugee Convention.) It is also doubtful whether Turkey offers Syrians the same treatment accorded to Turkish nationals with respect to public relief and assistance. Furthermore, under Turkish laws temporary protection status holders may be obliged to stay in a particular province or may be subjected to reporting duties and this is not fully in line with article 26 of the Refugee Convention.

3.2.2 Access of temporarily protected persons to durable solutions

The temporary protection regime implemented for Syrians has been in force for more than nine years with no end is in sight. Asylum applications of temporary protection beneficiaries will not be processed until the temporary protection regime ceases (Article 16 of the TPR). The Turkish President has the right to end the temporary protection policy and prescribe which durable solutions will be available to temporarily protected persons. Once terminated, the President can decide to order the return of all temporary protection beneficiaries to their country of origin; to grant them another group protection status; to assess their asylum claims individually; or to allow them to stay in Turkey under conditions to be determined by law.

There are three main solutions for refugees and Syrians in Turkey: voluntary repatriation, resettlement or local integration. Article 14 of the TPR notes that
voluntary repatriation is the ultimate solution for temporary protection beneficiaries. Voluntary return is not a viable option for the majority of 3.6 million Syrians in Turkey considering that conflict, violence and human rights violations in Syria continue with no prospect of peace in sight (Ineli-Ciger 2017, 563). As for resettlement, this is only available to very few Syrian refugees: only 16,354 Syrians have been resettled to 16 countries including Canada, US, the UK, Norway and Sweden between 2014 and 2019 (DGMM 2020). Whereas only 26,515 Syrians had been resettled from Turkey to 20 Member States under the 1:1 resettlement scheme established within the scope of the EU–Turkey Statement of March 2016 (DGMM 2020). Resettlement of Syrians is also subject to the permission of the Turkish DGMM and without such permission, Syrians with temporary protection status are not allowed to leave Turkey for resettlement countries (Ineli-Ciger 2017, 563). As for local integration, Turkey does not have a comprehensive integration policy although a number of policies to accelerate integration (the term harmonisation is used by the LFIP and the DGMM) of Syrians into Turkish society have been developed and being implemented with the help of international organisations and the EU (Kirişçi and Ferris 2015; Akar and Erdoğan 2019, 65-68).

Turkey’s TPR closely resembles the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (Temporary Protection Directive or TPD). While the EU Temporary Protection Directive’s activation is tied to a Council decision, the temporary protection regime in Turkey is activated by the Turkish President’s decision. Both mechanisms foresee suspension of the RSD for the temporary groups. Both under the TPD and the Turkish TPR, temporarily protected groups are eligible for a number of fundamental rights and entitlements including protection from refoulement, temporary identity papers/residence permits and the right to education. Finally, voluntary return is the desired outcome for the protected groups both in the TPD and the TPR. A significant difference between the two instruments lies in the maximum time limit: under the TPD, temporary protection regime is to continue for one year and a maximum of three years provided that that the Council decides to extend it; however, no such time limit is foreseen under the Turkish TPR.
3.3 EU-Turkey Statement of March 2016

On 18 March 2016, EU and Turkey adopted the EU-Turkey Statement aimed to end the irregular migration from Turkey to the EU. The EU-Turkey Statement of March 2016 has been called a policy of containment, a tool of burden shifting and a key part of the EU’s externalisation policy (Tometten 2018; Moreno-Lax and Guifré 2019, 84; Gatta 2019; Davitti 2019; Kaya 2020, 56). Since the Statement has important bearings on Turkish asylum laws and policies it is identified as the third asylum governance instrument.

3.3.1 The contested legal nature and the authorship of the EU-Turkey Statement of March 2016

The legal nature and the authorship of the EU-Turkey Statement has been much contested (De Vrieze 2018; Carrera, Den Hertog and Stefan 2017). NF, NG and NM brought an action seeking annulment of the EU-Turkey statement before the CJEU, arguing that the Statement is an act attributable to the European Council establishing an international agreement contrary to EU law. In its order of 28 February 2017, the General Court found that the Statement cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union and dismissed the action on the grounds that it lacked jurisdiction to hear and determine it (Orders of the General Court in Cases T-192/16, T-193/16 and T-257/16 NF, NG and NM v European Council of 28 February 2017). Moreover, an appeal against this decision also failed (Order of the Court (First Chamber) of 12 September 2018, NF and Others v European Council, ECLI:EU:C:2018:705). Similar to the CJEU, the ECtHR has also identified the Statement as an instrument concluded between the Member States and Turkey (JR and Others v Greece App no 22696/16 (ECtHR, 25 January 2018, para 7).

The Statement was published as a press release on the European Council website and the European Commission publishes progress reports and fact sheets relating to the implementation of the Statement. It is clear that one of the authors of the Statement was the EU (Ineli-Ciger and Ulusoy 2020). The EU denying the authorship of the Statement and the European Courts confirming this denial lead to the following conclusions: first, that the Statement remains outside of checks and balances applicable to EU law (Carrera, Den Hertog and Stefan 2017; Carrera, Vara and Strik 2019, 15) and second, that the EU cannot be held responsible for the breaches of international law and human right principles arising from the implementation of the Statement (Ineli-Ciger and Ulusoy 2020).
3.3.2 Legal problems with regard to the EU-Turkey Statement of March 2016

The EU and Turkey agreed that “all new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey.” According to the Statement, migrants who do not apply for asylum or whose applications have been found unfounded or inadmissible in accordance with the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, would be returned to Turkey. One of the main legal problems with the Statement concerns its return aspect that is built on the assumption – which is also shared by the European Commission – that Turkey can be accepted as a ‘safe third country’ and/or ‘first country of asylum’ pursuant to Article 35 and Article 38 of the Directive 2013/32/EU for Syrians and other asylum seekers (COM(2016) 349 final, 5). Although Turkey’s status as a safe country should be assessed on a case-by-case basis, the EU Commission’s view that Turkey can be accepted a safe third country and first country of asylum has been contested by many commentators for good reason (Roman, Baird and Radcliffe 2016; ECRE 2017; Amnesty International 2017; Ulusoy and Battjes 2017; Ineli-Ciger 2019, 131-134; Kaya 2020, 158-160). Turkey’s geographical limitation to the Refugee Convention and the challenges that asylum seekers and migrants face in accessing the right to effective remedy and safeguards against refoulement in Turkey coupled with allegations that Turkey has, at times, not acted in conformity with the principle of non-refoulement make it difficult to assume Turkey is a safe country for all asylum seekers and refugees (Ulusoy and Battjes 2017; Kaya 2020). Despite this apparent problem with regard to the return aspect of the Statement, the number of persons returned from Greece to Turkey under the Statement remains quite low: as of March 2020, the number of persons readmitted by Turkey under the Statement is only 2735 (EU Commission 2020).

Another important problem with regard to the Statement is the absence of a clear legal basis for returning persons from Greece to Turkey. The EU Commission identifies the legal basis of irregular migrants being returned from the Greek islands to Turkey as the bilateral readmission agreement between Greece and Turkey and notes that “from 1 June 2016, this will be succeeded by the EU-Turkey Readmission Agreement, following the entry into force of the
provisions on readmission of third country nationals of this agreement.” It is reported that Turkey unilaterally suspended its readmission agreement with Greece in 2018 as a response to a Greek court decision to release eight former Turkish soldiers who fled the country a day after the July 15, 2016 coup attempt (Reuters 2018). Moreover, the Turkish Minister of Foreign Affairs declared that Turkey suspended the EU-Turkey Readmission Agreement in July 2019 due to the fact that the visa liberalisation process for Turkish citizens had not been completed by the EU (EURACTIV 2019; RESPOND 2020). If these reports are accurate, this means that the return of persons from Greece to Turkey under the Statement has had no legal basis since July 2019 (Ineli-Ciger and Ulusoy 2020).

It is also highly uncertain whether the fact that the Statement foresees the return and containment of only asylum seekers and migrants who have arrived to Greece irregularly by sea after a certain cut-off date violates the principle of non-discrimination (Carrera and Guild 2016; Ineli-Ciger 2019, 131–134). Moreover, the containment and long-term detention of asylum seekers and migrants who have arrived to the Greek Islands irregularly in hotspots in dire conditions also raises issues relating to the compatibility of this practice with Article 3 and 5 of the ECHR (Gkliati 2017; Ineli-Ciger 2019, 134, 135). In view of the mentioned legal problems, the fact that the EU-Turkey Statement is likely to serve as a blueprint for future European cooperation arrangements with North African countries raises serious concerns. This is especially so considering the compatibility of such arrangements with the Refugee Convention and international human rights instruments if not EU law (Ineli-Ciger and Ulusoy 2020).

3.3.3 Measuring Effectiveness: Did the EU-Turkey Statement of March 2016 stop irregular sea arrivals to the EU?

One of the main objectives of the EU-Turkey Statement was to stop new sea arrivals to the EU. The EU has long pressured Turkey to develop an integrated borders management system, impose visa restrictions for nationals of refugee-producing countries and conclude readmission agreements with third countries (Kaya 2020, 73). The EU-Turkey Statement required Turkey to take any necessary measures to prevent the opening of any new sea or land routes for illegal migration from Turkey to the EU. Following adoption of the Statement, Turkey initially increased its effort to prevent irregular migration to the EU although this changed drastically when President Erdogan declared that he had opened his country’s borders for migrants to cross into Europe (New York Times 2019).

A crucial question which needs to be answered to determine effectiveness of the EU-Turkey Statement is: ‘Did the EU-Turkey Statement stop irregular sea arrivals
and prevent new ones?’ In 2015, over one million refugees and migrants arrived irregularly in Europe by sea whereas arrivals to Greece accounted for 80 per cent of this one million (UNHCR 2015). In 2015, 799 persons died or went missing at sea while trying to reach Greek territories. This number was 174 and 70 in 2018 and 2019, respectively. In 2019, 59 726 irregular land arrivals and 14 887 sea arrivals from Turkey to Greece have been recorded (UNHCR 2020). As of 31 August 2020, there were 8860 irregular land arrivals and 3111 irregular sea arrivals to Greece in 2020 (UNHCR 2020). UNHCR figures clearly suggest that both the number of irregular arrivals to Greece and the lives that have been lost to the Aegean Sea have decreased since the adoption of the EU-Turkey Statement. Although it is clear that the Statement played a role in this, the extent to which it has contributed to the decrease in the number of irregular arrivals to Greece is not clear (Spijkerboer 2016; Reitano and Micallef 2016; Van Liempt et al. 2017; Reslow 2019). For instance, it is argued that changing migration routes, increased border controls on the Western Balkan route, the right to work given to Syrians in Turkey in 2016 and media campaigns also played a role in the diminishing number of new sea arrivals to Greece (Spijkerboer 2016; Adar et al. 2020; Yıldız 2020). Therefore, although one of the most celebrated outcomes of the Statement by the European Commission is the decrease on the number of irregular sea arrivals to Greece, there is no clear evidence or objective study showing that this decrease is a direct result of the EU-Turkey Statement (Ineli-Ciger and Ulusoy 2020).

### 3.3.4 A few positive outcomes of the EU-Turkey Statement

The EU agreed to allocate €3 (now €6) billion under the EU Facility for Refugees in Turkey in return for Turkey’s efforts to stop irregular migration. According to the EU, as of March 2020, “all operational funds have been committed - of the €6 billion, €4.7 billion is already contracted and €3.2 billion disbursed” (EU Commission 2020). To date the FRIT has supported projects on education, health, socio-economic support and migration management (FRIT 2020). For example, according to the EU, under FRIT, 2 463 773 refugees have benefitted from cash transfer mechanisms in Turkey which enabled the beneficiary households to remain food secure despite the deteriorating economic conditions (FRIT 2020). These projects such as the ESSN and SIHHAT (see also Section 5) funded by the EU under FRIT, which support Turkish authorities to offer better protection standards to Syrians and refugees and asylum seekers coming from
countries other than Syria, can be identified as among the few positive outcomes of the EU-Turkey Statement.

The resettlement scheme agreed under the EU-Turkey Statement should also be mentioned here. In the Statement, the EU agreed that “[f]or every Syrian being returned to Turkey from Greek Islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria”. The Statement noted that priority will be given to those who have not previously entered or tried to enter the EU irregularly. This arrangement is sometimes referred to as the 1:1 resettlement scheme. According to the DGMM, so far 26 515 Syrians had been resettled from Turkey to 20 Member States under the 1:1 resettlement scheme. From the outset, resettlement of nearly 27 000 persons from Turkey to the Member States can be accepted as a positive outcome of the Statement. However, in comparison to nearly four million asylum seekers and refugees hosted by Turkey, this resettlement figure is too insignificant to be recognised as a success. It should also be noted that although the EU-Turkey Statement initially foresaw once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a voluntary humanitarian admission scheme to be launched, no such scheme has been established.

4. Turkey and the Global Compact on Refugees

In December 2019 Turkey was one of five co-conveners of the Global Refugee Forum in Geneva. As the state hosting more refugees than any other country in the world, Turkey repeatedly affirmed the need for equitable and meaningful burden and responsibility-sharing. In particular, Turkey identified as one of the most important objectives of the GCR easing the pressures on host states in large influx situations and called for more concrete measures to be available for states facing a mass influx situation (Global Compact on Refugees Second Formal Consultation Meeting agenda item 1, 20-21 March, 2018).

Turkey has so far made eight pledges in relation to the GCR (GCR Digital Platform 2020) and these can be identified as follows:

- construction of new schools for Syrian kids to provide quality protection to provide quality education;
- cooperation and support on restoring family links;
• to start legal work on how Turkey can accede to the 1961 Convention on the Reduction of Statelessness and its implementation;

• to improve access of Syrian children and host community children to early childhood education services in Turkey,

• to implement a Microcredit Project to promote citizens’ voluntary return to Syria: this Project which is to be implemented by AFAD and its partners will offer financial aid (around USD 5000 per capita) to persons to be utilised in agriculture, animal husbandry, industrial initiatives or craftsmanship sectors that need financing;

• to construct 170 kindergartens, 10 primary schools and a public education centre under the FRIT II fund provided by the EU-Delegation;

• to continue implementing the conditional cash transfer for education (CCTE) programme which offers financial aid to families of Syrians students in return for their attendance to school; and

• to increase access to Turkish Vocational Education and Training institutions for refugees and host community children.

There are no available data on the extent to which these pledges are implemented. Most of Turkey’s pledges in relation to the GCR concern access of Syrians to education and continuation of good practices and projects such as CCTE. The CCTE programme is among Turkey’s good practices in relation to the GCR. It is funded by the EU and governments of Norway and the US and implemented by different stakeholders including UNICEF, Turkish Ministry of Family, Labour and Social Services, Ministry of National Education and the Turkish Red Crescent. In 2017 the Turkish National CCTE Programme was extended to cover school-age temporary/international protection beneficiary children and today the programme supports school enrolment and attendance of refugee children through the provision of bi-monthly payments to refugee families, on condition that pupils attend school regularly (UNICEF 2020). It is noted that the CCTE Programme has increased enrolment and attendance of Syrian students to Turkish schools (GCR Digital Platform 2020).

Turkey’s good practices also include the Project for Improving the Health Status of the Syrian Population under Temporary Protection and Health Related Services offered by the Republic of Turkey (SIHHAT project) implemented by the Turkish Ministry of Health and funded by the EU. Within the scope of this project
Migrant Health Centres were established in cities most densely populated by Syrians. In these centres, along with Turkish medical staff, Syrian doctors, nurses and translators are employed and WHO supports training of the staff. Today, there are more than 187 Migrant Health Centres around Turkey (AIDA 2020). It should also be noted that a special website dedicated to Turkey’s good practices was launched in June 2020. Good practices implemented by Turkey with stakeholders other than those mentioned above relate to integration of Syrians into Turkish society; inclusion of Syrian women to the Turkish labour market; and improving social cohesion among workplaces where Syrians work (GCR Digital Platform 2020).

5. Governance actors

The Turkish Constitution stipulates that legislative power is vested in the Grand National Assembly of Turkey on behalf of the Turkish Nation whereas the President of the Republic may issue presidential decrees on matters regarding executive power. The Grand National Assembly of Turkey adopts and amends laws on migration and asylum whereas the Turkish President can issue by-laws in order to ensure the implementation of asylum laws and decide when the temporary protection regime implemented for Syrians is to be terminated. The Migration Board is responsible for determining Turkey’s migration strategies and following their coordination and implementation. The Board is chaired by the Minister of Interior and consists of representatives from ministries, institutions and establishments determined by the Ministry of Interior (DGMM 2020).

The main border control actors in Turkey are the Turkish Gendarmerie, Turkish Coast Guard and the Turkish Directorate General of Security (National Police Force) (Aksel and İçduygu 2019, 17). Since the beginning of the Syrian influx, the Turkish government has led the Syrian refugee response (Evaluation of UNHCR’s Emergency Response to the influx of Syrian Refugees into Turkey January 2014-June 2015). Turkey’s response to the Syrian crisis was initially coordinated by AFAD which set up and ran the camps where Syrians were accommodated with the Turkish Red Crescent. AFAD was an agency founded under the Turkish Prime Minister; however, in 2018 it became an agency of the Ministry of Interior. The legal authority regarding coordination and management of the Temporary Accommodation Centres where Syrians are accommodated was transferred to the DGMM in March 2018.

Article 103 of the LFIP notes that the DGMM is established under the Ministry of Interior with a view to implement policies and strategies related to asylum and
migration and to carry out the tasks and procedures related to international protection and temporary protection. The DGMM headquarters are in Ankara with 81 provincial branches, called the Provincial Directorates of Migration Management. As of 8 September 2018, the DGMM together with the PDMMs process international protection applications and issue asylum decisions. The DGMM also registers temporary protection beneficiaries and oversees procedural aspects relating to the temporary protection regime. Besides the DGMM, different aspects relating to the protection of Syrians and international protection status holders are governed by different ministries including the Ministry of Interior, Ministry of National Education, Ministry of Health, Ministry of Family, Labour and Social Services, Ministry of Forestry and Agriculture, Ministry of Youth and Sports and the Ministry of Justice.

Appeals against deportation orders can be lodged before the Administrative Courts whereas appeals against negative asylum decisions may be submitted either to the International Protection Assessment Committee-IPAC (an administrative authority) or the Administrative Courts. Yet, there is no obligation for the applicant to lodge a complaint to the IPAC first (Ineli-Ciger 2019 a). The IPAC has four members: the chair of the Committee who is a DGMM representative, two members who are respectively representatives from the Ministry of Interior and Ministry of Foreign Affairs and a migration expert working for the DGMM. Decisions of the Administrative Courts relating to asylum decisions taken in the framework of regular procedures can be further appealed before the Regional Administrative Courts (Ineli-Ciger 2019 a). Persons issued with deportation orders can submit an individual application before the Constitutional Court. There are 81 Bar Associations in Turkey but with the latest changes in law in 2020 this number is likely to increase in the future. Under the LFIP, legal assistance and legal aid in deportation and asylum appeals are to be provided to asylum seekers, international protection status holders and temporary protection beneficiaries through Bar Associations. A number of Bar Associations especially Izmir and Istanbul Bars play an active role in offering legal assistance and aid to asylum seekers and refugees.

Municipalities also play an important role in the protection of Syrians and other persons in need of protection. Turkish law does not provide formal institutional responsibilities for municipalities to incorporate refugees into their assistance and social services. Thus, each municipality decides the amount of support it would allocate for the protection of asylum seekers and refugees (Betts et al. 2017, 23). As a result, some municipalities support refugees more than others:
for instance, Gaziantep Municipality that hosts more than 451,000 refugees established a municipality-level Migration Department and has expanded the provision of education, employment and social services as well as humanitarian aid to Syrians in collaboration with international partners (3RP Annual Report 2019). Aside from Gaziantep municipality, Adana and İzmir municipalities have been active in offering supplementary support to asylum seekers and refugees (Betts et al. 2017).

Turkish NGOs including Association for Solidarity with Asylum Seekers and Migrants (SGDD-ASAM), Mülteci Hakları Derneği (Refugee Rights Turkey), Mülteci-Der, Uluslararası Mülteci Hakları Derneği and İGAM have an important role in supporting asylum seekers and refugees in Turkey. For instance, SGDD-ASAM, the largest NGO and implementing partner of UNHCR in Turkey, has offices in more than 40 provinces in Turkey and provides counselling and information services (AIDA 2020). Additionally, NGOs like Refugee Rights Turkey and Mülteci-Der do advocacy work and offer legal information and assistance to asylum seekers, refugees and temporary protection beneficiaries. The type of assistance that Turkish CSOs offer include basic aid provision (such as food, healthcare, clothes), social services (such as education, psycho-social counselling, information exchange, legal aid), relief targeted at community harmonisation, cultural and art projects, research and reporting, and coordination efforts. Faith-based organisations also play an active role and provide assistance to asylum seekers and refugees. According to AIDA, Türk Diyanet Vakfı, a state-funded faith agency offers humanitarian aid and language classes to educated young Syrians while Insani Yardım Vakfı also works actively to support refugees in different provinces (AIDA 2020).

Following the Syrian influx in 2011, Turkey initially declared that UN and donor assistance were not needed and UNHCR was not allowed access to the camps where Syrians lived (Evaluation of UNHCR’s Emergency Response to the influx of Syrian Refugees into Turkey January 2014–June 2015). Only in 2014 did Turkey actively begin working with UN agencies, international organizations and NGOs to respond to the Syrian influx (Evaluation of UNHCR’s Emergency Response to the influx of Syrian Refugees into Turkey January 2014 – June 2015). 3RP – which offers a strategic, coordination, planning, advocacy, and programming platform for humanitarian and development partners to respond to the Syria crisis at the regional level – was initiated in 2015. 3RP provides support to Turkey in meeting the needs of Syrians and vulnerable host community members and through cash and in-kind assistance. UNHCR, IOM, UNDP, WHH, UNFPA, UNICEF, UN Women
together with NGO partners including DRC, Save the Children, Children of One World, ASAM are among the 3RP partners that work in support of the Turkish government.

The European Commission established the Facility for Refugees in Turkey by means of the Commission Decision of 24 November 2015, amended on 10 February 2016, and again on 14 March and 24 July 2018 (COM (2020) 162 final, 3). The Facility focuses on humanitarian assistance, education, migration management, health, municipal infrastructure, and socio-economic support to refugees and host communities in Turkey. The total budget coordinated by the Facility is EUR 6 billion, mobilised in two tranches: the first tranche amounted to EUR 3 billion, from which EUR 1 billion was mobilised from the EU budget and EUR 2 billion from the Member States whereas the second tranche amounted to EUR 3 billion, from which the EU budget provided EUR 2 billion and the Member States EUR 1 billion (COM(2020) 162 final, 5). International organisations that are implementing partners under the EU-Turkey Facility for Refugees include UNHCR, UNFPA, UNICEF, WFP, WHO, UNDP, ILO, IOM, Deutsche Welthungerhilfe (WHH), International Federation of Red Cross and Red Crescent Societies and Council of Europe Development Bank. NGOs that are implementing partners under the EU-Turkey Facility for Refugees include Save the Children, GIZ, Danish Red Cross, Médecins du monde, Concern Worldwide, Danish Refugee Council, Mercy Corps, DAAD and ASAM.

6. Conclusions

Today, Turkey hosts the largest refugee population in the world. Since 2011, Turkey has pursued an open-door policy accompanied by a national temporary protection regime to protect more than 3.6 million Syrians fleeing the civil war. Turkey is a party to the Convention relating to the Status of Refugees but maintains a geographical limitation to the Convention. This geographical limitation has long shaped its asylum laws and policies and it still does. In line with the said limitation, there are a number of different protection categories in Turkey: the refugee status, the conditional refugee status, the subsidiary protection status and the temporary protection status. For asylum seekers, the refugee status can be identified as the most generous international protection status whereas the conditional refugee status (a term invented by Turkish lawmakers), provides less protection compared to that available to refugees coming from Europe. Conditional refugees receive temporary resident permits and the only durable solution available to them is to be resettled in a third
country though they are entitled to access to education, social assistance and health care. Conditional refugee status holders may work six months after having submitted their asylum applications. Subsidiary protection status offers more favourable conditions than the conditional refugee status since its holders are entitled to access to education, social assistance, health care and the labour market and enjoy the right to family unification. All these protection statuses have been introduced to the Turkish laws with the entry into force of the LFIP in 2014.

Adoption of the Law on Foreigners and International Protection, which is largely modelled after the EU asylum *acquis*, marked the beginning of a new era in Turkish asylum law. Compared to the nearly non-existing asylum framework in Turkey, the LFIP introduced new protection categories, clarified the rights attached to these categories and established crucial safeguards for the protection of asylum seekers and refugees. With the adoption of the LFIP, for the first time in Turkey’s history the principle of *non-refoulement* is clearly incorporated into Turkish national laws and persons fleeing indiscriminate violence became eligible for a specific type of international protection category, namely subsidiary protection. The LFIP has also introduced humanitarian residence permits as well as clear administrative and judicial remedies against negative asylum decisions and deportation orders.

The LFIP requires the DGMM to issue asylum and deportation decisions in writing, to inform the affected persons about the reasoning of these decisions and how they can be challenged. It provides for a right to access free legal assistance and representation in asylum and deportation appeals for those who cannot afford it; furthermore, all asylum and deportation appeals have suspensive effect. The LFIP also stipulates that persons with special needs should be given priority within the international protection procedure. However, the term ‘persons with special needs’ provided in the LFIP to define vulnerable asylum seekers and international protection status holders has a narrow scope since the term does not include LGBTI. Moreover, how the DGMM and the PDMMs identify vulnerable persons among international protection applicants is not clear.

Before the adoption of the LFIP, the legal status and rights of Syrians in Turkey were not clear. With the adoption of the LFIP and the Temporary Protection Regulation in 2014, the protection of the Syrians has been brought into the legal sphere. The TPR improved the protection standards afforded to Syrians in Turkey by clarifying the rights and entitlements of temporary protection beneficiaries.
Once persons fleeing Syria enter Turkey and register with the DGMM as temporary protection beneficiaries, they become entitled to information and advice in their own language on the temporary protection regime; identity cards which give them a right to stay in Turkey as long as the temporary protection regime continues; and protection from refoulement. Under the TPR, Syrians also have an explicit right to education, to access healthcare and a limited right to work.

The Turkish President has the authority to decide when to end the temporary protection regime. The temporary protection regime implemented for Syrians in Turkey has been in force for more than nine years with no end in sight. This leaves more than 3.6 million Syrians in limbo. Although the rights and entitlements secured for Syrians under Turkish laws can be defined as decent, a serious gap exists between law and practice. Thus, there is an urgent need for improved institutional capacity and infrastructure for ensuring all the legal safeguards enshrined in Turkish laws to Syrians as well as persons in need of protection from other countries.

Asylum governance actors in Turkey are quite diverse. The Turkish Grand Assembly has the authority to adopt and amend laws including those concerning asylum whereas the President has the authority to issue secondary asylum legislation and decide on who would be eligible for temporary protection status and when the temporary protection regime comes to an end. The Migration Board chaired by the Ministry of Interior is responsible for determining Turkey’s migration strategies. Administrative Courts, Regional Administrative Courts and the Constitutional Courts are also important actors overseeing the protection of asylum seekers and refugees from refoulement whereas Bar Associations offer legal assistance and aid to asylum seekers as well as international protection and temporary protection beneficiaries.

The central migration and asylum authority in Turkey is the DGMM, an institution that is part of the Ministry of Interior. The DGMM conducts RSD, registers temporary protection beneficiaries and oversees procedural aspects relating to the temporary protection regime. Governorates and municipalities also work to support Syrians and persons in need of international protection from other nationalities. Several ministries also support implementation of projects related to protection of asylum seekers and refugees in Turkey: Ministry of Education, Ministry of Health, Ministry of Family, Labour and Social Services, Ministry of Forestry and Agriculture, Ministry of Interior, Ministry of Youth and Sports, Directorate of Religious Affairs and the Ministry of Justice. These
ministries and the DGMM implement projects together with international organisations including UN agencies as well as international and national NGOs under the Facility for Refugees in Turkey and 3RP frameworks.

The Turkish asylum system is certainly not easy to navigate. The newly established legal framework governing asylum in Turkey which is largely modelled after the EU asylum *acquis*, secures fundamental human rights and introduces crucial safeguards for asylum seekers and refugees. Although Turkey’s efforts to offer protection to nearly four million refugees and asylum seekers are commendable, there are serious gaps in the implementation of the Turkish asylum laws which hinder persons seeking refuge to access effective protection. The Turkish case illustrates perfectly why burden and responsibility-sharing efforts are necessary to support countries hosting large number of refugees as highlighted by the GCR.
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