

Country Report **TURKEY**

D4.2 Interim Country Reports

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Executive Summary

As a political tool, the Global Compact on Refugees (GCR) provides a framework for protection of persons in need of international protection and complementary pathways for UN member states, including the EU and Turkey. This framework includes instruments for responsibility-sharing such as resettlement and financial contributions. Through a multifactorial and relational approach, this report focuses on the ramifications of externalization policies of the EU and the instruments that facilitate keeping refugees in the Turkish asylum regime and instruments' impacts on those who are in need of protection and how the EU defies GCR principles. Based on fifteen in-depth interviews that are conducted with representatives of civil society organizations, authorities and other stakeholders from local/regional, national and international levels during March-June 2021, it is aimed to explore the respondents' opinions and experiences about the migration governance system in Turkey in line with WP4's focus on refugee's rights, status and vulnerabilities.

Turkey provides international protection to all individuals in need according to Law on Foreigners and International Protection (LFIP - Law no. 6548). Turkey, as a party to the 1951 Geneva Convention and its 1967 protocol but maintaining geographical limitation, grants full refugee status only to Europeans. Individuals who are non-Europeans can apply to and be granted with conditional refugee and subsidiary protection statuses. In addition, the LFIP also provides a scheme for humanitarian residence permit as a residence opportunity given to individuals who do meet conditions for the listed statuses, but needs protection temporarily. Since the adoption of the LFIP (Article 91) in 2014, Syrians who seek asylum in Turkey are granted with temporary protection status. Until 2018, RSD procedures are operated by the UNHCR and since then main responsible institution for application, registration and status determination is the Directorate General of Migration Management¹ and its provincial sub-departments across the 81 provinces of Turkey. As required by law, a decision on status should be issued within six months of registration. However, findings reveal that the application procedure may take longer and vary depending on provincial directorates' capacity. As a result, asylum seekers may find themselves in limbo for years while their applications are reviewed. The quality of personal

¹ During the penning of this report, the name of the department has changed to Presidency of Migration Management.



interviews, the assessment of evidence, the absence of identification of vulnerable groups, the lack of training of migration experts, and the lack of available interpreters have all been noted as major issues during the fieldwork. As the continuous migration from Afghanistan continues, several provincial directorates have stopped registering newcomers, mostly male asylum seekers. Syrians are continued to be registered as temporary protection holders with limited mobility forcing them to stay in the cities they are registered.

As refugees and asylum seekers' passage towards Europe heightened in 2015, the EU and Turkey reached an agreement in March 2016 on "controlling irregular crossings." Within the scope of this agreement, it was decided that for each irregular migrant returned to Turkey EU receives an asylum seeker, the EU grants visa liberalization to Turkish citizens, Turkey's EU accession process is to be restarted, and the EU provides 3 billion EUR (later increased to 6 billion EUR) financial support for Turkey's migration management. The EU's financial instruments are not confined to the 2016 Statement. A share of the conditional aid Turkey received during its EU membership negotiations (IPA funding) is still being used in migration management. There is a consensus in the field that all these political and financial instruments were built on keeping refugees and asylum seekers in Turkey, whose number exceeds 4 million officially, and preventing them from entering the EU. In Turkey, this arrangement generates challenges in accessing services and causes violation of basic rights, including the right to work.

Working rights of foreigners in Turkey are regulated through a set of legislative documents and conventions of the International Labour Organization are adopted. According to these legislations, an international protection applicant or conditional refugee can apply for a work permit six months after the application for international protection. Syrians who are under temporary protection can also work formally since 2016. As fieldwork suggests, work permission scheme is not compatible with Turkish market dynamics because of time limitations, mobility restrictions, the condition of employing one refugee for ten Turkish citizens and its employer-centric nature. Therefore, in practice, most of the refugees work informally leaving them in precarious conditions. They earn less for working more hours than Turkish citizens and child labour is a very common practice in construction, shoe manufacturing, textile sectors and also in agriculture where most of the refugee labour is concentrated in. Their grievous condition is described as hyper-precarity and deepens the vulnerabilities.



Fieldwork reveals three categories of vulnerability that refugees and asylum seekers, including Syrians under temporary protection, experience. *Structural vulnerabilities* are resulting from social, economic and political inequalities, such as gendered practices, dependence on the informal market and constrained mobility. *Temporality-based vulnerability* is mostly derived from the politico-legal dimension of asylum regime in Turkey. Although Turkey ratified 1951 Geneva convention and adopted the principle of *non-refoulement*, the fact that Syrians still hold a status such as temporary protection poses the risk of being returned. Temporary stay turns into a threat as conditional refugees await resettlement to a safe third country in limbo in Turkey. As it is explored during the fieldwork the EU's effort to regularize migration through externalization policy which has been practised in Turkey via the Statement and instrumentalizing refugees for the sake of this policy cause *instrument-induced vulnerability*. This category includes vulnerabilities such as immobility of refugees, and pursuing refugees as political pawns. While the one-to-one resettlement scheme allows a very limited number of asylum seekers to find protection in the EU countries, inconsistencies between different state and international institutions in vulnerability assessment during the resettlement processes further violate the GCR principles. Financial instruments have been criticized for prioritizing fast and instant applications instead of producing sustainable solutions to support the infrastructure in the cities where refugees live, for fostering inequalities between different groups of people who seek asylum causing a division between Syrians and non-Syrians, and for being used in the implementation of projects without assessing the qualifications and needs of beneficiaries. All of those listed here confine refugees and asylum seekers in a 'permanent temporariness', causing them to try to hold on in Turkey with an uncertain future. Research findings reveal the incompatibilities between the practice in the field and instruments presented as "best practices" by the EU in the context of the EU-Turkey Statement and funds in light of GCR Principles on refugee protection and human rights.



Introduction

During border fieldwork in August 2021, I was struck by the statement of a gendarmerie commander in Van, a Turkish border city to Iran: “We apprehend irregular migrants who are smuggled, then I call the journalists to take pictures and let them service to international press so that ‘Europeans’ see with their own eyes that we keep [those migrants] at the border. Sometimes at the expense of these people.” The statement of the border official made me realize how much the externalization policy of the European Union and its member states to manage migration has been internalized by the Turkish bureaucracy, even though the rule of law and human rights have been violated at many levels. This report aims to take a snapshot of the relations between asylum and migration governance actors and the instruments employed by the EU in Turkey with a special focus on the EU-TR Statement of 2016.

According to UNHCR, Turkey is the largest refugee-hosting country since 2014² and is currently dealing with protracted mobilities. Although there is a relatively integrated migration and asylum legislation since 2014, it lags far behind being inclusive on many levels which will be discussed in this report. As evidenced by mobility and work restrictions, refugee rights and protection are at stake. Furthermore, the EU and its Member States are engaged in sustaining the status quo via numerous instruments. Through a multifactorial and relational approach, this report analyses the ramifications of the EU instruments that facilitate keeping refugees in the Turkish asylum regime and their impacts on those who need protection. In order to accomplish that, first, background information on refugees and asylum seekers in Turkey is provided and later, the report discusses the major findings of fieldwork carried out with various stakeholders on the EU’s instrumentalization of resources, by employing a conceptual framework on vulnerability, especially in relation to rights to employment, access to the labour market and decent working conditions.

² <https://www.unhcr.org/statistics/country/56655f4d8/statistical-yearbook-2014-complete.html>.



Methodology

Throughout fieldwork, fifteen in-depth interviews are conducted with representatives of civil society organizations, authorities and other stakeholders from local/regional, national and international levels (see Table 1). A detailed list of interviewees is presented in Appendix I.

Table 1 Distribution of interviews

Participant Category	Local/ Regional	National	European/ International	Total
Civil society organizations	1	4	1	6
Authorities	2	1	1	4
Other stakeholders	2	-	3	5
Total	5	5	5	15

Source: Compilation by the author

As the fieldwork continued from April 2021 to July 2021, five of the interviews were conducted face-to-face and the others were online due to COVID-19 restrictions. Although, in general, online interviews did not pose a particular setback, the practice of obtaining data through observation facilitated by face-to-face interviews was not experienced. While the interviews were directed toward a more inclusive discussion on all migrants who need protection, as they are making the majority of refugees, most interviewees focused on Syrians who are under temporary protection. Another reason for that is that Syrian refugees are the major subject of the EU-TR Statement which is the focus of this report.

Interviews aimed to explore the respondent's opinions and experiences about the migration governance system in line with WP4's focus on refugees' rights, status and vulnerabilities. A common question form and interview guide were prepared in advance by the work package coordination team to ensure consistency on themes and issues covered by each country team. Questions were customized to focus on specific instruments and issues in Turkey such as EU instruments in general and the EU-TR Statement in particular. When adapting the questions to the Turkish context, ASILE themes of effectiveness, fairness and consistency with international and regional human rights and refugee law standards are observed. The data obtained from the interviews were analysed thematically with the conceptual framework from the related literature.



Obtaining written consent was challenging, therefore verbal consent was obtained from all respondents. Raw data derived from fieldwork notes and interview transcriptions where the voice recording was available are stored according to data security standards, including encryption. Confidentiality and anonymity are safeguarded in line with the ethical norms set in the ASILE data management plan. Instead of using pseudonyms to anonymize personal data, interviewees are coded and while reporting the research findings, no identifiers were used to reveal their identity.

Conceptual Framework

In line with the aims of WP4 in the ASILE project, refugees' status, right to work and vulnerabilities in Turkey are discussed. An approach is taken to understand refugees' vulnerabilities, emphasizing how the concept cannot be squeezed into a fixed definition.

According to the UNHCR-IDC Vulnerability screening tool³:

Situations of vulnerability are not fixed and will change over time with changing circumstances. Certain categories of people, such as children, are readily accepted as vulnerable and in need of special care, support and protection, while for other people their individual circumstances and context are the main determinates of vulnerability. Vulnerability is shaped by personal (internal) factors and environmental (external) factors. These factors can be multiple and intersect so as to entrench and exacerbate risks of harm.

As framed above, vulnerabilities may exist, change and evolve from different social structures. **Structural vulnerability** refers to categorical disadvantages of individuals or groups that emerge from societal processes, such as the labour market and legal system. It involves all sorts of social, economic and political practices that put an individual or a group in a disadvantaged status irrespective of their individual or group characteristics. Moreover, structural vulnerability “is particularly relevant to the discussion of labour exploitation risks, and how migration laws and practices often place asylum seekers, refugees and others with limited migration statuses at risk of extreme labour exploitation”

³ <https://www.unhcr.org/protection/detention/57fe30b14/unhcr-idc-vulnerability-screening-tool-identifying-addressing-vulnerability.html>



(Costello and O’Cinnéide, 2021, p. 21). In this sense, **precarity**, defined as casual, flexible, subcontracted, temporary, contingent and part-time work, is produced by the structural characteristics of the neoliberal economic system (Standing, 2001). When precarity is combined with another structural vulnerability, such as legal barriers to the right to work, legal restrictions of movement, and debt bondage, it produces **hyper-precariousness** which is akin to forced labour⁴. The situation of migrants at the intersection of precarious employment and immigration status can be understood as one of hyper-precarity, hence producing forced labour (Lewis, et al., 2014; Lewis and Waite, 2015).

Another concept that is employed in this research is externalization. According to Crisp (2020), **externalization** is a migration management strategy whereby states instigate measures beyond their own borders in order to prevent or deter the entry of foreign nationals who lack the requisite legal entry permission and who are thought likely to apply for asylum. The interception of asylum seekers before their arrival at the border, offshore detainment and processing; sanctions on transport companies; promising countries financial aid and other incentives in exchange for their cooperation in stopping the flow of asylum seekers are the most common forms of externalization. Externalization is the result of states deciding to forgo the duties they agreed to as signatories to the 1951 United Nations Refugee Convention. If asylum seekers arrive in a country that has signed the Convention, the authorities must accept their claim for refugee status and, if they are judged to be refugees, grant them refugee status. In order to avoid such obligations, some states try to prevent the arrival of such people before they arrive at their borders. Externalization methods make it difficult for people to exercise their right to seek asylum and expose them to further human rights violations. It also encourages refugees to go on dangerous routes involving human traffickers, smugglers, and corrupt government officials.

⁴ According to ILO, main indicators of forced labour are abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime. As it is indicated in the booklet defining forced labour, “The presence of a single indicator in a given situation may in some cases imply the existence of forced labour. However, in other cases you may need to look for several indicators which, taken together, point to a forced labour case. Overall, the set of eleven indicators covers the main possible elements of a forced labour situation, and hence provides the basis to assess whether or not an individual worker is a victim of this crime (https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf).



Background

Turkish asylum regime and statuses

As the number of individuals forcibly displaced around the world due to conflict, violence, and persecution reaches new highs, Turkey continues to host the highest number of refugees in the world. Turkey presently has 3.7⁵ million Syrian refugees registered under ‘temporary protection’, as well as close to 320,000 people of concern from other countries, including Afghanistan, Iraq and Pakistan.

Turkey is a signatory to the 1951 Refugee Convention and its 1967 Protocol, which maintains the 1951 Convention’s geographical limitations, making resettlement to a third country the most preferable long-term solution for refugees arriving as a result of events outside of Europe. Turkey has been reforming its laws and institutions in order to create an effective national asylum system that meets international standards (İneli Ciğer and Yiğit, 2020). The Law on Foreigners and International Protection (LFIP), Turkey’s first-ever asylum law, was approved by Parliament in April 2013 and went into effect on April 11, 2014. The LFIP establishes the Directorate General of Migration Management⁶ (DGMM) as the main organization in charge of policy-making and processes for all foreigners in Turkey, and it lays out the major pillars of Turkey’s national asylum system.

In terms of international protection categories, Turkey grants *refugee* status to those who come from Europe and applies the Convention definition with geographical limitation. While the law states that it applies the principle of *non-refoulement*, *conditional refugee* status is granted to asylum seekers who originate from outside Europe. Their status is conditional until they are settled in a safe third country. As a third status, *subsidiary protection* is the right granted to persons who do not qualify as refugees or conditional refugees, but who, upon returning to their country, will be subjected to the death penalty or execution of the death penalty, torture, inhuman or degrading treatment or punishment, and those who would face a serious threat owing to indiscriminate violence

⁵ Data obtained from DGMM website: Accessed from <https://en.goc.gov.tr/temporary-protection27> on 1 October 2021.

⁶ Its name has been changed as Directorate of Migration Management by the presidential decree dated 29 October 2021. Because the research has been conducted earlier than this date, the name of the institution is kept as DGMM in this report.



in an armed conflict. In addition, the law also provides a scheme for *humanitarian residence permit* as a residence opportunity given to people who do not meet conditions in the above-mentioned statuses but need protection temporarily.

As of September 2018, UNHCR stopped registering asylum seekers wishing to apply for international protection in Turkey and also seized carrying out mandate Refugee Status Determination procedures. Since then, those who would like to apply for international protection in Turkey should contact the Provincial Directorates of Migration Management (PDMM) in the cities upon entry to the country. According to article 78 of LFIP, migration experts at DGMM and PDMMs commence registration and further processing of the international protection applications claimed by individuals. The decision should be issued within 6 months from registration as the law determines. However, as it is mentioned during an interview with a migration law practitioner (TR15) who has previously worked as an RSD officer at UNHCR, the application process may be lengthened and vary according to capacity shortages of PDMMs. So, in practice, applicants may spend years in limbo while their applications are processed. In addition, “the quality of interviews, the assessment of evidence, the lack of identification of vulnerable groups, the lack of training of migration experts as well as the lack of available interpreters have been reported as particular concerns⁷.” The interviewee also mentioned that some PDMMs even stopped registering newcomers as the protracted migration from Afghanistan continues, creating a *de facto* dispersed border. During the fieldwork, it’s been observed that most vulnerable applicants, such as unaccompanied children and single women/mothers, are prioritized to be registered, but mostly (single and young) men’s applications are not registered which is a major violation of the law.

In October 2014, Turkey passed the Temporary Protection Regulation⁸ (TPR) in line with LFIP, which lays out the rights and obligations, as well as the procedures, for persons granted temporary protection in Turkey, namely Syrian refugees. Syrians, who were considered “guests” until the enactment of the regulation in 2014, were able to access certain rights only after this date. These rights include access to the labour market. As of 2014, Syrians who were included in the international protection system, albeit temporarily,

⁷ <https://asylumineurope.org/reports/country/turkey/asylum-procedure/procedures/regular-procedure>.

⁸ Temporary Protection Regulation, (Official Gazette No. 29153 of 22 October 2014).



could only have a work permit as of January 2016. As is revealed in an in-depth interview with a migration governance practitioner (TR5), slightly higher than 50,400 Syrians under TP obtained work permits by April 2021. Refugees constitute a small number of independent tradesmen and craftsmen, most of whom are irregular, and establishing companies with Turkish citizens. But the majority of them work in very precarious conditions and informally by doing paid labour for others (Şanlıer Yüksel and İçduygu, 2018). The leading sectors in which they work are manufacturing sectors such as textile, shoe-making, food, and also construction and agriculture sectors (Siviş, 2021a). Agriculture stands out as the sector where informal employment is the highest in the region, especially close to the Syrian border and where women and children work the most. Therefore, the agricultural sector constitutes the most important source of income, especially for vulnerable groups.

Outlining EU Instruments to control migration in and out of Turkey

A joint action plan was declared in October 2015 and a statement was signed between the EU and Turkey on 18 March 2016, following the moral panic that began with the crossing of migrants to Europe using the Mediterranean route in the summer of 2015⁹. The focus of the Statement or more commonly known as the “EU-TR Deal” was the return of all new irregular migrants who crossed from Turkey to the Greek Islands as of 20 March 2016, and one person in need of protection would be settled in EU countries from Turkey for each Syrian returned to Turkey (one to one formula). In addition, Turkey should take the necessary measures to prevent the formation of new irregular migration routes by sea or land to the EU; revitalizing Turkey’s EU accession process, provided that the guaranteed criteria are met; visa liberalization for Turkish citizens to the EU. It was decided that the Voluntary Humanitarian Admission Plan, in which the EU member states would participate on a voluntary basis, would be put into practice when the irregular migration between Turkey and the EU was greatly reduced or ended.

In particular, within the scope of the article “financial assistance from the EU for Syrian refugees (FRIT funds)” of the statement, with the support of United Nations Agencies, European Union member countries’ development agencies and international donors,

⁹ EU-Turkey Statement of 18 March 2016, in European Council Press Release 144/16 of 18 March 2016.



activities of civil society and public institutions are supported. The EU has committed to accelerate the payment of the 3 billion EUR originally allocated under FRIT and to activate an additional 3 billion EUR by the end of 2018 when the resources are approaching the full use stage. These supports ensure that the strategies implemented in cooperation with local authorities, chambers of industry and business institutions and which aim to alleviate the pressures of the Syrian crisis on local economies and labour markets, turn into action. It is aimed to support regional development with economic integration. Syrians and simultaneously Turkish citizens, very few other nationalities over time are supported by strengthening the local economy, such as increasing the participation in the formal job market, supporting Syrian and Turkish companies and enterprises in areas such as entrepreneurship, innovation, production techniques, marketing, business development and business management within the scope of training and consultancy services, creating new rights-based job and livelihood opportunities for all. The statement was contested by many (i.e., Carrera, den Hertog and Stefan, 2017; GAR, 2021; Heck and Hess, 2017; İneli-Ciğer and Ulusoy, 2020) and labelled as 'experimental' (İçduygu and Millet, 2016). These criticisms include the fact that the statement becomes a means of ignoring the violations of externalization policies that emerged by employing the rhetoric of responsibility-sharing. Researchers claim that it also serves as a model for possible instruments to be utilized in countries other than Turkey to reduce the number of migrants arriving in the EU. The statement is also criticized for not being accountable because it does not have the legally binding nature of an international agreement.

One of the important structural changes in the asylum regime in Turkey was the handover of the refugee status determination process, which UNHCR *de facto* carried out, to the DGMM in September 2018. As a result of this organizational transformation and the changes in LFIP in December 2019, many financial instruments from the European Union and/or member countries transferred to projects such as strengthening RSD processes, the registration renewal system, the establishment of a system of alternatives to administrative detention, the establishment of reception and removal centres. The financial instruments provided by the EU are not limited to the 2016 statement. Some of the conditional support given by Turkey during its accession negotiation to the EU (IPA funds) continues to be used in migration management. It is observed that they are mainly used in organizational capacity building programs and border security enhancement projects in line with the EU's externalization policy. Table 2 summarizes the EU instruments implemented in Turkey concerning migration and asylum.



Table 2 EU instruments implemented in Turkey

Political	Legal	Financial
Accession Partnership Agreement 2001	Agreement between the EU and TR on the readmission of persons residing without authorisation, 2013	EU Trust Fund in Response to the Syrian Crisis (Madad Fund) 2014
EU-Turkey Joint Action Plan, October 2015	Law on Foreigners and International Protection (LFIP), 2014	The instrument for Pre-accession Assistance II (IPA II) 2014-20
EU-Turkey Statement, March 2016	Temporary Protection Regulation (TPR), 2014	Facility for Refugees in Turkey (FRIT) 2016

Source: Tan and Vedsted-Hansen, 2021, p. 26.

Findings

State of the refugees in Turkey

As it is conveyed in the background section earlier, Turkey continues to host the largest number of refugees worldwide, as the number of people forcibly displaced across the world due to the Syrian revolution, conflict, violence and persecution hit record levels. In the last 30 years, the number of migrants in the country has risen from 1.1 million to almost 6 million which makes up 7% of the total population¹⁰. Refugees and asylum seekers are making the 65% of the total international migrant community¹¹. Turkey currently hosts more than 3.7 million registered Syrian refugees who are under temporary protection along with close to 320,000 refugees, asylum-seekers and irregular migrants of other nationalities. Over 98% of Syrian refugees live across Turkey in 81 provinces. About 500 thousand Syrian nationals were born in Turkey since 2011 (TR5). As revealed by a migration governance practitioner (TR5) during the

¹⁰ <https://worldmigrationreport.iom.int/wmr-2020-interactive/>.

¹¹ <https://www.goc.gov.tr/guncel-veriler>.



in-depth interview, although TPR has closed the path to citizenship, 140 thousand Syrian nationals have acquired 'exceptional' Turkish citizenship by April 2021.

Afghans, Iraqis and Iranians are the major groups of asylum seekers after Syrian nationals. Since 2014, the implementation of the Law on Foreigners and International Protection permits access to protection, education and health care for persons holding international or temporary protection on equal grounds to Turkish citizens. This has resulted in improved access for migrants and refugees to education and needed health services and medicines. Despite these positive developments, however, refugees continue to face challenges in securing the health and educational opportunities they need (Kaya et al., 2021).

Migrants' entitlements to health services in Turkey are slightly more inclusive, probably the most inclusive right, since law no. 5510 includes asylum-seekers and persons with International Protection Application within the General Health Insurance coverage. Most residents regardless of status now have access to emergency and primary health care services (free of charge). Regulation 2015/8, 12.10.2015 "Circular about Conducting Health Services for Foreigners under Temporary Protection"¹² substituted the previous regulation by changing the conditions regarding access to secondary health services. However, this policy has been slightly changed with the change in the LFIP in 2019 and time limits were introduced and international protection holders above the age of 18 are only covered by the state for the first year following their registration with the authorities¹³. According to MIPEX 2020 data¹⁴, Turkey scored 69 points in terms of health services which read slightly favourable. 175 Migrant Health Centres (MHC) across 29 provinces are established under the project titled SIHHAT since 2017 through the FRIT scheme, which employs Syrian health professionals¹⁵. But apart from Migrant Health Centres, non-Syrian refugees still complain of the language barrier and discriminatory attitude they face especially in public hospitals (TR11).

¹² https://www.afad.gov.tr/kurumlar/afad.gov.tr/2311/files/2015_8_Gecici_Koruma_altindaki_Yabancilara_Iliskin_Saglik_Hizmetlerinin_Yurutulmesi.pdf.

¹³ <https://www.goc.gov.tr/uluslararasi-koruma-kapsamindaki-yabancilarin-genel-saglik-sigortalari-hakkinda>.

¹⁴ <https://www.mipex.eu/turkey>.

¹⁵ <http://www.sihhatproject.org/faaliyetler.html>.



Right to work

Turkey is a party to more than 50 conventions adopted by the International Labour Organization (ILO). Turkish labour legislation framework reflects the standards and principles laid down in these conventions including social security, occupational safety and health, child labour and labour inspection. Working rights of foreigners in Turkey are regulated through a set of legislative documents, including Law on the Work Permit for Foreigners (law no. 4817) dated 2003, Law on International Workforce (law no. 6735) dated August 2016, Work Permit Regulation on Applicants and International Protection Beneficiaries (April 2016) issued by the Ministry of Labour and Social Security, and Regulation Related to Work Permit of Syrians Who Are Under Temporary Protection (January 2016) issued by the Ministry of Labour and Social Security. According to these legislations, an international protection applicant or conditional refugee can apply for a work permit six months after the application for international protection. Refugee or subsidiary protection status holders can work as dependently or independently after obtaining their status. The ID to be given to a refugee or a person with subsidiary protection status also replaces a work permit. But this does not necessarily mean international protection holders can work in every job in Turkey. The jobs and occupations that foreigners cannot work in are determined by various regulations. Accordingly, foreigners cannot work as dentists, nurses, pharmacists, veterinarians, lawyers, notary, private security officers, customs consultancy, tourist guides, and divers or captains in territorial waters¹⁶. These professions are solely dedicated to Turkish citizens. In addition, according to the Article 11 of the Law on the Work Permit for Foreigners¹⁷, access to the labour market may be limited according to the situation in the job market and developments in working life, for a certain period, in agriculture, industry or service, when required by sectoral and economic conjuncture conditions. However, these restrictions do not apply to refugees and subsidiary protection status holders who have resided in Turkey for three years or are married to a Turkish citizen or have a Turkish citizen child.

Even though the forced migration of Syrians to Turkey started in April 2011, they have only been able to enjoy a regular working right since January 2016. But, many scholarly works (AI, 2016; İneli Cığır, 2017, p.561; Baban et al., 2017, 2021) list a series of barriers in obtaining

¹⁶ <https://www.csgb.gov.tr/uigm/calisma-izni/turk-vatandaslarina-hasredilen-meslekler>.

¹⁷ <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.4817.pdf>.



a work permit. First, according to the Regulation Related to Work Permit of Syrians Who Are Under Temporary Protection, those who want to employ Syrians under temporary protection can apply for a work permit or work permit exemption six months after the temporary protection identity document is issued. Therefore, the work permit is employer-centric. Second, there must be at least 10 Turkish personnel for each Syrian who will work. The number of Syrians to be employed cannot exceed 10% of the total personnel. Third, the regulation imposes mobility restrictions as Syrians can get work permits in the provinces where they are registered. Relocation is possible through DGMM but is very rare. The only exception to these barriers is the seasonal agriculture work and husbandry. Permission of the governorships is obtained to remove the quota application for Syrian refugees who work as temporary agricultural workers or who are or will be dealing with agriculture and animal husbandry. So, except the whole working rights are top-down and very centralized, agriculture work is localized according to the needs. In an analysis of the discrepancy of the work permit regulation and its implementation at the city level, Siviş (2021b) emphasizes the role of local actors and their cross-institutional collaboration:

[T]he work permit regulation fails to address local socio-economic dynamics in terms of both Syrians' well-being and natives' concerns. From my standpoint, a lack of a labour market integration policy and coordination with the local authorities creates a context where local actors implement what I call "integration work" in line with their own institutional and/or organizational logics. A lack of overarching implementation and evaluation mechanisms allows the emergence of alternative policy frames at the local level. This integration work can be implemented by local actors in collaboration with external funders, NGOs and other public institutions.

Although the right to work on paper appears to be regulated, the actual implementation of the regulations is far from being inclusive. According to DGMM data¹⁸, almost 20% of the Syrian population are between 10-18 years old, and the schooling rate is very low, especially at secondary education level, which is a marker that most of these youngsters are in the labour market, mainly in the informal labour market (Pinedo Caro, 2020). According to TURKSTAT data¹⁹, in Turkey, 720,000 children are working and 30.8% of them work in the

¹⁸ <https://www.goc.gov.tr/gecici-koruma5638>.

¹⁹ <https://data.tuik.gov.tr/Bulten/Index?p=Child-Labour-Force-Survey-2019-33807>.



agriculture sector. In the labour market, refugees are establishing their own businesses in very small numbers, some are working as independent craftsmen, though irregularly, but the majority of refugees are employees who do paid labour for others, mainly in the informal market. We observe a concentration in jobs that do not require qualification, high informality, depending on social aids, and very precarious conditions (Siviş, 2021a, 2021b). Just to clarify although the temporary protection scheme provides access to the labour market since 2016, as of April 2021 only 50,400 Syrians were granted work permission in all around Turkey (TR 5). This means all others depend on aid and informal precarious working conditions and live under extreme poverty. As it is observed during the fieldwork, most of the refugees work in construction, shoe manufacturing, textile sectors and also in agricultural work. As mentioned in the interviews conducted with a regional NGO (TR8), in regions such as Çukurova, those agricultural workers live in plastic-covered tents in the periphery of the city, have very poor working conditions, work for 7 days, 11 hours a day and a high rate of child labour is one the realities we face. In most cases, even the basics of hygiene cannot be met in these conditions. Lack of water, soap and even proper toilets are just ordinary cases I observed in the field. Baban, Ilcan and Rygiel (2021) examine Syrian refugees' legal status, the spaces in which they live and work, and their movements within and outside Turkey as the three dimensions of precarity. Their analysis of multi-layered precarious lives can be reconsidered as an indicator of 'the condition of hyper-precarity'.

Implementation of instruments related to the 2016 EU-Turkey Statement

The EU's effort to regularize migration through externalization policy has been practised via the Statement, and as a political instrument, one to one return formula of the Statement claims to be designed in order to take into account the UN vulnerability criteria. The United Nations High Commissioner for Refugees (UNHCR) describes resettlement as 'the transfer of refugees from an asylum country to another State, that has agreed to admit them and ultimately grant them permanent residence' (UNHCR, 2020). Although this definition does not directly mention vulnerability, it refers to vulnerability due to temporality as it targets permanent residency as a condition for resettlement. Even though the Statement targets resettlement of the most vulnerable 72,000 refugees depending on different categories such as gender or age, a little more than 30,000 Syrians are resettled



to a Member State by October 2021 according to DGMM²⁰. This figure makes less than 1% of the total Syrian refugee population in Turkey. Table 3 depicts the number of Syrian refugees who are resettled in the scope of the Statement:

Table 3 Number of Syrian refugees who left Turkey in the scope of the “One to One” formula (as of 14.10.2021)

Country	Total		
Germany	11740	Austria	213
France	4886	Luxembourg	206
Netherlands	4712	Lithuania	102
Sweden	2323	Bulgaria	85
Finland	2207	Romania	68
Belgium	1795	Estonia	59
Spain	878	Latvia	46
Portugal	422	Slovenia	34
Italy	396	Denmark	31
Croatia	250	Malta	17
		Total	30470

Source: DGMM, <https://en.goc.gov.tr/temporary-protection27>, accessed on 05.11.2021

Financially, the EU and Turkey’s collaboration on migration management and shared responsibility for providing aid to refugees in Turkey is described in the EU-Turkey Joint Action Plan and the EU-Turkey Statement. The EU Facility for Refugees in Turkey (FRIT) is a financial assistance program assisting both refugees and host communities defined in the statement and has a total budget of 6 billion Euros, divided into two equal tranches of 3 billion Euros each, partially by direct payments from EU Member States (external assigned revenues) and partly from the EU budget. This facility, committed by the European Union, is sent to Turkey in exchange for the projects, not as direct funds. There is a special committee established for this financial support program. The committee meets periodically and evaluates the projects, reviews new projects and conducts audits on existing projects. All 6 billion Euros are already contracted; approximately 70% of that amount is funded as the projects are approved according to EC’s Strategic Midterm

²⁰ DGMM, <https://en.goc.gov.tr/temporary-protection27>



Evaluation²¹ of the Facility for Refugees in Turkey published in July 2021. These financial instruments affect approximately 1.8 million Syrians²².

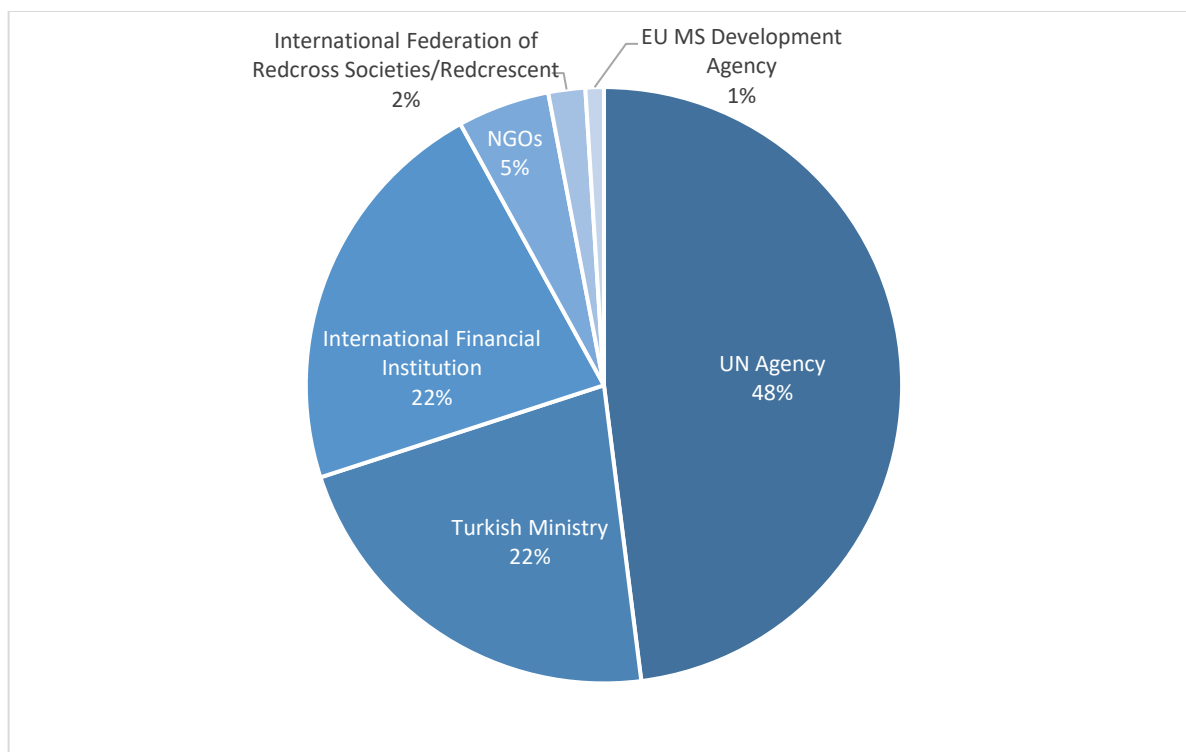
FRIT is implemented in six different priority areas: Humanitarian assistance, education, health, socio-economic support, municipal infrastructure and migration management. Municipal infrastructure is supported in the second tranche. According to the interview conducted by an international organization representative (TR2), humanitarian assistance is mainstreamed into the other priority areas because it is envisaged as a multifactorial delivery mechanism. Financial instruments of the EU-TR Statement are distributed by the contracting authorities. Directorate General for Neighbourhood and Enlargement Negotiations (DG NEAR) manages the non-humanitarian actions contracted under the Instrument for Pre-Accession (IPA II). Directorate-General for European Commission Humanitarian Aid & Civil Protection (DG ECHO) manages the largest share of the FRIT actions under the humanitarian assistance category and ECHO staff in the TR office is in charge of the daily coordination of actions and monitoring. The EU Delegation (EUD) to Turkey in Ankara is responsible for grant contracts signed with the Turkish ministries and agreements with international financial institutions. As implementing partners, the Turkish public administration (Turkish line ministries implementing FRIT's direct grants, or being beneficiaries of actions implemented by international financial institutions), including the relevant entity on the side of the Government of Turkey are responsible for the supervision of the FRIT. Other implementing partners of FRIT actions are UN Organisations, NGOs, and EU member states' implementing development agencies. The majority of the funds are implemented directly by UN Agencies and International Financial Institutions, whereas Turkish authorities and NGOs are involved indirectly in most projects. The EU Delegation to Turkey monitors the implementation of the non-humanitarian, longer-term actions such as projects on education and health, whereas the DG ECHO's country office monitors the implementation of the humanitarian actions such as Emergency Social Safety Net (ESSN). Figure 1 illustrates the distribution of implementing partners:

²¹ https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-09/strategic_mid-term_evaluation_annexes.pdf

²² https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-09/frit_factsheet.pdf



Figure 1 Types of implementing partner



Source: European Commission's Strategic Midterm Evaluation, Annex 5, p. 11

As it is underlined by an international organisation representative (TR2), the program “is unprecedented in scale and target population. It has made a great contribution to stopping irregular migration flows. Furthermore, the basic needs of refugees have been met, and health and education services have been increased. EU give particular importance to transparency in the use of funds and the observance of human rights.”

One of the most effective programs is the Emergency Social Safety Net (ESSN) which has provided 1.8 million refugees with monthly cash transfers to help them cover food, shelter, and transportation needs and was implemented by the Turkish Red Crescent. By the introduction of the Complementary Emergency Social Safety Net (C-ESSN) Project in 2021, it is aimed to meet the basic needs of the “most vulnerable” who cannot be directed to livelihoods and the labour market through a cash-based assistance project. The project is designed to include not only Syrian refugees but also other migrants with International Protection Status, International Protection Status Application and Humanitarian Residence



Permit who are disadvantaged to be directed to the labour market²³. Another successful program according to interviewees is the Conditional Cash Transfer for Education (CCTE) that has provided cash transfers every two months to families with children who have an 80% school attendance rate (EC, 2021).

Indeed, the contribution of EU financial instruments in reaching to humanitarian aid and in accessing health and education rights for Syrian refugees and local communities is immense. “Improving the health status of the Syrian population under temporary protection and related services provided by Turkish authorities” (SIHHAT) project, a 300 million EUR direct grant to the Turkish Ministry of Health, aims to guarantee that Syrian refugees have general access to healthcare services through 175 Migrant Health Centres in more than 20 cities and providing employment opportunity to Syrian healthcare professionals. According to Omar Kadkoy²⁴, financial aid in health area have a profound impact, but also carries sustainability concerns:

This serves two purposes: One, it alleviates pressure on the Turkish public health sector and it ensures that health services provided for the citizens of Turkey are not affected by more patients going to the hospitals. Of course, these Migration Health Centers do not provide full services, they only provide outpatient services. Secondly, patients can communicate in their own language so they do not go through any misdiagnosis or they are able to perfectly tell what sort of issues they have. This is something very good but the long-term question about this would be the funding of the Health Centres. Turkey’s Ministry of Health said that they are committed to the continuation of these Health Centres but then again, we know that under FRIT around 300 or 400 million euros went to the Ministry of Health to oversee the funding of similar activities, which is a lot of money. If we are not able to commit to a similar amount maybe the quality of services will fall behind and this is critical (GAR, 2021, p. 117).

²³ <https://platform.kizilaykart.org/en/t-suy.html>

²⁴ Analyst in TEPAV, a Turkish thinktank.



One of the profound objectives of the FRIT is to include school-age children in the formal education system in Turkey. For the improvement in access to education rights, in addition to the CCTE program outlined earlier, the “Promoting Integration of Syrian Children into Turkish Education System (PICTES)” project has been implemented under the non-humanitarian track. The project facilitates Syrian children’s integration into the Turkish educational system. It provides incentives for the recruitment of Turkish language instructors, Arabic language teachers, and counsellors as part of this action. It also involves psychosocial support and social cohesion programmes. Especially during the second phase of the project, non-Syrian refugees from Afghanistan, Yemen, Somalia, Iraq and Palestine also became beneficiaries of the program. Slightly more than 700,000 refugee children have benefited from the program and integrated into formal education. This figure makes up about 72% of total refugee children of 5-17 ages in Turkey²⁵. Although the percentages of attending to primary and secondary schools are relatively high (79% and 78% respectively), participation of refugees in high school education remains at 38%²⁶ across the country. This is a significant indicator that high school-age refugee youth are in the informal labour market instead of attending school. Within the scope of both tranches of FRIT, several projects are supported in the socio-economic priority area. These projects are listed in Table 4.

²⁵ PICTES, available at <https://piktes.gov.tr/Home/ProjeninCiktisi>, 11.10.2021.

²⁶ Ibid.



Table 4 List of projects on livelihoods and aimed at enhancing formal working conditions within the framework of the EU Facility for Refugees in Turkey (updated on 31/01/2022)²⁷

Funding Instrument	Implementing Partner	Title & Description	Amount Committed in €
Second tranche for 2018-2019			
Instrument for Pre-Accession Assistance (IPA) Special Measure 2019 on health, protection, socio-economic support and municipal infrastructure	Ministry of Family, Labour and Social Services	Improving the living standards of the most vulnerable refugees through basic needs support (C-ESSN)	245.000.000
	International Centre for Migration Policy Development (ICMPD)	ENHANCER - Enhancement of Entrepreneurship Capacities for Sustainable Socio-Economic Integration	32.502.249
	Expertise France	VET4JOB - Improving the employment prospects for the Syrian refugees and host communities by high-quality VET and apprenticeship in Turkey	30.000.000
	Kreditanstalt für Wiederaufbau (KfW)	Social and Economic Cohesion through Vocational Education in Turkey –II	75.000.000
	Kreditanstalt für Wiederaufbau (KfW)	Empowering the private sector to foster social and economic cohesion in Turkey	75.000.000
	The World Bank	Agricultural employment support for refugees and Turkish citizens through enhanced market linkages project	50.217.751
	The World Bank	Support to transition to labour market project	80.000.000
	The World Bank	Formal Employment creation project	80.000.000
	The World Bank	Social Entrepreneurship, empowerment and cohesion in refugee and host communities in Turkey project	42.280.000

²⁷ Data is retrieved from The EU Facility for Refugees in Turkey website: https://ec.europa.eu/neighbourhood-enlargement/system/files/2022-02/Facility%20table_January%202022.pdf



First tranche for 2016-2017			
EU Trust Fund	Gesellschaft für Internationale Zusammenarbeit (GIZ)	Qudra – Resilience for Syrian Refugees, IDPs and host communities in response to the Syrian and Iraqi crises	18.207.812
EU Trust Fund	Danish Red Cross	Addressing Vulnerabilities of Refugees and Host Communities in Five Countries Affected by the Syria Crisis	32.399.356
EU Trust Fund	Association for Solidarity with Asylum Seekers and Migrants (ASAM)	Enhanced Support to Asylum Seekers Affected by the Syrian and Iraqi Crises in Turkey	9.937.867
EU Trust Fund	Concern Worldwide	Building Tomorrow (BT) – Quality Education and Livelihoods Support for Syrians under Temporary Protection in Turkey	17.280.000
EU Trust Fund	UNDP	TRP - UNDP Turkey Resilience Project in response to the Syria Crisis	50.000.000
EU Trust Fund	Türkiye Odalar ve Borsalar Birliği (TOBB)	Living and Working Together: Integrating SuTPs to Turkish Economy	15.000.000
EU Trust Fund	UN Women	Strengthening the Resilience of Syrian Women and Girls and Host Communities in Iraq, Jordan and Turkey	5.529.078
Total Amount			332.084.331

The transition from emergency humanitarian aid to development mechanisms can be observed in the second tranche of FRIT after 2018. In terms of socio-economic development, FRIT funds Turkish language classes for refugees in the non-humanitarian track since the language barrier is a major hurdle to successful integration. In addition, FRIT initiatives provide vocational training, job search and counselling services to both refugees and members of host communities in order to increase their employability and labour market integration. Coaching services and micro-grants are available to help entrepreneurs succeed. Furthermore, to strengthen the capacity of the Turkish employment agency and the Turkish Ministry of Labour and Social Services, institutional support is being provided



by providing counselling and job assistance, as well as monitoring the provision of work permits and employment services. Livelihood and self-reliance projects are being funded in the form of vocational training, recognition of vocational qualifications, support for the implementation of the legal framework on access to the labour market and fostering refugee entrepreneurship. One specific project contracted through IPA Special Measure 2019 is the “Agricultural employment support for refugees and Turkish citizens through enhanced market linkages project” that aims to improve the resilience of Turkish citizens who are farmers or workers and refugee groups living in Turkey by providing technical and financial support. According to Kirişci (2020):

An agricultural focus is also suitable because large numbers of Syrian refugees are already employed in this sector, particularly in the largely agriculture-based economies of the Turkish provinces near the Syrian border. At present, their employment is marked by informality and deep precarity. Such a compact would help draw the refugees into the formal economy. It would also create opportunities to better use the agricultural experience and skills of refugees who have fled the northern, rural parts of Syria at a time when the Turkish agricultural sector suffers from labor shortages and structural challenges, such as aging among farmers.

Supporting the agriculture industry appears to be particularly promising due to the enhanced work options it provides for Syrian refugees. However, the view cited above pursues a utilitarian and instrumentalist approach to the issue as many refugee agricultural workers may be in fact over-qualified for performing these kinds of jobs and not suited or willing to do them, particularly when knowing that they will be under precarious situations and caught there for an indeterminate period or ‘permanent temporariness’. As raised in many interviews (TR3, TR4, TR8, TR9) though, the main challenge is the fact that the majority of the agriculture sector is based on informal mechanisms triggering conditions such as low wages, inhumane living conditions, housing problems, inability to access basic rights such as education and health, being invisible on the edge of urban space and worst of all, child labour. As it will be discussed further, structural problems inherent to the EU financial instruments, and also to Turkey, hinder extending sustainable and holistic solutions sufficient to eliminate the problems listed here.



One of the actions agreed upon in the Statement was the visa liberalization that will enable Turkish nationals to travel freely in Europe by the end of 2016²⁸. However, the EU and its member states, which operated externalization mechanisms on the grounds of political developments in Turkey, continued to instrumentalize immigrants in order to keep them in Turkey. Therefore, visa-free travel was never implemented²⁹. EU continues to outsource its gate-keeping role to Turkey through all these instrumentalizing and externalising policies.

Vulnerability

The concept of ‘vulnerability’ is absent in Turkish asylum laws and the closest conceptualization is the framing as ‘person with special need’ in the Law on Foreigners and International Protection (No. 6458). According to Article 3 of the LFIP, a person with special need is “out of those applicants and international protection beneficiaries, an unaccompanied minor; a disabled person; an elderly person; a pregnant woman; a single mother or a single father with an accompanying child; or a person who has been subjected to torture, rape or other serious psychological, physical or sexual violence”³⁰. Although LFIP mentions that persons with special needs shall be given priority with respect to their rights and actions, the conceptualization is simply inadequate. During the fieldwork, interviewees described vulnerability as “people who need to be aided first” (TR5), “people who are disadvantaged and/or disfranchised” (TR11), and “fragile” (literal translation for Turkish word *kırılgan* – TR8 and TR12). When the participants’ experiences in the field are asked about, **women-headed households**, **Afghani refugees** who have difficulty in accessing registration and the **newcomers** who are under the pressure of multi-dimensional precarity are revealed as the most vulnerable groups. One interviewee (TR12) mentioned that the asylum regime should recognize the unique vulnerability of LGBTI refugees and asylum-seekers which currently is not the case.

One of the participants (TR14) underlined that the categorization of vulnerability is streamlined in the ESSN scheme. As it was mentioned earlier, Complementary Emergency

²⁸ EU-Turkey Statement of 18 March 2016, in European Council Press Release 144/16 of 18 March 2016.

²⁹ https://www.ab.gov.tr/the-visa-liberation-dialogue_51819_en.html.

³⁰ <https://en.goc.gov.tr/kurumlar/en.goc/Ingilizce-kanun/Law-on-Foreigners-and-International-Protection.pdf>, Article 3(I), p. 2.



Social Safety Net (C-ESSN) Project aims to meet the basic needs of the “most vulnerable” who cannot be directed to livelihoods and the labour market through a cash-based assistance project. Unlike other regular aid programs, demographic criteria are applied in C-ESSN. According to the program’s application manual, these criteria are:

1. Households with one or more disabled individuals (disability rate must be 40 per cent or higher and must be proven with a disability report from an authorized state hospital).
2. Households where there is no person between the ages of 18-59 and at least 1 person aged 60 and over,
3. Households with only 1 individual between the ages of 18-59 and at least 1 individual under the age of 18 (includes if there is a single parent/individual aged 60 and over.)

Regarding the EU’s role in the asylum regime, the externalization and instrumentalization policies embed different levels of vulnerabilities in Turkey. Our research reveals three levels of vulnerabilities: (1) Structural, (2) Temporality-based, and (3) Instruments-induced vulnerabilities. In this last section of the report, these three categories are discussed through an in-depth analysis of fieldwork and interviews.

Structural vulnerability

More than four million asylum seekers, refugees and temporary protection holders share resources with the host community in Turkey, which is currently in an economic and political crisis. While a protracted stay should include policies to support integration, the government’s and other power holders’ policies and discourses that are built on return increased tension within the host community, leaving refugees and asylum seekers vulnerable to discriminatory actions. Moreover, the concentration of migrants in poor neighbourhoods means that job opportunities, accommodation resources and services are shared with those who have difficulties accessing them. Thus, structural vulnerability is not only derived from migrants and non-migrants coming into contact but there is a class-based intersectional issue that the lower class has to share the limited resources (TR10). In addition, the facts that the organizational structure and the legal regulations regarding migration and asylum regime is relatively new in Turkey, that the political governance is structurally centralized in Turkey and that local governments are functional mostly as implementing bodies are structural problems in terms of governance.



As it is revealed during the interviews, the most obvious structural vulnerability resulting from the asylum regime itself is the practice of geographical limitation to the 1951 Geneva Convention making those who seek asylum vulnerable to constantly changing regulations and live in limbo. Furthermore, according to a civil society representative (TR11), non-Syrians who are conditional refugees or hold subsidiary protection do not enjoy similar rights and support as Syrian nationals who are under temporary protection status do. For example non-Syrian asylum seekers have limited access to health services or weekly signature obligation at PDMMs as a control mechanism which is a practice implemented to ensure conditional refugees' stay in the cities they are registered. Not only conditional refugees but also temporary protection beneficiaries cannot leave the city without written permission and cannot change the city of residence, except for certain conditions. An asylum seeker who has a first-degree relative in another province can request a change of residence based on their kinship. Another reason for a change may be a serious health problem. Administrative and judicial actions are taken against the refugee and asylum seeker, who delays the signature obligation without an excuse or leaves the city of residence without permission (TR15).

The dependence of the Turkish economy on the informal market is described as the most fundamental structural vulnerability by the majority of interviewees, especially concerning refugees' access to the labour market which is in line with available literature (Baban et al., 2017; Şanlıer Yüksel and İçduygu, 2018; Ertörer, 2021). The fact that Syrians did not have the right to work formally until the regulation in 2016, and after this date, they continued to work informally due to reasons such as the lack of recognition of qualifications, the dominance of the informal market and the need for cheap labour, further deepening their precarious conditions. Especially Syrian and non-Syrian refugees are experiencing hyper-precariousness in sectors such as textile, shoe-making, construction and agriculture where they work most. According to civil society practitioners (TR8, TR11, TR14), child labour is practised majorly in these sectors and those practices are not regularly inspected and are even ignored. Violation of children's rights is observed not only in the form of labour, but also in not being able to attend formal education, not being able to access healthy living conditions and sometimes being unaccompanied. Refugees' right to work and contesting work rights practices are discussed in the WP4 deliverable by Costello and O'Cinnéide (2021).



As it is outlined earlier, health services are seen as the most accessible right. Yet, the Public Health Management System classifies irregular migrants as “stateless persons”. While the ability to access healthcare services is a significant development, patient monitoring has been noted to be challenging. The continued possibility of irregular migrants and refugees registered in other provinces being reported to law enforcement authorities is a key challenge in this regard. As a result, the threat of deportation may make migrants and refugees more hesitant to seek medical help in public facilities (Karadağ and Üstübici, 2021). The urgent need for steps to assist reduce this risk has been repeatedly addressed by civil society practitioners and professionals working in the field of migration.

Temporality-based vulnerability

This category is heavily embedded in structural vulnerability. However, both the temporary protection regime for Syrian nationals and the conditional refugee status and subsidiary protection schemes for non-Syrians cause vulnerabilities due to the temporality of their structures. Therefore, our analysis of fieldwork reveals that this category should be assessed separately.

Although Turkey ratified 1951 Geneva convention and adopted the principle of *non-refoulement*, the fact that Syrians still hold a status such as *temporary protection* poses the risk of being returned. The issue of repatriation is often kept on the agenda as a threat in both domestic and foreign politics which enkindles hostility of local communities towards Syrians. Furthermore, although those who seek asylum and come from countries other than Europeans do not directly experience the risk of being sent back, temporality turns into a threat as they await resettlement to a safe third country in limbo in Turkey. These conditions, combined with the precariousness of everyday life, caused refugees seeking better lives to leave Turkey irregularly (Baban et al., 2017; Ertörer, 2021). According to an interview with a migration governance practitioner (TR5), especially qualified refugees and asylum seekers moved towards Europe and the number of Syrians living in Turkey with a PhD or equivalent degree is less than three hundred.

The most distinctive vulnerabilities triggered by temporality can be observed in refugee inclusion. The most obvious ones are the hesitance in Turkish-language learning which incapacitate refugees in accessing even basic rights, such as health services and education. Most women do not speak and/or learn Turkish which causes them to stay away from the public space. Another visible vulnerability in relation to temporality is the discrimination



towards refugees that is reinforced by the perception that they are not and “should not be” permanent (TR10). Turkish officials could not manage to inform the public to counter rising negative views toward the refugees. Moreover, the temporary protection scheme restricts Syrian nationals’ mobility in and out of Turkey. They are supposed to live and work in the provinces they are registered and their travel is bound to the permission given by the provincial directorates of migration management. Much worse, no matter how long the Syrian refugees stay in Turkey, the temporary protection status does not pave the way for the citizenship option and long-term residence or settlement.

Another temporality-based vulnerability is concerning conditional refugees’ access to health care. The Turkish government amended the LFIP in 2019 to impose a temporal limit on access to healthcare. According to the amendment in Article 89 of LFIP, international protection holders above the age of 18 are only covered by the state for the first year following their registration with the authorities, according to the amendment³¹. This has a significant impact on the lives of non-Syrian asylum seekers (Karadağ and Üstübici, 2021).

Instruments-induced vulnerability

As stated earlier in the conceptual framework and at the beginning of this section, definitions of vulnerability and the way in which they are interpreted and practised by relevant actors tend to refer to the conditions that asylum seekers and refugees are already in. These conditions are listed as being “minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence” by the European Commission³². However, the fieldwork shows us that the economic and political contexts of the activities carried out in order to improve the conditions of migrants and refugees and to create sustainable and lasting living spaces can also create vulnerability. As it became clear during in-depth interviews, the EU instruments themselves and their implementations in the field may cause vulnerabilities due to the externalization policy of the EU and instrumentalizing refugees for the sake of this policy.

³¹ <https://en.goc.gov.tr/kurumlar/en.goc/ingilizce-kanun/Law-on-Foreigners-and-International-Protection.pdf>

³² https://ec.europa.eu/home-affairs/pages/glossary/vulnerable-person_en.



Mobility and Resettlement

The statement is framed as an instrument to stop irregular migration and its discourse is structured on “extraordinary and temporary conditions”. However, trying to stop the border crossings with brutal methods was not enough to end irregular crossings. Deaths on the Mediterranean route decreased but did not end. According to IOM³³, 1577 people have died in the first 9 months of 2021 alone and more than 22,863 missing migrants are recorded since 2014 in the Mediterranean. Not only the Mediterranean route but also the West Asian route witnessed deaths while crossing to Turkey from Iran, Iraq and Syria³⁴. According to a migration law practitioner (TR15), it is clear that this will continue after the developments in Afghanistan.

Since 2016, irregular entries into the EU have decreased by more than 90 per cent (EC, 2021), 30,470 Syrian refugees in Turkey were resettled to an EU country (Table 3), 2,139 migrants³⁵ were repatriated to Turkey (DGMM, 2021), and 4,030 migrants voluntarily returned to Turkey (EC, 2021). Political tensions between Turkey and the EU arose during the process, raising concerns about the “statement’s fate”. Tensions emerged primarily as a result of disagreements over visa liberalization and financial obligations. According to an interviewee (TR3), Turkey attempted to threaten the EU by using migrants as pawns. Tensions reached their peak with the developments that took place in March 2020, when the Turkish state announced that it had decided not to prevent the migration of immigrants to Europe as a political move. After the announcement of this decision, the migrants who headed for the Greek border could not pass to Greece after Greece increased the border security and they were stuck in the buffer zone between the two countries, resulting in pushbacks and inhumane conditions at the Greek-Turkish border. Later, they dispersed within Turkey after the borders were completely closed due to the Covid-19 pandemic. According to a local authority representative (TR9), the deal carries the colonialist motives and externalization policies become a threat to refugees as it is outlined by Crisp (2020). Furthermore, since Syrians are not legally defined as refugees in Turkey, having a temporary protection status is the ultimate obstacle in their search for a better life outside of Turkey, which is coined as “contained mobility” by Carrera and Cortinovis (2019). They

³³ <https://missingmigrants.iom.int/region/mediterranean>.

³⁴ <https://missingmigrants.iom.int/region/western-asia>.

³⁵ DGMM, <https://en.goc.gov.tr/return-statistics>.



describe the terms as “an approach combines aspects on containment ... with others on mobility, yet a kind of mobility that presents highly selective and restrictive features” (p. 5). This highly selective mobility can be observed in the one-to-one scheme as the EU receives more qualified immigrants (TR10).

As it is outlined at the beginning of this section, Turkish asylum laws lack a clear definition of ‘vulnerability’ and tools to assess vulnerability, especially in terms of resettlement. According to a migration governance practitioner (TR5), DGMM uses the vulnerability criteria for specific groups, namely women and children which is different than the UN’s standards. But, UNHCR collaborates with DGMM in resettlement processes. It should be noted that the final decision on resettlement is acquired by the receiving countries in one-to-one scheme. Welfens and Bekyol (2021, p. 1) argue that “on paper and in practice vulnerability as a policy category designates some social groups as per se more vulnerable than others, rather than accounting for contingent reasons of vulnerability”. According to their research, first of all, refugees can apply to the resettlement process through the referral of NGOs such as ASAM or with the referral of DGMM itself. Following DGMM’s assessment at this initial stage, UNHCR conducts its own vulnerability assessment. Although the economic potential of the applicant is evaluated at this stage, it can still be said that gendered categories predominate in vulnerability assessment. After this stage, the admission state’s vulnerability assessment comes into play. Welfens and Bekyol (2021), in their research in which they examined Germany as an admission state, observed that the evaluation of the applicant as a potential security threat or having integration difficulties prevents resettlement.

Financial Instruments

The EU-TR Statement induces immobility of refugees not only in terms of the one-to-one scheme but also from the implementation of FRIT funds and other financial instruments, such as IPA funds. A significant portion of these funds is used to prevent the crossing of immigrants from the Syrian and Iranian borders, which means raising and externalizing the borders via building walls, increasing technological surveillance and militarizing the borders more and more (Drakopoulou, Konstantinou and Koros, 2020). The request of the gendarmerie commander, who captured Afghan refugees on the Iranian border, to be documented and shown to Europeans, which was quoted at the beginning of this report, should be analysed precisely in this context. The use of funds has been contested widely by civil society. Furthermore, criticism of the implementation of the funds does not only



come from rights-based institutions and civil society but also the European policymakers themselves. In July 2021, just after the mid-term report on the FRIT funds was published, European Parliament's Committee on Civil Liberties, Justice and Home Affairs mentions cases of human rights violations have taken place under EU-TR Statement by both parties and called for the EU "to review the EU-Turkey Statement in order to guarantee compliance with human rights standards and to ensure that the humanitarian aid and support provided by the FRT is not threatened by political volatility" (LIBE, 2021, p. 8).

As outlined earlier, FRIT funds are distributed via projects, which leads to 'project fetishism', a condition that can be defined as implementing a project to get a share of the financial pie, rather than using the project instrumentally to realize the actions. An international organization representative (TR6) has criticized both themselves and Turkish stakeholders for this loophole. This led to misuse of financial resources, for example in the form of vocational training projects. A small number of refugees became professional students by participating in different trainings in different projects over and over again. According to a local authority representative (TR9), "This trend has now been realized and more people are shifting towards projects that support entrepreneurship. But millions of Euros were spent before it was recognized." Furthermore, most projects did not support infrastructures at the local level which resulted in unsustainable project outcomes, especially during the first tranche, leaving municipalities with large refugee populations more vulnerable in managing urban challenges resulting from unexpected population growth due to protracted migration. In addition, it was stated in the fieldwork that local level bureaucrats did not want to implement the projects because they did not receive personnel wages from these projects which they perceive as a burden on top of the daily workload they already have to do (TR8).

Another challenge raised during the fieldwork was the refugees' dependence on cash assistance and the Emergency Social Safety Net (ESSN) Programme funded by the European Union Civil Protection and Humanitarian Aid (ECHO) and implemented in partnership with the International Federation of Red Cross and Red Crescent Societies (IFRC), the Turkish Red Crescent (TRC) and Ministry of Family and Social Services. According to many interviewees, cash assistance is a burden to be employed formally, because it's cut when one is formally employed. It was also stated that cash assistance should be terminated over time, remaining a scheme that will continue only for the most vulnerable (TR14). Projects funded under FRIT have been criticized for some time now as



not supporting refugees' self-reliance and leaving them vulnerable to informal market and precarious conditions. Despite the optimistic views (Kirişci, 2020) claiming that comprehensive projects to be made especially for the agricultural sector, where refugees work intensively, are valuable both for EU-TR trade and that it will be possible for refugees to access formal business resources, the newly implemented projects in agriculture may also have drawbacks. A civil society representative (TR8) mentioned that although one of the main challenges is the high rate of informality in agriculture, the projects aim to improve the resilience of Turkish citizens who are farmers or workers and refugees can prevent informality. Because the wages are very low, the conditions are hyper-precarious, and the amount of ESSN is very low, both Turkish citizens and refugees prefer formal employment. But the main problem is that agricultural labour is cyclical, seasonal and mobility is very high. Therefore, "I am sceptical of the success of the training actions aimed at large target groups in these projects. Because we do not know whether the person who receives hazelnut harvesting training will work in orange packaging next season." (TR8).

On a different note, as clearly stated by Costello and O'Cinnéide (2021) "many of the deals only leverage better rights for one particular groups of refugees, ignoring the others", including EU-Turkey Statement. FRIT funds are primarily designed for Syrians that induce discrimination among refugee and migrant groups in Turkey. An evident example is the SIHHAT project in the health sector and migrant health centres established under this project. Only Syrian refugees and some Turkish citizens are employed at the centres and only Syrian refugees are beneficiaries. Such a design makes other refugees and migrants even more vulnerable, who are already disadvantaged in accessing healthcare. As it is mentioned in our interviews, "inclusion of non-Syrians" is one of the main concerns for a possible novel agreement (TR2, TR4, TR6).

In terms of monitoring the use of the funds, representatives of civil society criticized the mere attention paid to quantitative measures. A representative of a national-level NGO (TR12) stated that:



I think the most important problem for both NGOs and those working in these NGOs is caring for the quantity rather than the quality of the service. The main concern in the funded projects is the emphasis attributed to how many beneficiaries are outreached rather than how the project contributes to the beneficiaries. On top of it, the evaluation of the project employees by the NGOs and project managers, and the evaluation of NGOs by the donors, are based on continuous quantitative target indicators. If we cannot evaluate the quality rather than the quantity, we have a huge problem.

Similar complaints are raised from not only local and national but also from representatives of international organizations that are donors (TR3 and TR6). Furthermore, in Strategic Mid-term Evaluation of the Facility for Refugees in Turkey³⁶ published in June 2021, Turkey is criticized for not executing proper needs assessment: “Turkish authorities did provide a document entitled ‘needs assessment’, however, this was considered a collection of budget lines from the overall national response rather than an actual analysis of refugee needs” (p. 7). It is clear that the use of funds without the needs and vulnerability assessments may fail to meet the demands and commitments.

As the last point, EU-Turkey Statement holds various existing and potential legal issues which are discussed by Tan and Vedsted-Hansen (2021). These include whether Turkey can be considered a third safe country (Ulusoy, 2016) and structural conditions of Greece and the asylum regime in the EU leave refugees stocked in hotspots of Greek islands. In addition, as observed in the field, with the increasing number of Afghan refugees during recent months, developments such as the registration and RSD procedures are not carried out (TR15), and Turkey block Syrian, Iraqi and Yemeni nationals from buying flight tickets to Belarus³⁷ in mid-November 2021 are the examples of the EU-TR Statement induces permanent temporariness (Bailey et al., 2002) for refugees and asylum seekers in Turkey.

³⁶ https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-09/strategic_mid-term_evaluation_annexes.pdf.

³⁷ <https://www.theguardian.com/world/2021/nov/12/turkey-bans-citizens-syria-yemen-iraq-from-flying-minsk>.



Conclusion

Throughout this report, the instrumentalization of migrants in Turkey through EU arrangements and externalization policies has been discussed. As revealed during the fieldwork, both EU policies and Turkish official practices under EU-TR Statement tend to “follow a static, group-based understanding of vulnerability” (Welfens and Bekyol, 2021). Rather than such a perspective, a paradigmatic shift in the understanding of vulnerability might be proposed as it is a situation that is directly involved and caused by the foreign policies of the EU. The EU outsources the containment of refugees to Turkey, causing Turkey to reproduce these vulnerabilities on both politico-legal and socio-economic levels.

ASILE’s WP4 specifically aims to map and examine current EU arrangements with third countries of origin and transit of persons seeking international protection. The most important source of reliable answers to these issues, and especially of the hyper-precarity and vulnerability discussions, is of course the refugees themselves. For this reason, in the second phase of the fieldwork, interviews with refugees, temporary protection beneficiaries, and asylum seekers will be held in 2022. In addition, agricultural labour will be focused on as a specific theme in the assessment of working rights and conditions. Vulnerabilities based on gender and being an unaccompanied minor will be discussed further, as both are intersectional within all vulnerability categories. As the Turkey country report focuses on EU instruments, how institutions, in particular, make their vulnerability assessments has not been evaluated at this stage. However, considering EC’s criticism in its mid-term report, understanding how vulnerability assessment is done, especially by the authorities in Turkey is a dimension that will be focused on in the next leg of the field research. In addition, PDMM officers will be interviewed to understand the implementation of the RSD procedure and their responses to the criticisms.



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APPENDIX I. List of Interviewees

Interviewee Code	Date Conducted	Position	Level of Organization	Medium of interview
TR1	30.03.2021	International Organization Representative	International	Online
TR2	30.03.2021	International Organization Representative	International	Online
TR3	05.04.2021	Civil Society Representative	International	Online
TR4	06.04.2021	International Organization Representative	International	Online
TR5	26.04.2021	Migration Governance Practitioner	National	Online
TR6	29.04.2021	International Organization Representative	International	Online
TR7	30.04.2021	Migration Governance Practitioner	Local/regional	Face-to-face
TR8	03.05.2021	Civil Society Representative	Local/regional	Online
TR9	17.05.2021	Local Authority Representative	Local/regional	Face-to-face
TR10	20.05.2021	Civil Society Practitioner	National	Online
TR11	25.05.2021	Civil Society Practitioner	National	Online
TR12	25.05.2021	Civil Society Practitioner	National	Face-to-face
TR13	10.06.2021	Local Governance Practitioner	Local/regional	Face-to-face
TR14	15.06.2021	Civil Society Practitioner	National	Online
TR15	17.06.2021	Migration Law Practitioner	Local/regional	Face-to-face