



## **Turkey – Researched and compiled by the Refugee Documentation Centre of Ireland on 22 April 2014**

### **What is the position of a refugee from Al-tash camp in Iraq who has been granted refugee status by the UNHCR in Turkey?**

A 2009 UN High Commissioner for Refugees Paragraph intervention before the European Court of Human Rights, in paragraph 2.6, states:

“In Turkey, UNHCR registers non-European asylum-seekers in its offices in Ankara and Van. Additionally, the offices in Istanbul and Silopi provide counsel to those non-European persons expressing their will to apply for refugee status in Turkey, who are then referred to the offices in Ankara or Van for registration and further processing purposes. At the time of registration with UNHCR, all applicants are informed of the procedures to seek temporary asylum in Turkey and are referred to the authorities to register in the city designated by the Ministry of Interior pursuant to the 1994 Asylum Regulation.” (UN High Commissioner for Refugees (UNHCR) (January 2009) *UNHCR intervention before the European Court of Human Rights in the case of Abdolkhani and Karimnia v. Turkey*, p.3)

In paragraph 2.9 this intervention states:

“If the UNHCR’s decision is to recognize the applicant as a refugee under UNHCR’s mandate, a refugee certificate is issued by UNHCR to the person and his/her file is transferred to UNHCR Ankara’s Resettlement and Repatriation Unit to examine durable solution options. In the absence of other prospects – voluntary return or local integration – the durable solution is invariably resettlement to a country willing to accept the case. Pending resettlement, UNHCR expects that refugees are not forcibly removed from Turkish territory.” (ibid, p.3)

Paragraph 4.5 states:

“Although cooperation with regard to RSD conducted by UNHCR has never been formalized, a common practice has evolved. Usually, the Turkish authorities wait until UNHCR has reviewed a case before taking a decision on whether or not to grant temporary asylum: The Turkish authorities generally agree to grant temporary asylum to persons UNHCR considers to be refugees. Occasionally, the authorities do not grant temporary asylum to persons recognized as refugees by UNHCR. The reasons for this are unknown to UNHCR as the Office does not have access to individual files held by the authorities. UNHCR has, however, observed that refusal of ‘temporary asylum’ concerns mainly cases which are re-opened after rejection; applications of persons whose claims are considered to be in ‘bad faith’ by the authorities, such as those submitted at the time of arrest for lack of legal status in Turkey; persons applying for asylum at international airports; persons who were recognized by UNHCR as mandate refugees outside of

Turkey; and persons whose stay is considered a threat to national security.” (ibid, p.7)

5.1.4. refers to protection shortfalls in the Turkish temporary asylum system as follows:

“Most of the protection shortfalls relate to the non-access of non-European asylum-seekers to the national temporary asylum system. However, there have been also instances of denial of protection to persons recognized as refugees under UNHCR’s mandate. In 2007, five Iranian refugees recognized under the mandate of the High Commissioner, who were also registered in the Government’s temporary asylum procedure, and who were in process of being resettled, were deported to Iraq, notwithstanding the fact that they had never been in Iraq before. The Turkish authorities invoked national security reasons that required their expulsion from the country. No further information was disclosed to UNHCR.” (ibid, p.8)

See also paragraph 5.1.5. which states:

“Moreover, individuals who seek protection in Turkey after they were recognized as refugees under UNHCR’s mandate in countries of first asylum, notably Iraq, are denied access to the temporary asylum procedure for non-European asylum-seekers and are at risk of direct or indirect refoulement as they are subject to detention and to deportation either to the previous country of asylum, or to the country of origin. This has been particularly true of cases of former members of the PMOI who were recognized as refugees under UNHCR’s mandate while staying at the Temporary Interview and Protection Facility in Iraq (‘TIPF’), including Mr. Abdolkhani and Mr. Karimnia. According to information available to UNHCR, 24 Iranian refugees who were former members of the PMOI and were recognized in the TIPF in Iraq, were deported back to Iraq by Turkey, and three were directly removed to Iran in breach of the principle of non-refoulement” (ibid, p.8)

Paragraph 5.1.6. states:

“Actual or attempted removals of members of this group of refugees have been carried out without taking into consideration the fact that these individuals had been recognized as refugees by UNHCR under its mandate. The Government of Turkey has informed UNHCR that it does not recognize UNHCR mandate recognition taken elsewhere.” (ibid, p.9)

A 2009 Amnesty International report, in a section titled “Background”, states:

“Due to Turkey’s refusal to allow non-Europeans to apply for refugee status, UNHCR undertakes the task of assessing the claims of non-European asylum-seekers. The Turkish authorities have developed a parallel refugee status determination (RSD) procedure meaning that refugees must, in addition, be recognized by the national authorities. Under UNHCR’s agreement with the Turkish authorities, once asylum-seekers are recognized as refugees by both, UNHCR must seek to resettle them outside Turkey. Among others, large numbers of asylum-seekers from Afghanistan, Iran, Iraq and Somalia have sought refugee status in Turkey in this way, in addition to a growing number of asylum-seekers from various African countries. Large numbers of Europeans who may be in need of international protection have

also fled to Turkey from Bulgaria, Bosnia and Herzegovina, Chechnya and Kosovo; while people within these groups have been granted permission to remain within Turkey, not a single person has been recognized as a refugee under the Refugee Convention by the national authorities in Turkey.” (Amnesty International (22 April 2009) *Turkey: Stranded: Refugees in Turkey denied protection*, p.9)

In a section titled “Refugee Status Determination” (section 2.1.3.) this report states:

“In the case of non-European asylum-seekers, UNHCR runs a parallel process whereby it conducts RSD interviews on which basis it may recognize them as refugees. In practice, the vast majority of refugee status decisions made by the MOI mirror those taken by the UNHCR. Resettlement of non-European refugees to third countries is sought by the UNHCR in cooperation with the MOI.” (ibid, p.10)

A section titled “The Rights of Asylum-Seekers and Refugees” refers to the refoulement of refugees recognized by UNHCR as follows:

“Both registered asylum-seekers and refugees recognized by UNHCR have been forcibly returned to countries where they may face serious violations of their human rights in contravention of the principle of non-refoulement. The resettlement of UNHCR-recognized refugees to third countries has been obstructed by state authorities.” (ibid, p.17)

See also section titled “*Refoulement*” ( section 4.4) which states:

“In some cases forcible returns have taken place after the national authorities have rejected persons who are recognized as refugees by the UNHCR in Turkey or registered asylum-seekers whose status has not been definitively determined by the UNHCR.” (ibid, p.27)

This section also states:

“On 22 August 2007, five Iranian refugees recognized by UNHCR in Ankara were forcibly returned to Iraq. The deportation by the Turkish authorities was conducted without any legal procedure being followed and UNHCR was not notified of the decision. The UNHCR learnt that the refugees were detained for more than a month after being forcibly returned to Iraq. An official from the Van Directorate of Security acknowledging the deportation told Amnesty International that the five refugees were deported because they represented an (unspecified) threat to national security.” (ibid, p.28)

A report by the Commissioner for Human Rights of the Council of Europe, in a section titled “Reception and living conditions of registered temporary non-European asylum seekers”, states:

“Registered asylum seekers and those who received this status and are awaiting a resettlement with the help of UNHCR, are obliged to reside in one of the 30 designated or ‘satellite’ cities. There, they have to find accommodation on their own, receiving very limited assistance from local authorities mainly in the form of ad hoc support from social welfare funds and

varying from one city to the other. While primary health care through public clinics is available free of charge in most provinces, cost of medication is not covered and treatment for serious illnesses appears often to be insufficient. The Commissioner appreciates that children of asylum seekers may attend primary school but notes with concern that children without legal status, i.e. residing in an area other than the designated city or having failed to pay the residence fee, may face practical difficulties.” (Council of Europe: Commissioner for Human Rights (1 October 2009) *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Turkey on 28 June - 3 July 2009. Issue reviewed: Human rights of asylum seekers and refugees*)

In a section titled “Issues relating to forced returns of asylum seekers and refugees” (paragraph 66) this report states:

“The Commissioner notes with concern that NGOs as well as UNHCR continue to report incidents of deportation and refoulement of UNHCR recognized refugees and registered asylum seekers. He is aware that the UN Committee on the Elimination of Racial Discrimination (CERD) also expressed concern over these reports and called upon Turkey to refrain from deporting refugees or persons registered with UNHCR as asylum seekers. (ibid)

Article 62 of the April 2014 Law on Foreigners and International Protection states:

“A person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted conditional refugee status upon completion of the refugee status determination process. Conditional refugees shall be allowed to reside in Turkey temporarily until they are resettled to a third country.” (Republic of Turkey Ministry of Interior Directorate General of Migration Management (April 2014) *Law on Foreigners and International Protection*, pp. 64-65)

A European Commission progress report on Turkey, in a section headed “Chapter 24: Justice, freedom and security”, refers to the new Law on Foreigners and International Protection as follows:

“With regard to asylum, the new Law on Foreigners and International Protection introduces significant safeguards, including the respect of the principle of non-refoulement, and the access to refugee status determination procedures for any person in need of international protection. However, the provisions of the Law on the refugees of European and non-European origin differ, in line with Turkey’s geographical reservation to the 1951 Geneva Convention. The new system needs to be further developed, notably with regard to refugees’ rights, through implementing legislation.” (European Commission (16 October 2013) *Turkey 2013 Progress Report Accompanying the document Communication from the Commission to the European*

A UN Human Rights Council report, in a section titled “The asylum procedure” (paragraph 63), states:

“The Special Rapporteur is concerned that Turkey maintains its geographical limitation to the 1951 Convention relating to the Status of Refugees, and will thus only accept nationals of a Council of Europe member State for refugee status. While noting that asylum claims of non-European nationals are still processed in Turkey, and that these persons may be granted 'conditional refugee' status, the Special Rapporteur regrets that no durable solution can be found in Turkey for non-Europeans, resulting in many years of uncertain future for most of them. He notes that lifting the geographical limitation is a precondition both for visa liberalization and for Turkey’s accession to the EU.” (UN Human Rights Council (17 April 2013) *Report by the Special Rapporteur on the human rights of migrants, Addendum : Mission to Turkey (25–29 June 2012)*, p.15)

The 2014 US Department of State country report on Turkey, in a section titled “Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons”, states:

“The Foreigners and International Protection Law, passed in April, established the Directorate of Migration in the Interior Ministry, with responsibility for the granting of asylum or refugee status scheduled to begin in April 2014. This law standardizes the treatment of asylum-seekers countrywide, and establishes a new system of protection. While a significant step, the law did not eliminate the government’s limitation of rights granted in the 1951 UN Refugee Convention to refugees only from Europe. While most asylum seekers are thus still not considered refugees under the law, the government granted Temporary Protected Status and protection against refoulement to all non-European asylum seekers who met the definition of a refugee as defined in the 1951 convention and as determined through status determinations by the Office of the UN High Commissioner for Refugees (UNHCR).” (US Department of State (27 February 2014) *2013 Country Reports on Human Rights Practices: Turkey*, p.29)

## **References:**

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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