

EUROPE'S GATEKEEPER

UNLAWFUL DETENTION
AND DEPORTATION OF
REFUGEES FROM TURKEY

AMNESTY
INTERNATIONAL



INTRODUCTION

On 2 September 2015, pictures that shocked the world showed the lifeless body of three year-old Alan Kurdi on a Turkish beach. He was a Syrian refugee who died after the boat in which his family had attempted to cross to the Greek island of Kos capsized. Since January, hundreds of thousands of refugees, asylum-seekers and migrants had made the same journey, arriving in Greece, while 627 are known to have died along the way.¹ In mid-to late-2015, political pressure from the EU on Turkey to halt the irregular crossings grew and negotiations developed towards an agreement to combat irregular migration across their land and sea borders.

At the same time, in Turkey, a less visible human rights crisis began to blight the lives of refugees and asylum-seekers fleeing war and persecution in countries such as Iraq and Syria. This briefing documents the plight of hundreds of refugees and asylum-seekers apprehended near Turkey's land or sea border with the EU, who have been held in prolonged detention, denied all communication with the outside world and in some cases forcibly returned to their home countries, in violation of Turkish and international law.

This apparent policy shift is a new development. Up until September this year, the main human rights concerns facing refugees in Turkey have not included unlawful detention and deportation. Turkey hosts the largest refugee population in the world,² with over 2.2 million registered refugees from Syria³ and approximately 230,000 asylum-seekers from other countries.⁴ In November 2014 Amnesty International reported that despite considerable resource allocation and positive policy initiatives by the Turkish authorities, hundreds of thousands of Syrian refugees were likely to be destitute or at serious risk of destitution, with inadequate access to housing, education and healthcare.⁵ While further initiatives in 2015 have improved access to education and healthcare in particular, the needs have also increased, with NGOs providing assistance to Syrian refugees reporting a net increase in the number of people requesting their services. The situation remains dire for many, with legal provisions to grant work permits not being

¹ International Organization for Migration, "Mediterranean Update – Migration Flows Europe: Arrivals and Fatalities," 2 December 2015, available at

http://missingmigrants.iom.int/sites/default/files/Mediterranean_Update_2_December.pdf, p. 1.

² UNHCR, *Facts and Figures about Refugees*, 2014, available at <http://www.unhcr.org.uk/about-us/key-facts-and-figures.html>.

³ UNHCR, *Syria Refugee Regional Response: Turkey*, available at <http://data.unhcr.org/syrianrefugees/country.php?id=224>.

⁴ European Commission, *Turkey: 2015 Report*, November 2015, available at http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf, p. 71.

⁵ Amnesty International, *Struggling to Survive: Refugees from Syria in Turkey*, 20 November 2014, EUR 44/017/2014, available at <https://www.amnesty.org/en/documents/EUR44/017/2014/en/>.

applied in practice and little or no subsistence available to the 90% of Syrian refugees who live outside government-run refugee camps. The economic situation for other groups of refugees and asylum-seekers in Turkey is similarly difficult and the *Law on Foreigners and International Protection* that entered into force in 2014 is rarely implemented in practice, with the result that very few asylum claims are actually being processed.

The dire conditions for many refugees and asylum-seekers in Turkey undoubtedly contribute to their irregular onward movement to the EU. Refugees and asylum-seekers who are unable to survive in Turkey, as well as those transiting through the country from Africa and the Middle East, are moving irregularly to the EU in increasingly large numbers.⁶ Between 1 January and 10 December 2015, more than 792,000 people had arrived to Greece irregularly by sea;⁷ with the arrivals in the first 10 months of the year representing 1,300% more than during the same period in 2014. In October 2015 alone, and despite dangerous sea conditions, more than 150,000 people travelled from Turkey to Greece (compared to 8,500 in October 2014). Syrian refugees made up the majority of arrivals.⁸

In this context, the EU-Turkey migration deal signed at a special summit on 29 November 2015 and based on the Joint Action Plan of 15 October⁹ is fraught with danger.¹⁰ On the one hand, Amnesty International has been told that the majority of the 3 billion Euro committed by the EU will go towards improving the humanitarian situation for refugees in Turkey, as outlined in the Joint Action Plan.¹¹ This is a long-overdue and much-needed acknowledgement of the EU's financial responsibility towards Syrian refugees, who are almost entirely accommodated in Turkey and other states neighbouring Syria. On the other hand, the migration deal fails to offer any credible safe and legal routes for people in need of international protection to access EU territory for the purpose of seeking asylum, the absence of which is a major driver of irregular migration. Proposed cooperation between Turkey and EU member states to police the border and prevent irregular crossings is likely to result in more people risking their lives in attempts at longer and still more dangerous sea routes. As such, this aspect of the

⁶ In 2014 UNHCR resettled 8,944 refugees from Turkey, including 284 Syrians, an increase from 22 Syrian refugees who departed in 2013. See UNHCR, *Projected Global Resettlement Needs: 2016*, July 2015, available at <http://www.unhcr.org/558019729.html>, p. 54.

⁷ UNHCR, "Greece Data Snapshot," 11 December 2015, available at <http://data.unhcr.org/mediterranean/download.php?id=262>.

⁸ Frontex, "540 000 Migrants Arrive on Greek Islands in the First 10 Months of 2015," 10 November 2015, available at <http://frontex.europa.eu/news/540-000-migrants-arrived-on-greek-islands-in-the-first-10-months-of-2015-4uH4FJ>.

⁹ European Commission, *EU-Turkey Joint Action Plan*, 15 October 2015, available at http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm.

¹⁰ Amnesty International, *Fear and Fences: Europe's Approach to Keep Refugees at Bay*, 17 November 2015, EUR 03/2544/2015, available at <https://www.amnesty.org/en/documents/eur03/2544/2015/en/>, p. 53-54.

¹¹ Ankara interview with the EU Delegation to Turkey, 4 December 2015.

migration deal is the continuation of a failed EU policy which has seen the land routes from Turkey to Bulgaria and Greece effectively closed.

This briefing examines the unlawful detention and deportation of refugees and asylum-seekers in Turkey who had attempted to cross irregularly to the EU during the period leading up to and after the signing of the migration deal. The document makes a number of recommendations to the EU and Turkey, calling for an end to these illegal practices, for past cases to be investigated, for victims to be granted full reparations and for independent oversight to monitor the migration deal's implementation and compliance with international human rights law and standards.

METHODOLOGY

The briefing is based on research conducted by Amnesty International in October, November and December 2015, including face-to-face and telephone interviews with more than 50 refugees and asylum-seekers who had been detained and some who had been deported from Turkey, and with their relatives.¹² Researchers conducted interviews in Ankara, Bursa, Gaziantep, Hatay, Istanbul, Osmaniye and Şanlıurfa. During the research Amnesty International also met with civil society organizations, the UN Refugee Agency (UNHCR), Turkey's General Directorate of Migration Management, a representative of Turkey's Prime Ministry's Office, and the EU Delegation to Turkey. Amnesty International requested access to two detention facilities from where forcible returns were reported. The Turkish authorities granted access to the Düziçi camp in Osmaniye province but not to the Erzurum Removal Centre in Erzurum province.

DETENTION

According to consistent accounts by refugees and asylum-seekers, in September 2015 the Turkish authorities began apprehending some of those who attempted to cross irregularly to the EU, and transporting them more than a thousand kilometres by bus to isolated detention centres in the south or east of the country. According to these accounts, people's access to the outside world was cut off, with mobile phones confiscated and visits by lawyers and family members forbidden. Refugees and asylum-seekers said they were detained for between several weeks and approximately two months, and were not given any reasons for their detention. Some of those

¹² Amnesty International conducted 47 face-to-face interviews, including with 22 people who had been detained in the Erzurum Removal Centre or relatives of people who had been detained there, and 25 people who had been detained in the Düziçi detention centre or their relatives. Ten of the detainees were women, 33 were men and four were children.

detained reported that they were physically ill-treated by officials. As discussed below, the detention described to Amnesty International by refugees and asylum-seekers violates Turkey's obligations under domestic and international law. It is not clear why some people apprehended were promptly released while others, including families with young children, were subjected to these illegal practices.

There is also evidence that the detentions (and deportations, discussed further below) documented in this report may be just the tip of the iceberg. When detainees are denied all communications with the outside world, discovering their cases is very difficult. Many of the cases documented in the briefing were discovered by chance, reported by detainees or their relatives who happened to have Amnesty International's contact information, via mobile phones concealed from the detaining authorities. On one occasion, a group of detainees managed to contact Amnesty International but then vanished. On 26 November 2015 Amnesty International received information that a group of more than 60 Kurdish asylum-seekers from Iran and Iraq were being detained and threatened with deportation. The group was split up, with a number of people being transferred to a detention facility on Kocaeli in western Turkey, according to GPS coordinates that the asylum-seekers or their family members sent to Amnesty International researchers. A text message sent to a researcher at 2:30 a.m. on 27 November reading "please help us" was the last contact received from the group. The phones were then switched off and it was impossible to ascertain whether the group continued to be detained at the site or had been released, transferred to another detention centre, or deported.

All of the detained refugees told Amnesty International that they had been apprehended in one of the western border provinces, such as Edirne or Muğla. Most of them said that they were attempting or intending to cross irregularly to the EU, including those who were part of a group of approximately 112 people who were present at a protest near Edirne and – according to accounts received by Amnesty International – detained on 24 September. Some people, however, appear to have simply been in the wrong place at the wrong time; Amnesty International received reports that two groups of Syrian detainees had been holidaying in Bodrum when they were apprehended by the authorities; one family had been eating dinner at a seaside restaurant.¹³

After being apprehended, refugees and asylum-seekers said they were detained locally, before being taken more than a thousand kilometres by bus to Düziçi camp in Osmaniye province or the Erzurum Removal Centre in Erzurum province. Amnesty International researchers have seen two video clips of distressed families on a bus, while uniformed police stand outside,

¹³ Gaziantep interview with civil society organization, 1 December 2015.

purportedly during a transfer to the Düziçi camp in September 2015. A number of people speaking Arabic can be heard refusing to continue the bus journey, encouraging others to get off the bus, saying “Get off – what are they going to do to us?,” while other people say “Where is the UN?” and “We want to die in the sea.”¹⁴

People transferred were not informed of their destination, or they were misinformed – many reported being told they were being taken to the EU or Istanbul. Although the authorities confiscated phones, some people managed to conceal theirs and were able to share their location from the GPS device on their smart phones with family members, who later attempted to contact them. Amnesty International was forwarded the coordinates of these locations, which subsequently enabled researchers to identify the detention facilities as those in Düziçi and Erzurum. Other refugees and asylum-seekers used road signs seen while they were bussed from one detention centre to another to try to determine their location, often inaccurately. According to refugees and asylum-seekers who had been detained, it took many days for them to reach the final detention centre, as they were detained in a number of places en route and because the detention centres in southern and eastern Turkey are more than 1,000 km from where they were apprehended near the western coast.

Refugees and asylum-seekers told Amnesty International that after they arrived in Düziçi or Erzurum, they were detained for periods between several weeks and approximately two months. In both facilities, interviewees told Amnesty International that there were hundreds of other detainees from source countries for refugees, such as Afghanistan, Iran, Iraq, Sudan and Syria.

Despite the restrictions imposed on them by the detaining authorities (which are discussed further below), refugees and asylum-seekers managed to provide a wealth of supporting evidence to indicate the fact and location of their detention. For instance, a Syrian refugee showed Amnesty International pictures from inside the Düziçi camp with a phone that she said she was able to hide from the authorities. Researchers have also been shown a photo of a blue plastic tag saying “Erzurum GGM” on what appears to be a mattress; this could be an abbreviation for *Erzurum Geri Gönderme Merkezi*, which means Erzurum Removal Centre.

ARBITRARY DETENTION

The detention described by dozens of refugees and asylum-seekers to Amnesty International was arbitrary, and therefore unlawful. For detention – including immigration detention¹⁵ – to not be arbitrary, it must be

¹⁴ Videos sent to Amnesty International by former Düziçi detainee on 23 November 2015.

¹⁵ UN Human Rights Committee, *General Comment no. 35, Article 9 (Liberty and Security of Person)*,

prescribed by law, necessary in the specific circumstances and proportionate to the legitimate aim pursued.¹⁶ Under Turkish law, non-Syrian foreign nationals may be held in administrative detention in certain circumstances, namely during the assessment of their asylum claims or pending their deportation.¹⁷ However, there is no clear basis in Turkish law for the administrative detention of Syrian refugees, who are awarded Temporary Protection Status on a group basis and therefore do not make individual asylum claims that need to be assessed, and who cannot be deported to Syria because of the continuing conflict.

In any case, for detention not to be arbitrary the detainees must also be informed why they are being deprived of their liberty.¹⁸ Of the dozens of asylum-seekers interviewed by Amnesty International, no one had been provided with any reasons for their detention. The Turkish authorities variously submitted to Amnesty International that refugees and asylum-seekers may be held in administrative detention on grounds of “security” and because they “had committed crimes,” but without providing references to law.¹⁹ Of all the refugees and asylum-seekers Amnesty International interviewed, the organization could only establish the grounds of detention for one group of three people. Deportation orders they had been handed showed that the refugees from Syria had been detained pending their deportation.²⁰

INCOMMUNICADO DETENTION

Refugees and asylum-seekers told Amnesty International that while being detained in Düziçi and Erzurum, they were cut off from the outside world, with all phones confiscated and visits from lawyers and family members denied. While a number of detainees were able to clandestinely contact their relatives on hidden phones, the regime in place for the refugees and asylum-seekers amounts to incommunicado detention. This violates international law as well as Turkey's *Law on Foreigners and International Protection*, which stipulates that family members and lawyers must be given access to detainees.²¹

A lawyer was denied access to three refugees at Istanbul's Kumkapı Removal Centre on 2 October, and on 16 October another lawyer was denied

16 December 2014, CCPR/C/GC/35, available at <http://www.refworld.org/docid/553e0f984.html>.

¹⁶ *International Covenant on Civil and Political Rights*, 6 December 1966, Art. 9(1).

¹⁷ *Law on Foreigners and International Protection*, Arts. 57, 68. Additionally, under international law, any custodial or non-custodial measure restricting the right to liberty of asylum-seekers and refugees must be exceptional and based on a case-by-case assessment of the personal situation of the individual concerned.

¹⁸ *International Covenant on Civil and Political Rights*, 6 December 1966, Art. 9(2).

¹⁹ Ankara interviews with the General Directorate of Migration Management and the Prime Ministry's Office, 4 December 2015.

²⁰ Deportation orders seen by Amnesty International.

²¹ Arts. 59(1)(b), 68(8).

access to the same men, who had been transferred to the Erzurum Removal Centre.²² In other cases, refugees and asylum-seekers who asked to see a lawyer were not allowed to do so. A 43-year old man from Afrin in Syria, who had been deported in November and returned to Turkey, explained to Amnesty International that after asking to consult a lawyer he was told by Erzurum authorities that Turkish law did not allow this.²³ A 35-year old woman from Aleppo in Syria, who had also returned to Turkey following her deportation, said that in the Aydın Removal Centre in western Turkey she asked to call a lawyer, but the police told her that she did not have the right to do so.²⁴

There is only one case known to Amnesty International of access being granted to a person detained at Düziçi or Erzurum after being apprehended from the western border region. One Syrian man told Amnesty International that he was eventually permitted to meet for a few minutes with his wife who was detained in Düziçi after following the vehicle that transferred her to the facility and being denied permission to speak to her for a week.²⁵

Three different families independently told Amnesty International that they travelled across the country to Erzurum, where the authorities either denied that their family members were there, or refused to say whether or not they were present. A 30-year old woman from Damascus who tried to visit her brother in Erzurum Removal Centre told Amnesty International that after she and her mother refused to leave the entrance to the centre, the authorities threatened to detain them as well.²⁶ A Syrian man whose daughter informed him via the covert use of a phone that she was in Erzurum Removal Centre, took a 23-hour bus journey to see her; he said that when he arrived, the authorities told him: "We can't say she's here and we can't say she's not here." They would not allow him to give her a jacket that he had brought her because she was cold.²⁷

ILL-TREATMENT IN DETENTION

Amnesty International collected credible evidence of three cases of ill-treatment in places of detention, in addition to anecdotal reports (which could not be independently verified) suggesting more widespread abuse.

Of the three, one Syrian man, who contacted Amnesty International from the detention place he had been transferred to after Erzurum,²⁸ said he had

²² Istanbul interview with male refugee, 23 November 2015; Amnesty International, *Urgent Action: Concern Grows for Detained Refugees*, EUR 44/2709/2015, 21 October 2015, available at <https://www.amnesty.org/en/documents/eur44/2709/2015/en/>.

²³ Istanbul interview with male refugee, 25 November 2015.

²⁴ Hatay interview with female refugee, 2 December 2015.

²⁵ London interview by phone with husband of refugee, 13 November 2015.

²⁶ Şanlıurfa interview with female refugee, 30 November 2015.

²⁷ Hatay interview with father of refugee, 2 December 2015.

²⁸ Amnesty International knows his location but is keeping this information confidential for his own

been beaten by several police officers in the Edirne Removal Centre.²⁹ Another person interviewed separately said she heard him and 10 other men being beaten from another room and subsequently saw their injuries.³⁰ A 19-year old refugee said that he acted as the interpreter for the man, when his injuries were recorded upon his arrival in Erzurum Removal Centre.³¹ Amnesty International has been given a photograph of a man whose entire left leg is covered in bruises, who refugees say is the person who called Amnesty International from detention.³²

A 40-year old Syrian man said that in Erzurum Removal Centre he was confined to a room alone for seven days at some point between late September and late November, with his hands and feet bound together. He told researchers: "When they put a chain over your hands and legs, you feel like a slave, like you are not a human being." Pointing to a label his friend had brought from Erzurum Removal Centre indicating the 85% funding by the EU, he said: "Under this label, we have been tortured."³³

Three women – two Syrian and one Moroccan – told Amnesty International that upon arrival at the Erzurum Removal Centre, all the women were strip-searched. They said that when they initially refused to remove their clothing, the six female guards laughed at them and said: "You will stay here until you do."³⁴ A few weeks after her release, one of the women told Amnesty International that she has nightmares which prevent her from sleeping.³⁵

The use of EU funds for equipment in migration detention facilities

Amnesty International was shown labels as well as labelled items taken from the Erzurum Removal Centre by several different groups of detainees – which say "Instrument for Pre-Accession Programme: EU Contribution 85%, National Contribution 15%." According to the detainees, these labels were affixed to a variety of objects in the centre, including beds, towels, and cupboards. The Europe Aid code on the label (135004/IH/SUP/TR) matches the code on an EU Call for Proposals for removal centres in Turkey dating back to 2013.³⁶

safety.

²⁹ Istanbul interview by phone with male refugee, 30 November 2015.

³⁰ Hatay interview with female refugee, 2 December 2015.

³¹ Istanbul interview with male refugee, 25 November 2015.

³² Şanlıurfa interview with two male refugees, 30 November 2015.

³³ Istanbul interview with male refugee, 25 November 2015.

³⁴ Istanbul interview with two female refugees, 25 November 2015; Hatay interview with female refugee, 2 December 2015.

³⁵ Istanbul interview with female refugee, 10 December 2015.

³⁶ See for instance European Commission, "Supply of Equipment for Establishment of Reception and Removal Centres (Phase II)," 29 August 2013, available at <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1415585376922&do=publi.detPUB&AOREF=135004&userlanguage=en>

The EU is currently seeking to expand its funding of Turkey's centres for refugees and migrants. The Draft Action Plan from 6 October 2015 stated that "priority will be given to the opening of the six refugee reception centres built with EU co-funding."³⁷ The final Action Plan from 15 October made no mention of these centres.³⁸ In December, however, the EU Delegation to Turkey confirmed that the EU and Turkey have agreed to open these as detention centres.³⁹

It is imperative that it establish effective independent monitoring mechanisms of conditions and practices in such centres, to ensure their human rights compliance. Continued funding must be conditional on such compliance.

DETENTION AT THE DÜZİÇİ FACILITY

When researchers visited Düziçi camp on 2 December 2015, official statistics indicated that 377 Syrian refugees were at the facility that day, of a total of nearly 1,500 persons held there since it opened in September 2015. The Turkish authorities do not regard Düziçi camp as a place of detention but rather an accommodation centre. They told Amnesty International that the people who were currently "accommodated" were those who were "homeless or engaged in begging."⁴⁰ They also acknowledged that the camp was initially used in September 2015 to accommodate refugees and asylum-seekers who had "threatened public order" by attempting irregular crossings to Greece.⁴¹ However, officials confirmed that refugees and asylum-seekers were brought to the camp on the basis of a decision by the authorities, rather than of their own will, and were not permitted to leave the camp making it a *de facto* place of detention. The authorities told Amnesty International that persons held at the camp would be released if they could demonstrate that they had accommodation and the means to maintain themselves, or if they agreed to voluntarily return to Syria. Given that Syrian refugees are not provided with work permits, providing evidence of an income is virtually impossible. This makes return to Syria the only viable option for leaving the facility; as discussed further below, this would violate Turkey's obligations under domestic and international law. Officials at the facility further submitted to Amnesty International that Syrian refugees were happy to be accommodated there, but their own statistics show that 30 people had escaped ("fırar") over the high walls and barbed wire since September 2015.⁴² Amnesty

³⁸ European Commission, *EU-Turkey Joint Action Plan*, 15 October 2015, available at http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm.

³⁹ Ankara interview with EU Delegation to Turkey, 4 December 2015.

⁴⁰ Düziçi interview with facility officials, 2 December 2015.

⁴¹ Düziçi interview with facility officials, 2 December 2015; Ankara interview with the Prime Ministry's Office, 4 December 2015.

⁴² Düziçi Geçici Barınma Merkezi, "Günlük Genel Raporu," 2 December 2015.

International was not permitted to interview people at the detention centre without the presence of officials, but during the visit one detainee asked Amnesty International researchers: "Is this a prison? Are we in a prison or a camp? We want to leave to work, but we can't."⁴³

DEPORTATION

According to credible and consistent accounts provided to Amnesty International, many of the cases of unlawful detention were followed by the authorities forcibly returning refugees and asylum-seekers to Syria and Iraq. Both domestic and international law prohibit the deportation of people to a place where they would be at real risk of serious human rights violations. This principle – *non-refoulement* – can be breached in several ways, including directly through forcible returns to the country of origin, or indirectly when pressure is exerted on refugees to return to a place where their lives or freedoms are at risk – for instance through the threat of indefinite detention.

Amnesty International's research shows that in recent months, the Turkish authorities have deported more than a hundred people to a risk of serious human rights violations in Syria and Iraq. Information that could not be independently verified suggested that the number of forced returns during this period was far higher and also included returns to Afghanistan.

Amnesty International spoke with two Syrian refugees via telephone in Syria, shortly after they said they had been bussed from Erzurum Removal Centre to the Cilvegözü/Bab Al Hawa border gate in Hatay province.⁴⁴ About a week later, after they had crossed back to Turkey irregularly, one of these two people showed Amnesty International his passport with a Cilvegözü/Hatay province exit stamp dated 18 November 2015. Researchers also interviewed five Syrian refugees who had returned to Turkey irregularly after being deported to Syria from Erzurum. According to their consistent accounts, there were five sets of deportations from the Erzurum Removal Centre, starting on the evening of 17 November, and continuing until 20 November, with a total of about 130 people being deported.⁴⁵ Researchers also spoke with an Iraqi asylum-seeker shortly after he had returned from Düziçi to Baghdad, where he was in hiding and fearing for his life.⁴⁶

⁴³ Düziçi visit, 2 December 2015.

⁴⁴ Istanbul interview by phone with one male refugee and one female refugee, 20 November 2015.

⁴⁵ Istanbul interview with two male and one female refugees, 25 November 2015; Şanlıurfa interview with two male refugees, 30 November 2015; Hatay interview with female refugee, 2 December 2015.

⁴⁶ Amnesty International, *Urgent Action: Refugees at Risk of Forcible Return to Syria*, EUR

According to the accounts given to Amnesty International, the authorities used varying degrees of coercion to pressure refugees and asylum-seekers to agree to “voluntary” returns. The account of a 23-year old Syrian woman from Hama was typical of what refugees told Amnesty International; while being detained in Düziçi, the authorities told her: “Go back to Syria or stay in jail; these are your options.”⁴⁷ A Syrian woman from Idlib who was detained in Düziçi with her four children (aged 12, 10, 8 and 3), said she was ordered to sign a voluntary return agreement in Turkish, which she could not understand. According to her the authorities said: “We will not translate it. If you refuse to sign, you must stay here.”⁴⁸ A 26-year old Syrian woman explained that some detainees in Erzurum Removal Centre were physically forced to put their fingerprints to a document.⁴⁹ A 23-year old Syrian man said that he was part of a group in Erzurum in which a three-year old child was forced to provide his fingerprints as evidence of his consent to return to Syria.⁵⁰

The people who were deported to Syria from Erzurum Removal Centre said that the Turkish authorities delivered them directly to the Cilvegözü/Bab Al Hawa border crossing in Hatay province, controlled on the Syrian side by the Ahrar al Sham armed group. Whereas a 26-year old Syrian woman from Qamishlo said she was with about 20 people who were all released after being questioned,⁵¹ a 23-year old Syrian man in a different group told Amnesty International that he saw four men who had been deported from Turkey being blindfolded by members of Ahrar al Sham and put in a vehicle; he does not know what happened to them. He said that mutual friends told him about two other people who had been deported from Erzurum Removal Centre, and were trying to travel from Idlib to Aleppo, when they were apprehended and then imprisoned by the Jabhat al Nusra armed group, Al Qaeda’s official affiliate in Syria.⁵²

All of the dozens of asylum-seekers who spoke with Amnesty International had been denied their requests for a copy of the document they had signed – or even to take a photo of it with their camera phones (which had been returned to them as they were being released). Most did not understand the contents of the document, which the authorities sometimes covered with a paper when demanding signatures. Those who did see the document said that it was in Turkish, except for one line in Arabic which read: “I return to Syria of my own will.” Officials at the Düziçi detention centre provided

44/2521/2015, 24 September 2015, available at <https://www.amnesty.org/en/documents/EUR44/2521/2015/en/>.

⁴⁷ Bursa interview with female refugee, 24 November 2015.

⁴⁸ Istanbul interview with female refugee, 26 November 2015.

⁴⁹ Istanbul interview with female refugee, 25 November 2015.

⁵⁰ Şanlıurfa interview with male refugee, 30 November 2015.

⁵¹ Istanbul interview with female refugee, 25 November 2015.

⁵² Şanlıurfa interview with male refugee, 30 November 2015.

Amnesty International with a blank copy of a document that generally fits this description, although the Arabic text read: "I need to return to the Syrian Arab Republic." It is unclear if officials used a standard document for these release forms, or if local authorities produced their own forms.

Other detainees told Amnesty International that they were not deported but instead required to sign a form upon their release, agreeing to leave the country within a certain period of time, usually 30 days. In all of these cases as well, everyone was denied copies of these forms. Should they not leave within this time, if caught, they face being re-detained and their deportation being enforced. A 23-year old Syrian man told Amnesty International that having been released in these circumstances, he was going to take a boat to cross irregularly to the EU after a few days; part of the reason for his departure was his fear that the police would apprehend him and discover that he was supposed to be in Syria.⁵³

A woman who was detained for 22 days in Düziçi said that – although prior to her detention she had registered as a Syrian under Temporary Protection in Turkey – the uncertainty in her legal status following her detention prevents her from taking her ill 3-year old daughter to a doctor, or registering her three older children in school; she said that her 8-year old son tells her every day: "Mum I want to go to school." She told Amnesty International that if she cannot positively clarify her legal status within a month, she will return to Syria.⁵⁴

CONCLUSION

The human rights violations documented in this briefing contrast with the generally favourable, humanitarian approach of the Turkish authorities towards refugees and asylum-seekers in the country. Given that they coincide with the opening of negotiations around the Joint EU-Turkey Action Plan, it is difficult to avoid the conclusion that Turkey's unlawful treatment of refugees and asylum-seekers caught attempting to leave irregularly has been triggered by the political and logistical demands exerted upon them by the EU to stop hundreds of thousands of people crossing a sea border with Greece of more than 700 km. The fact that detention and deportation are exceptional does not make them excusable. Irrefutable evidence shows that the Turkish authorities are detaining some of the most vulnerable people in their jurisdiction, including children, in a manner more akin to kidnapping than a lawful detention regime. Forcibly returning refugees back to Syria

⁵³ Şanlıurfa interview with male refugee, 30 November 2015.

⁵⁴ Istanbul interview with female refugee, 26 November 2015.

and Iraq is as unconscionable as it is unlawful under international and domestic Turkish law.

The fact that these detentions and returns took place in the context of negotiations and the signing of the EU-Turkey deal to combat irregular crossings, is chilling. What the future will hold, given that the migration deal is now in force, is unclear. What is clear is that the EU and Turkey have a joint responsibility to ensure that any migration deal is implemented in a way that puts an end to these illegal practices and fully respects the rights of refugees, asylum-seekers and migrants in Turkey.

RECOMMENDATIONS

Amnesty International urges Turkey and the European Union to ensure that the implementation of the migration deal respects the rights of refugees, asylum-seekers and migrants in Turkey.

With this aim, the Turkish government should:

- Ensure that the detention of refugees, asylum-seekers and migrants is only resorted to when it is determined to be lawful, necessary in the specific circumstances and proportionate to a legitimate purpose;
- Ensure that any decision to detain refugees, asylum-seekers and migrants is exceptional and based on an assessment of the individual's particular circumstances;
- Ensure that refugees, asylum-seekers and migrants are promptly informed, in a language they understand, of the reasons for their detention;
- Guarantee access to all places of detention by lawyers, family members, independent doctors, independent human rights organizations and UNHCR;
- Guarantee detainees' ability to make regular contact (including through telephone or internet, where possible), and receive visits from lawyers, family members, friends, as well as independent human rights organizations and UNHCR;
- Not return anyone to a place where they would be at risk of serious human rights violations, or exert pressure on people to do so; and
- Ensure that all allegations of unlawful detention and deportation are promptly and effectively investigated, that all those found to be responsible are held to account and that the victims are granted full reparations.

The Turkish government and the EU should:

- Guarantee independent oversight of the implementation of the EU-Turkey Joint Action Plan in order to ensure its compliance with international human rights law and standards: the EU-Turkey High-Level Working Group on migration established to oversee the implementation of the Action Plan should report regularly and publicly on the human rights compliance of measures taken and the Working Group should include various independent actors that can fulfil this role (such as human rights institutions, parliamentarians, civil society and international organizations)
- Establish an observatory mechanism for EU-funded detention facilities, designed by independent international and local civil society organizations, who should be given regular access to these facilities and the ability to oversee the effective implementation of recommendations;
- The Commission should suspend all funding arrangements for equipment and infrastructure in migration related detention facilities that are being used to unlawfully detain migrants and asylum-seekers and facilitate their unlawful deportation; and
- As a matter of urgency, undertake immediate and concrete actions to increase resettlement places and other legal routes for refugees and asylum-seekers in Turkey to reach the EU.