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EESC fact-finding missions on the situation of refugees, as seen by civil society organisations



MISSION REPORT – TURKEY
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European Economic and Social Committee

Mission Report – Turkey, 09-11/03/2016

In December 2015 and January 2016, EESC delegations visited eleven EU Member States followed by a visit to Turkey in March 2016, to meet civil society organisations working with migrants in order to identify the problems, needs, failures, success stories and best practices of the various actors in the current refugee crisis with the final aim of providing input to EU policy making. The delegation to Turkey, which undertook a three-day mission to Ankara and Izmir, was composed of Mr Manthos Mavrommatis (Gr I), Mr Jose Antonio Moreno Díaz (Gr II), Mr Panagiotis Gkofas (Gr III) and administrators Mr Javier Admetlla Fernandez (REX section) and Ms Panagiota Theodoropoulou (the president's private office).

The delegation held meetings with State authorities such as the Directorate General for Migration Management (DGMM), the Turkish Prime Ministry's Disaster and Emergency Management Authority (AFAD), the Coast Guard, International Organisations and Human Rights and Humanitarian CSOs in both Ankara and Izmir.¹

Noting that Turkey is facing a uniquely complex and challenging situation, the delegation members wish to thank all participants for their openness and willingness to enlighten us on the efforts made and the successes and difficulties encountered and for providing vital information, which the present reports attempts to adequately capture.

MAIN FINDINGS

- Turkish international protection law only recognises Europeans as refugees. Those coming from other parts of the world seeking protection are considered to be "guests" and do not have the international legal status as refugees
- Both the Turkish authorities and many CSOs felt that flows of people seeking protection will not cease as long as the war in Syria continues, despite the measures to be taken or those already in place.
- The government has made a substantial operational and financial effort to address the crisis by hosting unprecedented numbers of persons seeking protection. At the same time, civil society is emerging as a key actor, accentuating the vital role of human rights CSOs.
- The social integration of persons seeking protection is hindered by the fact that Turkey applies the 1951 Geneva Convention with geographic limitations, recognising only Europeans as refugees. There is no legal and stable status and it is hard for those seeking protection to plan for a future in Turkey: Syrians are eligible for temporary protection on a prima facie basis, while non-Syrians² can only apply for subsidiary protection (conditional status) on humanitarian grounds and are subject to additional restrictions on mobility. Integration into the labour force, long-term integration and family reunification remain a problem for both categories.
- Interviewees from CSOs emphasised that persons seeking protection do not fully enjoy key social rights, employment, education and health rights in particular. They cannot directly apply for a work permit relying on employers. Non-Syrian refugees have to live in 'satellite cities' which limits their freedom of movement and, of course, their job opportunities. As education is not mandatory for foreigners, most children who live

¹ Owing perhaps to the delicate nature of the topics discussed during the mission, at times, contradictory statements and conflicting facts were put forward by different speakers. Due to the short duration and the scope of the mission, a full assessment of the veracity of such statements is beyond the purview of the present report, which, highlights, wherever relevant, the existence of discrepancies that provide valuable insights as to how different parties assess the situation.

² Law on Foreigners and International Protection (adopted in 2013 and implemented in April 2014)

outside camps leave school in order to work. Child marriages still take place. There are no interpreters in public hospitals.

- Several CSOs expressed concerns as to whether Turkey can be considered to be a safe third country, since many persons needing international protection, including Syrians, have been deported to their country of origin, despite the risk to their life and in violation of the principle of non-refoulement.³
- Combating smuggling emerged as a complex and difficult task, despite efforts by the authorities to increase the number of officers, vessels and technological equipment. CSOs felt that Turkish law is not strict enough to have a preventive effect; conviction rate is still low.
- NATO intervention is expected to consist only of information-gathering and providing intelligence assistance. Some interviewees raised questions and doubts as to the use of military structures in addressing social issues.

RECOMMENDATIONS

- Promoting and developing a homogeneous refugee status for all persons seeking protection in Turkey, in accordance with international law, will be welcomed.
- Protecting persons seeking protection in Turkey and elsewhere is a key concern that would benefit from a rights-based EU approach in concluding agreements with Turkey and any concerned country.
- Improving integration policies for all persons seeking protection who have applied for legal protection in Turkey relies on ensuring labour-market access: expanding the provision of work permits, facilitating access to education, health care and social benefits, vocational training for young refugees and new skill acquisition are key areas of work.
- Measures and policies to improve children's rights, to ensure their right to education, prevent child labour - and child marriages - are highly recommended.
- Access to legal aid should be extended to all persons in need of legal protection including those detained in removal centres. The international community should work together with the Turkish authorities to monitor compliance with international standards at removal centres. Due regard should be shown for the rule of law and access to justice ensured in all situations.
- The greater legal protection of Syrian and non-Syrian people seeking protection on Turkish territory would benefit from Turkey's reconsidering the geographical limitation to the 1951 Geneva Convention, including both access to asylum and protection from non-refoulement, with a view to removing this limitation in the near future.
- The difficult fight against smuggling should become more effective at all levels including addressing any legal loopholes that prevent appropriate sentences for smugglers.
- There is an urgent need to step up border controls by further upgrading coastguard capacity and rapidly completing operational plans for an improved performance in the short and long term. The Commission's proposal to create a European Coast Guard should be supported⁴.

³ See REX 457

⁴ The EESC is currently working on Opinion SOC/534 regarding the EC proposal about European Coasts and Border Guard.

- Consideration should be given to setting up hot-spots in Turkey, involving the active participation of EU officials, with a view to offering persons seeking protection safe legal routes to Europe.
- There is a need to deal with the backlog of cases of non-Syrians in need of international protection and to improve access and transparency to enable humanitarian CSOs to monitor conditions and reach all refugees.
- The status of "satellite cities" should be re-examined with a view to eliminating any restriction on the right of movement and to maximising flexibility in the search for employment.
- The EU should work closely together with the Turkish authorities to ensure the appropriate deployment of the Joint Action Plan funds, amounting to EUR 3 bn, in accordance with European procurement rules and arrive at an optimum allocation of these funds between capacity-building projects and humanitarian aid work, taking into account the effectiveness of CSOs in the field of humanitarian work and the real needs of persons seeking protection
- Combating human smuggling, among other things, requires the effective deployment of social media to provide accurate information to refugees and to offset harmful information emanating from smuggler networks.

I. Reception Conditions

a. State response to the mass arrivals of persons seeking protection

As attested by both the DGMM and UNHCR representatives in Ankara, Turkey has already spent the considerable amount of USD 10 bn., not including donations, to host 2 740 000 refugees as compared to USD 465 million disbursed by other countries. Noting that this sum is still not sufficient to cover all needs, DGMM emphasised the need to address the root causes of the phenomenon compelling people to cross borders illegally. AFAD noted that some 3 000 persons are hosted in Turkish camps near the Syrian border, where Turkey provides safe zones. AFAD is charged with only registering Syrians and all those who claim to be Syrians without asking for extra proof. They have 22 logistics centres across Turkey and provide tents to refugees.

UNHCR specified that they can visit camps in Turkey, which are under State supervision. The EU Delegation clarified that they have financed the establishment of removal centres in Turkey which are run by the State.

b. Hosting issues

According to ASAM, which registers non-Syrians at their Ankara office, third-country nationals are detained in holding centres awaiting deportation. Non-Syrian refugees applying for protection have to register at one of the 62 "satellite cities" and reside there until the final decision is reached on each case. With priority currently given to Syrian refugees, there is a backlog of non-Syrians waiting for up to 12 years to obtain humanitarian protection status and reporting once per week to their satellite city office; otherwise they can be deported. In the view of one CSO, this does not infringe on their right to freedom of movement (Article 26 of the 1951 Geneva Convention), since these persons can travel freely around the country on the condition they return. While this arrangement aims at facilitating registration, it has not been embraced fully by Syrians. Only a small percentage (10%) of Syrians live inside camps and the rest are dispersed in the country. Yezidis, Alawites, Armenians and other religious groups tend to leave the camps because they feel they are not safe there.

c. Access to the labour market

Under UNHCR provisions Syrian and non-Syrian persons seeking protection have the legal right to work in Turkey. Yet, most persons seeking protection appear to be working illegally, facing discrimination in terms of wages. Several CSOs confirmed that refugees cannot apply for a work permit themselves, relying on the employer to apply for them. However, employers are discouraged from employing persons seeking protection. Another CSO mentioned that most Syrians with high academic qualifications find themselves in low-status work.

d. Children seeking protection, education and child labour

Members of CSOs that have been interviewed raised the problems facing children seeking protection who leave school to work, mostly out in the streets. In fact, child labour emerges as quite common among persons seeking protection who face serious economic adversity. As refugee children are exempt from compulsory education, only 5% manage to reach secondary education and none reaches higher education. Most children cannot afford the cost of getting to school. DGMM confirmed that Syrian children in great numbers do not attend school, even though schools are operating double shifts. According to UNHCR, the number of schools is not sufficient; attendance tends to be higher inside refugee camps. UNHCR also stressed that Turkish school certificates may not be useful for persons seeking protection who consider returning to their home country after the war. A CSO indicated that parallel education systems in Turkey with temporary schools in Arabic language hamper the smooth integration of persons seeking protection into Turkish society.

Child marriages are tolerated for economic benefits and because a married girl is no longer considered a child.

e. Access to health

UNHCR representatives indicated that access to health services is free for persons seeking protection in Turkey who enjoy much greater health protection than locals. According to one CSO, interpreting is not sufficiently provided at hospitals, effectively depriving refugees of communication. In addition, authorities do not provide services to persons who have not been registered: even a 5-month baby could not be hospitalised without an adult to apply for age determination and registration on his/her behalf, a circumstance not considered by the authorities.

f. Integration and the hosting community

Despite efforts at the local and the national level to facilitate reception, one CSO remarked that long-term integration is impeded by the fact that Syrians cannot plan for their future, as they are not recognised as refugees and are instead recipients of "temporary protection". In the view of another CSO, Turkey emphasises "social cohesion" instead of integration.

Opinions on the attitude of the host community were contradictory. Government representatives gave a positive account of harmonious cohabitation and the welcoming nature of Turkish people. Civil society representatives had diverging views. A number of CSOs felt that the attitude of the Turkish communities towards persons seeking protection was not always positive while, others referred to a widespread resentment towards persons seeking protection –due, for example, to rents going up or persons seeking protection accepting lower salaries. In the latter view, society at large seems to be only temporarily tolerating persons seeking protection; questions are asked as to when they will leave Turkey, why they don't go back home to fight instead of staying in Turkey to steal Turks' jobs. More secularist segments in Turkish society tend to fear that the presence of overtly-religious Syrians will contribute to the 'islamisation' of Turkish society. One CSO reported cases of assaults in Syrian neighbourhoods including three arson attacks against a building housing persons seeking protection.

One CSO stated that there have been several crimes committed against refugees in Turkey, on the grounds of racist discrimination and hate but have not been properly investigated by the judicial system. He mentioned the case of a house where Syrian refugees used to live that was set on fire three times and nobody was ever summoned. One CSO indicated gaps in the registration system and the overall lack of in-depth identity verification of third-country nationals.

Some CSOs believe that the creation of a safety zone cannot be a permanent arrangement and should not be considered to be a long-term solution. One CSO commented that the concentration of refugees in these buffer zones is not a humanitarian practice. Closing the door would expose these persons to serious threats making them targets.

II. Turkey as a "safe country" for persons seeking protection

Article 38 of Directive 2013/32/EU stipulates that "Member States may apply the safe third-country concept only where the competent authorities are satisfied that a person seeking international protection will be treated in accordance with the following principles in the third country concerned" and specifies five conditions⁵. As emphasised in the EESC opinion REX/457, defining a country as safe should include an assessment of the basic human rights standards that this country applies, namely respect for minorities, freedom of press etc.

In the light of the recent negotiation process between the Council of the EU and Turkey, and the deal providing for the return of irregular migrants and refugees to Turkey, some of the non-governmental organisations we met argued that the principle of non-refoulement is not complied with in Turkey. They referred to cases of third-country nationals - both Syrians and non-Syrians - who had applied for international protection but were deported to their home countries without being duly informed of their legal rights and with insufficient access to justice. In their view, these practices - in conjunction with the geographic limitation retained by Turkey in applying the 1951 Geneva Convention - compromise Turkey's status as a "safe third country" to which refugees and migrants can be returned.

a. Unlawful deportation of persons in need of international protection

According to one CSO, Syrians in great numbers were arrested last summer and sent to deportation camps, where they were not allowed to receive visitors. Their only option was to agree to be returned to Syria, or remain detained. In numerous instances, refugees had to sign documents in Turkish, accepting voluntary return to Syria, their country of origin, without access to a lawyer or to family members.

Another CSO referred to instances of forced return of persons in need of international protection, including Iranians who were sent back to Iran where they would likely face the death penalty: in some cases, the 15 day deadline given by law to object to deportation expires without the person concerned being informed about his right in a language that he/she understands. Similarly, one international organisation highlighted cases of the deportation of persons who had applied for international protection, noting that they launched complaints whenever sufficient evidence supporting this claim was found. Differential treatment of Syrians based on their religion was also mentioned.

⁵ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, see: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>

CSO representatives confirmed that they have access to most refugee camps in Turkey, while access is highly restricted as regards removal centres where detainees might not be properly informed by the police of their right to seek asylum. For privacy reasons, access of family members is not permitted while sufficient documentation proving family bonds is often unavailable for refugees. The mission was told that access to all removal centres is granted to only one CSO, which can carry out one unannounced visit per month. This CSO has not found human rights violation in removal centres. Its legal support is limited to two lawyers, while they wholly lack mobile units.

Another CSO mentioned unrest at the Ashkale deportation centre, where detainees had no access to phones and visits from family members. Following the intervention of riot police, inmates were transferred to other camps while one person accused of involvement in the riots died in Ashkale: authorities claimed that he committed suicide but his family suspects he was murdered, as he was about to be released. The peripheral Directorate for Managing Migration said that he was detained in a private room and that his case is still pending. The case of Adana was also raised where detainees remained for 9 months without legal aid and with no information given to relatives.

b. Geographic limitation to the application of the Geneva Convention

DGMM felt that this provision is not negative, as it enables all Syrians to obtain "guest status" without any individual assessment and it will only be removed when Turkey joins the EU. Most CSOs felt that the geographic limitation prevents social integration, since persons see their stay in Turkey as only a temporary sojourn under changing, unstable and unsafe conditions.

One CSO thought that protection is comparable to the protection afforded to refugees despite the geographic limitation that makes Syrians "guests" and not refugees. If Syrians opt to reach EU countries it is because they hope for economic benefits without having to work. In this CSO's view, Turkey is retaining the geographical restriction because it doesn't want to be seen as a final destination for refugees.

III. Dealing with smuggling – The role of NATO

The smuggling of persons seeking protection was one of the key issues discussed and valuable information was obtained from the Turkish Coastguard, civil society organisations and the visit to the Basmane district in Izmir.

a. Practice of smuggling and information:

During the visit to the Basmane district of Izmir, mission members were surprised at the openness, with which refugees interacted with smugglers, while waiting to make contact in two central squares. Stores sold life-jackets, torches and other water-proof equipment. According to CSO interlocutors, smuggling rates have recently dropped to EUR 300 euros in the Izmir area. Currently, more women and children attempt the crossing to Greece instead of men because men want to ensure that their families have arrived safely before paying the smugglers.

Smugglers commonly use social media to facilitate their operations, spreading misinformation that idealises conditions in Europe and demonises conditions in Turkey, concealing the perils of the illegal crossing to the Greek islands. At the same time, refugees use social media to justify the decision to continue the journey, referring to friends who made it to Western Europe. Our attempts to speak with refugees in Basmane were declined, possibly because smugglers warn refugees. Countering such misinformation therefore becomes crucial in the work to combat attempts to cross the sea.

b. Fight against smuggling:

As the coastguard pointed out, guarding the coast is a complex task, with numerous points dispersed along the coast where the distance between the Turkish mainland and certain Greek islands is less than ten nautical miles.

Izmir Coast Guard officials reported that in 2016, they stopped 16 500 persons from crossing the Aegean Sea at various points on the Turkish coast and expressed concern that 3 000-4 000 persons might lose their lives this year. They are preparing to deploy 11 000 additional staff, in total 17 000 men, and 100 new boats (in addition to the existing 206 vessels), 12 helicopters and 6 airplanes, and a new radar system that includes 12 radars and thermal cameras expected at end of 2017 for the Aegean Sea. They have emergency call numbers for persons in distress. Indicating that they sometimes intervene in international waters as well, they said that they cooperate with Frontex and the Joint Rescue Coordination Centre of Greece.

The involvement of NATO in patrols along the Aegean was a contentious issue. While some participants found the potential contribution of NATO useful in terms of intelligence-gathering, others questioned the role of a military alliance with no rescue mandate in a humanitarian crisis.

Contradictory information was received regarding the persecution of smugglers. Authorities' representatives emphasised the productive cooperation between different parts of the Turkish administration and the general public. For example, cooperation with customs authorities led to tracking purchases of vessels which then led them to smugglers. Also, leads from the public and collaboration with local police contributed to stopping attempts to cross the Aegean. According to government representatives, smugglers were frequently arrested and persecuted and faced sentences of up to five years in prison.

In contrast, some civil society representatives pointed out that smugglers operated with complete impunity. They emphasised that only the smugglers that caused the death of Elan, the boy who drowned during a failed attempt, have been sentenced. Other smugglers may be detained temporarily but are ultimately released without facing prison sentences. Notably, death resulting from a failed attempt is not considered as an aggravating circumstance (homicide) in Turkish criminal law. Some CSOs made allegations of corruption of the security forces, their cooperation with the criminal networks and cross-country cooperation of smugglers.

IV. Perception of the EU-Turkey negotiations

Asked to present their views on the draft agreement between the EU States and Turkey, the representatives of the authorities and CSOs emphasised that migration is an international issue, which has to be addressed by the international community as a whole: no matter what is agreed between States, irregular crossing will not stop as long as the war continues. They expressed concern as to whether the relocation to Europe of Syrians (for each Syrian returning to Turkey one will be resettled in Europe) can take place within a reasonable time.

UNHCR representatives in Ankara explained that for this agreement to become operational there need to be safeguards ensuring that nobody would be harmed. Refugees should not be returned under any circumstances without an examination of each individual case, emphasising that readmission is for migration not asylum, UNHCR representatives noted that national profiling based on passport information at borders is not acceptable because of the need for individual assessments.

Some CSOs remarked that instead of being based on human rights, this agreement is based on self-interest and will not bring any solutions. According to this viewpoint, persons seeking protection flee from Turkey because Turkish government lacks a holistic view and recent events show that the country is becoming increasingly

undemocratic. Hence, the rights of the persons concerned in the EU and Turkey should be also discussed while the 1 for 1 system will likely not work as compensating numbers of people with money is not the best approach. Another CSO noted that the 1 for 1 status is not clear. They would prefer a different mechanism such as the creation in Turkey of hot-spots providing safe routes to Europe.

One CSO challenged the belief that Turkey is a safe country, noting that while the law on asylum exists on paper it is not properly implemented. In their view, Turkey produces asylum-seekers as well and persons seeking protection who have sold everything to get the money needed for their trip would be infuriated at the prospect of being sent back.

Another CSO stated that the EU largely ignores human rights violations in Turkey and that Turkey is not safe, even for its own people. The reality is that Turkey is not allowing anyone to enter the country; neither Syrians nor Iraqis. In Aleppo, thousands of persons who had reached the border were stopped, forced to wait until the readmission agreement was fully implemented.

V. The role of civil society

All participants strongly commended the role of civil society in project implementation. Indeed, civil society plays a very important role in project implementation, with certain CSOs being tasked with the registration of persons seeking protection, the provision of services, and protection duties. One CSO pointed out that aid often passed through too many intermediaries, leading to many transaction-fee claims and reducing the amount left for beneficiaries. Another questioned the ability of a prominent faith-based Turkish humanitarian CSO reported to be the main beneficiary of humanitarian aid provision contracts, to adequately support certain vulnerable groups. A number of CSOs indicated that some fatigue besets their work as their requests are not always heeded.

Some of the people we spoke to referred to the differential treatment of CSOs by Turkish authorities, mainly regarding the right of access to removal centres. In their view, government regulation of CSOs makes it relatively easy to hamper their work on technical grounds when in reality political reasons are at play. What is more, some CSO representatives have been subject to actual attacks.