THE LEGAL STATUS OF SYRIANS IN TURKEY
Ali Mohammad Hasan Thynat
ali.thynat@jfda.jo

Abstract
Since 2011, Turkey has pursued an open-door policy accompanied by a national temporary protection regime to protect more than three million Syrians fleeing civil war. Turkey is a party to the Convention on the Status of Refugees, but imposes a geographical limitation on the Convention. Turkey is also a party to the European Convention on Human Rights (ECHR), the International Convention on Civil and Political Rights (ICCPR) and the Convention Against Torture. Following a failed coup attempt, Turkey declared a state of emergency in July 2016, which continues today. Turkey has also made a series of changes to its asylum law since declaring a state of emergency. This article focuses on the protection of Syrians in Turkey legally and in practice.

Keywords: Syrians, Status of Refugees, ECHR

Introduction
With the popular movements that started in Tunisia in 2011 and soon affected other Arab countries, social movements demanding change against the repressive administrations in power emerged. This process, which was called the "Arab Spring", has spread to Syria, and demonstrations have started in the country in which demands for freedom and democracy against the regime have been expressed. However, the conflicts that quickly spread throughout the country in the face of the desire to be suppressed by the regime's military units using excessive violence eventually turned into civil war and peace and stability in the country disappeared. Initially, armed clashes between government forces and opposition armed groups began to occur between different ethnic and religious faith groups, and the country was plunged into a vortex of ethnic and sectarian division and violence (BM, 2015).

Turkey acted thinking that the initial mass influx was a temporary situation and that Syrians would return to their countries after the end of the civil war and shaped its policies accordingly. As a matter of fact, it is seen in the press and official statements that Syrians who have fled the war and come to Turkey are defined as "guests" who have no legal equivalent and this expression is frequently used. In addition to the term "guest", which includes the expectation that they will return to their countries when their stay ends, different definitions such as "refugee", "asylum seeker" and "individuals under temporary protection" are witnessed. These concepts, which are widely used in place of each other, actually have different meanings and naturally have different connotations. This article focuses on the protection of Syrians in Turkey legally and in practice.

Literature
The migration event, which started with human history and is expressed as human mobility, still exists as one of the important phenomena of today's modern world (Deniz, 2014:177), international mass human movements that result in forced displacement due to various compelling reasons are still seen and these human movements reveal many problems with them (Ergül, 2012:222).
Documents Establishing International Refugee Law

The main document establishing international refugee law is the 1951 Geneva Convention on the Legal Status of Refugees. In addition, the 1967 Protocol on the Legal Status of Refugees was signed in order to address the flaws in the 1951 Geneva Convention. The 1951 Geneva Convention on the Legal Status of Refugees was signed on 28.07.1951 after the inauguration of the UNHCC.

The convention is the basic and most important document on international refugee law, which has regulated refugee law to this day. An international consensus has been reached on the concept of refugees in the Convention. It is clearly stated in what circumstances a person can become a refugee. Article 1/A (2) of the Convention states that anyone who is outside his/her own country of citizenship because he fears that he will be persecuted because of his religion, race, belonging to a community, political ideas due to the events that occurred before January 1, 1951, and who does not benefit from or does not want to benefit from the protection of his own country or who has left his country of residence for the stateless person and does not want to return to his country of residence due to the above-mentioned fears, is called a refugee. However, in the same article, it is stated that if the person has the citizenship of more than one state and cannot benefit from the protection of only one state, he will not be considered to be not entitled to the protection of the state of which he/she is a citizen and will not be granted refugee status.

International Protection and International Protection Status

The Geneva Convention on the Legal Status of Refugees of 1951 (thereafter the 1951 Refugee Convention) and the Protocol on the Legal Status of Refugees (hereafter the Protocol of 1967) are the basis of international refugee law.

According to the Convention, the provisions regarding the circumstances in which a person granted refugee status will lose his or her refugee status are stated in Article 1/C of the Convention.

Accordingly, a person who has gained refugee status;

a) Voluntarily re-benefit from the protection of the state of which he is a citizen,

b) Regaining the lost citizenship voluntarily,

c) Gaining a new citizenship and benefiting from the protection of the state in which he obtained his citizenship,

d) Returning to his country of citizenship and abandoned for fear of persecution to settle again voluntarily and voluntarily,

e) The end of the events that led to the refugee status in the country where he is a citizen and left, and his inability to continue to benefit from the protection of the state,

f) If he returns after the end of the events that led him to become a refugee in the country of residence, which he has previously experienced and which has caused him to become a refugee, he will lose his refugee status.

As is known, population mobility, asylum and refugees, especially in Europe during and after the Second World War, have brought the concepts of asylum and refugees to the agenda of
the international community. The 1951 Refugee Convention, which stipulates that various rights are granted by states to people with refugee status, is the first and only multilateral treaty regulating the issue of refugees at a universal level.

The 1951 Refugee Convention defines the concept of refugees and provides protection for refugees. The concept of "refugee" is in article 1(A)(2); It is defined as "a person who is outside his country of citizenship because he fears for good reasons that he will be persecuted because of his race, religion, belonging to a particular social group or political opinions, and who does not benefit from the protection of this country or does not want to benefit from such fear or, if he does not have the means, cannot return there or does not want to return because of such fear."

The 1951 Refugee Convention and the Protocol of 1967, which have the value of law according to the Turkish Constitutional system, were implemented as basic regulations in our domestic law. However, Turkey has moved to create its own legislation, taking into account the international regulations it is party to in the face of increasing migration and mass asylum, especially the mass population mobility from northern Iraq, which it was exposed to in 1991.

In this context, on November 30, 1994, it adopted the Regulation on The Procedures and Principles to Be Applied to Foreigners and Possible Population Movements That Come to Our Borders for The Purpose of Mass Asylum with Individual Foreigners Who Defect to Turkey or Request Residency Permits from Turkey to Defect to Another Country( after that, the 1994 Asylum and Asylum Regulation)R.G. 30.11.1994/22127. 1994

TURKEY'S NATIONAL NATIONALIST LAW

Internal migrations from rural to urban and migrations by non-Muslims and workers who go abroad to work are important migration events that have occurred in Turkey's migration history. In addition to the migrations in and out of the country, the migrations from Bulgaria in 1989, Iraq in 1991 and Syria in 2011 to Turkey in the last 30 years have an important place in Turkey's migration history (Kirişçi ve Karaca, 2015:297-299).

International Protection Statuses in YUKK In the regulation under the title "International Protection" in section 3 of the YUKK; Three separate legal statuses were established under the headings "Refugee", "Conditional Refugee" and "Secondary Protection" and each was independently regulated. In addition to these statuses, there is also a "temporary protection" regime that includes measures to be taken in the event of a mass influx and aims to provide humanitarian assistance.

In accordance with Article 61 of the Refugee YUKK, the definition in the 1951 Refugee Convention and the 1994 Asylum and Asylum Regulation was adopted in full, but the geographical limitation record for determining refugee status was maintained. Accordingly, it is not the case. "Due to the events that have occurred in European countries, foreigners who are outside their country of origin because they fear for good reasons that they will be persecuted due to their race, religion, belonging to a particular social group or political opinions, and who do not benefit from the protection of this country or do not want to benefit from such fear, or who are outside the country of residence where they used to live as a result
of such events, who cannot return there or do not want to return because of such fear. the
person is granted refugee status after the status determination procedures.”

Accordingly, in order for a foreigner to be accepted as a refugee by Turkey; the incident that
led to the refugee application took place in European countries; fear that the applicant will be
persecuted for his race, religion, subjectiveness, belonging to a certain social group and
political opinions; the applicant must be outside his/her country of citizenship and not be able
to benefit from the protection of his country or do not want to benefit due to such fear.

Secondary Protection In Article 63 of the YUKK, secondary protection status is regulated and
it is clarified in which cases secondary protection will be provided as an international
protection status for those who cannot be considered refugees or conditional refugees.

Temporary Protection

Turkey has been subjected to mass incursions as well as individual migration. Finally, the
mass influx due to the escalating war in Syria has raised the status of temporary protection
and a different protection status has been defined under the name of "Temporary Protection"
for foreigners entering Turkey in yuuk.21 Thus, the temporary protection implemented before
the YUKK in line with the 1994 Asylum and Asylum Regulation and other regulations was
regulated by law for the first time.

Temporary Protection Regulation

In article 91 of the YUKK, the outlines of temporary protection are determined and the details
are envisaged to be regulated by a regulation. In accordance with this provision, the
Temporary Protection Regulation prepared by the Council of Ministers was published on
22.10.2014 and entered into force.

Along with the Provisional Protection Regulation, the legal status of Syrians who have fled
the war in their countries and come to Turkey and cannot benefit from their refugee and
conditional refugee status, which provides individual international protection in accordance
with the YUKK, has also been clarified.

According to article 1 of the regulation, Syrian citizens and stateless persons and refugees
who have left Syria and arrived in Turkey since April 2011 are covered by temporary
protection: "As of 28.4.2011, citizens of the Syrian Arab Republic who have come to our
borders or crossed our borders en masse or individually for temporary protection due to
events in the Syrian Arab Republic, and those who are stateless and refugees, international
protection they are placed under temporary protection even if they have applied.

Individual international protection applications are not processed during the period of
temporary protection." "Foreigners who apply for international protection before 28.04.2011
are placed under temporary protection upon their request," the second paragraph states. As
previously stated, Syrians who have fled their countries and come to Turkey have been
described as "guests" before the civil war is thought to be long-lasting.

However, Turkey abandoned its initial position and sought to provide temporary protection to
Syrians. As a matter of fact, the Directive on the Acceptance and Housing of Syrian Citizens
of the Arab Republic of Syria and Stateless Persons Residing in the Syrian Arab Republic,
prepared by the Ministry of Interior to carry out the work and transactions related to Syrians seeking refuge in Turkey, was adopted and put into effect on 30.03.2012.

Termination of Temporary Protection
The temporary protection is regulated in Article 11 of the Temporary Protection Regulation by the decision of the Council of Ministers, and in article 12, the individual end of temporary protection is regulated.

According to Article 11, the Council of Ministers may end the practice of temporary protection upon the proposal of the Ministry of Interior. With its decision to end it, the Council of Ministers may decide to stop temporary protection completely and allow temporary protected persons to return to their countries, to be given the status they have in bulk, or to evaluate the applications of those requesting international protection individually or to stay in Turkey under the conditions to be determined under the YUKK.

According to Article 12 of the individual termination of such practice for reasons related to temporary protected reasons; Temporary protection ends for the person concerned if the temporary protected person voluntarily leaves Turkey, benefits from the protection of a third country or exits, dies or cancels temporary protection.

OVERVIEW OF SYRIANS IN TURKEY

Some Syrians who felt that they had no safety in life and property due to the civil conflict and civil war in their countries had to leave their places of residence. Some of the Syrians who were forced to leave their homes due to the civil war migrated elsewhere within their own countries, while others migrated to neighboring countries. Turkey has been one of the countries reached by Syrians who have migrated abroad to ensure their safety.

Since the events began in 2011, Turkey has taken Syrians who have come to the border in accordance with its "open door policy" and provided them with protection and met their basic humanitarian needs.

According to the statistics of the Directorate General of Migration Management (GIGM) dated 23.12.2020, there are 3,638,104 registered Syrians who benefit from temporary protection in Turkey. Of these, 58,846 live in 7 temporary shelters in 5 provinces and 3,579,258 live outside temporary shelters. Syrians live in every province in Turkey. However, provinces such as Sanliurfa, Gaziantep, Kilis, Hatay, Adana, Mersin, Istanbul, Bursa, Izmir and Konya are the provinces where Syrians live more in number (https://www.goc.gov.tr/gecici-koruma5638).

Result

Syrians who left their lands due to the civil war in their countries and came to Turkey in a mass influx were placed under "temporary protection" with the Temporary Protection Regulation and allowed to stay in Turkey until a stable environment was formed in their country. Turkey continues to provide protection and assistance to Syrians by meeting its urgent and basic needs under the temporary protection regime.

As mentioned earlier, the aim of temporary protection is to protect those who need urgent and temporary protection. When the need for protection is eliminated, it is essential that the temporary protected return of their own free will.

www.turkphysiotherrehabil.org
From the point of view of the Syrians who have taken refuge in our country, it is thought that Syrians will return to their countries with the end of the war and the stabilization of the country. However, it should be said that under the current circumstances, the chances of Syrians returning are gradually weakening. With the conflicts between the regime's armed forces and the opposition, as well as the conflicts between ethnic and religious faith groups, it cannot be said that the war will end in the near future in the country, which is undergoing some kind of disintegration.

The likelihood of the return of the growing Syrian population of more than 3.6 million is decreasing and their permanent stay in Turkey is becoming more likely.

Syrians who have been living in Turkey for an average of 4.5 years and almost all of whom live abroad, the camps in Turkey with more than 450,000 babies, 650,000 students are studying in school in Turkey, 1.2 million students are working and most importantly, they will go to a country that is distributed all over Turkey and where no one knows when the war will end.

The vast majority of Syrians living in Turkey, or even more than 80%, will not return and will live in Turkey. It should be noted that Turkey's policy of creating "safe zones" and encouraging Syrians to move there will work for a maximum of 20% of them.

According to the UNHCR, the number of people returning to Syria from Turkey and staying in Syria for four years was only 55,000 between 2014 and 2018. Turkey needs to face this reality and develop harmony. Policies of peaceful coexistence. It is critically important to accept this fact and reflect it to society. In the short to medium term, it would not be surprising if Turkey increases the pressure even more.

There is no doubt that Turkey should continue to strive for peace and tranquility in Syria and for the voluntary return of Syrians to their countries. However, it is possible that the issues that are postponed or neglected due to the idea that the problem is temporary will lead to more serious problems that are not expected in the future and that the existing problems will grow exponentially.

Therefore, in order for Syrians to return to their countries, measures should be taken for both transience and permanence, as well as domestic and foreign policy, and simultaneous strategies and policies should be developed. In this context, despite these reluctances of western states that are reluctant to accept symbolic acceptances, the international public should be mobilized to resettle permanent resettlement in third countries.

References


www.turkjphysiotherrehabil.org 32172

“Geçici Koruma Yönetmeliği”, s. 67.


https://www.goc.gov.tr/gecici-koruma5638