

Global Detention Project Submission to the UN Committee on Migrant Workers

24th Session (11 - 22 April 2016)

Consideration of State Report – Turkey

Geneva, March 2016

Issues concerning immigration detention

The Global Detention Project (GDP) welcomes the opportunity to provide further information in follow up to its 2013 submission¹ to the list of issues prior to the presentation of the initial report of Turkey with respect to the implementation of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, ratified by Turkey in 2004. The GDP is an independent research centre based in Geneva that investigates immigration-related detention. As per the GDP's mandate, this submission focuses on the State party's laws and practices concerning detention for immigration- or asylum-related reasons.²

Articles 16 and 17

Readmitted persons and agreements with the European Union. Please indicate if the Readmission agreement signed with the European Union (EU) (Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation signed in December 2013) will come into force on 1 June 2016, according to plans?³ Turkey also has a readmission agreement with Greece since 2002. Please indicate how many persons have been readmitted under this agreement and whether readmitted third-country nationals are placed in immigration detention.

In addition to these readmissions agreements, special notice should be made of the agreement reached on 18 March 2016 between the European Union and Turkey. According to the European Commission: "All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey....Migrants arriving in the Greek islands will be duly registered and any application for asylum will be processed individually by the Greek authorities in accordance with the Asylum Procedures Directive, in cooperation with UNHCR. Migrants not applying for asylum or whose application has been found unfounded or inadmissible in accordance with the said directive will be returned to Turkey."⁴

What arrangements is Turkey contemplating to host the potentially very large numbers of people who will be returned from Greece under this new agreement? Will they be placed in immigration detention? If so, where and for how long? If Turkey intends to place all or some of the people returned under this agreement, there is a significant chance that current detention centre capacities will be overwhelmed. How does Turkey intend to accommodate these detained individuals while still adhering to the Convention Article 17.3, which stipulates that migrant detainees "be held, in so far as practicable, separately from convicted persons or persons detained pending trial."

¹ Global Detention Project, "Submission to the UN Committee on Migrant Workers, Session on Turkey," 17 March 2013.

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCMW%2fNGO%2fTUR%2f16717&Lang=en.

² This submission is based on GDP research related on immigration detention policies and practices available at: <http://www.globaldetentionproject.org/countries/europe/turkey>

³ European Commission, REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Second Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap (SWD (2016) 97 final), 4 March 2016, COM (2016) 140 final.

http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/turkey_second_progress_report_en.pdf.

⁴ Council of the European Union, "EU-Turkey statement, 18 March 2016," European Council, Press Release 144/6, 18 March 2016. <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>.

Legal Framework. The principal norm governing immigration detention the [Law No. 6458 on Foreigners and International Protection](#) was adopted on 4 April 2013 ([YABANCILAR VE ULUSLARARASI KORUMA KANUNU Kanun No. 6458](#)).⁵

Please provide details on implementation of the new norms. Have the regulation for “the establishment, management, operation, transfer and supervision of removal centers” as well as transfers of foreigners for deportation to removal centres (Law No. 6458 Article 58) been adopted and implemented? (Note: the UN Special Rapporteur on the Human Rights of Migrants recommended in 2013 that the regulations should be “in line with international human rights standards concerning procedural safeguards and conditions of detention”).

Statistical information. Please indicate the number of persons – disaggregated along age and gender lines – placed in immigration-related detention each year in Turkey. Please indicate the average length of immigration related detention. Please indicate if and where are children, including unaccompanied minors, detained (in law and in practice).

Detention infrastructure for immigration-related detention. Please indicate the names and address of places of immigration detention facilities (Removal Centres), including their respective capacity. Please indicate if age and gender segregation is implemented, as well as segregation of criminals and immigration detainees. Please indicate if removal centres include family units.

Indicate whether construction of removal centres subsidized by the European Commission and referred to in the European Commission 2013 Progress Report, in Erzurum, Edirne, Aydın, Bitlis and Van has been completed. If so are these removal centres in operation?

Please indicate which authorities are responsible for detention and management of immigration detention facilities.

Conditions of detention. Please provide information about cell space, hygiene, food, bedding and access to health care for immigration detainees. Please indicate what monitoring mechanisms are in place to protect immigration detainees from abuse and ill-treatment, including complaints procedures.

Procedural Standards. Please indicate – in law and in practice – what procedural standards are in place for immigration-related detainees including information about the grounds and conditions of detention (in a language the persons understand), access to legal counsel, visits and contacts with relatives, access and visits by NGOs and national human rights institutions, review of detention order, and access to consular representatives (upon request from the detainees). Please indicate who takes the detention order.

Alternatives to detention. Please indicate if there are non-custodial alternatives to detention (in law and in practice). If there are, please describe when they are used and the impact they have had on the numbers of people detained in the country.

Article 22. Please indicate the number of persons expelled from Turkey for immigration-related reasons. Please give details on expulsion procedures. In 2009 Turkish authorities told the European Commissioner for Human Rights that deportees are responsible for their own deportation costs, as stipulated in Turkish law. Please indicate if this is still the case.⁶ This can lead to lengthy detention periods for persons who are unable to pay for their travel costs. The European Commissioner was informed that only a limited (and generally insufficient) Ministry of Interior budget was allocated to deport those unable to pay their own way. Is this still the case?

⁵ Law No. 6458 on 2013 of Foreigners and International Protection.
<http://www.refworld.org/docid/5167fbb20.html>.

⁶ ICRMW Article 17(8) provides that a migrant detained to verify any infraction or provision related to migration “shall not bear any costs arising therefrom.”