



TÜRKİYE

JOINT SUBMISSION TO THE UN COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

36th SESSION JUNE 2024

ISSUES RELATED TO IMMIGRATION DETENTION

Submitted in May 2024

Joint submission from:

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ABOUT THE INTERNATIONAL REFUGEE RIGHTS ASSOCIATION (IRRA)

The International Refugee Rights Association (IRRA) was established in 2013 by legal practitioners following a mass influx of refugees into Türkiye, with the aim of defending their legal rights and promoting legal regulations and their implementation in line with international standards. The IRRA's mission is:

- To be a pioneer in refugee legal aid provision and right-based advocacy in line with international standards through its dedicated team of lawyers across Türkiye;
- To prevent violations of the right to live and promote the prohibition of torture within the scope of international human rights law, especially in immigration detention and deportation cases;
- To raise public awareness and knowledge about the global situation of refugees as well as their plight in Türkiye through activities, training, and media including television, newspapers, and social media;
- To document and report on the condition and challenges faced by refugees inside and outside camps both in Türkiye and abroad.

ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

Türkiye

Joint Submission to the UN Committee on the Protection of the Rights of All Migrant Workers

38th Session, June 2024 - State Report

Issues Related to Immigration Detention

The Global Detention Project (GDP) and the International Refugee Rights Association (IRRA) welcome the opportunity to provide information relevant to the review of the Second Periodic Report of Türkiye during the 38th Session of the Committee on Migrant Workers. This submission focuses on the state party's responses to the CMW's immigration detention-related *list of issues prior to reporting* (LOIPR), which appear to be inadequate and reveal a worrying level of disregard for the well-being of thousands of migrants, refugees, and asylum seekers on its territory. The submission also discusses recent developments in Türkiye that are relevant to the recommendations made in this submission. This submission's recommendations are made in light of the CMW's authoritative General Comment No. 5 on migrants' rights to liberty and freedom from arbitrary detention.¹

I. CMW Detention-related Recommendations in LOIPR (dated 24 January 2024), Government of Türkiye Responses in its Second Periodic Report (dated 5 March 2024), and Recommendations by Submission Partners

CMW LOIPR Paragraph 1.d.: The CMW requested detailed information about the bilateral and multilateral return agreements between itself and other countries, including "specific time-bound and measurable goals and targets on effectively monitoring progress in the implementation of the rights of migrant workers and members of their families and protections afforded migrants in these":

Türkiye response: The state party *failed* to provide any details about these agreements or the extent of the protections they afford to migrants. They merely enumerated rights provided under domestic legislation, irrespective of the abundant testimony and evidence provided to the Committee demonstrating the consistent failure of the government to respect these rights. A case in point concerns testimony and reports revealing Türkiye's border pushbacks, which the Committee asks about in several instances in the LOIPR. Instead of addressing growing international concern about these violations, the state party merely reiterated that "that no foreigner shall be sent to a place where he or she would be subjected to torture, inhuman or degrading punishment or treatment."

Submission recommendations: It is clear that Türkiye is engaging in hot returns and pushback at its borders, as both the present authors of this submission and numerous other observers have repeatedly reported. We urge the Committee to press Türkiye to:

1. Acknowledge unlawful border practices and make a clear and precise commitment to immediately cease these practices and to document the custody and treatment of every person apprehended in border control procedures.
2. Investigate allegations of unlawful deportations in which people are coerced into signing "voluntary" return forms as well as recent claims about forced returns (for more information, see section III. **A Recent Developments in Forced Returns**, below).

3. Respond fully to the Committee’s question about providing “specific time-bound and measurable goals and targets on effectively monitoring progress in the implementation of the rights of migrant workers and members of their families and protections afforded migrants” in all of its international bilateral or multilateral agreements.

CMW LOIPR Paragraph 5.: The Committee asks for specific details about complaints mechanisms and detention monitoring, including “information on monitoring visits, and the outcomes thereof, conducted by the Institution to all immigration detention and removal centres, including under its mandate as the national preventive mechanism.”

Türkiye response: The state party **failed** to address this request in a coherent or detailed manner. Rather, they documented efforts to set up a monitoring body and get it recognised under GANHRI. However, there are no details reported about the monitoring body’s activities to visit immigration detention centres, what detention centres it has visited, or whether the government has made an effort to respond to its recommendations.

Submission recommendations: We urge the Committee to press the state party to clearly address the entirety of the request made in LOIPR Paragraph 5. As the Committee has previously noted, monitoring is a critical aspect of ensuring states’ adherence to human rights norms in their treatment of detainees and failure to provide adequate oversight of detention sites undermines a state’s credibility and leads to arbitrary detention, as noted by the Working Group on Arbitrary Detention in its Revised Deliberation 5 on the right to liberty.

CMW LOIPR Paragraph 7. The Committee requested details about gender- and child-responsive training including with respect to “trafficking in persons and smuggling of migrants, discrimination, workplace abuse and exploitation, arrest, pretrial detention, immigration detention, imprisonment, expulsion and repatriation.”

Türkiye response: Although the state party provided details about a variety of training events and activities provided for public personnel, it **failed** to indicate training measures for detention centre staff or other officials who have custodial roles for migrants including during border proceedings, arrests, or judicial proceedings.

Submission recommendations: We urge the Committee to ask the state party to provide specific details about the capacity-building requirements for immigration detention centre staff and guards, border guards, and police with migrant custodial duties, indicating the specific requirements all these individual must have in order to have these posts with respect to about gender- and child-responsive training, as well as sensitivity training for understanding the vulnerabilities and particular needs of migrants, refugees and asylum seekers.

CMW LOIPR Paragraph 10.c.: The Committee asked for details about legal assistance, including “in particular at border crossing points, within immigration procedures, including in cases of detention and removal, and at facilities for migrants.”

Türkiye response: The state party listed the legal guarantees provided in domestic legislation and policies, but it **failed** to indicate whether information about these rights is given to people at detention centres or when they are apprehended at the border.

Submission recommendations:

1. The Committee should reiterate its concerns about Türkiye’s border procedures and re-state its request for specific details about how people apprehended at the border are given access to legal rights and whether detainees are given information in languages they understand in order to be able to properly exercise their legal rights (see also section **III. A Recent Developments in Forced Returns**, below).
2. The Committee should urge the state party to investigate recent claims about problems stemming from language barriers in detention centres, including claims that these challenges are preventing detainees from being accurately accounted for in detention centres (see, below, **III. B On-going Challenges with Language Barriers**).

CMW LOIPR Paragraph 11 & 11.d.: The Committee requested information about COVID-related restrictions placed on migrants, including “at the State party’s international borders in relation to their entry or exit from their countries of origin” as well as details about efforts to “Prevent infections in detention centres and provide health-care services to those who have been infected.”

Türkiye response: The state party *failed* to provide any details about restrictive measures or health services at borders and it *failed* (in its response to 11.d) to provide details about specific measures in detention centres, merely stating that “They were subjected to the restrictions imposed on all citizens across the country.” This response raises questions about whether the state party intends to directly address in any serious way issues related to its immigration detention practices.

Submission recommendations: We urge the Committee to press the state party to adequately address the serious public health issues the Committee raised in Paragraph 11 of the LOIPR. For example, it is not credible for the state party to claim equality of treatment between citizens and non-citizens when, as the Committee notes in Paragraph 18 of the LOIPR, the country released up to 100,000 prisoners as a COVID-related health measure but failed to release immigration detainees, people who are not even in criminal proceedings.

CMW LOIPR Paragraph 16: The Committee requested details about prosecutions of officials who have harmed or abused detainees.

Türkiye response: The state party *ignored* this request.

Submission recommendations: Observers have collected abundant testimony alleging abusive treatment in detention centres in Türkiye, and there are numerous recent allegations about abuses related to coerced signing of “voluntary” removal forms and use of abusive strip searches, placement in cold cells, and verbal assault in cases involving Syrians and people who refuse to accept voluntary return (for more information, see section **III.C Recent Allegations Concerning Torture or Inhuman Treatment**, below).

1. We urge the Committee to directly address the state party’s failure to demonstrate transparency and accountability with respect to allegations about torture and ill-treatment in immigration detention centres. The state party should be reminded that any failure to identify and prosecute abusers in detention centres increases the arbitrary nature of its entire detention system and undermines the legitimacy of its legal system.
2. We urge the Committee to request information from the state party about recent allegations of forced disappearances from immigration removal centres, which officials have thus far refused to address (see, below, **III.D Growing Concerns about Enforced Disappearances**).
3. When confronted with allegations of forced disappearances, which have also included the disappearances of children, the Presidency of Türkiye’s Migration Management categorically refused the allegations and issued a menacing statement, threatening legal action against lawyers and families seeking information about the whereabouts of the missing individuals. The Committee should request that the state party cease making threats in response to credible allegations of disappearances and instead provide evidence responding to the allegations and attesting to the whereabouts of the missing detainees (see, below, **III.D Growing Concerns about Enforced Disappearance**).

CMW LOIPR Paragraph 18: The Committee has used this paragraph to request a wide range of details from the state party concerning policies and practices specifically relevant to immigration detention, including: **(a)** efforts to end criminal prosecution for infractions related to undocumented entry and stay; **(b)** ensuring detention is used only as a last resort and effective implementation of ATDs; **(c)** the failure by the state party to recognise as formal detention measures deprivation of liberty in transit zones; **(d)** the failure to prohibit the immigration detention of children as well as other vulnerable groups.

Türkiye response: The state party *failed to address any of these critical issues*.

Submission recommendations: We urge the Committee to:

- a) Press the country to justify why it retains criminal sanctions for minor immigration infractions and ask the state party why it totally ignored this question in the LOIPR;
- b) Request specific data on how ATDs are implemented and not just provide a list of laws that provide for ATDs. How many people have been granted ATDs versus numbers of people given detention measures? When are ATDs granted and when not, and what the specific criteria used for making this determination? Has the use of ATDs enabled the country to rely less on detention, or are ATDs merely being used to expand the scope of the state party's surveillance of migrants and asylum seekers? What evidence can the state party provide to prove that every detention order is made only after consideration of alternative non-custodial measures?
- c) Press the state party to justify its failure to officially recognise detention in transit zones and at ad hoc border sites, informing them that it is a settled norm to do this as confirmed by the Working Group on Arbitrary Detention and other key monitoring bodies;
- d) Insist that the state party recognise the norm, as provided in the joint CMW-CRC general comment, that any placement of child or a child and its family in immigration detention is a child rights violation, and request that they provide details on how it intends to adapt its laws in accordance with this norm and prohibit all forms of child immigration detention.
- e) Request the state party to explain which other vulnerable groups are placed in immigration detention and why they do not systematically end their detention in recognizing the inherent harms that detention will have on them.

CMW LOIPR Paragraph 19: The Committee requested details about migrants detained for security concerns, however we note that *the Committee neglected* to take up any of the recommendations that we made in our submission for the LOIPR process about the arbitrary and discriminatory application of the Yabancı Terörist Savaşçısı (YTS) (Foreign Terrorist Fighters) designation in treating certain migration cases, namely those concerning people from Chechnya or the Caucasus. We reiterate the details and related recommendations in the following section II below, and we urge the Committee to take up this issue with the state party, particularly in light of the potentially severe abuses that may arise from this designation as well as in light of the Committee's work with the CERD Committee on developing a joint general comment.

Türkiye response: The state party *failed* to respond to the Committee's request for information about security-related cases and it failed to volunteer any information about YTS cases.

Submission recommendations: We urge the Committee to re-iterate the question about cases of migrants detained on security grounds and to address concerns about the YTS designation. (Please see the section on YTS below for specific recommendations on this issue.)

CMW LOIPR Paragraph 20: The Committee requested information about all sites of immigration detention, including removal centres, ad hoc sites, and transit zones, as well as about efforts to improve conditions of detention and provide basic services.

Türkiye response: The state party *ignored* this request.

Submission recommendations:

1. We urge the Committee to reiterate this demand, specifying that the state party should make every effort to demonstrate its transparency by providing details about the locations of all sites used for any form of deprivation of liberty of migrants, refugees, or asylum seekers; the size and capacities of the facilities; statistics about numbers of people detained in each facility, including desegregated by age, gender, reason for detention, and length of detention; and to provide specific details about plans to renovate and improve conditions and services at all centres.
2. We also urge the Committee to request detailed information about the locations of so-called **Temporary Accommodation Centres** which are reportedly increasingly being used as forms of unrecognised ad hoc detention sites. The Committee should also ask the state party to divulge the details of any non-public circulars or policy

statements from the Presidency of Türkiye's Migration Management concerning the use of these accommodation centres. The Committee should request that the state party recognise detention at these facilities and apply all relevant laws and regulations applicable in other migration-related detention centres, sees arbitrary detention at them by subjecting each individual case to a lawful procedure, end indefinite detention at these "accommodation" centres, and allow for monitoring visits (see, below, **III. E Increasing Use of Temporary Accommodation Centres**).

CMW LOIPR Paragraph 21: The Committee asked for details about collective mass expulsions

Türkiye response: The state party *failed to recognise* this unlawful practice despite abundant evidence and reports attesting to it.

Submission recommendations: We urge the Committee to reiterate concerns about mass expulsions and to demand that the country provide more accountability about its activities on its borders and more details about its intentions to protect the rights of all people fleeing across the border to escape violence and other desperate circumstances.

CMW LOIPR Paragraph 40.b.: The Committee requested information and data about immigration detainees.

Türkiye response: The state party *failed* to make any mention of this question in its report.

Submission recommendations: Any effort to uphold norms related the human rights of migrant workers and other non-citizens in countries that impose immigration detention measures requires having accurate and up to date information about who is detained, where, in what circumstances, and why. *It is absolutely unacceptable for Türkiye to completely ignore* the Committee's request for these details. We urge the Committee to reiterate its request for this information, requesting data about numbers of detainees from the past several years, desegregated according to gender, age, length of detention, post-detention measure, reasons for detention, and cases of deaths or ill-treatment.

The only publicly available resource that the state party seems to currently provide with statistics about "irregular migrants" (<https://en.goc.gov.tr/irregular-migration>) is not sufficient as it provides no details about detention decisions, numbers or types of immigration detainees, and only partial information about "captures" (a concept it fails to define), with no historical data at all. Türkiye must be urged to do a better job reporting its immigration detention system and provide deeper and more detailed detainees statistics going back as many years as possible. The Committee should insist that the state party come clean about the full scope of its immigration detention systems and the numbers of people it detains day after day, year after year.

II. YTS Cases (reiterated from the GDP-IRRA Submission for the LOIPR, 2022)

II.A. Background and Evidence on YTS

- Detained migrants and refugees are informally categorised into two groups. Migrants in the first group are detained because they have committed a criminal or an immigration offence (for example, visa overstayers or working without a valid permit); while those in the second group are labelled as Yabancı Terörist Savaşçı (YTS) (Foreign Terrorist Fighters) by the Turkish authorities.
- While the term YTS has no legal basis, it is used by the Presidency of Migration Management and law-enforcement officers to refer to suspected "foreign terrorist fighters." It is codified as G-89 in official documents. In the interim decision of İzmir 9th High Criminal Court dated 18/11/2020 with the basis number 2020/79, the Presidency of Migration Management was instructed to refrain from using the label YTS, however lawyers report that to date the practice is continuing.
- Reports from lawyers suggest that individuals labelled YTS are often from Chechnya or the Caucasus. Most of them entered Türkiye legally and have lived peacefully in Türkiye on valid residency permits for many years. There are disconcerting reports that the names of individuals labelled as YTS may be passed to the Turkish authorities by foreign States, notably Russia, who claim that they pose a potential national security risk to Türkiye and could use Türkiye as a

passage to fight in Syria. Many of them are family members of Chechens who have a connection with the ongoing conflict between Russia and Chechnya, who are accused of terror related activities, or who are already detained in Russia. In some cases, those labelled as YTS in Türkiye may have had little or no contact with their family members in Chechnya for many years. Reportedly, Russian authorities often request that detainees are sent back to Russia so they can carry out security evaluations. Although removals of YTS cases are rare, there is no information about what happens to detainees who are returned to Russia.

- Reports indicate differential treatment of YTS and non-YTS refugees and migrants. Non-YTS individuals are generally detained for having committed a criminal or immigration offence in order to prevent absconsion. If the foreigner has a legal address (even if they don't have a residency permit) at which the police can reach them, then they are not automatically detained. According to lawyers interviewed by IRRRA, if a refugee or migrant with a known legal address commits a crime that does not pose a public safety, or national security risk, such as unregistered employment, or changing province without informing the governorship, the law enforcement agencies are less likely to carry out in-depth investigations, raids, or to detain the migrant, due to the cost and heavy bureaucratic burden of such actions.²
- Migrants identified as YTS, however, are typically detained despite their residency status or having a legal address. Those identified as YTS live in constant fear of being deported. Lawyers defending YTS detainees have to prove that they do not pose a threat to Turkish national security, that they have not committed previous crimes in their countries of origin or in Türkiye, and that they have been living legally in Türkiye.
- YTS detainees and those detained for committing immigration and criminal offences may be held in separate parts of a detention centre. Although the living conditions may be the same, the discriminatory and intolerant attitudes towards YTS detainees and their lawyers can result in further ill-treatment. There is an assumption that if a person is labelled as YTS that they are a terrorist and pose a security threat to Türkiye. Lawyers representing YTS cases face considerable barriers, including attitudinal and physical barriers to representing their clients. In one case, for example, a lawyer sought to represent a client who had lost both their legs in a bombing in Syria and came to Türkiye for medical care. The client was subsequently labelled as a YTS and detained at a police station. When the lawyer requested to see their client, the police denied permission, arguing that the individual was detained under the YTS code. The lawyer had to remind the police that it was against the law to deny access to a lawyer, even if the detainee was assumed to be a terrorist. Even when the lawyer did gain access to the police station where their client was being held, the police refused to bring the amputee detainee to the meeting room saying they were short staffed and couldn't carry him, forcing the lawyer to conduct the meeting with the detainee in his cell.³ In other instances, lawyers representing YTS cases have been called "terrorist defending lawyers."
- Lawyers also complain that the detention centres for YTS detainees are located in remote areas on the outskirts of cities that are hard to reach. Representing YTS clients can be very time-consuming as not only do the lawyers have to travel several hours to reach the detention centres, but once there they often have to wait several hours before they can see their clients, as only one lawyer at a time is allowed into the building. Some lawyers claim this is a physical and economic deterrent to representing YTS detainees. In order to obtain a warrant of attorney, lawyers also have to physically bring a notary public to the detention centres, which can pose another obstacle to legal representation.
- YTS detainees are generally detained for several months and the criminal courts of peace can extend their detention without the need for an in-depth examination. Many YTS detainees are held in administrative detention for up to one year. If there is no danger of escape or disappearance, detainees who do not have a YTS code are likely to be released from detention within a few days or weeks. Non-YTS migrants who have signed voluntary return documents are even more likely to be released from detention and their removal is facilitated. Even when non-YTS cases do not cooperate with a deportation order, their deportation is rarely carried out forcefully. Once a deportation decision is issued, a migrant (whether they are YTS or not), has seven days to file a lawsuit against the decision; when that process begins the deportation

decision is suspended. However, lawyers claim that YTS detainees are rarely informed about their rights and legal remedies when they are issued with deportation orders and are not assisted to access legal aid.

- Deportation proceedings for YTS suspects entail issuing the individual with a notice that they are a potential terrorist, followed by a brief investigation, after which an arrest warrant is issued. The individual is then arrested and taken first to a police station and then transferred to the local immigration authority who place them in a detention centre under an administrative detention order. A deportation order is then issued and the detainee has seven days to file a lawsuit. The immigration authorities must be notified and the deportation is suspended until the trial is concluded. The court's decision on a deportation lawsuit is final.
- Lawyers representing YTS detainees have claimed that court cases can be politically charged depending on the country of origin of the detainees. For example, in cases involving nationals of Russia, Uzbekistan, or Tajikistan, even when individuals clearly do not pose a national security risk to Türkiye, they are still likely to be coded as YTS cases. In one case a family of four—a mother and her three children—were all identified as YTS cases. During the court hearing, the court removed the YTS code from two of the children, while maintaining the code for the mother and her third child.

II.B. YTS-Related Recommendations

- In line with Article 7 of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on non-discrimination⁴ and non-discrimination principles outlined in General Comment No. 5 (2021) on Migrants' Rights to Liberty and Freedom from Arbitrary Detention,⁵ all migrants detained in Türkiye should enjoy equal rights and equal treatment, regardless of their nationality or immigration status. The difference in treatment and access to rights between YTS cases and migrants detained for having committed criminal or immigration offences is unjustifiable and against international and national legal standards.
- Ensure that all detainees, regardless of their immigration status including YTS detainees, have full access to legal aid and representation, an interpreter, and information regarding their rights, legal processes, and remedies in a language they understand, as per Article 16 of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,⁶ the Committee on Migrant Workers' General Comment No. 5 (2021),⁷ and Article 57 (7) of the Act on Foreigners and International Protection.⁸
- In line with CMW General Comment No. 5 (2021) on Migrants' Rights to Liberty and Freedom from Arbitrary Detention, ensure that detained migrants have access to physical and mental health services, including sexual and reproductive health services, and psychological care. Where such services are not available in detention centres, detained migrants in need of medical care should be transferred to other facilities.⁹ All migrant detainees should have access to adequate health care and appropriate services, regardless of whether they are YTS cases or migrants detained for having committed a criminal or immigration offence.
- In line with the recommendations of the CMW to Türkiye during its first periodic review (2016), ensure that all migrant detainees have access to "adequate basic services, including food, health care, hygienic conditions and access to outdoor areas."¹⁰ All detainees, whether they are YTS cases or migrants detained for having committed a criminal or immigration offence, should have access to basic services and access to outdoor recreation areas.

III. Recent Developments

III.A Recent Developments in Forced Returns

For many years now there has been a steady stream of claims from individuals who say that they were coerced into signing “voluntary return forms” as part of their deportation procedures. In some cases officials have allegedly signed the documents on behalf of foreigners. While there are ongoing allegations about these unlawful procedures, there has recently been an up-tic in allegations of cases where people are deported without any legal procedures or paperwork whatsoever, particularly in Türkiye’s southern border provinces. Lawyers and advocates have collected numerous testimonies in recent months from people claiming to have been forcibly returned to Idlib, Syria, overnight with no legal proceedings.

III.B On-going Challenges with Language Barriers

Lawyers working with immigration detainees report increasing problems related to language barriers detainees face in deportation centres. The number of interpreters is very limited, and interpreters are only available for interviews. Due to the lack of language proficiency among other officials who handle various daily life transactions, foreigners face significant difficulties in communicating their needs to authorities.

Furthermore, there are cases where individuals are known to be present in detention centres by their relatives, yet their presence is denied by authorities. Reasons cited for this denial include the absence of relevant files or discrepancies between the names provided by the family and those registered in the system. This issue often stems from inconsistencies in transliterating Arabic names into the Latin alphabet. Therefore, there is an urgent need to establish a standardized approach for name transcription and to streamline procedures within the migration management system.

III.C Recent Allegations Concerning Torture or Inhuman Treatment

The allegations of physical assault against migrants, who may potentially benefit from the principle of non-refoulement, are becoming increasingly common. This coercion is frequently aimed at compelling them to sign voluntary return forms and waivers of their cases, particularly in relation to the cancellation of a deportation decision. In addition, officials in detention centres often subject foreigners to relentless verbal abuse, creating an environment of psychological torment.

Especially concerning Syrian refugees, instances of torture and mistreatment are on the rise. This is further compounded by the relatively straightforward deportation practices to regions in northern Syria, under effective Turkish control. Consequently, this situation has led to increased levels of physical abuse and mistreatment.

Reports indicate that both physical and psychological violence are inflicted upon foreigners who refuse to sign documents. Officials resort to forgery to fill out voluntary return forms on their behalf. For those who resist signing, coercion and violence are employed to force a fingerprint onto the relevant form, with cases of broken fingers reported during this process.

Moreover, in the Şanlıurfa Deportation Center, predominantly comprised of Syrian refugees, a disturbingly common form of torture persists. Suspected of disruptive behaviour, migrants are forcibly stripped of their clothing and confined to a basement room with cold air conditioning for up to 6 hours. This method, if untreated, can severely disrupt heart and respiratory functions, potentially leading to life-threatening hypothermia. Hypothermia is a critical medical condition resulting from the body losing heat faster than it can generate, causing dangerously low body

temperatures. This has been a practice confirmed by many Syrians who spent some time in the detention center.

III.D Growing Concerns about Enforced Disappearance

In February 2024, at least 45 migrants have been reported to be disappeared. Some lawyers, taking to social media, have voiced their struggles in contacting certain foreign clients of Caucasian and Central Asian descent. These individuals were initially detained in various operations and later transferred to the Presidency of Migration Management after completing legal procedures at either the Istanbul Police Directorate or Istanbul Courthouse. The lawyers' inquiries at deportation centres regarding these clients have yielded responses indicating no records of their interrogation or presence. Consequently, they have been unable to establish contact with their clients.

In response to the advocacy efforts and statements made by lawyers and human rights organizations on social media concerning the missing individuals, which include children and women, the Presidency of Migration Management categorically refused allegations of disappearances during detention. Moreover, the Presidency of Migration Management issued a menacing statement, threatening legal action against lawyers and families seeking information about the whereabouts of the missing individuals.

III.E Increasing Use of Temporary Accommodation Centres & Indefinite Detention

Temporary Accommodation Centres (TACs) represent a specific form of administrative detention in Turkey. These used to be refugee camps which hosted Syrians when they first arrived in Turkey. As the number of Syrians staying in camps decreased in the last 13 years, the functions of some of those accommodation centres have changed. TACs now primarily target Syrians who are either unregistered with the temporary protection regime or have lost their temporary protection status. This change is believed to occur through an in-service (confidential) directive by the Presidency of the Migration Management in 2022.

Unlike regular detention centers, the legal framework governing TACs is not explicitly defined by law. Consequently, individuals detained in these centres are often denied many due process rights. For instance, in regular detention centres, individuals may only be detained for up to 6 months, with the possibility of another maximum 6-month extension. However, for those held in TACs, there is no such upper time limit. People are subjected to detention for an unknown time. This indefinite detention leaves individuals in a state of uncertainty regarding the duration of their detention.

For individuals detained in TACs, it is crucial to establish a clear legal framework, particularly appeal procedure for terminating their detention. IRRRA's lawyers have noted that appeals to the Criminal Courts of Peace are frequently rejected, with the justification that these individuals are not deemed to be under administrative detention.

Lawyers and NGO representatives are not permitted to visit (TACs). While the Human Rights and Equality Institution of Turkey regularly visits standard detention centres and produces reports, the situation with TACs is different. Although the Institution has produced reports on TACs, these are outdated, based on visits conducted before the function changes implemented in 2022. Consequently, there is a lack of up-to-date oversight and transparency regarding the conditions and operations within these centres.

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- ¹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “General Comment No. 5 (2021) on Migrants’ Rights to Liberty and Freedom from Arbitrary Detention,” CMW/C/GC/5, 23 September 2021, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-5-2021-migrants-rights-liberty>
- ² Information provided by International Refugee Rights Association (IRRA), August 2022
- ³ Information provided by International Refugee Rights Association (IRRA), August 2022
- ⁴ UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>
- ⁵ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “General Comment No. 5 (2021) on Migrants’ Rights to Liberty and Freedom from Arbitrary Detention,” paragraphs 36 – 38, CMW/C/GC/5, 23 September 2021, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-5-2021-migrants-rights-liberty>
- ⁶ UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>
- ⁷ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “General Comment No. 5 (2021) on Migrants’ Rights to Liberty and Freedom from Arbitrary Detention,” CMW/C/GC/5, 23 September 2021, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-5-2021-migrants-rights-liberty>
- ⁸ Law on Foreigners and International Protection, 2013, Law no: 6458. https://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP_ENG_DGMM_revised-2017.pdf
- ⁹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “General Comment No. 5 (2021) on Migrants’ Rights to Liberty and Freedom from Arbitrary Detention,” CMW/C/GC/5, 23 September 2021, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-5-2021-migrants-rights-liberty>
- ¹⁰ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “Concluding Observations on the Initial Report of Turkey,” CMW/C/TUR/CO/1, 31 May 2016, para. 48, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW%2fC%2fTUR%2fCO%2f1&Lang=en