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Submission by the *Centre d'Etudes en Sciences Sociales*  
*sur les Mondes Africains, Américains et Asiatiques (CESSMA)* the *Association for Solidarity with Refugees (Mülteci-Der)*, and the *Global Detention Project (GDP)* pursuant to Rule 9.2 of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments, on the implementation of *Akkad vs Turkey* (Application No [1557/19](#))

## EXECUTIVE SUMMARY

1. In line with Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, CESSMA, Mülteci-Der and the GDP hereby present a communication regarding the execution of the general measures in the European Court of Human Rights (the Court, or ECtHR) judgment concerning the case of Akkad v. Turkey (1557/19).
2. The situation has remained concerning after the delivery of the judgment in 2022. There continue to be important gaps in the law, as well as between legal frameworks and day-to-day. These gaps have also been the subject of recent recommendations issued by United Nations treaty bodies in their reviews of Turkey's international legal obligations.<sup>1</sup> Since the Akkad decision, key areas of concerns in Turkish state practice continue to be:
  - Legal gaps regarding **compensation** for administrative detention;
  - Legal gaps regarding the use of **restraint measures**;
  - Arbitrary **detention** practices;
  - Lack of access to **effective remedies** for detainees;
  - Coercion in **voluntary return programmes**;
  - Lack of safeguards for **non-refoulement obligations**.
3. The government submitted its first Action Plan concerning Akkad v Turkey on 24 December 2024. It argued that all necessary general and individual measures have been properly taken. In the opinion of CESSMA, Mülteci-Der and the GDP the supervision of individual measures can be discontinued, but the Action Plan does not provide sufficient reassurances on the effective implementation of all aspects of the general measures.
4. In the light of the serious shortcoming of the Action Plan of 24 December 2024 and unaddressed concerns with detention practices and voluntary return programmes as highlighted by Akkad v Turkey, CESSMA, Mülteci-Der and GDP call on the Committee of Ministers to:
  - Continue the supervision of the general measures under the standard procedure;
  - Call on the Turkish government to provide an Action Plan that answers in detail all of the Secretariat's initial questions;
  - Request the Turkish government to provide evidence with regards to the comprehensive and effective implementation of all aspects of the general measures that concern:
    - Voluntary return programmes;
    - Legal safeguards in places of administrative detention;
    - Restriction equipment;
    - Appeal procedures against administrative detention measures;
    - Internal directives and secondary legislation for voluntary return programs.

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<sup>1</sup> UN Committee against Torture, *Concluding observations on the fifth periodic report of Türkiye*, August 2024, <https://bit.ly/4bODhAz>; UN Committee on Migrant Workers, *Concluding observations on the second periodic report of Türkiye*, July 2024, <https://bit.ly/4iOG7YJ>.

## I. GENERAL MEASURES

### A. CONTINUED LEGISLATIVE GAPS

#### **Compensation for immigration-related (administrative) detention:**

5. There is a lack of compensation in Turkey for immigration-related (administrative) detention under Article 5 of the Convention, which differs from the compensation regime under CMK (Criminal Procedure Code) 141 et seq. for criminal detentions.
6. In the context of criminal detention, Articles 141-144 of the Criminal Procedure Code (CMK) allow individuals to seek compensation for “unlawful” or “unjust” detention measures in a criminal-law context. For instance, a suspect or accused might later be acquitted or see the prosecution dropped, and can then file a claim for monetary damages in the Heavy Penal Court. The law covers typical “protective measures”: detention, arrest, search, seizure, etc. If these measures are proven unwarranted or disproportionate, the person can sue the State for both material and moral (non-pecuniary) damages. However, these provisions concern situations where the individual was subjected to detention or other coercive measures as part of a criminal investigation or prosecution.
7. In the context of administrative detention, the ECtHR has repeatedly found that compensation is not an effective remedy under domestic law in that purely administrative context, unlike in criminal cases governed by CMK 141. The Court has highlighted, in several judgments (including *Kunshugarov v. Türkiye*), that administrative detention of foreigners under Law no. 6458 (the Foreigners and International Protection Act) is not regarded as a “criminal” detention under Turkish law. Thus, CMK 141 claims typically do not apply to purely immigration-based detentions. Instead, the applicable review of lawfulness for administrative detention (under Law 6458) goes through “Magistrate’s Courts” (*Sulh Ceza Hakimlikleri*). If the Magistrate’s Court never found the detention unlawful in the first place, no further compensation claim is realistically possible afterward. Hence, the Constitutional Court’s ruling in *B.T.* (no. 2014/15769) states that an action for damages in the administrative courts is only effective if a magistrate’s court has already held the detention to be unlawful. If the magistrate’s court upheld lawfulness each time, the foreign national has no direct route to a compensation award. This effectively leaves many migrants and asylum seekers unable to get any “just satisfaction” or redress for alleged wrongful administrative detention, unless the magistrate’s court has explicitly declared their detention unlawful (which is rare).
8. With regards to the availability of compensation for immigration detainees, *Akkad vs Turkey* highlight that individuals are excluded from compensation or any judicial finding of unlawfulness altogether. When Turkish authorities claim that individuals in places of detention are ‘voluntarily returning,’ these individuals are not *considered* detainees under Law 6458 and can thus not access to the usual detention-review procedures.

#### **Restraint measures:**

9. With regards to the use of restraint measures, Articles 93 and 191(1) of the Turkish Code of Criminal Procedure (CMK) places no explicit requirement for a separate bylaw exclusively on handcuffing procedures, leaving details largely up to officers’ discretion. While the *Yakalama, Gözetim ve İfade Yönetmeliği* (Regulation on Arrest, Custody, and Statement-Taking) provides some rules mirroring CMK Articles 93 and 191(1) as well as the Child Protection Law (No. 5395), it does not mandate a comprehensive, standardized approach to documenting or reviewing handcuff use. In the wider migration context, this broad discretion can become problematic. Despite formal principles of proportionality and necessity, detainees—especially in administrative detention under immigration law—often lack clear avenues to challenge or contest excessive restraint. Reports indicate that transfers are sometimes carried out with minimal oversight, and there is no mechanism consistently monitoring when and why handcuffs are used, nor any requirement to justify those decisions with

contemporaneous evidence.<sup>2</sup> Although children are in principle exempt from being handcuffed, legal frameworks do not provide for systematic judicial review of the age of youth and young adults. Consequently, while Turkish legislation does not strictly require a dedicated “handcuffing regulation,” the absence of procedural detail, transparent oversight, and clear accountability measures continues to leave detainees vulnerable to arbitrary or disproportionate restraint.

## **B. CONTINUED VULNERABILITY OF SYRIANS IN PRACTICE**

10. In January 2025, 2.865.000 Syrians are in Turkey under the temporary protection scheme.<sup>3</sup> Between 2017 and 2024, 821,579 Syrian refugees participated in the same type of voluntary return program as Akkad.<sup>4</sup> In 2024, Turkey deported 142.536 individuals.<sup>5</sup>

### **Arbitrary detention practices:**

11. Despite the existence of legal provisions on paper—such as alternatives to detention, respect for non-refoulement, and a right to appeal—their weak implementation and the systemic barriers to access legal counsel and due process have given rise to persistent and widespread allegations of arbitrary detention.<sup>6</sup>
12. Despite a legal cap of one year for administrative detention (six months plus a possible six-month extension), NGOs have reported that refugees are initially released and then re-detained, as well as held for indefinite periods in unofficial de-facto places of detention, such as the so-called Temporary Accommodation Centers (TACs). Originally set up as refugee camps, TACs now function like unregulated detention sites where refugees can be confined outside of legal protection frameworks.<sup>7</sup>
13. NGOs have also reported on coercive or abusive tactics to pressure detainees into signing “voluntary return” documents, including physical beatings and forced exposure to extreme cold—particularly in centers located in Şanlıurfa and Gaziantep.<sup>8</sup> Deteriorating conditions such as overcrowding, unhygienic dormitories, and inadequate food or healthcare contribute to an atmosphere of de facto punishment rather than administrative holding.<sup>9</sup> These circumstances can coerce people into signing “voluntary return” forms (cf. par. 16-22). Vulnerable groups, including children and pregnant women, are also subjected to prolonged detention in environments ill-suited to their medical or developmental needs, compounding the harm they experience.<sup>10</sup>
14. The above documented and alleged practices raise serious questions about whether and how the Turkish government is ensuring that detention is used only as a last resort and never in an arbitrary or punitive manner.

### **Lack of access to effective remedy for detainees:**

15. Despite Turkey’s Law on Foreigners and International Protection (LFIP) Article 81, which guarantees access to legal assistance, detainees face significant barriers when trying to challenge detention and deportation orders.<sup>11</sup> Officials commonly fail to provide timely, accurate information about where a

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<sup>2</sup> International Refugee Rights Association and Global Detention Project; *Türkiye: Submission to the Committee against Torture*, June 2024, <https://www.globaldetentionproject.org/turkiye-submission-to-the-committee-against-torture>

<sup>3</sup> <https://en.goc.gov.tr/en01>

<sup>4</sup> <https://en.goc.gov.tr/en01>

<sup>5</sup> <https://en.goc.gov.tr/en01>

<sup>6</sup> UN Committee against Torture, *Concluding observations on the fifth periodic report of Türkiye*, August 2024, <https://bit.ly/4bODhAz>; UN Committee on Migrant Workers, *Concluding observations on the second periodic report of Türkiye*, July 2024, <https://bit.ly/4iOG7YJ>.

<sup>7</sup> International Refugee Rights Association and Global Detention Project; *Türkiye: Submission to the Committee against Torture*, June 2024, <https://www.globaldetentionproject.org/turkiye-submission-to-the-committee-against-torture> para. 2.2-2.3

<sup>8</sup> International Refugee Rights Association and Global Detention Project; *Türkiye: Submission to the Committee against Torture*, June 2024, <https://www.globaldetentionproject.org/turkiye-submission-to-the-committee-against-torture> para. 3.4

<sup>9</sup> Multeci-Der, October-December 2024 RC Visits, Pages 10-11; <https://multeci.org.tr/en/2025/02/01/report-on-izmir-and-aydin-removal-center-visits-october-december-2024/>

<sup>10</sup> International Refugee Rights Association and Global Detention Project; *Türkiye: Submission to the Committee against Torture*, June 2024, <https://www.globaldetentionproject.org/turkiye-submission-to-the-committee-against-torture> para. 5.

<sup>11</sup> <https://www.globaldetentionproject.org/turkiye-submission-to-the-committee-against-torture>

person is being held, effectively blocking legal counsel from locating them or filing appeals within Turkey's strict seven-day deadline.<sup>12</sup> This short appeal window can expire simply because individuals cannot communicate with lawyers<sup>13</sup>, have no access to personal phones, and often do not receive official notice of their detention or deportation in a language they understand<sup>14</sup>. Many detainees wait weeks or even months before they are allowed to meet with a lawyer, and in some cases, they are not even informed that they have the right to legal representation. By the time legal aid is granted, deportation appeal deadlines may have already passed, making it impossible for detainees to challenge their removal.

16. Also, detainees who are not acknowledged as being under administrative detention because authorities claim that they are candidates for "voluntary return" cannot get to a magistrate's court ruling and thus also not to compensation.

### **Coercion in voluntary return programmes:**

17. Under the guise of "voluntary returns," Syrians are often pressured into signing documents or providing verbal "consent" without genuine freedom of choice; in reality, many are not given a thorough explanation of the possible risks awaiting them in Syria. Independent oversight or review mechanisms capable of verifying the voluntariness of these returns remains weak, and detainees commonly experience difficulty in contesting their removal once a deportation order is issued. Furthermore, the absence of higher-level appeals against administrative court decisions further restricts detainees' ability to seek remedies. Despite formal protections existing on paper, the practical obstacles—frequent transfers, tight procedural deadlines, insufficient interpretation, and inadequate monitoring—undermine Syrians' right to effectively challenge deportation or detention.
18. Another major issue is the lack of interpreters, which further restricts detainees' ability to access legal assistance. Many detainees do not speak Turkish and are forced to navigate complex legal procedures without any language support. In some cases, they are given legal documents to sign without understanding their content, leading to serious consequences. A Francophone detainee at İzmir Harmandalı recounted, *"I couldn't understand what the officer was saying, and they didn't give me an interpreter. I signed a paper, but I don't know what it was for."*<sup>15</sup>
19. Reports from the field indicate that detainees continue to be subjected to pressure, misinformation, and coercion when asked to sign voluntary return forms, often without access to independent legal counsel or translation services<sup>16</sup>. Many are led to believe that refusal to sign will result in indefinite detention, forcing them into making decisions that are neither voluntary nor informed. A detainee at İzmir Harmandalı described his experience, stating, *"They keep telling me to sign a paper to go back to my country, but I don't want to. They say if I don't sign, I'll be stuck here forever. I feel like I don't have a choice"*<sup>17</sup>. This widespread practice constitutes a violation of the principle of non-refoulement and deprives detainees of the procedural safeguards necessary to ensure fair and lawful deportation processes.

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<sup>12</sup> International Refugee Rights Association and Global Detention Project; Türkiye: Submission to the Committee against Torture, June 2024, <https://www.globaldetentionproject.org/turkiye-submission-to-the-committee-against-torture> para 4.2; See also Multeci-Der, July - September 2024 RC Visits, December 2024; Multeci-Der, October-December 2024 RC Visits, January 2025.

<sup>13</sup> One such case was reported at Aydın Removal Center, where a detainee stated, "I requested a lawyer when I arrived, but no one came. My deportation appeal deadline passed because of this, and now I have no way to stop my removal." . Multeci-Der, October-December 2024 RC Visits, Page 13; <https://multeci.org.tr/en/2025/02/01/report-on-izmir-and-aydin-removal-center-visits-october-december-2024/>

<sup>14</sup> Weise, Z., Al-Najjar, M., Bulman, M., Mourenza, A., & Zandonini, G. (11 October 2024.). The EU is helping Turkey forcibly deport migrants to Syria and Afghanistan. POLITICO. <https://www.politico.eu/article/the-eu-is-helping-turkey-forcibly-deport-migrants-to-syria-and-afghanistan/>

<sup>15</sup> Multeci-Der, October-December 2024 RC Visits, Page 12; <https://multeci.org.tr/en/2025/02/01/report-on-izmir-and-aydin-removal-center-visits-october-december-2024/>

<sup>16</sup> See Multeci-Der, July - September 2024 RC Visits, December 2024; Multeci-Der, October-December 2024 RC Visits, January 2025; International Refugee Rights Association and Global Detention Project; Türkiye: Submission to the Committee against Torture, June 2024.

<sup>17</sup> Multeci-Der, July - September 2024 RC Visits, Page 16-17; <https://multeci.org.tr/en/2025/01/17/report-on-izmir-and-aydin-removal-center-visits-july-september-2024/>

20. While Turkish authorities claim that voluntary return programs comply with human rights laws, reports indicate that many detainees are pressured into signing return agreements under duress. Detainees are frequently told that refusing to sign the voluntary return form will result in indefinite detention, creating a sense of desperation. Some are also led to believe that forced deportation is inevitable, making "voluntary" return appear to be their only viable option. In some instances, detainees were taken into group meetings where they were collectively pressured to sign the return documents, often without the presence of legal counsel or an interpreter. At Aydın Removal Center, a Syrian detainee recalled, *"They called us into an office in groups and told us to sign. They didn't explain what the papers meant. Some people were too scared to refuse, so they signed. A few days later, they were sent back to Syria."*<sup>18</sup>,
21. The Government cites new circulars, such as Circular no. 2023/1, and revised forms in relation to addressing the issues criticized in Akkad. However, reports from the Cilvegözü border gate indicate a starkly different reality. The previously implemented video recording system for returns was abandoned, allegedly due to storage-capacity issues. Despite the requirement for a handwritten declaration reflecting informed consent, detainees typically provide only a verbal statement at the Provincial Directorate of Migration Management (PDMM), with no multi-step review or thorough interview process to confirm that the return is truly voluntary.
22. Once a detainee states their intention to return, they undergo immediate fingerprinting and exit through the border gate of their choice. Those applying from another province receive a road permit to reach their designated crossing. Additionally, only the "household head" (hane reisi) signs the return forms, rather than each adult member, contradicting the Government's claim that every individual personally confirms their willingness to return. This approach creates a superficial procedural record of "consent", failing to protect detainees from coercion or misinformation that may pressure them into so-called voluntary returns. It also undermines the Government's assertion that the process is closely monitored or supervised by independent actors, such as NGOs or UNHCR representatives.
23. Finally, Turkish domestic case law itself raises questions about coercion in voluntary return programs as complaints have been repeatedly dismissed on procedural grounds. For example, in [Safa El Mendi \(2020/11941\)](#), the Court dismissed the complaint on procedural grounds as the deportation decision had been lifted due to an alleged voluntary return. Also, in [Mhd Majed Salloum \(2020/3231\)](#), the Court rejected the application on procedural grounds due to the applicant's alleged voluntary return, despite concerns about potential ill-treatment.

#### **Lack of safeguards for non-refoulement obligations:**

24. Turkey's domestic legal framework explicitly recognizes the principle of non-refoulement, enshrined in both national and international law, and formally prohibits the deportation of individuals to countries where they would face persecution, torture, inhuman or degrading treatment, or other serious harm. Article 4 of Law No. 6458 on Foreigners and International Protection (LFIP) upholds this principle, reinforcing Turkey's obligations under Article 33 of the 1951 Refugee Convention and Article 3 of the European Convention on Human Rights (ECHR). However, despite these legal guarantees, the implementation of non-refoulement protections in practice remains deeply flawed, exposing individuals to unlawful removals that contravene both domestic and international legal obligations.
25. The protection of the non-refoulement principles has remained a serious concern also after the Akkad v. Turkey judgment. In [Kunshugarov v. Türkiye Judgment \(2025\)](#), the ECtHR underscores that states must scrutinize thoroughly the risk of refoulement to potential torture. In this case, the applicant, a Kazakh national, faced extradition to Kazakhstan over terrorism-related charges. He alleged that his removal would expose him to the death penalty and torture or other forms of ill-treatment, a risk he claimed Turkish authorities did not properly evaluate despite obtaining broad, non-specific diplomatic assurances from the Kazakh Prosecutor General. The Court found no violation in respect of the death penalty concern, because Kazakhstan had abolished capital punishment. However, regarding the risk

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<sup>18</sup> Multeci-Der, July - September 2024 RC Visits, Page 16 ; <https://multeci.org.tr/en/2025/01/17/report-on-izmir-and-aydin-removal-center-visits-july-september-2024/>



of torture and ill-treatment, the Court ruled that the Turkish authorities' reliance on vague assurances fell short. It held there was a violation of Article 3, as the authorities had failed to conduct a rigorous assessment of whether the applicant risked ill-treatment in Kazakhstan—particularly given credible reports of torture in cases involving terrorism charges.

26. Turkish domestic case law underscores gaps in procedural safeguards where Turkish courts inadequately examine risks associated with deportation to third countries. The case of Hooman Hosseinpour (2021/47168), for example, involved serious concerns of indirect refoulement. Despite an administrative decision to deport him to a "safe third country," the Constitutional Court found violations of the right to life and prohibition against ill-treatment due to the administrative court's failure to diligently assess the risk of indirect refoulement. Also, in Ali Elhuseyin (2020/5730), Turkey's Constitutional Court explicitly found violations of the right to life and the right to effective remedy. Despite pending judicial proceedings against his deportation order, Elhuseyin was forcibly returned to Syria, a country with ongoing conflict and evident risks. The authorities failed to present evidence of genuine voluntary return procedures, demonstrating inadequate procedural safeguards and arbitrary administrative practices.
27. In particular, a significant failing in Turkey's deportation procedures is the absence of an effective and individualized risk assessment. Although existing regulations require authorities to evaluate the dangers a person may face upon return, these assessments are often rushed, superficial, and lack independent oversight. Detainees are frequently denied meaningful access to legal representation, making it nearly impossible for them to present evidence or challenge deportation orders. Many are transferred between detention facilities without prior notice, preventing lawyers from locating them in time to file appeals within Turkey's restrictive seven-day deadline. This procedural deficiency results in *de facto* refoulement, where individuals are expelled without a fair or adequate review of their risk profile.
28. The use of so-called "voluntary return" procedures further weakens the enforcement of non-refoulement protections. In numerous cases, individuals are pressured into signing "voluntary return" declarations under coercion, misinformation, or without proper legal consultation. Independent monitoring mechanisms are either absent or ineffective, and many detainees report being misled about their options, left uninformed about their right to apply for international protection, or subjected to physical abuse and degrading treatment to force their compliance. In particular, reports from removal centers in Şanlıurfa and Gaziantep document violent coercion, including beatings and exposure to extreme cold, forcing detainees into agreeing to "voluntary" return.<sup>19</sup> The absence of transparent procedures, independent legal assistance, and adequate judicial oversight renders these so-called voluntary returns involuntary in substance, violating Turkey's legal obligations.
29. Further compounding these violations, Constitutional Court (AYM) cases reveal that Turkish authorities deliberately circumvent the prohibition on removals to unsafe countries through the designation of purported "safe third countries". In practice, deportation orders often list countries such as Ecuador, Malaysia, or Sudan as removal destinations, obscuring the fact that the actual final destination is Syria. For example, in the Constitutional Court judgment<sup>20</sup> of 7 February 2020, an applicant's interview and deportation form identified Ecuador, Malaysia, and Sudan as the listed countries of removal, yet the true intent of the authorities was to return the individual to Syria. This manipulative administrative practice effectively allows authorities to sidestep Turkey's non-refoulement obligations on paper while, in reality, exposing individuals to the very risks that Turkish law and international treaties seek to prevent.
30. On 8 December 2024, an offensive by armed rebel groups spearheaded by Hayat Tahrir al-Sham (HTS), a jihadi group ruling Idlib in northwest Syria since 2017, forced Bashar al-Assad to flee Syria and his government to fall. HTS leader Ahmed al-Sharaa became Syria's *de facto* ruler. The UN

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<sup>19</sup> International Refugee Rights Association and Global Detention Project; Türkiye: Submission to the Committee against Torture, June 2024, <https://www.globaldetentionproject.org/turkiye-submission-to-the-committee-against-torture> para 3.3 - 3.4

<sup>20</sup> Turkish Constitutional Court, Şekip Karkur [2.B.], B. No: 2020/7458, 2/6/2020, § 10

Security Council has the authority to remove the terrorist designations of HTS and its leader from the ISIL (Da'esh)/Al-Qaida list.

31. With the change of regime, risks related to persecution by the former Government have ceased, other risks persist or may even become even more pronounced in the coming months and years. After the change of regime on 8 December 2024, Syria does not yet have a functioning security or justice apparatus, nor any transitional justice mechanisms, leaving citizens vulnerable to human rights violations, persecution and revenge acts.<sup>21</sup> On 8 March 2025, for example, large-scale summary executions and indiscriminate shootings took place in the coastal areas of Syria,<sup>22</sup> leaving experts to speculate about possibilities of wider civil war and sectarian violence. In light of the rapidly changed dynamics and evolving situation in Syria, definite conclusions are immature and watertight procedures for a careful consideration of non-refoulement obligations have become yet more crucial.
32. With regards to the situation in Syria after the 8<sup>th</sup> of December 2024, UNHCR does not consider that the requirements for cessation of refugee status for beneficiaries of international protection originating from Syria have currently been met.<sup>23</sup> Building on these conclusions, the Commissioner for Human Rights of the Council of Europe issued the following statement on 10 December 2024: *"Under the European Convention on Human Rights and the case law of the European Court of Human Rights, no member state may return an individual to a place where they face a real risk to their life or a threat of torture, inhuman, or degrading treatment. States must also consider how return might affect family and private life, especially for Syrians who have resided in host countries for extended periods. Any decision must be accompanied by effective judicial remedies. Before taking steps that could lead to returns, member states must carefully consider the rapidly changing and complex situation on the ground. Decisions should be evidence-based and should not be made hastily. Any change in the protection status of Syrians should be made only after a thorough assessment of continuing human rights risks for specific groups and individuals. States must ensure that if they choose to withdraw protection and proceed with returns, the necessary safeguards remain firmly in place. For Syrians who wish to return to their country of origin, member states should ensure that they enable them to do so in a well-informed and truly voluntary manner. Assistance and freedom from any undue legal or material pressure to take this step are essential to that end. Those whose claims for asylum remain unprocessed or suspended should not be left in indefinite limbo. As long as this situation persists, they should have access to adequate reception conditions and documentation. The eventual assessment of their claims must ensure a fair, individualised procedure rather than relying on general assumptions that Syria is now 'safe'. Lastly, if the evolving situation in Syria prompts people to flee the country, member states should guarantee genuine and effective access to asylum procedures, protect them from refoulement, and avoid collective expulsions."*<sup>24</sup>
33. The Turkish government recently issued a circular introducing an "Authorized Exit and Re-Entry" procedure for Syrians under temporary protection.<sup>25</sup> According to this circular, starting from January 1, 2025, Syrians are allowed short-term visits to Syria, aiming to support and facilitate voluntary return planning. Those benefiting from this scheme can cross the border up to three times during the six-month period, but they must return to Türkiye through the same border crossing by July 1, 2025, at the latest. Their identification documents will not be retained during these brief visits. This policy raises concerns about what will happen after July 1st. The circular provides no guidance or clarification regarding the status of Syrians who might not return by that date, through a different border crossing or who face issues at the border. There is significant uncertainty about how authorities will manage

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<sup>21</sup> Syria Justice and Accountability Centre, The state of justice in Syria 2025. <https://syriaaccountability.org/the-state-of-justice-in-syria-2025/>

<sup>22</sup> Human Rights Watch, 10 March 2025, Syria: End Coastal Killing Spree, Protect Civilians, <https://www.hrw.org/news/2025/03/10/syria-end-coastal-killing-spree-protect-civilians>.

<sup>23</sup> UNHCR, *Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the "Ceased Circumstances" Clauses)*, HCR/GIP/03/03, 10 February 2003, [www.refworld.org/policy/legalguidance/unhcr/2003/en/14489](http://www.refworld.org/policy/legalguidance/unhcr/2003/en/14489).

<sup>24</sup> <https://www.coe.int/en/web/commissioner/-/as-syria-shifts-council-of-europe-member-states-must-avoid-hasty-returns-of-refugees>

<sup>25</sup> <https://www.goc.gov.tr/gonullu-geri-donus>

cases of individuals who fail to meet this deadline, potentially leaving many in a vulnerable legal situation.<sup>26</sup>

34. Moreover, the lack of transparency and procedural safeguards in detention and deportation proceedings enables enforced disappearances of detainees, further obstructing legal remedies. Lawyers, NGOs, and even family members frequently report being unable to locate individuals for days or weeks at a time, leaving them without any means to challenge their detention or removal. This systematic denial of access to justice is in direct violation of Article 13 of the ECHR, which guarantees the right to an effective remedy, as well as Article 5, which protects against arbitrary detention.

## **II. THE ACTION PLAN DATED 24 DECEMBER 2024 DOES NOT ADDRESS SUFFICIENTLY THE EFFECTIVE IMPLEMENTATION OF ALL GENERAL MEASURES**

### **Voluntary return programmes**

35. The Government Action Report claims that voluntary returns are conducted under the supervision of international organizations and NGOs. The report does not provide details that would allow for conclusions on whether or not this supervision can be considered to be independent and effective.

### **Legal safeguards in places of administrative detention**

36. The Government Action Report argues that assessments of administrative detention for irregular migrants is carried out with respect for public order, public health and public safety. The reliance on such broadly-defined criteria, without clear standards or specific safeguards, risks lowering the threshold required for detention decisions. This can result in overly broad or arbitrary detentions, thereby undermining effective remedies and directly jeopardizing individuals' rights to liberty and security.
37. The Government Action Report claims that due attention is paid to "special needs" in connection to age, health status, gender and family status and cites Art. 75 of the Law no. 7196 of 6 December 2019 to indicate that alternative measures to administrative detention exist for people in vulnerable situations. The Government Action Report provides neither evidence to substantiate its claims, nor procedural reassurances.

### **Restriction equipment**

38. The Ministry of Internal Affairs' Circular no. 2022/2 dated 20 January 2022 on the Procedures and Principles Regarding Forced Repatriation stipulates that all interventions to be carried out during the forced return or transfer must be reasonable and proportionate, and that the restriction equipment to be used must be kept to a minimum level within the framework of the principle of proportionality. The Government Action Report provides neither evidence of procedural safeguards, nor of the implementation of these regulations.

### **Appeal procedures against administrative detention measures**

39. The Government Action Report refers to only one decision from the Turkish Constitutional Court (Abdulkerim Hammud, App. no. 2019/24388). However, the appeal procedure in this case was not able to actually prevent the forced return of the applicant to Syria and did thus not constitute effective remedy. The Government Action Report does not refer to sample decisions from the Administrative Court.

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<sup>26</sup> In view of the rapidly evolving situation in Syria, UNHCR is not promoting large-scale voluntary repatriations to Syria and calls on states to refrain from forcibly returning Syrian nationals. UNHCR, Position on returns to the Syrian Arab Republic, December 2024, <https://data.unhcr.org/en/documents/details/113430>.



### **Internal directives and secondary legislation for voluntary return programmes**

40. The Government Action Report describes procedures for voluntary return programs, including video recording of informed consent, without providing references to secondary legislation.
41. The Government Action Report does not refer to the rights of foreigners in detention or in return programs to access interpretation.
42. The Government Action Report specifies the institutions/organizations and persons authorised to sign the voluntary return form, but does not detail the framework that regulates situations when adults would not sign their own consent forms.

### **III. CONCLUSIONS AND RECOMMENDATIONS TO THE COMMITTEE OF MINISTERS**

43. In the light of the above, CESSMA, MÜLTECI-DER and GDP conclude that legal gaps remain and that current detention and readmission practices do not comply with the required general measures following from the judgment *Akkad vs Turkey*.
44. CESSMA, MÜLTECI-DER and GDP thus request on the Committee of Ministers to:
  - Continue the supervision of the general measures under the standard procedure;
  - Call on the Turkish government to provide an Action Plan that answers in detail all of the Secretariat's initial questions;
  - With regards to general measures for **voluntary return programs**, request the Turkish government to provide evidence of:
    - a list of institutional actors who are allowed to monitor voluntary return procedures;
    - detailed overviews of the extent of access rights of these organisations to places of detention and border crossing points;
    - copies of procedural agreements with supervisory bodies on the prior communication of lists of names of individuals in up-coming transfers, including temporal delays and agreements on advance notices of upcoming transfers;
    - statistical data about the provision of services, including legal and interpretation, to ensure that the contacts of voluntary forms are fully explained and only signed in the presence of a lawyer;
  - With regards to general measures for **legal safeguards in places of administrative detention**, request the Turkish government to provide evidence of:
    - statistical data on voluntary returns to Syria from places of detention since 2022
    - statistical data on applications for legal aid in administrative detention and the number of visits by lawyers to people in voluntary return programs in places of detention;
    - written procedures for proper notification of rights to detainees, including of existing appeal windows, as well as to the families and lawyers of individuals;
    - statistical data that demonstrates restrictions on relocations between detention centres after 2022, including 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;
    - statistical data on the availability of means of communication in detention centres;
    - statistical data on the number of "vulnerability notification forms" that were filled out since 2022 and evidence of the respective measures that were taken thereafter;
  - With regards to **restriction equipment**, request the Turkish government to provide evidence of:
    - internal supervision mechanisms to ensure respect of regulations that constrain the use of restriction mechanisms;

- external monitoring possibilities by independent NGOs and UN agencies during transfers between detention centres;
- statistics of individuals who filed complaints about mistreatment during transfers and excessive use of restriction equipment since 2022, and measures taken thereafter;
- With regards to **appeal procedures** regarding deficiencies in voluntary returns, request the Turkish government to provide evidence of:
  - sample decisions of appeals in administrative courts and the Constitutional Court that effectively prevented forced returns through voluntary return programs;
- With regards to **internal directives and secondary legislation for voluntary return programs**, request the Turkish government to provide evidence of:
  - written procedures for access rights by lawyers to video recordings of informed consent;
  - written procedures that guarantee foreigners in detention or in return program access to interpretation;
  - statistical data on the number of paid hours for interpretation services per detention center and per transfer;
  - specification of the conditions under which institutions and organizations are allowed to sign consent forms instead of the respectively concerned individuals, as well as procedural safeguards when the head of household consents for the entire family

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