



المركز السوري للإعلام وحرية التعبير  
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Syrian Center for Media and Freedom of Expression

## Forcible return of Syrian refugees in Lebanon and Türkiye

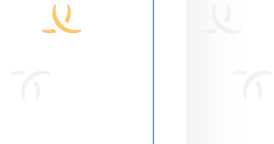


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# Acknowledgment

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The completion of this report would not have been possible without the participation and essential support of the witnesses, survivors, and families of the victims who participated with us in the interviews.

Thanks are due to all who contributed from the Center's team and its collaborators in all stages of writing the report, starting from its preparation until its complete implementation and production.

A special thanks to the refoulment team, for their effort in documenting the cases of refoulement and missing cases during Asylum routes.



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## I. Executive Summary

**This report addresses the protection of Syrian refugees in Lebanon and Türkiye against forcible return, in law and in practice, and the extent to which these countries legal frameworks and observed practices are compatible with their international obligations.**

To this effect, the report explains the principle of non-refoulement in light of international treaties and comparative case law, its place in the Refugee Convention and in customary international law, the beneficiaries of this principle and the scope of the provided protection. It also addresses the status of disguised voluntary return within the definition of “refoulement.”

Despite their special status regarding the Refugee Convention, the report clarifies the binding nature of the non-refoulement for these two countries, Türkiye and Lebanon. This obligation follows, not only from customary law, but also from their contractual obligations under a number of other instruments. The report also notes the shortcomings of the legal frameworks that were originally developed by Türkiye and Lebanon to regulate the status of refugees, and observes their actual practices towards them. In this context, the report shows how these legal frameworks and actual practices violate the two countries’ international obligations as well as their domestic legal systems. Finally, the report presents the conditions and standards for the safe return of Syrian refugees as set out by the United Nations High Commissioner for Refugees, before concluding with a number of recommendations.

## II. Introduction

The UN High Commission for Refugees affirms that Syria is not a safe place for refugees return<sup>1</sup>. In addition, reports abound on the deterioration of the security and economic situation inside the country<sup>2</sup>, and on the plight of forcibly returned refugees<sup>3</sup>. However, reports also abound about waves of refugees forcibly returned from Türkiye and Lebanon<sup>4</sup>. **These two countries host the largest Syrian refugees community in the Middle East with 3.6 Syrians living in Türkiye<sup>5</sup>, and 1.5 in Lebanon<sup>6</sup>.**

As a matter of fact, the two countries have a delicate status towards the Convention on the Status of Refugee of 1951 (hereinafter Refugee convention, or the 1951 Convention). While

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1 UNHCR, International Protection, [Considerations with regard to people fleeing the Syrian Arab Republic. Update VII](#), March 2021.

2 World Bank, [Syria's Economy in Ruins After a Decade-long War](#), 17/03/2023.

3 Amnesty International, [Syria: “You’re going to your death” Violations against Syrian refugees returning to Syria](#), Sept 7 2021; Human Rights Watch, [“Our Lives Are Like Death” Syrian Refugee Returns from Lebanon and Jordan](#), October 2021.

4 HRW, [Turkey: Hundreds of Refugees Deported to Syria](#), 24 Oct. 2022; [Turkish Border Guards Torture, Kill Syrians Turkey Should End Impunity](#), 27 April 2023; [Lebanon: Armed Forces Summarily Deporting Syrians Donors Should Ensure Funding Doesn't Contribute to Rights Violations](#); Kurdistan24, [Turkey departs 29.895 Syrian refugees and asylum seekers: STJ report](#), 22 Sept. 2023. July 5, 2023; Amnesty International, [Lebanon: forcible return of more than 100 refugees to Syria a shocking setback](#).

5 Communication from the Commission to the European Parliament and the Council: [Seventh Annual Report of the Facility for Refugees in Turkey](#), 22 Sept. 2023.

6 UNHCR, [UNHCR Lebanon at a glance](#)

Lebanon never signed the Convention<sup>7</sup>, Türkiye signed it but with a geographic limitation whereby it would grant the refugee status provided for in the Convention only to European nationals<sup>8</sup>. Furthermore, the two countries adopted, towards the Syrian refugees' crisis, short-sighted and improvised approaches<sup>9</sup>. These were subsequently regulated by legal texts that were not compatible with the respective countries relevant international obligations. For the two countries remain under the legal obligation of respecting the principle of non-refoulement of refugees and asylum seekers. This is based on the 1951 Convention for Türkiye, and on the customary nature of the same principle under general public international law for Lebanon<sup>10</sup>. In addition the latter country has voluntarily accepted to implement the provisions of the Convention<sup>11</sup>. Finally is binding for Lebanon due to its enshrinement in other international instruments ratified by the country.

This report shall study the protection of Syrian refugees in Türkiye and Lebanon against forcible return, legally and in practice, and the compatibility of these countries' legal frameworks and practices with their relevant international obligations. To this effect, the report shall, first, address the principle of non-refoulement in international refugee law and its implication for the two countries (II). It shall then consider the legal frameworks they adopted and the practices they pursue toward Syrian refugees, and the compatibility thereof with their international obligations (III). Lastly, the Report shall deal with the conditions of Syrian refugees' safe and voluntary return (IV), before formulating a number of recommendations (V).

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7 National report of the Lebanese Republic submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/11; 18 Jan 2021, p. 23, para 192.

8 HRW, Turkey, [protection of refugees](#)

9 B. Berti, "[Lebanon's Short-Sighted Refugee Policy](#)", Carnegie Endowment International, 31 Jan, 2017; The New Humanitarian, [Is Turkey's approach to Syrian refugees sustainable?](#), 15 Apr. 2013.

10 Guy S. Goodwin-Gill, Jane McAdam, Emma Dunlop, "The Principle of Non-refoulement –Part 1", in. Guy S. Goodwin-Gill, Jane McAdam (Ed.), *The Refugee in International Law* (4th Edition).

11 M. Jannmyr, "No Country of Asylum: 'Legitimizing' Lebanon's Rejection of the 1951 Refugee Convention", *International Journal of Refugee Law*, 2017, Vol 29, No 3, p. 438



### III. The principle of non-refoulement

International refugee law rests on two cardinal principles, namely the non-refoulement, and the right to acceptable living conditions in the host State<sup>12</sup>. The principle of non-refoulement represents the cornerstone of international refugee law. It means that refugees may not be sent back to the country they fled, nor be deported to a country where they risk facing persecution. In order to protect refugees, and enable them to enjoy dignified living condition, the 1951 convention poses the obligation of “providing them with acceptable living conditions”. These conditions include, mainly, the right to education, to work, to basic support and assistance services, right to property, and to civil documents.

For the purposes of this report, the emphasis will be put on the right to non-refoulement, while the right to “acceptable living conditions” will be dealt with only in connection with forcible return. In other words, and in the context relevant to this report, the “living conditions” of Syrian refugees in the studied countries appear to be a mean for imposing forcible return, or disguised voluntary return. This is brought about by subjecting refugees to harsh conditions to an extent that leaves them with no other choice but to return to the country they originally fled.

Under this Chapter, we shall consider the source of the principle of non-refoulement of refugees and asylum seekers (1), its status under the refugee convention and under customary international law (2), its beneficiaries (3), and geographic scope (4) as well as the disguised forcible return, i.e. the situation where the refugee finds himself, due to the harsh treatment received in the hosting country, with only one choice, namely returning to the country (s)he originally fled, and this is (5).

## 1. Source of the non-refoulement principle

The principle of non-refoulement represents the cornerstone of international refugee law. The refugee convention provides, in its article 33 (para 1), that “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” No reservation may be entered by the contracting parties with respect to this provision according to article 42 of the same convention. It follows from the prohibition of refoulement “in any manner whatsoever” that the prohibition of disguised voluntary return is implicit in the original obligation.

No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

12 Kälin, W., Caroni, M., & Heim, L., ‘Article 33, para. 1’, in Zimmermann, A., ed., The 1951 Convention relating to the Status of Refugees and its 1967 Protocol: A Commentary (2011) 1335.



Since the signature of the 1951 convention, this principle has been enshrined in a number of regional instruments related to refugees. This was notably the case with the African Charter, the Inter-American Human Rights Convention, the Cartagena Declaration, as well as with a number of international human rights treaties such as the convention against torture (art. 3), the Convention for the Protection of All Persons from Enforced Disappearance (art. 16).

Courts and Treaty bodies' case law also considered that the principle of non-refoulement was implicit in a number of additional instruments. The UN Human Rights Committee considered it to be implicit in the prohibition of torture and of degrading treatments<sup>13</sup>. The same position was adopted by the European Court of Human Rights which added a number of other rights guaranteed by the European Convention<sup>14</sup>. The Inter-american Court of Human Rights considered that violation of the basic guarantees of due process may result in the violation of the principle of non-refoulement<sup>15</sup>. The Committee on the Rights of the Child found that non-refoulement applies, under the Convention, where there is a 'real risk of irreparable<sup>16</sup> harm to the child', including where there is a threat to the survival and development of the child (articles 6 and 37 CRC). For its part, the Committee on the Elimination of All Forms of Racial Discrimination considered that the non-refoulement obligation was implicit in article 5(b) of Convention<sup>17</sup>. Similarly, the Committee on the Elimination of Discrimination against Women stated that a woman is not to be expelled to another State where 'her life, physical integrity, liberty and security of person would be threatened, or where she would risk suffering serious forms of discrimination, including serious forms of gender-based persecution or gender-based violence'<sup>18</sup>.

The expansion of the protection against refoulement under international conventions and treaties, as well as through their judicial interpretation consequently enlarged the extent of states' obligations, and widened the scope of benefiting individuals<sup>19</sup>.

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13 UN Committee on Human Rights, 'General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Convention' in 'Note by the Secretariat, Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies' UN doc HRI/GEN/1/Rev.9 (Vol I) (27 May 2008) 245-6 para 12.

14 *Soering v UK* (1989) 11 EHRR 439, para 88; *JK v Sweden* (2017) 64 EHRR 15, para 79. For discussion, see Erna Kristín Blöndal and Oddný Mjöll Arnardóttir, 'Non-refoulement in Strasbourg: Making Sense of the Assessment of Individual Circumstances' (2018) 5 Oslo Law Review 147.

15 Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection, Advisory Opinion OC-21/14, Inter-American Court of Human Rights Series A No 21 (19 August 2014) para 230

16 UN Committee on the Rights of the Child, 'General Comment 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin' in 'Note by the Secretariat, Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies' UN doc HRI/GEN/1/Rev.9 (Vol II) (27 May 2008) 449, para 27.

17 UN Committee on the Elimination of Racial Discrimination, 'Consideration of Reports Submitted by States Parties Under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination—Tunisia', UN doc CERD/C/TUN/CO/19 (23 March 2009) para 15.

18 UN Committee on the Elimination of Discrimination against Women, 'General Recommendation No 32,' UN doc CEDAW/C/GC/32 (14 November 2014) para 23

19 *Pacheco Tineo Family v Bolivia*, Inter-American Court of Human Rights Series C No 272 (25 November 2013) para 135.

## 2. Beneficiaries

The expansion of non-refoulement's prohibition to new situations, resulted in providing protection to individuals not included in the definition of refugee under art 2.1.a of the Convention as amended by the 1967 Protocol, and even to those not included in the much wider definition retained by the Cartagena Declaration. The Inter-American Court of Human Rights found that art 22-8 of the Convention expanded the scope of the protection against refoulement to all aliens facing a threat to their lives, safety or freedom. To reach this conclusion, the Court linked the prohibition of torture to the protection against refoulement.

## 3. The principle of non-refoulement and customary international law

There is unanimity in the scholarship that the obligation of non-refoulement is part of international customary law. For example, the New York Declaration on Refugees and Migrants, signed by all UN members, including the four countries that had not ratified the refugee convention, stated that the signatories “respect for and adherence to the fundamental principle of non-refoulement in accordance with international refugee law”<sup>20</sup>.

International case law, in particular the European and Inter-American courts of human rights, also established the customary nature of the non-refoulement obligation. The only question often raised in this regard relates to the category of customary international law to which this obligation belongs. The UNHCR Executive Committee considered, in its General Conclusions on Protection, in 1982, that the principle of non-refoulement “was progressively acquiring the character of a peremptory rule of international law”<sup>21</sup>.

There is unanimity on the fact that refoulement to a place where the individual might be subject to torture is undoubtedly a peremptory norm of international law given the peremptory nature of the prohibition of torture. However, it is still debatable whether the non-refoulement per se belongs to the same category.

The latest related development tends to reinforce the peremptory nature of the non-refoulement principle: In December 2021, the Italian Court of Cassation found that the principle of non-refoulement is not only a well-established principle of customary international law, but also a peremptory norm of international law that accepts no exception nor derogation under any circumstance. This applies including in the case of a bilateral agreement between the sending country and the country receiving forcibly deported refugees and asylum seekers which was the case in the Libyan-Italian Memorandum of Understanding signed in 2017.

This point may not have a spectacular relevance for the purpose of this paper. Suffice it to highlight the binding nature of the non-refoulement principle as part of customary international law, and consequently as a binding rule for the States that have not yet ratified the refugee convention such as Türkiye and Lebanon.

20 New York Declaration on Refugees and Migrants, adopted by UNGA Resolution 71/1 on 19 September 2016. Para. 67

21 Report of the 33rd Session: UN doc. A/AC.96/614, para. 70.

## 4. Content and scope of the non-refoulement principle

Article 33 of the refugee convention encompasses two distinct concepts, “expulsion” and “return”: “No Contracting State shall expel or return (“refouler”) a refugee...”. Article 32 of the convention referred to the concept of expulsion which it prohibited regarding refugees that are lawfully present on the territory of the State “except where compelling reasons of national security otherwise require”. Even in this case, expulsion is implemented “only in pursuance of a decision reached in accordance with due process of law” (art. 32). It follows that the expulsion of individuals lawfully present on the territory of the state either under article 32 or 33 of the Convention is conditioned upon respect of the “due process of law”. It appears however, from the travaux préparatoires of the convention that the drafters did not intend to limit, in this manner, the scope of the protection provided by art 33, and that the concept of ‘return’ or refoulement of refugees has a wider and distinct scope when compared to the concept of ‘expulsion’. For it follows from the interpretation of article 33 in light of article 32 of the convention, and the absence, in article 33, of the requirement of “lawful presence on the territory of the state” that the latter article has purposefully enlarged the scope of the protection to all refugees including those who entered the territory in an unlawful manner.

The convention of 1951 widened the scope of the protection against refoulement in article 32 to include refugees who reside lawfully on the territory of the state except for reasons related to national security or public order. It also enlarged the same scope under article 33 to prohibit the refoulement, or return of asylum seekers who do not have the status of refugee, to the border of regions where their lives and liberty would be endangered,

## 5. Disguised refoulement

States have traditionally adopted different methods for disguised refoulement. The most common of these are ‘territorial limitations’ or the externalization of borders such as maritime borders, ports and airports. The internationalization of borders result in subjecting international borders to the internal territory. In other words, its results in effectively preventing refugees from accessing the territory leading to them voluntarily returning. This is the most common form of disguised refoulement.

As a matter of fact, voluntary return is one of the most important forms of sustainable solutions for the refugee issue alongside the cessation of circumstance that originally led to seeking refuge (end of war, end of fear from torture and persecution etc. ) However, many situations portrayed as ‘voluntary return’, including cases where return took place under the supervision of the UNHCR, there are serious doubts about the voluntariness of the repatriation. In many cases, including the repatriation of Afghanistan, Sudan or Angola refugees, the interests of host and donor states were given precedence over the interest of refugees. These were persuaded by different means including financial incentives, or blackmailed by the imminent cessation of their ‘refugee’ status<sup>22</sup>.

In several states, including European countries, certain policies leading to depriving refugees from the minimal living condition conditions are adopted with the hope of forcing them into

22 Katy Long, *The Point of No Return: Refugees, Rights, and Repatriation* (OUP 2013) 147.

'voluntarily' returning to their countries. The UNHCR considered, for instance, that the UK regulations denying income support for asylum seekers amount to a disguised refoulement<sup>23</sup>. Such practices led to judicial case law establishing the notion of 'disguised refoulement'<sup>24</sup>. These include the General Comment of the Committee Against Torture that States "should not 'compel' return through 'dissuasive measures or policies'"<sup>25</sup>. The International Law Commission (ILC) adopted, in its draft articles, the notion of "disguised expulsion" with the same meaning<sup>26</sup>.

If case law and legal scholarship have established the concept of 'disguised refoulement', the standard of proof remains debatable. The ILC draft articles adopted the standard of "states' intention to cause return". This is an almost impossible standard to establish since it is not expected that states would admit that they intended to cause refugees return thereby violating their own international obligations. Yet, and in one instance where the Kenyan government claimed that it did not intend to cause refugees and asylum seekers return by forcing them to live in unsuitable camps, the country's Supreme Court found that "violation of the principle may be indirect and may be the unintended consequence of a policy that does not, on its face, violate the principle"<sup>27</sup>.

In another case where the Court established the existence of a disguised refoulement -though it did not use the term- the European Court of Human Rights opted for the standard of the "free consent" of the refugee. In this case, *M.S. v Belgium*, an Iraqi refugee was arrested with the charge of affiliation to and cooperation with a criminal organization, and the forging of documents for individuals affiliated with Al-Qaeda. He was arrested in a migration center with residence order. The individual eventually opted for returning to his country. However, the court considered that: "the applicant has been faced with the following choices: he could decide to stay in Belgium without any hope of obtaining, one day, the right to stay legally and without a real prospect of living freely; another option would be to return to Iraq, knowing of the risks of being arrested and subjected to ill treatment in prison; one last option would be to go to a third country, which is not practically feasible. The court is of the opinion that, in these circumstances, the conditions of 'free consent' were not met"<sup>28</sup>. The Court used the same standard in another case against Finland in 2019<sup>29</sup>.

In conclusion, it clearly appears from treaties and conventions concluded between states, as well as from their judicial and scholarly interpretation, that the scope of the prohibition on refugees' refoulement has expanded in its content, and widened in its scope of application since its codification in the 1951 convention. Likewise, states have expressed recognition [of the principle as a binding rule of customary international law regardless of their ratification of the 1951 convention.

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23 R v Secretary of State for Social Security, ex parte Joint Council for the Welfare of Immigrants [1997] 1 WLR 275, 283-4.

24 JA and Others v Director of Immigration [2011] HKCFI 10, para 82; 'Individual Opinion of Committee Members Yuval Shany and Konstantine Vardzelashvili (concurring)' in *Warda Osman Jasin v Denmark* UN doc CCPR/C/114/D/2360/2014 (25 September 2015) app 2, 14, para 2.

25 UN Committee against Torture (n 44) para 14.

26 Draft Articles (n 36) art 10.

27 *Kituo Cha Sheria and Others v Attorney General* [2013] eKLR, para 74

28 *MS v Belgium*, App No 50012/08 (ECtHR, 31 January 2012). Para. 124

29 *NA v Finland*, App No 2524418 (ECtHR, 14 November 2019) para 60.

## IV. Legal frameworks and observed practices in Lebanon and Türkiye towards Syrian refugees:

### 1. Lebanon

#### 1. The legal framework

Lebanon did not sign the 1951 convention nor its complementing Protocol of 1967. It does also not have a national legislation on refugees. Only the 1962 law on the “entry and stay of foreigners” includes six articles related to refugees. These do not provide a clear framework guaranteeing the legal security of refugees. Furthermore, in its dealings with Syrian refugees, Lebanese authorities violated their own legislations and other texts, including the Lebanese constitution.

However, the country repeated at several occasions its voluntary implementation of some provisions of the 1951 convention. It even expressed, while running for the chairmanship of the Human Rights Council in 2006, its readiness to ratify the convention. But the only constant in the different Lebanese government’s statements and correspondence is the commitment to respecting the principle of non-refoulement of refugees<sup>30</sup>.

In any case, the country remains bound by this principle based on its customary nature. Yet, and due to the non-updating of the Memorandum of Understanding between the country and the UNHCR, Lebanon does not recognize the status of refugee granted by the UNHCR to Syrians in Lebanon. It even deals with them from a criminal law perspective on the ground of illegal entry or stay in the country. The government adopted, in 2014, a policy on refugees’ influx, aiming at reducing the number of Syrian refugees in Lebanon and encouraging them to return home<sup>31</sup>.

According to the reports of the UNHCR, 1.5 million of Syrian refugees live in Lebanon, and 90% of them live under the poverty line<sup>32</sup>. This goes along a cross-political and religious sects’ wave of hostility towards Syrians<sup>33</sup>. While they initially needed no visa to enter Lebanon and renewed their residence permit without fees, at least in theory, the General Directorate of Security decided to prevent the UNHCR from registering them. It also subjected them to complex and financially costly procedures for the renewal of residence permits resulting in large numbers of them losing their lawful residence permits in Lebanon.

According to the UN agencies’ report on “Vulnerability Assessment of Syrian Refugees in Lebanon, 2023”<sup>34</sup>, only 17% of Syrian refugees in Lebanon have valid residence permits. This means that almost 85% of them struggle with real obstacles in their daily life. These include

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30 M. Janmyr, “No Country of Asylum: ‘Legitimizing’ Lebanon’s Rejection of the 1951 Refugee Convention”, *International Journal of Refugee Law*, Volume 29, Issue 3, October 2017

31 M. Janmyr, “Precarity in Exile: The Legal Status of Syrian Refugees in Lebanon”, *Refugee Survey Quarterly*, Volume 35, Issue 4, Dec. 2016, p. 58

32 UNHCR, [Lebanon at a glance](#), last consulted on January 7<sup>th</sup>, 2024.

33 “[The monthly racist journal](#)” released by the Al-Saha website provides a regular and painful update on the incitement discourse against Syrians. Given the nature of the Lebanese state, it follows from some Syrian refugees’ testimonies that check-points held by local allies of the Syrian government subject them to arbitrary practices since it perceives them as potential opponents to the Syrian government.

34 [Vulnerability Assessment of Syrian Refugees in Lebanon](#), May 2023.

limitations on the freedom of movement out of fear of security check-points, deprivation of education, of humanitarian assistance, and of the registration of births, marriages and deaths. This is due to the number of regulations and practices adopted by Lebanese authorities toward Syrian refugees during the early stages of the Syrian conflict, and which violates the Lebanese legislation itself as well as the country's international obligations.

In early 2015, the General Directorate of Security issued a decision on the conditions of entry and stay of Syrians<sup>35</sup>. A decision that led to large numbers of Syrians losing their residency permits, or being unable to renew them. This is not to mention that it prevented other numbers of Syrians from entering Lebanon.

As indicated by the Lebanese Shura Council, the country's highest administrative Court, this decision was a blatant violation of Lebanese law and of Lebanon's international obligations. The Council annulled it, in a decision of February 8th 2018, on the ground of the General Security's lack of competence. According to Lebanese legislations, the competence in the matter belongs to the Council of Ministers. The Shura Council also found that the Security Directorate's decision violated the provisions of the Cooperation Treaty between the Republic of Lebanon and the Arab Republic of Syria which provides for the freedom of movement of persons between the two countries, as well as the freedom of stay and work<sup>36</sup>. However, the legal and practical pressure on Syrian refugees in Lebanon remains increasing at an alarming pace despite the Judiciary's annulment of the above-mentioned decision.

In a session held on April 15th 2019, Lebanon's High Defense Council adopted a decision tasking the security and military apparatus with urgent measures to prevent Syrians' entry to Lebanon except via official means. In an unprecedented move, the decision also provided for deporting Syrians collectively on the one hand, and for handing them over to Syrian authorities on the other hand regardless of the dangers they would face then<sup>37</sup>. This is regardless of the likely resulting risks. On May 13th 2019, the Director of General Security issued a decision providing for the deportation of all Syrians who entered Lebanon unlawfully after the date of 24 April 2019. Deportations are taking place based on an instruction from the public prosecutor and without presenting deportees to a Court or any judicial instruction to ascertain the lack of fear for their lives and freedom in Syria.

Once again, the decision of the High Defense Council would appear to be in violation of the Lebanese law as well as of Lebanon's international obligations. On the one hand, the Council has no competence to decide the deportation of foreigners. The Lebanese law on foreigners' entry and stay exclusively attributes this prerogative to the judiciary following a trial during which refugees can present suitable defense. On the other hand, if the law allows security services to deport foreigners in exceptional cases, e.g. if their presence represents a threat to public security, such deportations may not be collective. For it is necessary to evaluate the "threat to public security" in each and every individual case. Likewise, deportation, in the case of refugees, may not be to the country where they fear for the security and safety<sup>38</sup>. Lastly, the only case where the Lebanese law entitles security services to deporting foreigners, the

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35 On this decision Cf. (in Arabic) G. Frangieh "[what interest does Lebanon have in stripping Syrian refugees of residence permits](#)", The Legal Agenda, 8 December 2016; same author "[Exempting a category of Syrian refugees from residency fees: a first step to ensuring legal protection](#)", The Legal Agenda, 13 February 2017.

36 G. Frangieh (in Arabic), "[The Shura Council annuls the General Security decision amending the conditions of entry and stay of Syrians in Lebanon: an eloquent lesson of legitimacy](#)", The Legal Agenda, 6 March 2018.

37 On this decision Cf. The Legal Agenda, "[The High Defense Council implicates Lebanon in deporting Syrian refugees: practices that violate the law and Courts rulings](#)", 29 May 2019.

38 Idem.



case of a “threat to public security”, seems to be excluded even by the High Defense Council’s decision, and by subsequent decisions taken by security services. For all these decisions base themselves on the ground of an unlawful entry to the Lebanese territory, a ground that may not be invoked against asylum seekers. This is not to mention the fact that many Syrian deportees have valid residence permits in Lebanon<sup>39</sup>.

Based on the above-mention regulations, the Lebanese authorities exert a systematic and methodic pressure to force Syrians to return to their country. This includes forcible deportation of those who entered unlawfully, destruction and arson of refugees’ camps, the targeting, in their working places of Syrians workers who have no work permits, arrest of Syrians at check-points in certain neighborhoods to deport them, and the raiding of homes to arrest and deport families. This has included the deportation of unaccompanied minors.

## 2. Practices adopted towards refugees

On the same day it adopted the decision of deporting Syrians entering Lebanon unlawfully, the High Defense Council adopted another decision allowing the destruction of cement-ceilings inhabited by Syrian refugees in camps. They were given until June 10th to destroy these homes otherwise the army was to destroy them<sup>40</sup>. The Lebanese army had already destroyed, without notice, a number of camps in the Jasmin Camp in Bar Al-Bass area (Buqa’a) in April 24th 2019.

It is also a fact that the forcible return of Syrian refugees started since several years. In 2021, the Lebanese General Security Directorate admitted that it had deported, since 2019, 6345 Syrians in 2019. It portrayed the event as a voluntary return. The pace of random and forcible return has increased since the beginning of 2023. According to a source in humanitarian work that spoke to Human Rights Watch, 2200 raids and 1800 deportations<sup>41</sup> were reported between January 1st and early July 2023. This is while the UNHCR repeats that it cannot invite to nor facilitate Syrian refugees return for its assessment is that Syria is not safe for refugees<sup>42</sup>.

The forcible return of Syrian refugees started since several years. In 2021, the Lebanese General Security Directorate admitted that it had deported, since 2019, 6345 Syrians in 2019. It portrayed the event as a voluntary return.

39 Cf. Infra

40 The Legal Agenda, “[The High Defense Council implicates Lebanon in deporting Syrian refugees: practices that violate the law and Courts rulings](#)”, 29 May 2019

41 HRW, “[Lebanon: Armed Forces Summarily Deporting Syrians](#)”, 5 July 2023.

42 Cf. e.g. <https://www.unhcr.org/lb/protection>

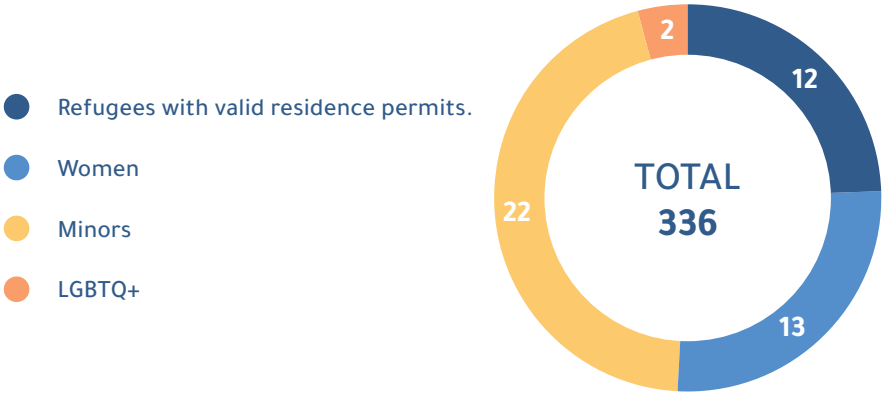


In a report released on May 19th 2023, the Access Center for Human Rights (ACHR) stated that it has:

“Documented since the beginning of April 2023 and until May 16th 2023, no less than 22 raid operations on Syrian refugees’ homes in different areas of the country. This is in addition to two check-points at least in Zohla, Douar Al-Rihab. Consequently, 808 refugees were arbitrarily arrested (they include 17 individuals with valid residence permits, 13 women, 24 minors, and 2 LGBTQ). Some of them were beaten and/or were subject to harsh and/or inhumane and/or degrading treatment. At least 336 refugees out of those arrested were forcibly deported outside of Lebanon’s borders (including 12 refugees with valid residence permits, 13 women, 22 minors, and 2 LGBTQ).

75 of the deported refugees informed the ACHR that Syrian authorities handed them over to human traffickers present on the Lebanese borders with whom they negotiated return to Lebanon against 150-300 USD per person. This amount reached 3000 USD for individuals facing direct security threats in Syria. 51 of the refugees affirmed that the Lebanese army handed them over directly to Syrian authorities”<sup>43</sup>.

808 refugees were arbitrarily arrested, At least 336 refugees out of those arrested were forcibly deported outside of Lebanon’s borders including:



In addition to these data directly documented by the ACHR, media outlets and social networks circulated information about 32 raids or check-points during the same period. They also reported that the number of those arrested reached 900-1400 individuals, while the figures of forcible return would have reached 700 cases during the security campaign and until the morning of Tuesday, May 16th 2023. Subsequently, the Lebanese National Press Agency reported that 301 Syrian refugees were deported to Syrian between 7-24 May 2023.

43 ACHR, “Lebanon violates human rights by forcibly deporting refugees” (in Arabic), 19 May 2023.

Upon their return, Syrians face risks of arrest, torture, and forcible military drafting.

In an interview with the Syrian Center for Media and Freedom of Expression (hereinafter SCM), on 13 September 2023, a Syrian refugee in Beirut (A.A.), reported the raid of the Lebanese army on members of his family in Qub-Ilyass camp in Biqa'a. They arrested and deported 60 young persons wanted for military drafting in Syria. The deportees included the witness's brother who had a refugee certificate from the UNHCR. Yet he was deported and started his military training in Dera'a.

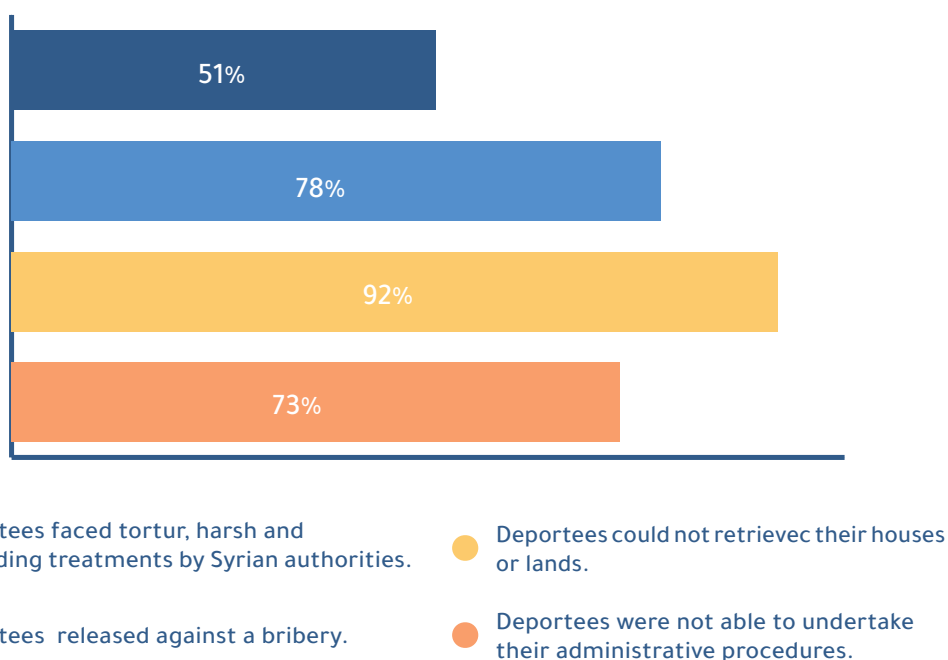
Another witness (R.A), reported the arrest of 20 Syrian young persons while were on their way to work, in early April 2023. They were arrested at a seemingly official military check-point but in reality it was run by Hizbollah. They were forcibly returned to Syria including a cousin of the witness lawfully residing in Lebanon in addition to a UNHCR document asserting his refugee status. The family confirmed that he is currently detained in Saydanaya prison.

In a second poll run by the SCM, end December 2023 and covering 27 individuals who were forcibly returned to Syria by Lebanese and Turkish authorities, it appeared that Syrians' deportation from Lebanon occurs in an arbitrary manner. At best, deportation is a substitute to some criminal sanctions. Witnesses included some who were arrested in the street despite having lawful residence permits. Others were taken from jail to the Syrian territories. In both cases they were handed over directly to the Syrian authorities despite risks for the deportees. In 51% of the cases covered by the SCM, deportees faced torture, harsh and degrading treatments by Syrian authorities. They were also subject to financial blackmailing. Out of this group, 78% were released against a bribery. In 92% of the polled people, i.e. including deportees from Lebanon and Türkiye, deportees could not retrieve their houses or lands. This is because properties were either destroyed or confiscated by authorities, or because they were impossible to reach when owners were political dissidents or wanted for military drafting. In addition, 73% of polled persons stated that they were not able to undertake their administrative procedures. All polled persons affirmed that they do not consider themselves and their families to be safe in Syria.

In conclusion, and in addition to their suffering due to the Lebanese economic crisis, and due to the fragility of their legal situation resulting from the vagueness of Lebanese relevant laws, Syrian refugees also have to face the random practices of Lebanese armed and security forces. This is amid growing xenophobic campaigns. Syrian refugees in Lebanon witness the reality of forcible return in their daily life through the fate of hundreds of acquaintances, neighbors and relatives. Its specter hangs on all of them.

The Lebanese government practices appear to be in blatant violation of its binding obligation of non-refoulement, as well as its obligation under other instrument, such as the CEDAW, the convention against torture, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

Results of a survey run by the SCM, end December 2023 and covering 27 individuals who were forcibly returned to Syria by Lebanese and Turkish authorities.



## 2. Türkiye

There are 3.6 million Syrian refugees currently registered with the UNHCR according to the latter's figures. They started arriving to Türkiye in 2011 with particularly important waves of refugees arriving between 2015-16. These were subsequent to the Russian-backed Syrian army attacks that allowed the government to regain control over the majority of cities in the center of the north of the country.

While they were concentrated in the bordering governorates first, the Turkish government undertook to redistribute them on other Turkish governorates. According to a study released by the Syrian Dialogue Centre in September 2023, a distinction could widely be made between three areas of Syrians' presence in Türkiye:

Governorates where a majority of Syrians is concentrated (80% of Syrians). These are 11 governorates out of the 81 Turkish governorates<sup>44</sup>.

Governorates where 16% of Syrians live: There are 19 of them hosting between 10-100.000 Syrians<sup>45</sup>.

44 These governorates are: Istanbul, Gaziantep, Sanliurfa, Hatay, Adana, Mersin, Bursa, Izmir, Konya, Maraş and Kilis.

45 These are: Ankara, Mardin, Kayseri, Osmaniye, Malatya, Diyarbakir, Adıman, Sakarya, Denizli, Manisa, Nevşehir, Batman, Şırnak, Elazığ, Tıkrdağ, Afyonhisar, Muğla, Bodrum, and Kocaeli.

Governorates hosting less than 10.000 Syrians: these are the ones that facilitated the obtention of Kemlek between mid-2022 and early 2023 after many other governorates stopped registering Syrians. These are 48 new governorates<sup>46</sup>, making the overall number of governorates in possession of Syrian refugees data 78<sup>47</sup>.

## 1. The Legal framework for the protection of Syrian refugees

Türkiye ratified the refugee convention but with a geographical reservation limiting its commitment to grant the status of refugee only to European nationals. However, the country has also ratified the European Convention on Human Rights, the International Covenant on Civil and Political Rights, and the Convention Against Torture. All of these instruments make it binding upon the country not to forcibly return refugees regardless of their nationality.

Although Syrian refugees influx started in 2011, there was no clear legal framework regulating their situation until 2014. The Turkish legal order regulates the situation of Syrians through two important texts: Article 91 of the Law on Foreigners and International Protection, and the Temporary Protection Regulation. Article 91 introduced a legal ground for temporary protection in 2013. However, it limited itself to stating that “Temporary protection may be provided for foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection”. Paragraph 2 of this article stipulates that arrangements necessary for the reception of such refugees and the determination of their rights and obligations shall be stipulated in a Directive to be issued by the Council of Ministers.

The latter adopted such Regulation on 22 Oct 2014<sup>48</sup>, and it entered into force the same day<sup>49</sup>. According to this regulation, Syrian refugees coming from Syria, are entitled, upon registration with Turkish authorities, to the obtention of the Temporary Protection Card, to information and advice in their own language, identity cards, and free access to emergency healthcare. They may not to be detained solely on account of irregular entry, and have the right to access social assistance, public services, and legal advice. They can also send their children to Turkish schools, and have the right to work in Türkiye since Oct 2016 albeit according to complex procedures and under manyfold conditions.

By virtue of the regulation adopted in 2014, applications for asylum submitted by Syrian refugees to the UNHCR may not be processed until the expiry of their Temporary Protection Card. This means, in fact, that Syrian refugees in Türkiye, may never obtain the status of refugee in the meaning of the 1951 Convention. In addition, According to article 11 of the 2014 Regulation, the temporary protection of any individual may be terminated by a decision of the Council of Ministers. With the impossibility of obtaining a refugee status in Türkiye,

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46 These are: Samsun, Aydin, Isparta, Eskişehir, Niğde, Yozgat, Antalya, Balakşehir, Çanakkale, Siirt, Bolu, Aksaray, Yalova, Sivas, Trabzon, Çorum, Uşak, Kastamanu, Karakli, Kirşehir, Van, Kutahya, Muş, Karbuk, Duzce, Amasya, Bingol, Rize, Agri, Tokat, Ordu, Bitlis, Erzurum, Shangri, Zonguldag, Bilecik, Edirne, Bartın, Giresun, Sinop, Kars, Erzinci, Gümüştane, Erdahan, Iğdir, Artvin, Bayburt, Tunjali, and Hakkari.

47 Syrian Dialogue Center, “[Statistics of Syrians in Turkey: The numbers explain](#)”, 19 September 2023.

48 Republic of Turkey, Temporary Protection Regulation (22 October 2014) <http://www.goc.gov.tr/files/dokuman28.pdf>

49 While the Turkish law does not entitle refugees to automatically entering the country, the government opted, first, for a policy of “open doors” towards Syrian refugees. Yet, after being exempted from visa to access Turkish territory before the war, visa is now required, since Jan. 2016, from Syrians entering Türkiye from a third state

Syrian refugees face three options: integration in Türkiye, resettlement in a third country, or voluntary return. Article 14 of the 2014 Regulation states that voluntary return is the ultimate solution for the temporary protection beneficiaries. And article 42 of the same regulation provides that Turkish authorities may facilitate and support their voluntary repatriation in cooperation with international and non-governmental organizations (NGOs). Yet, some studies have shown the lack of a comprehensive Turkish integration policy<sup>50</sup>, while opportunities for resettlement remain scarce according to the UNHCR<sup>51</sup>.

Yet the real challenge, and danger faced by the Syrian refugees in Türkiye, does not follow from the legal framework nor the limited guarantees it provides. It follows rather from the forcible return policy which, according to reports by international Human Rights NGOs, has become methodic and systematic. It is taking place under the clear manipulation of legal texts. It is also not based on the desire of Syrians nor on a change of circumstances inside Syria, but rather on some internal political and sometimes electoral considerations. Hostility toward Syrians has increased over the years, and deepened with the economic crisis reaching its peak with the electoral campaign where the hate speech against Syrians became commonplace<sup>52</sup>.

Turkish politicians competed in echoing this wave of hostility. President Rajeb Tyib Erdogan stated, in mid-July 2019, that “due to the reactions of citizens, we need to formulate a new policy towards Syrians. We will encourage them to return home”<sup>53</sup>.

## 2. Practices observed towards Syrian refugees in Türkiye

For many years, international human rights NGOs' reports consistently addressed the waves of disguised voluntary return of Syrian refugees from Türkiye. In October 2019, Amnesty International reported<sup>54</sup> that the Turkish authorities have methodically forced Syrian refugees to return during the months preceding their military operations in (Syria's) north-east and in preparation for the establishment of the so-called “safe area” inside Syria. While Turkish authorities claim that they are not returning Syrians against their will but admit that large numbers of them voluntarily decided to return, the organization revealed that all returnees it interviewed were forced to return under threats and torture.

Some Syrians arrested in Türkiye were presented with a choice between remaining in prisons for months, or immediately returning to Syria.

Some returnees confirmed the deportation of unaccompanied minors.

50 K Kirisci and E Ferris, 'Not Likely to Go Home: Syrian Refugees and the Challenges to Turkey - and the International Community' (Brookings Institution 2015) 11 <https://www.brookings.edu/wp-content/uploads/2016/06/Turkey-Policy-Paper-web.pdf>

51 HCR country report - Turkey

52 [Syrian Refugees in Türkiye: Debunking a Tale of Misconceptions](#), Arab Reform Initiative, 19 July 2023

53 Mentioned in Amnesty International's Report “[Syria: “You're going to your death” Violations against Syrian refugees returning to Syria](#)”, 7 Sept. 2021, p. 13.

54 Idem.

Some testimonies revealed that Syrians arrested in Türkiye were presented with a choice between remaining in prisons for months, or immediately returning to Syria. Another group of them were asked to sign voluntary return documents in Turkish language. When they discovered the Arabic translation, employees of the detention center decided to sign for them. Refugees interviewed by Amnesty International were not given the opportunity to seek the assistance of lawyers. To the contrary, they were threatened “to stay in prison for six or seven months should they request the assistance of a lawyer”<sup>55</sup>. Some returnees confirmed the deportation of unaccompanied minors under the pretext of not having personal IDs.

In October 2023, Human Rights Watch reported<sup>56</sup> that Turkish authorities have forcibly deported hundreds of Syrians. The Organization’s report showed that the returnees were arbitrarily arrested in their work place, schools, on the streets or even at their homes. All of them reported that they were detained in the “Tuzla deportation center”, and that they faced harsh treatment and torture before being forced into signing the documents of voluntary return. Once again, they included unaccompanied minors who were detained with adults and subsequently deported to Syria<sup>57</sup>.

Testimonies received by the SCM, in September 2023, confirm these Turkish practices towards Syrian refugees. **A witness (R.K.)**, who resided in Doha, entered Türkiye in a medical visit and with valid visa. He was arrested by the Turkish police in the area of Aksarrari, and held incommunicado for 24 days, before being deported to Syria on June 24th through the Bab Al-Salam crossing point alongside tens of Syrians. **The witness further reported that a hundred of Syrian refugees who refused to sign the voluntary return documents were subjected to torture by Turkish security forces.** Another witness was blackmailed with putting his children under the custody of social services should he not sign that voluntary return documents.

It follows from the testimonies received by the SCM that there exists a methodic pattern in the administrative practices consisting in arbitrary arrest, blackmailing and torturing refugees to force them into signing voluntary return documents. Turkish authorities would keep video recordings alleging that returnees were under decent detention conditions on the one hand, and that they voluntarily decided to return to Syria on the other hand. These data were confirmed in a poll conducted by the SCM in December 2023.

The contradicting figures about Syrians in Türkiye, especially the ‘voluntary returnees’, reveal some aspects of these practices. The SCM noted that figures available on the website of the Turkish immigration services vary in a suspicious manner. They may be reduced by 200.000 people overnight. Likewise, the systematic character of the forcible return of refugees as an administrative practice follows also from the contradictions between official figures themselves.

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55 Amnesty International, [“Turkey: Syrians illegally deported into war ahead of anticipated ‘safe zone’](#)”, 25 October 2019.

56 HRW, [“Turkey: Hundreds of Refugees Deported to Syria](#)”, 24 October 2022.

57 Refugees International, [“By Land or By Sea: Syrian Refugees Weigh Their Futures](#)”, 13 October 2023.

According to the report of the Syrian Dialogue Centre<sup>58</sup>:

“Gaps and contradictions are noticeable in the figures made public. For instance, the ministry of defense made two distinct statements in 2021 and 2023 reporting a million of “voluntary returns”. This is while President Erdogan stated, in July 2023, that the figures of voluntary returns among Syrians exceeded 600.000. At the same time, there are contradictions between the figures of the ministry of interior announced in official statements contradicting one another. In two statements of the deputy minister of interior, he reported that the figures of ‘voluntary return’ reached around 4.979.26 in May 2022. This number increased in the following month to 50.7292 which makes a difference of 9366 in only one month. This is double the average of the monthly returnees for the said year according to the figures of crossing points. The former minister of interior had also stated that the figures of returnees in May 2022 reached 502000 individuals. This is incompatible with the two statements of the deputy minister of interior issued in on a close date. Five month later, the minister of interior stated that the number has reached 529.000 persons, which makes a difference of 27.000 individuals, and half the numbers registered at the crossing points with a monthly average of 6750 persons pr month. The same deputy minister stated, again, in May 2023 that the figures reached 554 000 individuals with a difference of 25000 parsons within seven months”.

Neither legislations, nor Turkish practices towards Syrian refugees seem to be in line with the country’s international obligations. To the contrary. They violate these obligations for, by virtue of the 1951 convention, forcible return of refugees represents a distinct violation from the right that Türkiye maintained for itself, i.e. granting refugee status only to Europeans. Furthermore, it is an obligation emanating also from the international customary law, in addition to its contractual nature in the Turkish case. By forcing Syrian refugees to return, Türkiye also violates its obligations under the European Convention of Human Rights, namely under articles 3, 5 and 15 respectively related to the prohibition of torture; right to freedom and security; and derogation to the convention in case of emergency situation<sup>59</sup>.

In addition, by forcing Syrians to return, Türkiye violates its obligations under the International Covenant on Civil and Political Rights. The UN Human Rights Committee considered, in its General Comment no 20 that “States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement.<sup>60</sup>”. It also considered in its General Comment no 31 that: “the article 2 obligation requiring that States Parties respect and ensure the Covenant rights for all persons in their territory and all persons under their control entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either

58 Syrian Dialogue Center, “[Statistics of Syrians in Turkey: The numbers explain](#)”, 19 September 2023.

59 This relates here to the declaration of state of emergency in Türkiye following the attempted military coup of 2016. Türkiye informed of its willingness to suspend the application of some provisions of the European Convention on Human Rights, as it also informed the UNSG of its willingness to suspend the application International Covenant on Civil and Political Rights. Both measures negatively affected Syrian refugees in the country due to texts enacted in during this period, or to ensuing practices.

60 HRC, General Comment no 20, para 9.



in the country to which removal is to be effected or in any country to which the person may subsequently be removed”<sup>61</sup>.

Lastly, Türkiye remains bound by the Convention against Torture in particular its article 3<sup>62</sup>. In its assessment of individual cases and whether it was safe to return an individual to a given state, the Committee Against Torture looks into the general conditions of the country, and whether there is a repeated pattern of gross human rights violations, as well as the personal situation of the asylum seeker including his religion, ethnic and political affiliations, and his record of being subject to torture<sup>63</sup>.

Consistent reports indicate that returnees to Syria fall in their majority are victimized by security services, with consistent testimonies on cases of sexual violence (rape and other forms of gender-based harassment and violence); arbitrary arrest (on the ground of terrorism accusations, or other concocted accusation, as well as victims of abusive investigations and blackmailing)<sup>64</sup>; and forced military drafting. In general, and as a result of these pressures, the priority of forcibly returned persons become the search for a new opportunity to flee anew<sup>65</sup>.

According to testimonies collected by the SCM, the role of the UNHCR towards Syrian refugees differs between Türkiye and Lebanon.

In Türkiye, there appear to be no direct role for the UNHCR in solving the problems of Syrians refugees although it recognizes their existence as refugees or asylum seekers. It has fully abandoned this role for the Turkish government. As an example, a Syrian refugee may not register with the UNHCR nor interact with it regarding resettlement in a third state, which is a guaranteed right for refugees under international law. This role is left for the Turkish administration to present candidates' files.

In Lebanon however, the role of the UNHCR appears more clearly through, for instance, the granting of assistance to 900 000 registered Syrian refugees, and in diverse areas including health, education, cash assistance, food , and return to Syria (through information, and evidence that could assist those willing to return, and to organizations providing assistance inside Syria). Yet, and due to the serious deterioration of Lebanon's economic situation, and the lack of specific assistance directed toward refugees in Lebanon, UNHCR's role is significantly shrinking. Currently, the problem is noticeable in the lack of support for education, which is one of the key factors persuading Syrian refugees to return home.

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61 General Comment no 31, para 12.

62 This article reads:

1. “No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”

63 D Weissbrodt and I Hortreiter, ‘Principle of Non-Refoulement: Article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Comparison with the NonRefoulement Provisions of other International Human Rights Treaties’ (1999) 5 Buffalo Human Rights Law Review 1

64 Mentioned in Amnesty International’s Report: [“Syria: “You’re going to your death” Violations against Syrian refugees returning to Syria”](#), 7 Sept. 2021,p. 22 and ss.

65 Testimonies of Syrians deported from Türkiye in the poll conducted by the SCM in Dec. 2023. Cf. also supra.

## V. Safe return to Syria

The UNHCR considers that the current conditions in Syria are not conducive to a safe return of refugees<sup>66</sup>. For refugees' return to be possible, the UNHCR considers that it is necessary to fulfill the four following criteria<sup>67</sup>:

1. Legal framework(s), guaranteeing rights of returnees and unhindered access to them and return areas, is in place;
2. There is clear evidence of Protection Thresholds being met in the place(s) of return;
3. There is an improvement in conditions in return areas;
4. Refugees actively request support from UNHCR to return, in large numbers.

To verify the existence of these conditions, the UNHCR is guided by the following protection criteria<sup>68</sup>:

1. Significant and durable reduction of hostilities.
2. The government / actors in control of the return area provide genuine guarantees that returnees will not face harassment, discrimination, arbitrary detention, physical threat or prosecution on account of originating from an area previously or currently under de facto control of another party to the conflict; for having left Syria illegally; for having lodged an asylum claim abroad, or; on account of any (individual or family) diversity characteristic.
3. Every individuals' decision to return is informed and genuinely voluntary, without any coercion.
4. Acceptance by the government / entity in control of the return area of returnees' free choice of destination and place of residence
5. The physical, legal and material safety of refugees and returnees is ensured.
6. Measures are in place so that the specific needs of women, girls, men and boys, and returnees with specific needs, are met.
7. Identified unaccompanied or separated children are not returned prior to tracing of family members and formal best interests of the child determinations have been undertaken.
8. The principle of family unity is upheld, including a right to enter and remain for dependents who are not Syrian citizens.

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66 UNHCR, "[International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update VI](#)", March 2021

67 UNHCR, "[COMPREHENSIVE PROTECTION AND SOLUTIONS STRATEGY: PROTECTION THRESHOLDS AND PARAMETERS FOR REFUGEE RETURN TO SYRIA](#)", February 2018.

68 Idem.

9. Refugees and returnees can effectively participate in the planning and implementation of the return and reintegration process.
10. Returnees fully benefit from an amnesty in Syria, except for those that are charged with a serious violation of international humanitarian law, or a crime against humanity, or a crime constituting a serious violation of human rights, or a serious common crime involving death or serious bodily harm, committed prior to or during exile.
11. The Government of Syria commits to recognizing changes in returnees' personal/civil status occurred, and guarantee their obtention of civil documents.
12. Appropriate evidentiary value is given to civil documentation issued by non-state entities and documentation issued in non-government controlled areas and to documentation from UNHCR
13. Legislative measures allow for issuance of documents necessary to establish identity, family composition and nationality. And that those s born to a Syrian parent are considered citizens of Syria, and birth certificates are issued to refugee children who are not in possession of such documents.
14. The equivalency of degrees during displacement is recognized by GoS, as appropriate.
15. The Government sets up efficient, accessible, and affordable mechanisms to address housing, land and property (HLP) issues in line with international law
16. Returnees enjoy free access to law enforcement bodies, courts of law, competent administrative authorities and other relevant entities.
17. UNHCR's supervisory responsibility, which includes but is not limited to monitoring the voluntariness of the repatriation, but also ensuring repatriation in safety and dignity, is respected.
18. Both Syria and host countries take all appropriate steps to ensure the security and safety of UNHCR staff and all other personnel
19. Removal of/marketing of areas contaminated by landmines and other unexploded ordnance on main routes of return
20. UNHCR is granted free and unhindered access to all refugees and returnees to monitor the conditions of reception and reintegration. Similarly all refugees and returnees, wherever located, including in detention centers and prisons, have access to UNHCR.

## VI. Recommendations

### 1. To the host countries

1. Immediately, publicly and effectively stop the arrest and forced return campaigns against refugees and asylum seekers, in particular those targeting minors or resulting in separating families;
2. Continue protecting refugees and asylum seekers, provide them with accessible lawful residence documents at reasonable costs;
3. Respect their international legal obligation, in particular the prohibition on forcible return of refugees;
4. Releasing figures on refugees and asylum seekers regularly and in a transparent manner;
5. Provide the appropriate legal guarantees in case of refugees and asylum seekers' arrest for whatsoever reason;
6. Fighting against and stopping the xenophobic campaigns and hate speech against refugees and asylum seekers;
7. Not linking the conditions of a decent life to returning to Syria (exploitation of financial incentives).

### 2. To donor states

1. Use their leverage with Türkiye and Lebanon to stop the campaigns of forcible return of Syrian refugees and asylum seekers
2. Highlight the protection of refugees and asylum seekers in these two countries as the first preventive measure against enforced disappearances, torture and violence against women and girls
3. Abstain from solving the issue of refugees in an equation focusing only on the potential political transactions between host states and donors.

### 3. To the UNHCR

1. Intensify outreach to the Lebanese and Turkish governments to guarantee the protection of refugees' rights, and first among them is the protection against forcible return;
2. Provide legal assistance to refugees and asylum seekers and coordinate such an effort with Syrian and non-Syrian civil society organizations in both countries
3. Release the figures on refugees and related statistics regularly and in a transparent manner
4. Launch awareness campaigns directed at the public opinion on the situation of Syrian refugees in these two countries

### 4. To the Syrian civil society

1. Launch awareness campaigns addressing refugees and asylum seekers in the two countries, and provide them with ready and necessary legal assistance
2. Launch an international advocacy campaign, in cooperation with leading international human rights NGOs, and with interested organizations in the two countries, to end the forcible return campaigns and ill-treatment
3. Emphasize the protection of refugees and asylum seekers as the first preventive measure against enforced disappearance and violence against women and girls in Syria
4. Reaching out to the Lebanese and Turkish governments, with their political elites, opinion leaders and civil society to raise awareness about the dangers facing refugees in the two countries
5. Undertake the appropriate judicial procedures locally and internationally against the violation of refugees' rights, in particular their protection against forcible return.

## VII. Conclusion

Lebanon and Türkiye concentrate the biggest community of Syrian refugees in the world with around five million Syrian refugees living in both countries. They live under immense legal and practical fragility.

On the one hand, both countries refuse to grant Syrians the status of refugee, and limit the role of the UNHCR towards them. This is while their adopted legal frameworks dealing with the refugee crisis remain significantly inadequate. They lawfully allow for the infringement on refugees' fundamental rights and violate their own international obligations.

On the other hand, Syrian refugees face hostile campaigns and racist practices that went beyond mere social phenomena to be embodied in the official treatment they receive from public authorities. These are practices meant in reality, and according to statements by both countries' officials, at putting Syrian refugees under such an irresistible pressure leaving them with no choice but to go back to Syria despite dangers they face there.

Even more, Turkish and Lebanese authorities adopted, since years, a policy of forced collective return of Syrian refugees that goes hand in hand with systematic use of torture and harsh treatment. The Lebanese authorities in particular tend to hand returnees directly to the Syrian authorities, while returnees from Türkiye remain, too, subject to arbitrary practices, and sometimes revenge including enforced disappearance, from various armed groups.

Reports and polls by the SCM, Human Rights Watch and Amnesty International confirmed that returnees were subject to torture, blackmailing, sexual violence, forced military drafting and arbitrary detention. Most likely, the pace of forcible return of Syrian refugees in Türkiye and Lebanon, is continuously increasing especially with the public's attention shifting to other conflicts in and beyond the region, and with international interest in the Syrian conflict fading.

Turkish and Lebanese practices entail blatant violations of the principle of non-refoulement, which is binding upon both as shown in this report. Likewise, they also entail a violation of their obligations under the International Covenant on Civil and Political Rights, the Convention Against Torture, the CEDAW, the Convention on the Rights of the Child, and in the Turkish case, the European Convention on Human Rights.

The risk of solving the problem of Syrian refugees while taking into consideration only the immediate interests of host states, calls for an urgent and serious action by the Syrian and international civil society, as well as by regional and international organizations to stop the waves of collective deportation which expose Syrian refugees to manifold dangers. This action is urgently needed to guarantee that Syrian refugees return remains exclusively subject to the conditions and criteria put forward by the UNHCR.





