

URGENT ACTION

SYRIAN REFUGEE DETAINED IN AIRPORT FOR A YEAR

A Syrian refugee has been arbitrarily detained in inhumane conditions at Istanbul's Atatürk Airport since 15 March 2015. He is at continued risk of being returned to Syria.

Syrian national **F.M.** fled Syria in August 2012 to avoid military service. He has been detained in the "Problematic Passengers' Room" of Istanbul's Atatürk Airport since 15 March 2015. In November 2015 he flew to Lebanon but was denied entry and flown back. F.M.'s detention in the airport is arbitrary, as it appears to have no basis in law. F.M.'s lawyer made an application to the Turkish courts to effect his release from detention, but as of 4 March 2016, no decision had been made.

The "Problematic Passengers' Room" has no natural light and artificial lighting is kept on at all times. There are no beds or any privacy. Being confined in such a space for an extended period of time – in this case approximately one year – may amount to cruel, inhuman or degrading treatment, prohibited under domestic and international law.

F.M. has relatives in other countries who are attempting to sponsor him to obtain a visa. According to the information received, no foreign embassy representatives have interviewed F.M. in detention, although it is unclear if this is because they were denied access by the Turkish authorities, or if no attempt was actually made.

F.M. is at continued risk of being returned to Syria. Turkish authorities have returned refugees to Syria, putting them at risk of serious human rights violations. This is contrary to Turkey's *non-refoulement* obligations, binding under both domestic and international law. Turkish authorities have also used detention as a means of pressuring asylum-seekers and refugees to "voluntarily" return to their countries of origin, including Syria and Iraq. F.M. has told relatives that he is considering requesting to be sent back to Syria, saying "At least there I die once and it's over, instead of dying more and more each day I spend in here."

Please write immediately in Turkish or your own language:

- Calling on the Turkish authorities to immediately release F.M. from detention and grant him Temporary Protection status in Turkey, under Article 91 of the Law on Foreigners and International Protection;
- Urging them to ensure that F.M. is not returned to Syria – or pressured to accept to return "voluntarily";
- Calling on them to cooperate with any foreign embassies that are considering F.M.'s applications to leave Turkey by allowing embassy officers to visit him.

PLEASE SEND APPEALS BEFORE 21 APRIL 2016 TO:

Minister of Interior

Mr. Efkan Ala
İçişleri Bakanlığı
Bakanlıklar
Ankara, Turkey
Fax: +90 312 425 85 09
Twitter: @efkanala
Salutation: Dear Minister

Directorate General of Migration Management

Mr Atilla Toros, Director General
Lalegül Çamlıca Mahallesi 122. Sokak
No: 2/3 06370 Ankara, Turkey
Fax: +90 312 422 09 00
+90 312 422 09 99
Email: gocidaresi@goc.gov.tr
Salutation: Dear Director

And copies to:

National Human Rights Institution of
Turkey
Dr. Hikmet Tülen İnsan, Hakları Başkanı
Türkiye İnsan Hakları Kurumu
Yüksel Caddesi No:23, Kat 3, Yenışehir
06650 Ankara, Turkey
Fax: +90 312 422 29 96
Email: tihk@tihk.gov.tr

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY MR ABDURRAHMAN BİLGİÇ, Embassy of the Republic of Turkey, 43 Belgrave Square SW1X 8PA, 020 7393 0202, Fax 020 7393 0066, embassy.london@mfa.gov.tr
london.emb.mfa.gov.tr

Please check with your section office if sending appeals after the above date. This is the first update of UA 282/15. Further information:

<https://www.amnesty.org/en/documents/eur44/2924/2015/en/>

**AMNESTY
INTERNATIONAL**



URGENT ACTION

SYRIAN REFUGEE DETAINED IN AIRPORT FOR A YEAR

ADDITIONAL INFORMATION

Syrian national F.M. fled Syria in August 2012 to avoid military service and went to Lebanon. He said he left Lebanon for Turkey in 2014 after being kidnapped and held for ransom by a local gang. After spending about a month in Turkey he went to Malaysia. He was not admitted to the country, allegedly for using false identity documents. The Malaysian authorities returned him to Turkey on 15 March 2015, where he was detained for about eight months in the “Problematic Passengers’ Room” of Istanbul’s Atatürk Airport. After being attacked and injured by another detainee, he asked to go to Lebanon. He left for Lebanon on 20 November but was denied entry, and was flown back to Istanbul on 21 November. Upon re-entry, he was re-detained.

Ban on torture and other cruel, inhuman or degrading treatment or punishment

Torture and other cruel, inhuman or degrading treatment or punishment is banned by numerous provisions of international human rights law, including the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. It is also prohibited by the European Convention on Human Rights and the Turkish Constitution.

Ban on arbitrary detention

Arbitrary detention is prohibited under international law. The right not to be arbitrarily detained has been codified in Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which Turkey has ratified. The notion of “arbitrariness” includes elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality. Furthermore, the right to challenge the lawfulness of detention (*habeas corpus*), as set out for instance in ICCPR Art 9(4), entitles anyone who is deprived of liberty to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the detention and order release if the detention is not lawful.

There does not appear to be any basis in law for F.M.’s detention. Syrians in Turkey are subject to the October 2014 Temporary Protection Regulation (TPR), which at Article 5 affirms that they shall not be punished for irregular entry or stay in Turkey. Other provisions of the April 2014 Law on Foreigners and International Protection provide for administrative detention either during the processing of International Protection applications (Article 68), or for the purposes of removal (Article 57). However, neither of these cases should apply to Syrians because under Turkish law, Syrians are not “International Protection” applicants, and they should never be removed to their country of origin because they would be at risk of serious human rights violations (TPR Article 6).

Ban on *refoulement*

The cornerstone of the international refugee protection system is the principle of *non-refoulement*. This principle prohibits the transfer of anyone in any manner whatsoever to a place where they would be at real risk of serious human rights violations – as is the case for individuals from Syria. It has been codified in the Refugee Convention and numerous international human rights instruments binding on Turkey. A breach of this principle can occur in a variety of ways, including directly through forcible returns to the country of origin, or through a transfer to a place where the person risks onwards *refoulement*. It can also occur indirectly when pressure is exerted on refugees to return to a place where their lives or freedoms are at risk – this is known as constructive *refoulement*, and is prohibited under international law binding on Turkey.

Arbitrary detention of asylum-seekers in Turkish airports

In an Urgent Action published 2 March 2016, Amnesty International raised the case of another Syrian refugee, “M.K.,” who has been detained in inhumane conditions in Istanbul’s Sabiha Gökçen Airport since November 2015 (see: <https://www.amnesty.org/en/documents/EUR44/3562/2016/en>).

Name: F.M. (name withheld for security reasons)

Gender m/f: m

Further information on UA: 282/15 Index: EUR 44/3608/2016 Issue Date: 10 March 2016