



Research paper on

The Turkish Government's Intention to Deport One Million Syrians to North Syria under the Guise of “Voluntary Return”

August / 2022



**Voices for
Displaced Syrians**



المركز السوري للإعلام وحرية التعبير
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Introduction:

In recent years the Government of Türkiye has shifted away from its initial open-door policy towards Syrians, of whom 3.762.686¹ are registered under the “temporary protection” status. Türkiye started taking stricter measures against Syrians due to the severe deterioration in the public sentiment on Syrian refugees. This shift in public opinion further accelerated after the start of the economic crisis in Türkiye in the fall of 2018. The currency depreciation and rise in inflation rates had an adverse effect on Turkish citizens living standards.

Many Turkish opposition parties and figures adopted a populist discourse, blaming refugees for the economic and social crises across the country, and consequently promised to start deporting Syrians if elected to power. In response, the Government of Turkish President Erdogan started to enforce throttling policies against refugees. In March 2022, thousands of Syrians found their temporary protection status suddenly suspended. They were asked to verify their residence addresses within the provinces they were initially registered at—i.e. where their Temporary Protection Identification Document (TPID) Aka, “Kimlik” was issued. The suspension of Kimliks deprives refugees of all services entitled to them². Furthermore, over 16 provinces, including Şanlıurfa and Gaziantep, have limited the number of neighbourhoods in which Syrian refugees are allowed to be registered in.³

The Government’s strictness was also prominent in handling any security or community issues related to Syrians, with deportations being the decision most likely to be made to solve any problem Syrians face or are part of. Strictness was further apparent in fines and raids against workers without work permits, who constitute the vast majority of Syrian workers. According to the Director of the International Labour Organization (ILO), there are one million Syrian workers in Türkiye⁴ as of 2020, 90% of whom do not hold work permits.

Meanwhile, deportation cases have become increasingly common: in the period 2019-2021 157,526 refugees have been deported through the border crossings of Bab Al Hawa, Bab Al Salama and Tell Abyad⁵. In public statements, the Turkish Ministry of National Defence has stated that the total of Syrian refugees who have returned to Syria since 2011 exceeded one million⁷. According to the statistics of returnees issued by the Syria-Türkiye Bab Al Salama Border Crossing Administration, 796 refugees were registered as voluntary returnees – per Turkish authorities – and 11 refugees illegally entered Türkiye.⁸ On the 20th of May 2022, Süleyman Soylu, the Turkish Minister of the Interior, claimed that 502 thousand people had “voluntarily” repatriated because “Türkiye secured areas⁹ under their control”.

The Government of Türkiye is leading the response and interventions made to respond to refugees and asylum seekers in the country. On the other hand, the United Nations High Commissioner for Refugees (UNHCR) does not seem to have any direct role in responding to the issues faced by Syrian refugees, nor in monitoring their return to Syria or the deportation/returning plans introduced by the Government of Türkiye. The “Statute of the Office of UNHCR”¹⁰ states that the UNHCR shall assist governmental and private efforts to promote voluntary repatriation or assimilation within new national communities.

1-<https://www.rozana.fm/ar/news/2022/05/08/%D8%A7%D9%84%D9%87%D8%AC%D8%B1%D8%A9-%D8%A7%D9%84%D8%AA%D8%B1%D9%83%D9%8A%D8%A9-%D8%AA%D9%86%D8%B4%D8%B1-%D8%A3%D8%B1%D9%82%D8%A7%D9%85%D8%A7-%D8%AC%D8%AF%D9%8A%D8%AF%D8%A9-%D8%B9%D9%86-%D8%A3%D8%B9%D8%AF%D8%A7%D8%AF-%D8%A7%D9%84%D8%B3%D9%88%D8%B1%D9%8A%D9%8A%D9%86-%D9%88%D8%AA%D9%88%D8%B2%D8%B9%D9%87%D9%85>

2- [Temporary protection identification documents of thousands of Syrian refugees are suspended.](#)

3- [In Şanlıurfa Province, the neighborhoods where Syrian refugees are allowed to be registered were limited.](#)

4- [Syrian workers in Türkiye.](#)

5- <https://stj-sy.org/wp-content/uploads/2022/02/Türkiye-Continues-to-Forcibly-Return-Refugees.pdf>

6- [Syrians Continue to be forcibly deported from Türkiye.](#)

7- [Over one million refugees returned to Syria.](#)

8- [Al Salama Border Crossing announces the number of Syrians who voluntarily returned during the 4th month.](#)

9- [Over half million refugees voluntarily returned home.](#)

10- [Article 8/C of Statute of the Office of the United Nations High Commissioner for Refugees adopted by the UN General Assembly on 14 December 1950. Resolution No. 428.](#)

It ranges “from the outset in assessing the feasibility and, after that, in both the planning and implementation stages of repatriation (Conclusion 40, Session XXXVI).¹¹ Furthermore, UNHCR has always requested relevant authorities¹² to allow for direct and unhindered access to returnees, in order to monitor the conditions of their return (Conclusion 40, Session XXXVI, 1985).

Government of Türkiye’s plan to return Syrians:

On the 3rd of May 2022, Turkish President Recep Tayyip Erdoğan¹³ announced the launch of preparations of a comprehensive project that would enable the voluntary return of one million Syrians to their country. According to Erdoğan, the implementation of this project should be supported by Turkish and international civil society organizations in 13 areas (including A’zaz, Jarabulus, Al-Bab, Tell Abyad and Ras Al Ein), in cooperation with the local councils of those areas. The Government of Türkiye has been promoting the plan ever since, stating that it will guarantee a stable life for returnees through livelihoods projects and programs, the involvement of local councils, the establishment of security and judicial formations, and the provision of services including establishing hospitals and medical facilities and schools, facilitations to farmers. In addition, according to the Turkish government, creating working opportunities and providing infrastructures (including asphalt roads and other services) will encourage more returns.¹⁴ Based on the plan, each Syrian willing to voluntarily return will have the benefits listed below:

- A fully furnished house ranging between 40 and 80 square meters depending on the number of family members (rent-free for ten years).
- TPID (“Kimlik”) will remain valid.
- Visits to Türkiye will be allowed up to four times per year.
- Pupils will continue their education in schools located within their settlements using the Turkish curricula and Türkiye-accredited certificates.
- Humanitarian cash aid provided via the Turkish Red Crescent card system will still be valid (using the same modality) without specifying the amount assigned for each individual/household.
- At a later stage, some voluntary returnees will receive support to start livelihood projects.¹⁵

Safe zones:

Türkiye’s plan includes returning refugees to the areas controlled by Türkiye-supported forces in Northern Syria. The plan includes the construction of houses and expanding the infrastructure in areas from A’zaz, Jarabulus and Al Bab to the towns of Tell Abyad and Ein Issa. Around 250.000 housing units will be built in 13 areas in northern Syria, a relevantly narrow geographic region lacking natural resources and economic infrastructures. Furthermore, the area also lacks fundamental human-rights-driven governance structures or independent civil society formations, as well as an independent judiciary to protect citizens’ rights in case of violations.

In addition, all these areas are exposed to rocket and artillery attacks, explosions, and infiltrations, whether committed by the Syrian Government forces or the Syrian Democratic Forces (SDF). During the first quarter of 2022, The Syrian Civil Defence¹⁶ reported 16 artillery and rocket attacks against areas controlled by the so-called Syrian National Army and 111 airstrikes and artillery attacks on populated areas adjacent to the “safe zone” controlled by ‘Hay’at Tahrir al-Sham (HTS). Additionally, the entire area

11- [The Practical Guide to Humanitarian Law. English version of that specific page \(by Translator\).](#)

12- Ibid.

13- [Breaking: We are preparing a new project enabling voluntary return of million Syrian brothers – Erdoğan.](#)

14- [To return 1.5 million Syrians from Türkiye, talks and plans promoting “voluntary return.” Arab-Türkiye.com.](#)

15- [What are the benefits to be gained by voluntary returnees?](#)

16- [In the first quarter of 2022, attacks continued to be launched by the Regime and Russian forces... A heavy winter for displaced people in refuge camps – Syrian Civil Defense.](#)

is contaminated by vast amounts of unexploded ammunition and mines within residential sites and agricultural lands, resulting from years of strikes launched by the Government of Syria and its allies' forces. During 2021 and the first quarter of 2022, the Syrian Civil Defence reported 20 explosions of war remnants that killed 15 casualties, including 8 children, and caused 27 injuries. Moreover, returnees are at risk of famine. According to World Food Program¹⁷, around 12 million people in Syria face severe food insecurity, not to mention the sharp rise in foodstuff prices, which reached 800% over the past two years.

According to UNHCR, repatriation to a situation of armed conflict may be inappropriate or unreasonable since "situations of armed conflict and violence are often characterized by widespread fighting, are frequently fluid, with changing frontlines and/or escalations in violence, and often involve a variety of state and non-state actors, who may not be easily identifiable, operating in diverse geographical areas¹⁸." Specifically regarding the Syrian war, UNHCR¹⁹ has stressed that "Syria remains unsafe²⁰ and that the UNHCR will not facilitate mass return operations during the absence of essential protection conditions although it will support individual voluntary returns²¹." According to the 24th report issued by the Independent International Commission of Inquiry on the Syrian Arab Republic at the end of 2021, the country is not safe and does not allow decent repatriation.²²

In addition to the barriers preventing refugees' return, Türkiye's acts have created new situations on the ground that can support Syria's division and actively change its demographic structure. Moreover, by building hundreds of concrete housing units, the Turkish project disregards the destructive impacts and risks caused to the environment, water resources and the rights of Syria's next generations.

Türkiye's plan under the International and National Laws:

The Government of Türkiye has adopted a policy to throttle Syrians and turn a blind eye to the media provocation campaigns launched against Syrian refugees, despite having control over a significant part of the media.²³ The recently announced "return plan" should be legally classified as prohibited forcible return, which is not limited to the direct expulsion or deportation process; it rather extends to indirect or disguised measures²⁴ that cause the same impact. This is known as "disguised deportation", which is prohibited under International Law.²⁵ According to the International Law Commission, if a state cannot legally return a person, the principle of non-refoulement should be interpreted to also prohibit the indirect actions aiming to go around the non-refoulement principle.²⁶

The Turkish Government violates its commitments under International Law through the forced individual returns that have been taking place for years and the mass deportations that have been recently announced. This includes violations against International Humanitarian Law, International Refugee Law and International Human Rights Law. In addition, Türkiye is breaching its commitment to the principle of non-refoulement, which is considered customary international law.

17- <https://news.un.org/ar/story/2022/05/1101332>

18- [UNHCR Guidelines on International Protection No. 12, Footnote 3, Paragraph 40, English version.](#)

19- <https://www.refworld.org/docid/606427d97.html>

20- <https://data.unhcr.org/en/documents/download/63223>

21- UNHCR 1996. Guide to Voluntary Return. "1950 Law authorizes UNHCR to facilitate the efforts for refugees' voluntary repatriation" even if UNHCR does not subjectively deem the situations are safe for the majority of refugees to return.

22- Independent International Commission of Inquiry on the Syrian Arab Republic: violence and fighting escalation worsens the ordeals in Syria, which makes it unsafe for return | OHCHR.

23- Legal Agenda: "Big brother" Erdoğan: Control and seizure of Turkish media - <https://legal-agenda.com/%D8%A7%D9%84%D8%A3%D8%AF-%D8%A7%D9%84%D8%A3%D9%83%D8%A8%D8%B1-%D8%A3%D8%B1%D8%AF%D9%88%D8%BA%D8%A7%D9%86-%D8%A7%D9%84%D8%B3%D9%8A%D8%B7%D8%B1%D8%A9-%D9%88%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D9%8A%D9%84/>

24- Walter Kalin, Martina Caroni and Lukas Heim, "Article 33(1)", in A. Zimmermann (ed). Footnote 8 above, Paragraph 111 of the English version.

25- International Law Commission, foreigner deportation: comments and notes made by governments, UN A/CN.4/669, 21 March 2014;

Committee Against Torture, Public Education No. 4 (2017) concerning the enforcement of Article 3 of the Convention in the context of Article 22, 9 February 2018, Paragraph 14.

Committee Against Torture, written statements on the revised general comment on the enforcement of Article 3 of the Convention in the context of Article 22, available on the below link: www.ohchr.org/EN/HRBodies/CAT/Pages/Submissions2017.aspx

26- International Law Commission, draft articles related to foreigner deportation, with comments, UN Doc. A/69/10, 2014, Article 10.

Legal Analysis:

The Government of Türkiye further breaches its obligations under the International Covenant on Economic, Social & Cultural Rights²⁷; under Article 1(1) of the International Covenant on Civil & Political Rights in relation to the right of a people to self-determination²⁸; and its obligations under the Fourth Geneva Convention. Indeed, article 45(4) prohibits the transfer or deportation of foreigners who are present within the jurisdiction of a state involved in a war to a condition in which such foreigners are feared to be subject to persecution due to their political views or religious beliefs, without specifying whether they are or are not refugees.²⁹

The Government of Türkiye also violates its obligation under Article 8(1) of the Declaration of the Protection of All Persons from Enforced Disappearance of 1992 and Article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) of 2006.

Moreover, the prohibition outlined in Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984³⁰ is also violated. The United Nations Human Rights Committee³¹ has also stressed that the principle of nonrefoulement is an essential element of protection against torture and other cruel, inhuman or degrading punishment or arbitrary deprivation of life. Türkiye's return policies also breach the International Convention on Eliminating All Forms of Racial Discrimination and other international conventions. Furthermore, the Government of Türkiye violates the Fifth Principle of the Principles on the Effective Prevention & Investigation of Extra-legal, Arbitrary and Summary executions of 1989, which provides that "no one shall be involuntarily returned or extradited to a country where there are substantial grounds for believing that he or she may become a victim of extra-legal, arbitrary or summary execution in that country."

It also breaches the United Nations General Assembly Resolution No. A/RES/51/75, the 12th of February 1997, Session 51 in which it calls upon all States to "respect scrupulously the fundamental principle of non-refoulement of refugees to countries where they are feared to be subject to persecution, which is a principle not subject to derogation;" as well as Security Council Resolution No. 2254 (2015) that requires Syrian refugees' return to their home areas to be safe and voluntary.

Türkiye's policies also breach Article 16 of the Turkish Constitution, which states that "the fundamental rights and freedoms of aliens may be restricted by law in a manner consistent with international law" and Paragraph 2 of Article 54 of Law No. 6458 on Foreigners and International Protection that states "A removal decision may be issued against persons solely when there are serious reasons to believe that they pose a threat to the national security of Türkiye or if they have been convicted upon a final decision for an offence constituting a public order threat." This invalidates the claim that Syrians violate the laws applicable in Türkiye as a justification for deportation that takes place as a result of cases that do not go beyond mere offences or misdemeanours as described by Article 5237 of the Turkish Penal Code of 2004.

27- Human Rights Committee, Session 37 (1989), General Comment No. 18: Non-discrimination – page 195, Rev.9/1/HRI/GEN (Vol. 1) The general comment emphasizes the principle of non-discrimination based on "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." General Comment No. 20 on non-discrimination in economic, social and cultural rights (Paragraph 2 of Article 2) of the International Covenant on Economic, Social and Cultural Rights: (2009, Paragraph 30 / E/C12GC/). – "The rights set forth in the Covenant shall be applicable to everyone including noncitizens, such as refugees, asylum seekers, stateless persons, immigrant workers and human trafficking victims regardless of their legal position and legal documents." International Covenant on Economic, Social and Cultural Rights, General Comment No. 15 "Foreigners' Status under the International Covenant" – May 1989, Paragraph 1. UN Doc. CCPR/C/3/Rev.12.

28- Under Paragraph 1 of its General Comment No. 12 on Article 1 of the Covenant, The Human Rights Committee established under the International Covenant on Economic, Social and Cultural Rights "The right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights, including the right to return." [The Right to Return in the International Law – Right Defenders](#).

29- The International Committee's comment on the First Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, 2nd Edition, Geneva, 2016 – Paragraph 709. UNHCR's opinions: Office of the United Nations High Commissioner for Refugees (UNHCR), Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 2007, paras 15, 21; Court of Final Appeal of the Hong Kong Special Administrative Region, Case of C, KMF, BF and Director of Immigration/ Secretary for Security, FACV 18, 19 & 20/2011, Intervenor's Case, 31 January 2013, paras 28–71; Sir Elihu Lauterpacht and Daniel Bethlehem, "The Scope and Content of the Principle of Non-Refoulement: Opinion", in Erika Feller, Volker Türk and Frances Nicholson, Refugee Protection in International Law: UNHCR's Global Consultations on International Protection, Cambridge University Press, Cambridge, 2003, pp. 87–177.

30- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UNTS 1465, 10 January 1984, Article 3.

31- General Comment NO. 20 on Article 7, 10 March 1992, Paragraph 9; and General Comment No. 31, UN Doc. CCPR/C/21/Rev.1/Add, 26 May 2004, Paragraph 12.

Summary:

The Turkish plan to repatriate refugees to Northern Syria, absent a scrupulous respect for procedural guarantees (including an assessment of individual risks), violates the international law prohibition to forcibly return people to a situation of armed conflict. It also violates the primary purpose of the international Conventions on human protection and recognition of human dignity and equal rights, including the right to seek and have an asylum to flee persecution. The plan clearly breaches the notion of “voluntary return”, in which refugees should be able to make an informed and voluntary decision concerning their return without any physical, material or psychological pressure. Voluntary return should take place under legal safety conditions, such as amnesties or public assurances of personal safety, integrity, non-discrimination and freedom from fear of persecution or punishment upon return; physical security (including protection from armed attacks, and mine-free routes and if not mine-free then at least demarcated settlement sites; and material security (including access to land or means of livelihood).³²

The deportation, if it takes place, of one million Syrian refugees to North Syria means transferring their refugee status to an internally displaced status. It also means a change in Syria’s demographic structure and population distribution and increased humanitarian needs in Northern Syria. While a permanent solution for the refugee issue can only be reached through tackling the circumstances that caused the refugees to flee, it should be noted that these circumstances still exist in Syria as long as the current regime is in power. Absent a credible political transition process that would bring an end to arbitrary detention, enforced conscription and other forms of human rights and property abuse, there can be no safe, voluntary and dignified return of Syrian refugees to their country of origin.

Recommendations:

1- Government of Türkiye:

- Take all necessary measures to ensure respect for the rule of law in Türkiye and the application of laws to both Turks and others, in particular concerning the decisive application of the provisions of Turkish law related to the dissemination of hate speech, racist views, lies and misinformation through the media and social networking sites, without prejudice to the guarantee of the right to freedom of expression for all.
- Retract the announced plan to repatriate one million Syrian refugees, due to its clear violation of the strict prohibition of forcible return and Security Council Resolution No. 2254.
- Amend the Temporary Protection Law provisions so they guarantee a refugee’s legal position protected by international law and abide by the legal basis of international protection, i.e., the right to refuge as a fundamental human right in line with Türkiye’s national and international political interests.
- Cease all forms of arbitrary procedures of deportation under the “voluntary return” or “deportation based on administrative procedures” concept; and strictly comply with the provisions of Article 54 of the Law on Foreigners & International Protection that guarantee the right to protection, judicial protection and the rights set forth by the International Refugee Law.
- Immediately start an investigation on claims related to expulsion, return, violence and use of excessive force and coercion in violation of the Turkish Law on Foreigners, hold the committers of such violations accountable, and provide compensation to the victims.

2- International Community:

- Work on the enhancement of safety in Syria while countering the attempts to illegally impose a return on refugees; work on improvement of economic and security conditions by concentrating on the application of Security Council resolutions; make progress toward a comprehensive cessation of human rights abuse, arbitrary detention and enforced disappearance; and support the Syrian

³² - <https://help.unhcr.org/georgia/voluntary-repatriation-and-return/#:::text=Return%20which%20takes,means%20of%20livelihood>

refugees who refuse to return under unsafe conditions.

- Step up efforts to ensure a more equal responsible- and burden-sharing effort with countries hosting large numbers of Syrian refugees; provide financial support to economic recovery programs that benefit both refugees and host communities; and develop and expand national programs of reception of refugees such as family entry visas, humanitarian entry visas and other programs to handle emergencies or other cases not covered by resettlement programs.
- Control the international funding, especially the one that takes place through UNHCR because any step toward the transition from refugee aid to “return programming” may encourage the host governments to repatriate refugees.
- Monitor “voluntary” return programs set by host countries as an excuse to pave the road to forcible return. The legal frameworks that regulate forcible and voluntary returns should be clarified to avoid premature and forced returns.

3- Syrian and Turkish civil society organizations:

- Establish effective and responsive legal clinics to provide Syrians under the threat of deportation with legal assistance.
- Push for access to deportation centres.
- Establish Turkish-speaking media platforms aiming to update the Turkish society on the latest developments of Syria’s situation in a simple and brief manner, and to point out some positive aspects and successful forms; to support the Syrian refugees who speak the Turkish language or the Turks who contribute to the introduction of Syrians’ point of view; to clarify some incorrect information spread on them, and to highlight some Syrians’ success stories.
- Syrian and Turkish civil society organizations should work more on projects that realize the rapprochement of cultures and communities of both Turks and Syrians by bringing together some Syrian and Turkish groups who share a similar occupation such as teachers, journalists, engineers, physicians, students, academicians... etc., through making long-term plans for community integration.