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Evaluation of the minimum standard of the treatment to be provided in the Turkish temporary protection regime and legislation

ABSTRACT

This article will elaborate and give an overview of the Turkish temporary protection regime. In 2011, when the war in Syria began, Turkey had to face the mass influx from the southeast area, bringing Turkey many Syrian refugees. By 2011 Turkey did not have sufficient regulation on temporary protection, which could deal with many upcoming refugees. In 2013 the Law of Foreigners and International Protection came into force. It was necessary to update the latest legislation on temporary protection, the 1994 Temporary Protection Regulation. Due to unification with international and European standards and to provide possibly the best services to the refugees, Turkey, in 2014, enacted a new law on asylum, migration, and temporary protection construction. Therefore, according to the Turkish Constitution and international regulations, the following article will describe the Turkish refugee law development and legal construction, temporary protection regime, and the problems that still need to be solved.

KEYWORDS

asylum, migration, mass influx, international protection, refugees, temporary protection regime in Turkey

Introduction

Turkey signed the United Nations Convention Relating to the Status of Refugees on August 24, 1951 and ratified it on August 29, 1961.¹ With participation in the Convention, Turkey made a geographical reservation to the refugee definition. Thus, the Turkish legal term of

1 Convention and Protocol Relating to the Status of Refugees. Text of the 1951 Convention Relating to the Status of Refugees. Text of the 1967 Protocol Relating to the Status of Refugees. Resolution 2198 (XXI) adopted by the United Nations General Assembly with an Introductory Note by the Office of the United Nations High Commissioner for Refugees, <https://www.unhcr.org/3b66c2aa10>, accessed 13.09.2020.

the refugees became unique.² According to Law on Foreigners and International Protection (LoFIP),³ Turkish legislator provides four types of international protections: *refugees* (Article 61), *conditional refugees* (Article 62), *subsidiary protection* (Article 63), and *temporary protection* (Article 91 § 1). By examining at the legal definitions of the Turkish international protections, there will be a different package of rights and freedoms for each status. Naturally, Turkish lawmakers, one by one, describe the rights, freedoms, limitations, and classifications for each group of international protection.

Temporary Protection Regime in Turkish Legislation

The regulation of temporary protection in domestic law can help secure displaced people's fundamental rights under the principle of non-refoulment in mass influx and creating an urgent safe environment for them.

For Turkey, the Syrian crisis became a turning point in terms of temporary protection. The Syrian was a trigger to evaluate and change the LoFIP. Thus, the Temporary Protection Regulation (TPR) and the temporary protection regime came into force.

Since March 2011, the ongoing conflict in Syria, Turkey, faced a significant mass influx. Turkey started to conduct a temporary protection regime with an open-border policy, non-refoulment principle, no limitation related to a residence permit, and humanitarian aid in the refugee camps for the coming Syrian refugees who will apply for international protection.⁴ The Prime Minister of Turkey pointed out that the Disaster and Emergency Management Presidency⁵ will be responsible for the Syrian refugees' aid.⁶

Syrian citizens could cross the Turkish border (via transit). Besides, if Syrian citizens had a valid passport, they could automatically stay in Turkey for three months (stay permit).⁷ According to the agreement⁸ between Turkey and Syria, the visa obligation between those

2 As a result of Turkey's geographical reservation, people who want to seek asylum from outside the Council of Europe member countries provide temporary protection asylum. Due to the geographical limitation, the concepts in national and international legislation differ. Non-members of the European Council of Iran, Iraq, Afghanistan, Somalia, who took refuge in Turkey to demand asylum from countries such as Sudan, can not have refugee status because of its geographical limitations. More information about the definition of refugees in Turkey: <https://www.unhcr.org/tr/en/refugees-and-asylum-seekers-in-turkey>, accessed 13.09.2020.

3 Law on Foreigners and International Protection No. 6458 of 2013, http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=108031&p_country=TUR&p_count=811&p_classification=17&p_classcount=14, accessed 13.09.2020.

4 Ergüven, N., and Özturanlı, B., *Uluslararası Mülteci Hukuku ve Türkiye*, Ankara Üniversitesi Hukuk Fakültesi Dergisi 2013, Vol. 62, No. 4, 1007–1061, p. 1014; Euro-Mediterranean Human Rights Network (EMHRN), *Belirsizlik: Türkiye'deki Suriyeli Mültecilerin Durumunu En İyi Anlatan Kelime*, October 2011, http://www.euromedrights.org/files/Rapport_Migration_2011_TK_723580498.pdf, p. 4, accessed 13.09.2020.

5 The Ministry of Interior Disaster and Emergency Management Presidency, <https://en.afad.gov.tr/>, accessed 13.09.2020.

6 Amnesty International, *Hayatta Kalma Mücadelesi: Türkiye'deki Suriye'den Gelen Mülteciler*, <https://www.amnesty.org/en/documents/EUR44/017/2014/tr/>, p. 6, accessed 13.09.2020.

7 EMHRN, op. cit., p. 6.

8 Agreement between the Government of the Republic of Turkey between the Government of the Syrian Arab Republic on the Mutual Abolition of Visas, 13.10.2009, <https://www.resmigazete.gov.tr/eskiler/2009/12/20091223-1.htm>, accessed 13.09.2020.

countries was removed. It was necessary to have a valid official passport or ordinary/regular/tourist passport to benefit from this provision. In this situation, the Syrian citizens benefited from visa-exempt for 90 days.

By providing the open border policy towards Syrian citizens, the Turkish government did not apply TRP's legal procedures. Instead of following the standard and written procedure for such a situation, the Turkish government decided to use a "guest" term against Syrian refugees. Because of this, the Syrian refugees' legal situation was unstable, temporary, and uncertain.⁹ Under the Grand National Assembly of Turkey Human Rights Review Commission Report, Turkey, by open border policy against Syrian refugees, *de facto* made a suitable legal environment for temporary protected status. Thus, those to terms ("temporary protection" and "guest") were in a legal contradiction and mutually exclusive. According to the report sentences and the heading "Legal Status of Syrian Citizens Living in Tent Cities," those refugees' situations showed contradiction and uncertainty.¹⁰ While these persons are allowed to move freely within the camps, it was challenging for them to reach UNHCR's branches in Van or Ankara and have an opportunity to make an asylum application.¹¹

Starting from 2011, Turkey was ready to cooperate with UNHCR in the common ground of temporary protection. The Turkish legal construction of temporary protection for refugees' mass influx was a suitable solution to solving the refugee issue.¹² Despite this explanation, the Turkish legislator did not introduce any corrections or new provisions related to temporary protection, causing many legal problems. As a matter of fact, according to international standards, it is necessary to provide legal status for the incoming refugees who are willing to find temporary protection in the chosen country. Consequently, it is the first step to legalize their residence (asylum) in that country and start applying the necessary documents.¹³ According to the international law, conventions, and standards, and considering humanitarian reasons, under no circumstances the Turkish government could violate the non-refoulement principle and send back the incoming Syrian refugees to a war-torn homeland. Turkey did not provide consistent, transparent and easy to implement international protection regime. Therefore, Turkey, by naming the Syrian refugees as a "guest," *de facto* deprived those people of international protection and their legal status, which was an open topic to discuss. TPR should have provided the minimum standards of international pro-

9 EMHRN, op. cit., p. 9; Özden, S., *Syrian Refugees in Turkey*, 2013, <http://migrationpolicycentre.eu/docs/MPC-RR-2013-05.pdf>, p. 5, accessed 13.09.2020; Amnesty International, op. cit., p. 20.

10 TBMM İnsan Hakları İnceleme Komisyonu, *Ülkemize Sığınan Suriye Vatandaşlarının Barındıkları Çadırkentler Hakkında İnceleme Raporu*, 2012, http://www.tbmm.gov.tr/komisyon/insanhaklari/docs/2012/raporlar/28_02_2012_1.pdf, p. 4, accessed 13.09.2020.

11 EMHRN, op. cit., p. 9; Özden, S., op. cit., p. 5.

12 Çorabatır, M., *The evolving response Refugee Protection in Turkey: Assessing the practical and political needs*, September 2016, <https://www.migrationpolicy.org/sites/default/files/publications/TCM-Dev-Corabatir-FINALWEB.pdf>, accessed 13.09.2020; EMHRN, op. cit., p. 10.

13 International Law Association, Resolution 2/2002 on Refugee Procedures (Guidelines on Temporary Protection), <http://www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=publisher&publisher=ILA&type=&coi=&docid=4280b0804&skip=0>, paragraph 9, accessed 13.09.2020.

tection. However, as a result, it was observed that due to a mass influx of the Syrian refugees, the authority attitude was negative.¹⁴

On April 9, 2012 Undersecretariat of the Ministry of Interior enacted the “Asylum and Migration Legislation and Administrative Capacity Building and Implementation Office Regulation” (Regulation). The Regulation was related to provide the acceptance for asylum applications for the citizens of Syria and stateless persons living in Syria due to the mass influx. In this Regulation, the Turkish government provided to the Syrian refugees’ shelter, food, health, security, social activities, education, worship, translation, communication, banking, and other services. Under the Regulation, incoming refugees were willing to find asylum entitled to obtain a “temporary guest status.”¹⁵ The Regulation’s provisions were coherent with international law and human rights standards. However, it became a topic of tremendous criticism by the human rights representative around the world.¹⁶

An Overview of the Temporary Protection Regime within the Framework of Temporary Protection Regulation

Due to not using the concept of temporary protection in TPR, the Turkish lawmaker regulated the specific measures and actions against the mass influx movement in Article 8-26 of TPR. However, for the first time, a “temporary protection regime” was used in LoFIP.

The central legal concept of the Temporary Protection Regulation took the fundamental patterns from LoFIP. According to Article 91 of LoFIP, the temporary protection regime is:

- (1) Temporary protection may provide for foreigners who force to leave their country, cannot return to the country they have left, and have arrived at or crossed Turkey’s borders in a mass influx situation seeking immediate and temporary protection.

- (2) The actions to be carried out for the reception of such foreigners into Turkey; their stay in Turkey and rights and obligations; their exit from Turkey; measures to be taken to prevent mass influxes; cooperation and coordination among national and international institutions and organizations; determination of the duties and mandate of the central and provincial institutions and organizations shall be stipulated in a By-Law to be issued by the President.

It is necessary to look at Article 91 of LoFIP before analyzing the TPR. In LoFIP Article 3(r), the Turkish legislator gave a list of legal definitions. This list can define international protection, including the following status: refugee, conditional refugee, and subsidiary protection. Additionally, in Article 3(ü), a foreigner is a person who does not have citizenship bonds with the Republic of Turkey. There is no doubt that a person who is entitled to get temporary protection is considered a foreigner. The LoFIP’s provisions implicates that the regulations for foreigners and those under international protection are regulated separately for those entitled to temporary protection under the TPR. In order to underline the term of “foreigners” and its definition, it was evident that a “foreigners” term and people who

14 EMHRN, op. cit.; Özden, S., op. cit., p. 5.

15 Çetin, A. and Uzman, N., *Sığınmacılar Çerçevesinde Suriye-Türkiye İlişkilerine Bir Bakış*, Çankırı Karakterin Üniversitesi Uluslararası Avrasya Strateji Dergisi 2013, Part 1, 3–18, p. 13.

16 Kirişçi, K., *Misafirliğin Ötesine Geçerken: Türkiye’nin “Suriyeli Mülteciler” Snavı*, 2014, <http://madde14.org/images/4/43/USAKSuriyeKirisci2014.pdf>, accessed 13.09.2020.

are entitled to a “temporary protection” term they do not have the same meaning and cannot be used alternately. Therefore, according to the TPR’s provision, it is allowed to use *per analogiam* the LoFIP provisions toward people who get the temporary protection status the same as foreigners unless otherwise provided in the TPR. In the provisions of the LoFIP, we can find the “applicant” term. According to Article 3(d), an “applicant” is a person who made an international protection claim and a final decision regarding whose application is pending. It is clear that if a person did not apply for international protection within LoFIP, they could not be considered as an “applicant” for temporary protection. In conclusion, the legal status provided and described in Article 91 of LoFIP and under TPR have a different meaning and application.

Professor Nuray Ekşi states that temporary protection, which is considered within a mass influx of people, is still one of the international protection types considered within an individual application.¹⁷ Nevertheless, it should not be forgotten that the difference between a temporary protection status and other international protection statuses is not just related to a distinction of a mass movement of refugees and an individual application, but there are many other differences as follows:

1. A temporary protection is a legal solution to a temporary situation.
2. A temporary protection is a first step to get one of the international protection statuses like a refugee, conditional refugees, or subsidiary protection status.
3. We can see that temporary protection is regulated as a separate category from international protection (LoFIP and the TPR).

Temporary protection is another alternative to international protection types. Nevertheless, this type of consideration of temporary protection is problematic due to compliance with UNHCR’s 2014 Temporary Protection Guidelines and the Regulation of Temporary Protection and the EU Temporary Protection Directive¹⁸ which provides exceptional emergency response in a mass influx situation.¹⁹

In Article 4 of the LoFIP and the ground of the non-refoulement principle, there is no distinction between individual and mass application for the protection. The Turkish legislator states that no one within the scope of this law shall return to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment, or where his/her life or freedom would threaten on account of his/her race, religion, nationality, membership of a particular social group or political opinion.

According to Article 121/A of the LoFIP, the principles and procedures related to implementing this law shall be stipulate in a directive form. The first Directive, which was related

17 Ekşi, N., *Geçici Koruma Yönetmeliği Uyarınca Geçici Korumanın Şartları, Geçici Koruma Usulü, Sağlanan Haklar ve Geçici Korumanın Sona Ermesi*, İstanbul Barosu Dergisi 2014, Vol. 88, No. 6, 65–89, p. 65.

18 Council of the European Union, Council Directive 2001/55/EC of July 20, 2001, on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between the Member States in receiving such persons and bearing the consequences thereof, <http://www.reworld.org/docid/3ddcee2e4.html>, accessed 13.09.2020.

19 UNHCR, *Guidelines on Temporary Protection or Stay Arrangements*, February 2014, <http://www.reworld.org/docid/52fba2404.html>, accessed 13.09.2020; Çorabatır, M., “Suriyelilerin Koşulları Düzelecek Mi?,” *Zaman*, 7.11.2014, http://www.zaman.com.tr/yorum_suriyelilerin-kosullari-duzelecek-mi_2256012.html, accessed 13.09.2020.

to LoFIP and Article 121/A, was Directive on Establishment, Management, Operation and Inspection of Reception and Accommodation Centres, and Repatriation Centres.²⁰ Finally, October 22, 2014, with the decision of Council of Ministers No 2014/6883, the Directive on Establishment, Management, Operation and Inspection of Reception and Accommodation Centres and Repatriation Centres came into force (Directive). During the TPR's drafting process, the Turkish legislator took into consideration the EU Temporary Protection Directive, the European Court of Human Rights, and other countries' practices and legislations. What was expected from the Directive was that the regulation should consider and grant similar minimum standards from the EU Temporary Protection Directive provisions and rights. Under the report of the human rights commitments made by the Turkish Grand National Assembly and Article 16 of the 1982 Turkish Constitution,²¹ their rights should have been specified in the status of those under temporary protection legal action. The LoFIP came into force after the report of the Turkish Grand National Assembly on human rights. However, the Directive provisions were not enacted according to Article 16 of the Constitution's provisions. The rights which are in the TPR are regulated separately and different from the LoFIP regime rights for foreigners and those who are under international protection. It was against Article 16 of the Constitution that the regulation of the rights of entitled to a temporary protection status was enacted outside of the "act of" parliament/statute, and doing it in the "regulation form." The conditions of those under temporary protection can be restricted, and it is stated in the heading "Restrictions in the implementation of rights" in Article 35 of the TPR.

According to the TPR, temporary protection is the protection provided to foreigners who force to leave their country, cannot return to the country, who come to Turkish borders to find emergency and temporary protection, or who come to Turkey individually during the mass influx, or cross Turkish borders, and whose international protection request cannot consider individually [art. 3 (1-f), art. 7]. Therefore, those who come individually will also cover under temporary protection. It should be noted that the regulation does not make any restrictions in terms of the country or geography where the mass influx comes from. Under Article 3(1-g), the person who benefits from temporary protection is called "temporary protected." The mass influx is defined as the cases that occur in large numbers of incoming refugees in a short time from the same country or geographical region. Due to the mass influx event, the international protection status cannot apply to those categories of people [art. 3(1-j)].

The "Implementation of the Temporary Protection Right" is regulated in Article 4 of the TPR. The TPR stipulates temporary protection as a right. In Article 4, the non-refoulement principle is regulated in a way that is not different from Article 4 of LoFIP.²²

20 RG 22.04.2014/28980.

21 Article 16 of the Republic of Turkey's Constitution: "The fundamental rights and freedoms of aliens may be restricted by law in a manner consistent with international law", https://global.tbmm.gov.tr/docs/constitution_en_2019.pdf, accessed 13.09.2020.

22 The LoFIP: Non-refoulement Article 4: "(1) No one within the scope of this law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom

Under the second paragraph of Article 7 of the TPR states that, “Unless otherwise decided by the President, temporary protection does not exclude those who came from the country or the region where the events constituting the basis of the temporary protection declaration before the validity of the temporary protection declaration.” According to the third paragraph of Article 7, “temporarily protected persons are not deemed to have directly acquired any of the international protection statuses determined according to the Law.” Article 8 states the scope of those people who will not include temporary protection.

In Article 11 of the TPR, the Turkish lawmaker regulates the procedures carried out after the termination of the temporary protection by the decision of the President. In Article 12, it regulates the individual termination and cancellation of the temporary protection, and Article 14 regulates the termination of the temporary protection. Under Article 15, “The President may decide to limit or suspend temporary protection measures applied for some time or indefinitely in the event of circumstances that may threaten national security, public order, public security or public health.” It determines the provisions are subject to temporary protected in the period after this decision and other measures to be applied to those who want to come to Turkey with a mass or individual request for temporary protection after the date of entry into force of the decision as mentioned earlier of the President [art. 15 (2)]. A limit or stop decision, the Ministry of Foreign Affairs may call for support through the relevant international organizations by taking the opinions of the Ministry, relevant public institutions, and organizations regarding the measures that can implement along the border of the country or across the border [art. 15 (3)]. This provision of the TPR considers one of the provisions that have a pro-security stance, which creates to balance the country’s interests with temporary protection.

The admission process to the country is regulated in Article 17. Accordingly, those who come in massive influx can cross the country border through particular border crossing points or determinate gates determined by the Ministry. Governorships may allow crossing Turkish border those people who have invalid ID documents or those without any documents. At the border, security is allowed to check and control incoming peoples’ belongings and vehicles. As soon as possible, foreigners with their family members are transported to the nearest Accommodation Centres and Repatriation Centres by authorized law enforcement, together with a report containing identity information, date of entry to the country, and other documents if necessary. The process of disarmament of soldiers and separation from civilians is also regulated (art. 18).

The Director-General makes the identification and registration process of persons who have come to the Accommodation Centres and Repatriation Centres for temporary protection of Migration Management. Persons potentially within the Temporary Protection Regulation scope must understand the processes, rights, obligations, and other issues related to temporary protection. If needed, any brochures and documents can also prepare for an information purpose (art. 19). Among the foreigners who come to the Accommodation Centres and Repatriation Centres and those who need emergency health care, this service is

would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion.”

provided with priority (art. 20). Registration procedures are regulated in Article 21. Those whose registration procedures are completed, the Accommodation Centres and Repatriation Centres issued a temporary protection identity document and a foreign identity number in the scope of the Civil Registry Services Act No. 5490 dated 25 April 2006, without any charge, for a limited time indefinitely.

The sixth section of the TPR is devoted to services provided to temporarily protected persons. Accordingly, education, health, access to the labour market, social assistance and services, translation services, and similar services can be provided to foreigners. Services other than these services can be provided separately by public institutions and organizations as far as possible, and according to the existing possibilities (art. 26). By using their temporary protection identity document, foreigners can contract other services, including electronic communication services (Internet, phone). As can be understood from the TPR's textual interpretation, under Article 24, the accommodation service is not an obligation, but it is provided according to the possibilities and availabilities.²³ Health services are regulated in Article 27, education services in Article 28, access to the labour market in Article 29, social assistance and services in Article 30, and translation services in Article 31.

Article 28, which regulates educational services, is criticized for not clarifying private schools. The Ministry of National Education is a legitimate authority to decide on the issue of private schools. On the other hand, the Higher Education Institution is legitimate to find a solution to university access and admission for temporary protected people.

Restrictions in the application of rights are regulated in Article 35. Accordingly, those who do not comply with Articles 33 and 34 may wholly or partially be restricted/banned from benefiting from other rights, excluding education and emergency health services. As mentioned before, this situation's result is the limitation of the foreigner's rights and freedoms. This issue should be regulated by law act as in Article 16 of the Turkish Constitution is stated.

Services provided in temporary accommodation centers are regulated in Article 38. Food, shelter, health, social assistance, education, and similar services are provided to temporary protected peoples. People with temporary protection status outside the centers can benefit from these centers' services according to the possibilities and availabilities. In temporary accommodation centers, necessary arrangements are made to allocate space for families and special needs people. Internal and external security of the Accommodation Centres and Repatriation Centres is provided (art. 40). With requests of foreigners who do not have valid travel documents or cannot obtain them in a normal/ordinary procedure, their situation and request are evaluated by the Directorate General of Migration Management according to the Passport Law (art. 43). The temporary or permanent exit of persons to a third country is subject to the permission of the Directorate General of Migration Management (art. 44). In other words, the obligation to obtain an exit visa for those who will place in third countries is removed.

²³ Amnesty International, *op. cit.*, p. 22.

People with special needs are regulated in Article 48; family reunion in Article 49; personal data protection in Article 50, confidentiality, access to personal files in Article 51, and legal services in Article 53. Article 54 states that the governorships will immediately process the complaints about the works and services. Matters related to judicial matters will be reported to the judicial authorities. Article 54 increases the possibility of public officials' accountability in providing access to temporary protected persons rights and services within the Regulation scope.

According to the temporary provisional Article 1 of the TPR, since April 28, 2011, the citizens of the Syrian Arab Republic, stateless persons, and refugees who came to Turkish borders from the Syrian Arab Republic in mass influx or individually for temporary protection due to the events taking place in the Syrian Arab Republic can apply for international protection. They will be entitled to get temporary protection. According to the second paragraph of temporary Article 1, those who arrive before April 28, 2011, are taken under temporary protection upon request.

The TPR is evaluated together with Article 91 of the LoFIP. According to the TPR's provisions, the general provision of LoFIP will be applied for those who are not included in the scope of temporary protection. However, applicants have to prove that their situation is not included in the temporary protection scope. Therefore, while the provisions in the LoFIP entitle foreigners to international protection status within the scope of LoFIP, there is an additional status created by the Temporary Protection Regulation and other rights and freedoms prescribed the people with temporary protection status. This research paper's primary focus on protection of those under temporary protection under the Turkish legal system, not precisely Syrians citizens. However, from the temporary Article 1 of the Regulation, Syrians may obtain temporary protected status. The temporary protection system is currently implemented over the protection provided to Syrians.

Criticism toward the Regulation of Temporary Protection's provision

The regulation is criticized for preventing a complete and rapid implementation due to vague expressions in some places. Another criticism is that temporary protection is not limited to a specific period. Undoubtedly, this contradicts the decisions of the UNHCR Executive Committee, which states that temporary protection applies as an exceptional and pragmatic tool.²⁴ The duration is also stipulated in the EU Temporary Protection Directive.²⁵ The status granted for a definite period in temporary protection allows a person to make plans to return to his country or to settle in a third country within a definite time

24 Considering together Article 10 of the Regulation and Article 6 of LoFIP, which regulates the principle of non-refoulement, it concluded that it was appropriate and necessary not to set a time limit for this principle. Ekşi, N., *op. cit.*, p. 83.

25 Accordingly, the temporary protection period is one year. A 6-month extension decision can make to last for a maximum of one year. Upon the proposal of the Commission and the decision of the Council, it can extend for a maximum of one more year. In other words, the maximum duration of temporary protection is three years (Directive Article 4).

frame.²⁶ It is inappropriate for the temporary protection regime to have an indefinite period. The standard of treatment for temporarily protected persons is lower than that applicable to those under the Geneva Convention and causes psychological uncertainty.²⁷ The summary of UNHCR's decisions advocates five years as the upper limit for the temporary protection regime.²⁸ The applications of the countries in this regard form have a wide range. While some states do not set a period for temporary protection, this period of five years is set for other states. Five years' timeframe may be considered as an appropriate period.²⁹

Finally, the current legislation on the temporary protection causes an uncertain process in which people who are entitled to the temporary protection, especially Syrians, become more dependent on the decision of the sovereign concerning their current situation and future in Turkey. Therefore, the legal status of Syrians, their rights and living standards differ from Turkish citizens and the other immigrants due to this "exceptional" legal arrangement.

Conclusion

Turkey is a signature state member of the UN Convention and Protocol Relating to the Status of Refugees. Due to a geographical reservation to the definition of refugees, the Turkish international protection system is unique. Each type of international protections has its classification, right, freedoms, and limitations.

For the Turkish refugee regime, the Syrian war became a milestone for amendments and time for unification with the international and the EU standards of the refugee regime. Using an open-border policy, non-refoulement principle, no limitation related to a stay permit, proving humanitarian aid, Turkey welcomed a mass influx from the war-torn Syrian.

Turkish authorities did not use the legal regime of the 1994 Temporary Protection Regulation towards the Syrians. Instead of this, they use a "guest" term, a source of uncertainty and instability, or the Syrian refugees.

Turkish legislator did not make any corrections or new provisions related to temporary protection, causing many legal problems. Because no action is taken to unify Turkish law with international standards, the Turkish government could violate principles like the non-refoulement rule and send back the Syrian refugees to the homeland.

The Asylum and Migration Legislation and Administrative Capacity Building and Implementation Office Regulation updated the Turkish refugee system positively.

26 Akram, S.M. and Rempel, T., *Temporary Protection as an Instrument for Implementing the Right of Return for Palestinian Refugees*, Boston University International Law Journal 2004, Vol. 22, No. 1, 1–162, p. 13.

27 Fitzpatrick, J., *Temporary Protection of Refugees: Elements of a Formalized Regime*, The American Journal of International Law 2000, Vol. 94, No. 2, 279–306, p. 302; Sopf, D., *Temporary Protection in Europe After 1990: The "Right to Remain" of Genuine Convention Refugees*, Washington University Journal Law and Policy 2001, Vol. 6, 109–159, p. 152.

28 Fitzpatrick, J., op. cit., p. 302.

29 Sopf, D., op. cit., p. 152.

The regulation leads to an unpredictable future for Syrians. The TPR does not guarantee the non-refoulement principle for Syrians.

The officials are able to cancel the status of Syrians through arbitrary decisions.

The TPR does not contain any specific arrangement in terms of detention procedures. For this reason, Syrians were reported to be detained for no legal grounds through arbitrary decisions. The arbitrary detention procedures violate Turkish Constitution (Article 16), International Covenant of Civil and Political Rights (Article 9), and ECHR (Article 5).

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