

URGENT ACTION

SYRIAN REFUGEE DETAINED IN INHUMANE CONDITIONS

A Syrian refugee known as F.M., has been arbitrarily detained in inhumane conditions at Istanbul's Ataturk Airport for almost nine months. He is without a bed or access to natural light. The conditions are so severe that he has even thought of agreeing to return to Syria in order to secure his release.

Syrian national **F.M.** fled Syria in August 2012 to avoid military service and went to Lebanon. He explained that he left Lebanon after being kidnapped and held for ransom by a local gang. He then went to Turkey and spent about a month there before going to Malaysia. The Malaysian authorities returned him to Turkey in March 2015 but he was not readmitted to Turkey. Instead he has been detained for almost nine months in the "Problematic Passengers' Room" of Istanbul's Ataturk Airport. The facilities there are not designed for detention. Because of the conditions of detention and 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 deported back to Istanbul on 21 November. Upon arrival in Istanbul, he was again detained in the "Problematic Passengers' Room", where he still remains. The person who attacked him is also still being held at the facility.

The "Problematic Passengers' Room" has only artificial lighting, which is on 24-hours a day, and there are no beds or privacy. Being kept confined in such a space for an extended period of time – in this case over eight months – may amount to cruel, inhuman or degrading treatment, prohibited under domestic and international law.

F.M.'s detention in the airport (between March and 20 November, and since he was returned from Lebanon on 21 November) appears to be arbitrary, as it seems to have no basis in law. F.M. has not been provided with any reasons for his detention. As a refugee from Syria, F.M. should be afforded Temporary Protection Status under Turkey's law. F.M.'s lawyer made an application to the Turkish courts to effect his release from detention, but as of 7 December, no decision has been made.

F.M. has considered agreeing to be returned to Syria, as the only way to be released from detention. The Turkish authorities have been known to "voluntarily" return refugees to Syria where they risk serious human rights violations. Pressuring a refugee to return to their country of origin with the threat of indefinite detention runs contrary to Turkey's binding *non-refoulement* obligations under domestic and international law.

Please write immediately in Turkish or your own language:

- Calling on the Minister of Interior 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 him to ensure that F.M. is not returned to Syria – or pressured to return "voluntarily;"
- Calling on him not to transfer F.M to a country where he would be at risk of serious human rights violations.

PLEASE SEND APPEALS BEFORE 18 JANUARY 2016 TO:

Minister of Interior

Mr Efkan Ala
İçişleri Bakanlığı
Bakanlıklar
Ankara, Turkey
Fax: +90 312 425 85 09
Email: ozelkalem@icisleri.gov.tr
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 HAAkları 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. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



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ADDITIONAL INFORMATION

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. It has been codified in Article 9 of the *International Covenant on Civil and Political Rights* (ICCPR), which Turkey has ratified. The notion of “arbitrariness” should not be understood narrowly, but must be interpreted broadly to include elements of inappropriateness, injustice, lack of predictability, and due process of law, as well as elements of reasonableness, necessity, and proportionality. Furthermore, the ancient principle of *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 2013 *Law on Foreigners and International Protection* provide for administrative detention either 1-during the processing of International Protection applications (Article 68), or 2-for the purposes of removal (Article 57). However, neither of these cases should apply to Syrians because under Turkish law, 1-Syrians are not “International Protection” applicants, and 2-Syrians 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 – for instance through the use of indefinite detention – this is known as constructive *refoulement*, and is prohibited under international law binding on Turkey.

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

Gender m/f: m

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