

URGENT ACTION

SYRIAN REFUGEE ARBITRARILY DETAINED AT AIRPORT

Syrian refugee M.K. has been arbitrarily detained under inhumane conditions at Istanbul's Sabiha Gökçen Airport since 9 November 2015. He is at risk of being returned to Syria, where his life would be in danger.

M.K. fled Syria in December 2012 and went to Jordan. In November 2015 he decided to go to Turkey, as he thought his orphaned sisters – 12-year old twins – living in Syria may be able to join him there. He was detained on arrival in Istanbul's Sabiha Gökçen Airport on 9 November 2015. The Turkish authorities attempted to send him back to Jordan the following day, allegedly for using false identification documents, but M.K. said he wished to seek asylum in Turkey. M.K. was then taken to a room at the airport in which he has remained ever since.

M.K. is being detained in a space with no natural light and in which artificial lights are permanently on. He says he has asked the officials to switch off the lights but his request was denied. He told Amnesty International that his eyes hurt from the constant light and that he needs medical attention. M.K. said that he went on a hunger strike for about 10 days in February to protest his detention, and that he was not provided any medical care until after he had stopped the hunger strike. Being kept confined in such a space for an extended period of time (in this case since 9 November 2015) may amount to cruel, inhuman or degrading treatment.

M.K.'s detention appears arbitrary, as it does not seem to have any clear basis in Turkey's 2013 *Law on Foreigners and International Protection* or 2014 *Temporary Protection Directive*.

M.K. says he is afraid that the Turkish authorities will return him either to Syria, or to Jordan from where he is at risk of subsequently being deported to Syria. He showed Amnesty International a document issued by the Jordanian Ministry of Interior dated 8 November 2015, stating that he would not be readmitted to the country.

Please write immediately in Turkish or your own language:

- Calling on the Turkish authorities to immediately release M.K. 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 M.K. is not returned to Jordan or Syria – or pressured to return “voluntarily”;
- Calling on them to ensure that M.K. receives any medical care he may require.

PLEASE SEND APPEALS BEFORE 13 APRIL 2016 TO:

Minister of Interior

Mr. Efan Ala
İçişleri Bakanlığı
Bakanlıklar
Ankara, Turkey
Fax: +90 312 425 85 09
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. 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.

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, 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 – for instance through the use of indefinite detention – this is known as constructive *refoulement*, and is prohibited under international law binding on Turkey.

Arbitrary detention of asylum-seekers in Turkey

In recent months, and in the context of the EU’s efforts to partner with Turkey on migration matters, Amnesty International has raised concerns about the apparent rise in the Turkish authorities’ use of detention against refugees and asylum-seekers. In particular, in an urgent action published on 7 December 2015, the organization discussed the case of another Syrian refugee, “F.M.”, who has been detained in inhumane conditions in Istanbul’s Atatürk Airport since March 2015 (<https://www.amnesty.org/en/documents/eur44/2924/2015/en/>).

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

Gender m/f: m

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