

## Current Legal Framework

The adoption of the Law on Foreigners and International Protection (LFIP) in April 2013 paved the way to strengthening access to justice for asylum-seekers, refugees and persons granted temporary protection in Turkey. This included access to legal aid for international protection applicants and refugees in appeal procedures as well as access to judicial review by the Administrative Court and the Criminal Court of Peace. This provision is complemented by other legislation granting the right to legal aid for persons seeking international protection in Turkey.

The right to submit individual applications to the Constitutional Court of Turkey has reinforced access to available legal remedies. Since 2012, any person whose fundamental rights and freedoms, as set forth in the European Convention of Human Rights and guaranteed by the Constitution, may have been infringed by a public authority can apply to the Constitutional Court.

### Access to Justice

In line with the protection strategy set out in the Regional Refugee and Resilience Plan (3RP) 2018-2019, access to justice, ensuring legal aid and representation as well as access to courts, is one of the key components of UNHCR's judicial engagement strategy and presents an integral part of protection delivery. Access to justice is an essential element in a broad spectrum of protection activities through which the rights of refugees are secured.

While an enabling legal framework exists, refugees and asylum-seekers face a number of challenges to access justice with national resources being stretched beyond capacity to provide legal aid to all refugees in need, and refugees lacking information on the availability of legal aid. UNHCR continues to work with relevant national counterparts to broaden access of asylum-seekers and refugees to legal aid and assistance through a number of activities.

### UNHCR Turkey Judicial Engagement Strategy and Priorities

In line with the UNHCR Judicial Engagement priorities, UNHCR Turkey's strategy encompasses a broad range of components including access to justice by refugees, capacity development of judges and lawyers (training in international refugee law, sharing of country of origin information with the courts and the Union of Turkish Bar Associations (UTBA) and creation of a case law database on refugee law), networking with and sensitizing lawyers and the judiciary, supporting strategic litigation efforts, access by refugees to administrative complaint mechanisms such as Ombudsman Office and advocacy on legislative amendments. Moving forward, UNHCR will strengthen its coordination and cooperation with the United Nations Development Programme (UNDP) in regards to access to justice.

### Capacity Development for Judges and Lawyers

UNHCR has established partnerships with the UTBA and the Justice Academy of Turkey (JA), the

**Legal assistance** refers to the provision of legal advice and assistance by a lawyer to a beneficiary concerning his/her specific legal circumstances and follow-up of legal procedures with official authorities within the frame of a formal relation. Professional responsibility of the lawyer is legislated for by the Attorney-ship Law No.1136.

**Legal aid** incorporates the assignment of a lawyer free of charge by Bar Associations (BAs) and/or exemption from court fees and expenses including the expenses for the issuance of power of attorney from State funds (Treasury) for individuals who do not have sufficient financial means to cover the related costs.

national institution responsible for designing programmes and projects to enhance the technical knowledge of administrative, civil, criminal and constitutional court judges. These partnerships will be further consolidated through a range of initiatives in the areas of capacity development, knowledge transfer and the sharing of best practices in order to enhance the technical knowledge in refugee law of the judiciary and lawyers across the country.

Curricula developed for the Bar Associations will continue to be enhanced with updated modules in response to newly emerging challenges. Following positive feedback from participating Bar Associations, workshops for regional Bar Associations will be organized as a priority to enhance sharing experiences and dissemination of good practices.

UNHCR will further strengthen its cooperation with the Justice Academy on the creation of a case-law database (incorporating national and regional case law) to serve as a reference point for judges. This initiative will contribute to consistency in decisions. Furthermore, underlining the importance of country of origin information in the adjudication of refugee claims, UNHCR continues to share relevant European Court of Human Rights' and national jurisprudence, UNHCR guidelines and UNHCR's reports on Iran, Iraq, Afghanistan, Uzbekistan, Pakistan, Syria and Somalia with the judges and prosecutors.

### **Removal of Challenges to Access Legal Aid**

UNHCR in coordination with UTBA and Bar Associations, has been advocating at the central and provincial level with administrative and judicial bodies, such as Directorate General of Migration Management (DGMM), judges, and removal centre officials, to lift the power of attorney requirement which considerably limits refugees' access to legal remedies and legal aid; and for acceptance of other types of official documents as power of attorney.

As of February 2018, UNHCR and UTBA have initiated a Project aiming to increase access to effective and accurate legal assistance by the abovementioned groups, as well as increase the capacity of Bar Associations to provide legal aid. Within this scope, to ease some of the pressure on the legal aid budgets of Bar Associations, attorney fees, notary, translation and transportation expenses will be covered by UNHCR for a number of priority cases.

In addition, in line with the Memorandum of Understanding that was signed with the UTBA, UNHCR established a pool of interpreters that is equipped to receive calls across the country whenever interpretation is needed in Arabic and Farsi to ease access to legal assistance, and to support lawyers with their oral and written interpretation needs related to their work with refugees.

### **Awareness Raising on Legal Aid**

DGMM, UTBA and UNHCR have developed informative leaflets and posters to promote access to legal aid for asylum-seekers and refugees living in temporary accommodation centres and in urban areas, and for foreigners under administrative detention at the removal centres. Since late 2017, some 98,000 leaflets and 5,000 posters in seven languages (Arabic, Farsi, Pashtu, Russian, French, English and Turkish) were disseminated to Provincial Directorates of Migration Management (PDMM), Bar Associations as well as the courthouses throughout Turkey to increase awareness on legal aid.

It is expected that through these activities, barriers to legal aid will be reduced, access to legal remedies will be improved, and positive jurisprudence will be developed to more effectively address the needs of asylum-seekers and refugees.

## Achievements in 2017

On 7-8 December 2017, the Justice Academy and UNHCR hosted a two-day international conference on “Access to Justice by Refugees: Specificities and Capacities” to provide a platform for some 200 judges, prosecutors, academics, practitioners, policy and law makers, public institutions, NGOs and lawyers from Turkey and abroad to share perspectives and experiences gained in refugee situations.

Panels covered a range of topics, including: access to justice and legal aid for refugees and asylum-seekers; principle of non-*refoulement*, deportation and legal safeguards; the role of judicial review in the protection of refugees and asylum-seekers; access to justice as a factor of social cohesion; access to justice for refugee children and women; and access to justice and legal aid for refugees and asylum-seekers in the context of labour law.

In October 2017, UNHCR was invited to deliver a presentation entitled “UNHCR’s Role and Mandate in Refugee Status Determination (RSD) as a Guide in the Adjudication of Claims by National Decision Makers and Judiciary” during a two-day roundtable meeting organized by the Council of Europe within the scope of a joint project on supporting individual applications in the Constitutional Court.



The event hosted over 50 judges and prosecutors from the Constitutional Court, Court of Cassation, the Council of State, the Ministry of Justice, the High Council of Judges and Prosecutors, the Military Court of Cassation, the High Administrative Military Court, the Turkish Justice Academy as well as lawyers from the Union of Turkish Bar Associations. UNHCR’s intervention underlined the legal value of UNHCR’s RSD decisions and their utilization within the national RSD system. This is taken as a step forward to sensitize the judiciary on the role and influence of UNHCR rendered decisions in refugee status adjudication which is being conducted by a relatively new asylum institution.

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## External and Donor Relations

**Thanks to UNHCR's donors for supporting our legal protection and access to justice activities in Turkey and for their unrestricted and regional funds in 2018:**

European Union | United States | Canada | Norway | France | Germany | Private donors Australia | Finland | Sweden | Netherlands | United Kingdom | Private donors Spain | Denmark | Australia | Switzerland | Private donors Republic of Korea | Italy | Belgium

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