

August 2018

## Current Legal Framework

The adoption of the Law on Foreigners and International Protection 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 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 through 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.

**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 for individuals who do not have sufficient financial means to cover the related costs.

## Capacity Development for Judges and Lawyers

UNHCR has established partnerships with the UTBA and the Ministry of Justice 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 good practices in order to enhance the technical knowledge in refugee law of the judiciary and lawyers across the country.

Curricula developed for Bar Associations will continue to be enhanced with updated modules in response to newly emerging challenges. Between 1 January and 31 July 2018, UNHCR delivered workshops and certificate trainings organized for the lawyers of Samsun, Kırklareli, Ankara, Çorum, Nevşehir, Aksaray and Antalya Bar Associations. The workshops aimed to increase the capacity of approximately 350 participants on the international and national legal frameworks on international and temporary protection, and to facilitate the sharing of experience and dissemination of good practices in the field of international protection.

UNHCR will further strengthen its cooperation with the Ministry of Justice on the creation of a case-law database (incorporating national and regional case law) to serve as a reference point for judges. In this regard, UNHCR plans to initiate a project on Promoting Access to Justice by Refugees in Turkey. This initiative will not only contribute to consistency in decision-making and increase the knowledge of judicial staff about matters involving refugees but also strengthen the quality of service delivery by courthouse staff. 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.



## Strengthening Access Legal Aid

As of February 2018, UNHCR and UTBA have initiated a project aimed at increasing access to effective and accurate legal assistance by refugees and asylum-seekers, as well as increase the capacity of Bar Associations to provide legal aid. 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. Following positive feedback from Istanbul, Gaziantep, Canakkale, Trabzon and Kayseri Bar Associations, five workshops were organized between May and July 2018 attended by some 537 lawyers. Experts from UNHCR, UTBA and UNDP provided technical information, including practical tips and case studies on international protection principles, the national legal framework on international and temporary protection, appeal procedures, application procedures to and jurisprudence of the Constitutional Court and European Court of Human Rights, challenges observed in practice with regards to appeal procedures and provision of legal assistance, mixed migration and push-backs, civil law, the right to employment of asylum-seekers and refugees, protection of women and children under the Turkish legal framework, and communication with refugee clients.

In September, following the judicial summer recess, UNHCR and UTBA plan to continue with the remaining 13 workshops foreseen within the scope of the project. Lawyers attending these workshops are provided with certificates and become part of the project to provide legal aid services for asylum-seekers and refugees.

A legal clinic established in Sanliurfa, which became operational in April 2018, provides legal assistance to asylum-seekers and refugees on a broad range of subjects, including temporary protection procedures, administrative detention, access to rights and civil law matters, as well as supporting NGOs and lawyers through information sessions and case-specific legal counselling.

In addition, in line with the Memorandum of Understanding that was signed with the UTBA, UNHCR has established a pool of interpreters equipped to receive calls from across the country whenever interpretation is needed in Arabic and Farsi to facilitate 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

Within the scope of the Reinforcement of Turkey's National Asylum System Project, 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. Information leaflets and posters in seven languages (Arabic, Farsi, Pashtu, Russian, French, English and Turkish) were produced and put in distribution as of January 2018.

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 2018

- Within the scope of the Reinforcement of Turkey's National Asylum System Project, a meeting jointly implemented by UNHCR and DGMM on "Access to Legal Aid by Foreigners under International Protection and Temporary Protection" was organized in Ankara on 9 May 2018. Participants included representatives from DGMM, UNHCR, UTBA and Ankara, Gaziantep, Samsun, Sanliurfa and Eskisehir Bar Associations. The meeting aimed to facilitate access of refugees to legal aid by identifying gaps and challenges, and by deciding on a way forward by relevant actors to increase access for refugees to legal aid. The meeting proved a useful initiative, bringing together UTBA, DGMM, and Bar Association representatives.
- On 30 June and 1 July, UNHCR participated at a meeting organized by UTBA, the Ministry of Justice and UNDP to discuss amendments to the legislation on legal aid. The meeting was also attended by representatives of Bar Associations. Amendments to articles regulating legal aid in the Attorney-ship Law, Code of Civil Procedures Law as well as Law on Legal Mediation and Criminal Procedures Law were discussed to ensure effective access to legal services through legal aid scheme.

UNHCR provided inputs that will enable access to the legal aid scheme by international protection applicants and status holders, foreigners under temporary protection as well as vulnerable irregular migrants. Proposed amendments foresee power of attorney requirements being replaced by an

authorization document to be issued by legal aid offices, elimination of the requirement to submit notarized power of attorney for the above-mentioned foreigner categories and harmonization of legal aid provided by Bar Associations and courts. The legislative proposals have to be endorsed by the Ministry of Justice for subsequent adoption by the Turkish Grand National Assembly following finalization of the draft.

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## External and Donor Relations

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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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