

Brussels, 5 April 2016
(OR. en)

7462/16

LIMITE

**ASIM 46
NT 8
COMIX 253**

NOTE

From: Presidency

To: Representatives of the Governments of the Member States

Subject: Standard Operating Procedures implementing the mechanism for resettlement from Turkey to the EU as set out in the EU-Turkey Statement of 18 March 2016

1. According to the EU-Turkey Statement of 18 March, for every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN vulnerability criteria. The EU-Turkey Statement provides that a mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as UNHCR, to ensure the implementation of the above principle.
2. In order to establish such a mechanism, the Commission presented the draft Standard Operating Procedures (SOPs), which were examined by the JHA Counsellors on 21 and 23 March as well as on 1 and 4 April. Norway, Iceland, Switzerland and Liechtenstein as well as UNHCR and EASO have also taken part in these discussions. The Turkish counterparts have been consulted in the course of the process.
3. Due to the legal and institutional nature of the EU-Turkey Statement, the draft SOPs annexed to this Note are submitted, for discussion, to the Representatives of the Governments of the Member States and Norway, Iceland, Switzerland and Liechtenstein, meeting in the margins of COREPER.

4. The draft SOPs as discussed by the Representatives of the Governments of the Member States and Norway, Iceland, Switzerland and Liechtenstein would then serve as a basis for further discussions with Turkey.
 5. At a later stage, the result of such discussions will be submitted for final endorsement to the Representatives of the Governments of the Member States and Norway, Iceland, Switzerland and Liechtenstein meeting in the margins of COREPER.
 6. At the end of the process, the SOPs will take the form of an "Outcome of Proceedings" of a relevant meeting involving the parties concerned.
 7. Following comments from JHA Counsellors at the meeting of 4 April, and subsequent written comments from UNHCR, a revised version of the SOPs has been prepared in view of the COREPER meeting on 6 April 2016 (changes to the previous document are indicated with **bold** and ~~strike through~~). The new version takes into account, as far as possible, UNHCR comments relating to step 2 of the procedure ("the UNHCR assessment"), notably as concerns the personal interview and the documentation collected. It also proposes to reduce, at its request, the obligations of UNHCR, as not being a party to the overall EU-Turkey mechanism and for the speed of the procedure. Moreover, the revised version introduces a reference to "nuclear family" and defines this term in line with the EU Family Reunification Directive (2003/86/EC); and clarifies what is meant by families with "complex profiles", i.e. families that include underaged spouses or a further spouse (polygamous marriages).
 8. The Representatives of the Governments of the Member States and Norway, Iceland, Switzerland and Liechtenstein are hereby invited to discuss the draft SOPs annexed to this Note.
-

Implementation of the EU-Turkey 1:1 agreement scheme – resettlement part

The 18 March EU-Turkey Statement states on resettlement:

"For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. A mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR, to ensure that this principle will be implemented as from the same day the returns start. Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly. On the EU side, resettlement under this mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015, of which 18.000 places for resettlement remain. Any further need for resettlement will be carried out through a similar voluntary arrangement up to a limit of an additional 54.000 persons."

Timetable

In order to honour the commitment to implement resettlement as of the same day as the returns starts, the following timetable needs to be envisaged:

- By 1 April 2016 – Fast-track Standard Operating Procedures (SOP) are agreed with Turkey on the basis of the SOP of the Voluntary Humanitarian Admission Scheme;
- By 1 April 2016 - Participating States appoint national contact points, designate liaison officers to be deployed to Turkey, and ensure adequate infrastructure in Turkey in cooperation with Turkish authorities;
- From 4 April 2016 - First departures of Syrians from Turkey to the EU.

Possible elements of fast-track Standard Operating Procedures ¹

Volume and speed of the procedure:

[EU: While the procedure should not take longer than necessary, volume and speed of the procedure should be **strictly** commensurate with the number of Syrians returned from Greece to Turkey.²]

Eligibility

- Target group: Syrian nationals who have been displaced by the conflict in Syria and who are prima facie in need of international protection, without having a profile that could bring them under the scope of the exclusion clauses, as set out in EU or international law, registered by the Turkish authorities benefitting from temporary protection status prior to 29 November 2015. [TK: Newborns of parents registered prior to that date [and limited urgent cases with physical protection needs or medical needs or disabilities] could be included regardless of their date of registration];
- Selection criteria:
 - Falling within one of the following UNHCR resettlement submission categories:
 - women and girls at risk;
 - survivors of violence and/or torture;
 - refugees with legal and/or physical protection needs;
 - refugees with medical needs or disabilities;
 - children and adolescents at risk; and/or

¹ The fast-track SOP will apply as of the date of their adoption. Resettlement initiated prior to this date with a view to departures as of 4 April will need to be organised under national procedures.

² For the purpose of ensuring parallelism between return and resettlement, the number departures should correspond to the number of Syrians returned from Greece to Turkey. The discontinuation of a return procedure should not impact the continuation of an on-going resettlement procedure.

- [EU: **Family links with Members of the nuclear family**³ of a person legally resident in a Participating State]
- [EU: Families with complex⁴ **or unclear** profiles are not eligible;]
- The person does not constitute a threat to public policy, internal security and public health;
- A candidate who has refused admission to a particular Member State is no longer eligible;
- Priority will be given to eligible persons who have not previously entered or tried to enter the EU irregularly.

Procedure

Step 1 – Initial referral by Turkey

- Directorate General of Migration Management (DGMM) shares, as soon as possible, [EU: while taking into account that the speed of the procedure should be **strictly** commensurate with the number of Syrians returned from Greece to Turkey,] with UNHCR, a list of persons falling within the target group, [EU: aiming at presenting a balanced caseload with regard to the individual submission categories] [EU: including at least the names of the persons **having family links with a member of the nuclear family in identified by** a Participating State **as having family links in communicated by** that Participating State **in advance on their initiative to DGMM**]. [EU: When composing the list, DGMM should ensure that family unity can be maintained.]

³ **Members of the nuclear family include:**

- a) **the family member's spouse or the unmarried partner with whom the family member is in a duly attested stable long-term relationship;**
- b) **their minor unmarried children, including adopted children, or of one of them, where that person has custody or, where custody is shared, provided the other party sharing custody has given his/her agreement and the children are dependent on him/her;**
- c) **their adult unmarried children, where they are objectively unable to provide for their own needs on account of their state of health;**
- d) **first-degree relatives in the direct ascending line of an unaccompanied minor or, where he/she has no relatives in the direct ascending line or such relatives cannot be traced, or his/her legal guardian or any other member of the family;**
- e) **first-degree relatives in the direct ascending line of another family member or his/her spouse, where they are dependent on them.**

⁴ **Complex profiles include: a) underaged spouses; and b) a further spouse, where the family member already has a spouse living with him or her.**

- The number of persons on the list should [EU: be **strictly** commensurate with] the number of Syrians returned from Greece to Turkey.⁵ The list should contain information concerning:
 - Identity data (name, date of birth, nationality, spouse, children/dependants, identity documents), [EU: temporary protection ID cards], and registration number;
 - Date of registration with the Turkish authorities;
 - UNHCR resettlement submission category;
 - Syrians are granted temporary protection after their security checks are completed by the Turkish security authorities. At the moment of referral the candidates are not known to the Turkish authorities as constituting a security risk (on the basis of national security checks) or having attempted to enter the EU irregularly from Turkey or having committed a serious crime in Turkey;
 - [EU: Indication of **links with a member of the nuclear** family **links** in one of the Participating States (where applicable);]
 - Place of residence / contact details.

Step 2 – Assessment by UNHCR

- UNHCR contacts the persons on the list received from DGMM by **appropriate means (e.g. by phone or a personal interview) to verify his or her identity, to** enquire about **their** whereabouts, family composition and willingness to participate in the scheme, **and** explain the procedure to the candidates, including the fact that the destination country will not be decided on the basis of the candidate's choice; and [EU:, unless a person has **links with a member of the nuclear** family **links** within a Participating State,] assess whether the persons fall within one of the UNHCR resettlement submission categories.

⁵ Account should be taken of the fact that some candidates on the list of DGMM might be unselected by UNHCR or rejected by a Participating State in the course of the procedure. Therefore, the number of persons referred should be superior to the number of Syrians returned from Greece to Turkey.

- **Should those individuals be willing to participate in the scheme, UNHCR calls them for a face-to-face interview, where their bio-data and photographs are collected, their documents, where available, are examined and information is recorded on whether the persons fall within one of the UNHCR resettlement submission categories;⁶**
- **UNHCR [aims at presenting presents** a balanced caseload with regard to the individual submission categories to the Participating State, **possibly in cooperation with EASO,** and] matches the cases with the Participating States proportionately to the number of places pledged; a person with family links within a Participating State shall be referred to that State;
- [EU: As soon as possible] from the initial referral by Turkey, ~~[while taking into account that the speed of the procedure should be strictly commensurate with the number of Syrians returned from Greece to Turkey,]~~ UNHCR refers selected cases to the liaison officers or national contact points of Participating States using a standard form developed for the scheme and attaching all **available** supportive documentation (with the consent of the candidate). DGMM will be informed about the unselected cases and selected cases, **including a copy of the standard form,** in accordance with applicable data protection standards.

Step 3 – Assessment by Participating States

- The Participating State reviews the files received from UNHCR and performs necessary identity, medical and security checks, including checks of the SIS and national databases as well as whether a person has entered or attempted to enter the EU irregularly. For this purpose, the Participating State may take fingerprints in Turkey, where possible in the Embassy/Consulate, and store, compare and transfer these fingerprints to the competent national authorities in the participating State, in accordance with national law of Participating States. The Participating State assesses the case on the basis of documentary evidence or interviewing;
- The Participating State explains to the candidate that the residence permit status to be granted is only valid on the territory of the Participating State granting it and that the candidate will not be allowed to reside on that basis in another EU Member State. The candidate is also informed about his or her duty to comply with the laws of the Participating State of destination;

⁶ **The assessment undertaken by UNHCR does not include a Refugee Status Determination (neither inclusion nor exclusion).**

- The Participating State takes a decision on the cases referred [EU: as soon as possible, while taking into account that the speed of the procedure should be **strictly** commensurate with the number of Syrians returned from Greece to Turkey] as of receiving the file from UNHCR and informs the candidate through UNHCR. DGMM will be informed about rejected cases.
- While the Participating States retain the right to decide on and reject candidates in individual cases, the Participating State should reject a candidate only in case he or she does not meet the eligibility criteria, [EU: in order to preserve a balanced caseload between the different individual submission categories] or to give priority to persons who have not previously entered or tried to enter the EU irregularly;
- [EU: Only when a case is rejected in order to preserve a balanced caseload between the different individual submission categories, UNHCR may submit the case to another Participating State.]
- The Participating States issue the necessary national visa/permit and travel documents where necessary in accordance with national law.
- EASO supports, within the limits of its mandate, **Participating States, in particular** cooperation and coordination between **themParticipating States**.

Step 4 - Pre-departure and departure

- Participating States arrange the transfer of the candidate (flights and all other practical arrangements) as soon as possible, possibly in cooperation with an implementing partner (such as IOM). Joint flights might be organised;
- Participating States arrange fit to travel medical checks;
- Turkey shall aim to deliver the exit visa as soon as possible and in any case within five calendar days;
- Candidates are accompanied at the airport by Participating States, possibly **in cooperation withthrough** an implementing partner;
- Candidates give back their temporary protection ID cards and Turkish authorities close the case.
- [EU: The overall number of departures should be **strictly** commensurate with the number of Syrians returned from Greece to Turkey.]

[EU: Step 5 - Arrival in a host country

- The candidates admitted are granted a status at least equivalent to subsidiary protection or any other equivalent temporary status under national law for not less than one year, and renewable, in accordance with national procedures. Only in case of new circumstances or new evidence concerning the person's eligibility following the decision on admission, the status could be refused or revoked;
 - This is without prejudice to the right of the admitted candidate to apply for and be granted international protection in the framework of an asylum procedure.]
-