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# TRANSNATIONAL COMPANIES, HUMAN RIGHTS DUE DILIGENCE AND SYRIAN REFUGEES: A CASE STUDY OF TURKEY

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## Abstract

The legal status provided to Syrian refugees in Turkey is called temporary protection. It is not the same as the refugee status and it provides more limited rights and opportunities. After all these years since the start of the mass migration of Syrians to Turkey, it has become clear that this temporary legal status complicates the living and work conditions of these people, who apparently will be staying in Turkey in the mid to long term future. Particularly in terms of work life, Syrian refugees are faced with challenges not only in obtaining legal work permits, but also in finding jobs with decent working conditions even if they have work permits. Being one of the primary sectors where Syrian workers are present, the ready-made garment (RMG) sector in Turkey has this problem as well. In this respect, in order to improve the working conditions of the Syrian workers, there are some measures that transnational textile companies sourcing from Turkey. For one, if these transnational companies (TNCs) conduct human rights due diligence (HRDD) over the working conditions and human rights enjoyment throughout their supply chains in Turkey, there could be significant improvements in the conditions of these Syrian workers. To this end, in this study, after providing some explanations on the legal status of Syrian workers in Turkey and their working conditions in the RMG sector, recommendations will be offered on what measures TNCs can take as a part of their HRDD over their supply chains in Turkey in order to improve working conditions of the Syrian workers.

**Keywords:** Syrian refugees, Temporary protection, Migration policy, TNCs, Work permit

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## Öz

Türkiye'nin Suriyeli mültecilere yönelik sağladığı hukuksal statü, geçici korumadır. Geçici koruma statüsü, 'mülteci' statüsü ile aynı olmadığı gibi, sağlanan imkân ve ulaşılabilen haklar da aynı şekilde kısıtlıdır. Hali hazırda geçicilik üzerinde sağlanan bu statünün, orta ve uzun vadede Türkiye'de ikamet edeceği anlaşılan Suriyelilerin yaşam ve çalışma koşullarını tartışmalı hale getirmiştir. Özellikle iş hayatı açısından, yasal çalışma iznine erişim konusunda veya çalışma izni alabildikten sonra dahi makul şartlarda iş bulabilme konusunda geçici koruma statüsüne sahip Suriyeliler de kimi sorunlarla karşılaşmaktadır. Başka bazı sektörlerde olduğu gibi tekstil ve hazır giyim sektöründe Suriyeli işçiler olumsuz çalışma şartlarına maruz kalabilmektedir. Bu noktada, Suriyeli tekstil ve hazır giyim işçilerinin çalışma şartlarının iyileştirilmesi konusunda Türkiye'den ürün tedarik eden çok uluslu şirketlerin de alabilecekleri tedbirler bulunmaktadır. Özellikle bu şirketlerin, küresel tedarik zincirleri üzerinde, çalışma hayatı ve insan hakları alanında öngörülen insan haklarına ilişkin özen yükümlülüklerini yerine getirmeleri halinde, bilhassa bu şirketlerin tedarik zincirinde yer alan işletmelerde çalışan Suriyeli işçilerin çalışma hayatlarında önemli düzeltmeler yapılabilecektir. Bu doğrultuda, işbu yazıda Suriyeli işçilerin Türkiye'deki hukuki statülerine ve hazır giyim sektöründeki çalışma şartlarına ilişkin açıklamalardan sonra çok uluslu şirketlerin, Türkiye'deki hazır giyim sektörü kontekstinde Suriyeli işçilerin durumlarının iyileştirilmesi açısından insan hakları özen yükümlülüğü kapsamında atabilecekleri adımlara ve alabilecekleri tedbirlere dair önerilerde bulunulacaktır.

**Anahtar Kelimeler:** Suriyeli Mülteci; Geçici Koruma; Göç Politikası; Çok Uluslu Şirketler; Çalışma izni

## INTRODUCTION

The turmoil that started with Arab Spring in North African countries resonated in Syria too, and in the beginning of March 2011, the uprising against the president, Bashar al-Assad, and the following internal conflicts quickly turned into a civil war<sup>3</sup>. In a short period of time, the situation escalated rapidly when some international actors became involved and millions of Syrians started to migrate to neighboring countries. The civil war in Syria gave rise to the largest refugee and migration crisis today which created impacts not only within Syria, but also on other countries, particularly on neighboring countries. Over 5.5 million Syrians tried to seek refuge in neighboring countries, one of which is Turkey.<sup>4</sup> Being the

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<sup>3</sup> ERMAĞAN, İsmail/ KARCI, Aybars, "Neorealizm ve Neoliberalizm Kuramlarının Güvenlik Yaklaşımları ve Arap Devrimlerinde Suriye Politikaları", **Uluslararası İlişkilerde Güvenlik Kuramları ve Sorunlarına Temel Yaklaşımlar**, Ed: Sibel TURAN and Nergiz ÖZKURAL KÖROĞLU, London, Transnational Press, 2017.

<sup>4</sup> UNHCR, "Syria Emergency", <http://www.unhcr.org/syria-emergency.html>, Access Date: 24.11.2020.

country with the largest number of refugees in the world, Turkey currently hosts more than 3.5 million Syrian refugees, making Turkey also the country with the highest number of Syrian refugees.<sup>5</sup>

The conditions of Syrians fit perfectly well into the refugee definition of the 1951 Convention Relating to the Status of Refugees as they have been forced to leave Syria due to well-founded fear of persecution and are unable or unwilling to benefit from diplomatic protection of Syrian state.<sup>6</sup> State parties to the Convention, like Turkey, must grant the same treatment to the refugees, like Syrians, with their nationals concerning working conditions, labor rights and social security.<sup>7</sup>

However, Turkey does not consider the Syrians as refugees as defined by the 1951 Convention. Despite being a party, Turkey maintains a geographical limitation to the Convention which confines its application and designation of the refugee status as described by the Convention only to people fleeing persecution in a European country.<sup>8</sup> People coming from other countries are granted a conditional refugee status. This status is provided on an individual basis and not applied in cases of mass migration. As a result, Syrians cannot obtain the conditional refugee status as well. The legal status they can acquire in Turkey is temporary protection. The legislation concerning the temporary protection status, which is called “Foreigners and International Protection Act”,<sup>9</sup> entered into force on 11 April 2013 after consultations with the UN High Commissioner for Refugees, European Commission and civil society organizations. According to the Article 91 of the “Temporary Protection Regulation” published in the Official Gazette on 22 October 2014, this legal status is provided to the foreigners who were forced to leave their country, cannot return and come to Turkish borders in masses in order to seek immediate and temporary protection.<sup>10</sup>

The Temporary Protection Regulation leaves regulation of the employment of foreigners under the temporary protection status to the Government. This includes

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<sup>5</sup> UNHCR, “Situation Syria Regional Refugee Response”, <https://data2.unhcr.org/en/situations/syria/location/113>, Access Date: 24.11.2020.

<sup>6</sup> Convention Relating to the Status of Refugees 28 July 1951, Article 1, <https://www.ohchr.org/en/professionalinterest/pages/statusofrefugees.aspx>, Access Date: 24.11.2020.

<sup>7</sup> Convention Relating to the Status of Refugees 28 July 1951, Article 24, <https://www.ohchr.org/en/professionalinterest/pages/statusofrefugees.aspx>, Access Date: 24.11.2020.

<sup>8</sup> UNHCR, “States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol”, <http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>, Access Date: 24.11.2020. Along with Congo, Madagascar and Monaco, Turkey adopted a geographical limitation to the Convention and expressly maintained the limitation upon acceding to the 1967 Protocol.

<sup>9</sup> No: 6458, Date of Enactment: 04.04.2013, O.G.:28615, Date: 11.04.2013.

<sup>10</sup> KAYA, İbrahim/ YILMAZ EREN, Esra, **Türkiye’de Bulunan Suriyelilerin Hukuki Durumu: Arada Kalanların Hakları ve Yükümlülükleri**, İstanbul: Seta 2015, 47.

also the issuance of work permits. However, only in January 2016, a new regulation, titled “Regulation on Work Permits of Foreigners under Temporary Protection”, entered into force with an aim to specify the rules on issuance of work permits to foreigners under the temporary protection status.<sup>11</sup> Before 2016, refugees working in Turkey were doing so without work permits, meaning that they were working in the informal sector without most of the legal protections provided by the Turkish legislation to workers. The paths were closed for formal employment of Syrian refugees in Turkey until January 2016 as a result of the geographical limitation and the lack of a legal framework concerning the participation of the refugees to the labor market. Although the regulation in 2016 was welcomed by the International Labour Organization (ILO),<sup>12</sup> the achievement of the new law in ensuring access of Syrian refugees to the Turkish labor market is being questioned<sup>13</sup> and various reasons have been put forward to explain why the law could not achieve greater success.<sup>14</sup>

One of the primary sectors where informal employment of the Syrians is prevalent is the textile and ready-made garment (RMG) sector. Turkey is a very big player in the global textile industry and therefore preferred by numerous foreign brands. The situation of the Syrian workers in the informal sector in Turkey and serious allegations on the precarious working conditions raise questions about the extent of the responsibility of performance of due diligence by transnational companies (TNCs) sourcing in Turkey. Their internal and supply chain policies could potentially have significant impacts on the workers in their value chains in Turkey. If they wish to improve the working conditions throughout their supply chains, including that of the Syrian refugees, they can have a variety of mechanisms to achieve this. For example, TNCs might have different responsibilities as to the performance of human rights due diligence (HRDD) depending on the circumstances, and the Turkish context necessitates specific considerations for TNCs with respect to the protection of labor rights of workers without work permits in the informal sector in Turkey.

In this respect, this article will explain, based on the UN Guiding Principles (‘UNGPs’) and OECD Guidelines for Multinational Enterprises (‘OECD MNE Guidelines’), specific due diligence considerations that are related to the working

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<sup>11</sup> O.G.:29594, Date: 15.01.2016, Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik, <https://www.refworld.org/docid/582c71464.html> (EN), Access Date: 24.11.2020.

<sup>12</sup> ILO, “ILO welcomes the introduction of work permits for refugees in Turkey”, [http://www.ilo.org/ankara/news/WCMS\\_444117/lang--en/index.htm](http://www.ilo.org/ankara/news/WCMS_444117/lang--en/index.htm), Access Date: 24.11.2020.

<sup>13</sup> KINGSLEY, Patrick, “Fewer than 0.1% of Syrians in Turkey in line for work permits” **The Guardian**, 11 April 2016. <https://www.theguardian.com/world/2016/apr/11/fewer-than-01-of-syrians-in-turkey-in-line-for-work-permits>, Access Date: 24.11.2020.

<sup>14</sup> LEGHTAS, Izza/ HOLLINGSWORTH, Ann “‘I Am Only Looking for My Rights’: Legal Employment Still Inaccessible for Refugees in Turkey”, <https://reliefweb.int/sites/reliefweb.int/files/resources/Turkey%2BReport%2BFinal.pdf>, pp. 10-13, Access Date: 24.11.2020.

conditions of the Syrian refugees working illegally in Turkey and measures that TNCs sourcing in Turkey can take to fulfill their responsibility to respect human rights.

## **I. Syrian Refugee Workers in Turkey**

Although the magnitude of the informal economy in Turkey has always been a problem, the enormous number of Syrian refugees coming to Turkey, combined with the legal gaps and some of the shortcomings of the legal provisions, has exacerbated the problem. The body of law on the employment of foreigners is highly complex and scattered. There are even conflicting provisions in different legislations. To name just a few of the legislations on this subject, there are provisions on the employment of foreigners in “6735 International Work Force Act”,<sup>15</sup> “6458 Foreigners and International Protection Act”<sup>16</sup> and “4875 Foreign Direct Investments Act”<sup>17</sup>. Yet, despite this scattered nature of the relevant rules, most of the provision on the employment of foreigners can be found in the International Work Force Act and the “Regulation on the Implementation of the Act numbered 4817”.<sup>18</sup> These problems starting with the current body of law continue in employment for the Syrian refugees.

One of the primary problems of the Syrian refugees in Turkey is about communication. Namely, as they cannot properly communicate with locals and employers, they experience employment problems. For instance, only the Syrian refugee’s employer can apply for a work permit on behalf of him/her, meaning that a refugee cannot apply for a work permit on his/her own.<sup>19</sup> Together with the fact that an employer must pay the social security fees of and minimum wage to a foreigner if he/she has the temporary protection status,<sup>20</sup> many employers are reluctant to apply for the work permits. Moreover, Turkish law stipulates that Syrians living in urban areas outside of the refugee camps -approximately 90% of the Syrian refugees<sup>21</sup>- are allowed to work only in the cities in which they are

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<sup>15</sup> No: 6735 Date of Enactment: 28.07.2016, O.G.: 29800, Date: 13.08.2016.

<sup>16</sup> No: 6458, Date of Enactment: 04.04.2013, O.G.:28615, Date: 11.04.2013.

<sup>17</sup> No: 4875 Date of Enactment: 05.06.2003, O.G.: 25141, Date: 17.06.2003.

<sup>18</sup> LBF PARTNERS | HUKUK VE DANIŞMANLIK, "Yabancıların Çalışma İzinleri ve Güncel Mevzuat", <http://www.lbfpartners.com/tr/yayin/yabancilarin-calisma-izinleri-ve-guncel-mevzuat.html>, Access Date: 29 December 2020.

<sup>19</sup> O.G.:29594, Date: 15.01.2016, Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik, <https://www.refworld.org/docid/582c71464.html> (EN), Article 5, Access Date: 24.11.2020.

<sup>20</sup> O.G.:29594, Date: 15.01.2016, Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik, <https://www.refworld.org/docid/582c71464.html> (EN), Article 10, Access Date: 24.11.2020.

<sup>21</sup> BUSINESS SOCIAL COMPLIANCE INITIATIVE AND FOREIGN TRADE ASSOCIATION, “Guidance Document: Syrian Nationals Working in Turkish Supply Chains”, [https://media.business-humanrights.org/media/documents/files/documents/Guidance-Documents-Syrians-in-Turkey\\_FINAL\\_ENG.PDF](https://media.business-humanrights.org/media/documents/files/documents/Guidance-Documents-Syrians-in-Turkey_FINAL_ENG.PDF), p.2, Access Date:: 24.11.2020.

registered.<sup>22</sup> However, especially some small and medium-sized cities do not offer many job opportunities. This leaves Syrian refugees no option but moving to larger cities to look for jobs in the informal sector and make themselves more vulnerable to abusive working conditions.

According to the UNHCR, more than half of the Syrian refugees in Turkey are of working age (18-59 years).<sup>23</sup> However, either registered or unregistered, only approximately 30% of the refugees participate in the workforce, less than 20% is unemployed and more than half of the refugees are not looking for a job.<sup>24</sup> Strikingly, the disorderliness rate among the working refugee population is more than 95%, meaning that less than 5% of the refugees have official work permits.<sup>25</sup> As of 2020, more than 30 thousand Syrian refugees were issued official work permits.<sup>26</sup> Informal work relations considerably influence Syrians' economic activities and their works. As of 2017, there were 940.921 working Syrian refugees, part of the having started working at early ages and more than 90% of them informally work in sectors in low-skilled positions.<sup>27</sup> These numbers indicate that the overwhelming majority of the Syrian refugees participating in the labor market in Turkey work in the informal sector without many rights and protections provided by the Turkish legislations.

One significant factor that has a major role in the employment trends among Syrian refugees in Turkey is their educational profile. Around 80% of the Syrian refugees have a level of education lower than high school and only about 9% have a higher education degree.<sup>28</sup> This low educational profile affects the sectors in which they are often employed. In general, economies which rely on sectors that are dependent mainly on unskilled labor tend to have higher informalities and Turkish economy is an example of this. In Turkey, informalities are prevalent in sectors which, for the most part, require unskilled labor like agriculture, construction or RMG. This coincides with the sectors in which the refugees are

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<sup>22</sup> O.G.:29594, Date: 15.01.2016, Geçici Koruma Sağlanan Yabancıların Çalışma İzinlerine Dair Yönetmelik, <https://www.refworld.org/docid/582c71464.html> (EN), Article 7, Access Date: 24.11.2020.

<sup>23</sup> UNHCR, "Situation Syria Regional Refugee Response", <https://data2.unhcr.org/en/situations/syria/location/113> Access Date: 24.11.2020.

<sup>24</sup> INGEV, "Syrian Refugee Livelihood Monitor-Summary Assessment", <http://ingev.org/wp-content/uploads/2017/07/Syrian-Refugee-Livelihood-Monitor-Summary-Assessment.pdf>, p.3, Access Date: 24.11.2020.

<sup>25</sup> INGEV, p.2.

<sup>26</sup> MÜLTECİLER DERNEĞİ, "Number of Syrian Refugees with Official Work Permits", <http://multeciler.org.tr/turkiyede-calisma-izni-verilen-suriyeli-sayisi/>, Access Date: 24.11.2020.

<sup>27</sup> CARO, Luis Pinedo, "Türk İşgücü Piyasasında Suriyeli Mülteciler, p.13. 66% of Syrian children of 15 years of age work in Turkey. Compared to other labor markets, this figure is unprecedented since it cannot be found even in rural populations of some developing nations.

<sup>28</sup> CERİTOĞLU, Evren/ GÜRCHAN-YÜNCÜLER, Hatice Burcu/ TORUN, Huzeyfe and TÜMEN, Semih, "The Impact of Syrian Refugees on Natives' Labor Market Outcomes in Turkey: Evidence from a Quasi-Experimental Design" **TCMB Working Paper No: 17/05**, p.10.

usually employed as they can find jobs without official work permits more easily in these sectors pursuant to their education levels given the already high percentage of informality in these sectors in Turkey.<sup>29</sup>

Considering their footprint in the Turkish RMG sector, TNCs are one of the important stakeholders concerning the employment of Syrian refugees and their informal works. Several factors such as exchange rate policies, costs, employment, established capacity and machinery pool, incentive policies, marketing opportunities and branding and geographical location and fast delivery render Turkey an attractive sourcing location for TNCs in the RMG sector.<sup>30</sup> As a result, Turkey is one of the top garment exporters in the world, being sixth biggest garment exporter globally, and the third largest supplier country for Europe.<sup>31</sup> Correspondingly, for instance there are 45 foreign member brands of the Fair Wear Foundation source from Turkish RMG sector.<sup>32</sup> Similarly, there are numerous TNCs and very well-known brands which prefer Turkish RMG sector as one of their suppliers such as Zara, H&M, Adidas, Hugo Boss and many others.<sup>33</sup> Thus, it is fair to say that TNCs and foreign brands have a huge impact on the Turkish RMG sector, thereby on the workers in their supply chains in Turkey, including the Syrians, and influence them negatively or positively.

Unskilled workers without official work permits in the sectors with widespread informality in Turkey are more vulnerable to labor rights abuses and poor working conditions. This necessitates TNCs sourcing from these sectors, such as the RMG sector, pay special attention to human rights due diligence (HRDD) to avoid causing, contributing or being directly linked to human rights violations, labor rights in particular. In the next section, after a brief description of the due diligence steps as described in the UNGPs and OECD MNE Guidelines, measures that TNCs sourcing from Turkey need to take in order to meet their responsibility to respect labor rights of the Syrian refugees without official work permits in the RMG sector will be explained.

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<sup>29</sup> YILDIZ, Tuğba/ YILDIZ, İbrahim, "Suriyelilerin Türkiye Ekonomisinde Kayıt Dışı İstihdama Etkileri ve Bunun Yansıması Olarak Türkiye'ye Maliyetleri Üzerine Bir İnceleme", **İktisadi, İdari ve Siyasal Araştırmalar Dergisi**, Vol. 2, Issue 3, Pp.30-46, p.35.

<sup>30</sup> DURAN, Aslı/ TEMİZ DİNÇ, Dilek, "The State of The Turkish Textile and Ready-Wear Industries", **İnsan ve Toplum Bilimleri Araştırmaları Dergisi**, Vol.5, Issue 3, Pp.505-519, p.506.

<sup>31</sup> ERAI TURKEY, BUSINESS DEVELOPMENT & MANAGEMENT, "Textile Industry in Turkey in 2020", <https://eraiturkey.com/news/textile-industry-in-turkey-in-2020/>, Access Date: 29.12.2020.

<sup>32</sup> FAIR WEAR FOUNDATION, "Country Study - Turkey", <https://www.fairwear.org/programmes/countries/turkey/>, Access Date: 29.12.2020.

<sup>33</sup> İSTANBUL TEXTILE AND APPAREL EXPORTER ASSOCIATIONS, "Turkish Suppliers of Foreign Brands", [https://www.itkib.org.tr/files/downloads/dis\\_ticaret/ihracat\\_rehberi/markalar\\_mumessiller/yabanci\\_marka\\_firmalar.xls](https://www.itkib.org.tr/files/downloads/dis_ticaret/ihracat_rehberi/markalar_mumessiller/yabanci_marka_firmalar.xls), Access Date: 29 December 2020.



## II. HRDD Steps

HRDD is one of the most important concepts in the business and human rights field and it is one of the key components of the discourse on business responsibility to respect human rights. It could be defined as “a way for enterprises to proactively manage potential and actual adverse human rights impacts with which they are involved.”<sup>34</sup> It is a risk management tool for businesses aimed at the prevention of adverse human rights impacts on people. According to the UNGPs, the process of HRDD should “include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.”<sup>35</sup> Moreover, it should cover adverse human rights impacts that the business enterprise may cause, contribute or be directly linked to.<sup>36</sup> Even though depending on the size of the enterprise and the nature and context of its operations the complexity of HRDD might change, it is expected from all business enterprises and should be ongoing.<sup>37</sup> In a similar fashion, OECD MNE Guidelines states that business enterprises should “carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.”<sup>38</sup> Hence, performing proper HRDD is one of the fundamental expectations from business enterprises in order to ensure responsible business conduct throughout their operations and supply chains and prevent businesses from involving in adverse human rights impacts.

HRDD has several steps which often overlap<sup>39</sup> and they are as follows: drafting a policy commitment, identification and assessment of human rights impacts, integration of findings and taking action, tracking effectiveness of the measures, communication with external stakeholders on how the human rights impacts were addressed and remediation.<sup>40</sup> It must be noted that context and specific circumstances of the context have utmost importance in the determination of what actions to take by a TNC as part of its HRDD and impact assessment.<sup>41</sup> Successful

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<sup>34</sup> OHCHR, "Corporate Human Rights Due Diligence", <https://www.ohchr.org/EN/Issues/Business/Pages/CorporateHRDueDiligence.aspx>, Access Date: 29.12.2020.

<sup>35</sup> UN, “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” (hereinafter “UNGPs”), Principle 17, [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf), Accessed 24.11.2020.

<sup>36</sup> UNGPs, Principle 17.

<sup>37</sup> UNGPs, Principle 17.

<sup>38</sup> OECD, “Guidelines for Multinational Enterprises” (hereinafter “OECD MNE Guidelines”), p.31, <http://dx.doi.org/10.1787/9789264115415-en>, Access Date: 29.12.2020.

<sup>39</sup> IEH-ETHICAL TRADING INITIATIVE, “A Guide to Human Rights Due Diligence in Global Supply Chains”, p.7, [http://www.ajsosteniblebcn.cat/human-rights-due-diligence-in-global-supply-chains\\_28919.pdf](http://www.ajsosteniblebcn.cat/human-rights-due-diligence-in-global-supply-chains_28919.pdf), Accessed 24.11.2020.

<sup>40</sup> UNGPs, Principle 15 and 17 and OECD MNE Guidelines, p.31.

<sup>41</sup> UNGPs, Principle 23.

measures in addressing human rights problems and increasing the effectiveness of HRDD in one sector or place might not be that successful in another. Companies may need to implement additional human rights measures to fulfill their responsibility to respect human rights, particularly that of disadvantaged, marginalized and vulnerable individuals.<sup>42</sup> Depending on, for instance, company's strategy, risk profile, language and culture, companies might have to tailor their approaches to the responsibility to respect human rights and how they can fulfill it.<sup>43</sup> In the Turkish context, Syrian refugee employees working without official work permits in the informal RMG sector often face with poor working conditions such as discriminatory treatment on wages, excessive working hours and instant dismissals.<sup>44</sup> Therefore, with respect to each step of HRDD, measures that TNCs sourcing in Turkey need to adopt in order to deal with the problems of Syrian refugee workers that emanate from not having official work permits and having to work in the informal RMG sector should be in accordance with their specific conditions and problems.

### **A. Policy Commitment**

Sadly, discriminatory treatment by some employers towards Syrian refugee workers on grounds of nationality and legal status is frequent in the RMG sector in Turkey. For example, refugee workers without official work permits are paid less than other workers and the minimum wage or sometimes employer withhold their wages or pay irregularly.<sup>45</sup> TNCs sourcing from factories where Syrian refugees are discriminated should pay particular attention to the conditions of refugee workers and develop and implement a refugee protection strategy in their policy commitments. They can demonstrate that they are decisively against such discriminatory practices and would require from their contractors to treat workers performing the same tasks equally, irrespective of their legal status as legal or illegal workers or their nationality.<sup>46</sup> With this commitment, they can develop an action plan to communicate clear policies against discrimination with their contractors and external stakeholders.

Moreover, in the policy commitment, they can stress the importance of being transparent about the refugees in their supply chains and their conditions and how

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<sup>42</sup> SHIFT, OXFAM AND GLOBAL COMPACT NETWORK NETHERLANDS, "Doing Business with Respect for Human Rights: A Guidance Tool for Companies", 23.

<sup>43</sup> BSR, "Conducting an Effective Human Rights Impact Assessment Guidelines, Steps, and Examples", p.8.

<sup>44</sup> LEGHTAS/ HOLLINGSWORTH, pp.6-9.

<sup>45</sup> FAEK, Rasha, "Turkey Sends Mixed Signals to Syrian Job Seekers", **Al-Fanar Media** <https://www.al-fanarmedia.org/2017/02/turkey-sends-mixed-signals-syrian-job-seekers/> Access Date: 24.11.2020.

<sup>46</sup> Apart from many international human rights conventions, this also violates the ILO Discrimination (Employment and Occupation) Convention No. 111 (1958), of which Turkey is a party.

much they value transparency. This can demonstrate, to both contractors and public, their willingness to stay away from human rights abuses in their operations. If companies try to conceal information on poor conditions of refugee workers which they contribute or directly linked to, then they might be held responsible for the workers' conditions. After all, no company would want its name to be used along with discrimination and labor exploitation as this can have legal, social and economic consequences.

## **B. Identification and Assessment of Impacts**

As to the identification and assessment of a TNC's impacts, the context in Turkey and the working conditions of the refugees in the informal RMG sector necessitate companies to pay particular attention to some issues. TNCs sourcing in Turkey need to be aware of the complex situation in Turkey and get ready for innovation to access accurate information on the conditions of Syrian refugee workers in the informal RMG sector. First of all, RMG sector in Turkey relies heavily on small and medium-sized enterprises (SMEs) with at most 50 employees,<sup>47</sup> and approximately %70 of the RMG production is exported.<sup>48</sup> Almost %90 of the RMG export is done by these SMEs, where illegal employment is more frequent, for some global brands like C&A, H&M or Tesco.<sup>49</sup> Because of the central position of the SMEs in the Turkish RMG sector, subcontracting is quite prevalent, and it is difficult for global brands to be aware of the subcontracted manufacturers if this is undeclared by the main contractor of the TNC. In order to identify their impacts at these levels, companies need to request information from their contractors regarding subcontracting and enhance audit procedures. This can be done via, for instance, increased factory inspections, unannounced or semi-announced audits or close scrutiny of their supply chain beyond the first-tier of manufacturers.

Another obstacle in accessing information on the working conditions of Syrian refugees is the lack of Turkish or English language skills of many Syrian workers in the informal sector. This not only increases the vulnerability of the workers, but also hinders obtaining information directly from the workers.<sup>50</sup> To overcome this hurdle, TNCs can translate documents used for on-site interviews in factory audits into Arabic and use Arabic questionnaires in factory audits to collect information

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<sup>47</sup> OLCAY, Gulsen Pelin, "Dynamics That Form the Geography of International Production of Apparel Industry and Effects of These Dynamics on Istanbul", **Journal of Planning**, Vol.23, Issue 1, Pp.26-34, p.30.

<sup>48</sup> DİNÇEL, Gülay, "Textile and RMG – Memo", p.2 [http://www.tskb.com.tr/i/content/729\\_1\\_Tekstil\\_Giyim\\_Bilgi\\_Notu\\_Kasim\\_2014.pdf](http://www.tskb.com.tr/i/content/729_1_Tekstil_Giyim_Bilgi_Notu_Kasim_2014.pdf), Access Date: 24.11.2020.

<sup>49</sup> ERASLAN, İ. Hakkı/ BAKAN, İsmail and HELVACIOĞLU-KUYUCU, Aslı Deniz, "Türk Tekstil ve Hazırgiyim Sektörünün Uluslararası Rekabetçilik Düzeyinin Analizi", **Istanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi**, Vol.7, Issue 13, Pp.265-300, p.288.

<sup>50</sup> LEGHTAS/ HOLLINGSWORT, p.7.

on the actual situation on the ground. Moreover, there is a vast number of local, regional or international organizations or NGOs working to solve Syrian refugees' problems.<sup>51</sup> Collaboration with these organizations can facilitate easier access to correct information on the working conditions of refugees in the informal sector which is necessary for accurate identification and assessment of the adverse human rights impacts of companies.

### **C. Integrating Findings and Taking Appropriate Action**

After the identification of the adverse human rights impacts, TNCs are expected to act upon their findings. One of the crucial things that companies can do to help the exploited refugee workers in the informal RMG sector is to strive for the workers' empowerment. In addition to the language barriers of the refugees, they often lack adequate knowledge on their rights and legal procedures due to scarcity of channels from which they can get information.<sup>52</sup> Companies can, either by themselves or in collaboration with local or international organizations, endeavor to provide information to workers regarding their rights and help them to get work permits. Similarly, they can work to provide courses on Turkish language or vocational skills which will significantly empower the refugee workers and open up ways to find jobs more easily if they are dismissed from one workplace. In a similar fashion, TNCs can organize trainings addressed to factory managements concerning their policy commitments and labor standards they adhere regarding the working conditions.

Companies can also work with local organizations to change Turkish public perception towards Syrian refugees. Although the Turkish society has been welcoming towards Syrians and mostly see them as benefit,<sup>53</sup> they can have negative feelings towards the refugees in terms of conflict of interest. Namely, according to a study published in 2017, almost half of Turkish textile workers do not want the issuance of residence permits for Syrian refugees and more than %60 of do not want the Syrian refugees to be issued work permits as they consider the refugees as threats to their jobs and.<sup>54</sup> TNCs in the RMG sector sourcing in Turkey can take collaborative action and support the local organizations' efforts for

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<sup>51</sup> CILGA, Melih, "Syrian Refugees and NGOs in Turkey" <https://graphcommons.com/graphs/a5f158c2-9d58-4745-9fe5-97bc9d86dac4>, Access Date: 24.11.2020.

<sup>52</sup> ZETTER, Roger/ RUAUDEL, Héloïse, "Refugees' Right to Work and Access to Labor Markets – An Assessment - Part II: Country Cases" **KNOMAD**, p.116.

<sup>53</sup> TOPAL, Mehmet Hanefi/ ÖZER, Ufuk and DOKUZLU, Emrah, "Public perception of Syrian refugees in Turkey: an empirical explanation using extended integrative threat theory" **Problemy Polityki Społecznej**, Vol.38, Pp.35-58, p.52.

<sup>54</sup> EROL, Ertan et.al. "Inclusion Process of Syrian Refugees to Turkish Labor Market and Their Impacts", pp.94-95 [https://www.academia.edu/34930885/Suriyeli\\_G%C3%B6%C3%A7men\\_Eme%C4%9Fi\\_%C4%B0stanbul\\_Tekstil\\_Sekt%C3%B6r%C3%BC\\_Ara%C5%9F%C4%B1rmas%C4%B1](https://www.academia.edu/34930885/Suriyeli_G%C3%B6%C3%A7men_Eme%C4%9Fi_%C4%B0stanbul_Tekstil_Sekt%C3%B6r%C3%BC_Ara%C5%9F%C4%B1rmas%C4%B1), Access Date: 24.11.2020.

Syrian refugees aimed at improving public perceptions towards Syrians by disseminating accurate information and emphasize their contributions to Turkish society and economy. In this way, the acceptance of Syrian refugees in the Turkish society can increase and the Syrians can be better integrated which will entail their empowerment.

#### **D. Tracking the Effectiveness of How Adverse Human Rights Impacts Are Being Addressed**

As mention already, high number of local and international organizations working for Syrian refugees in Turkey presents many opportunities for TNCs sourcing in Turkey. Cooperation with these organizations and with other stakeholders such as trade unions to track and monitor the results of the measures that TNCs took to address their adverse human rights impacts can yield positive results. TNCs lack the expertise on dealing with Syrian refugees working in the informal RMG sector and the presence on the ground to closely observe the consequences of their actions. Such organizations and trade unions have the capacity to compensate the gaps monitoring gaps in the RMG sector.

Furthermore, to increase their capacity to monitor contractors and sub-contractors, TNCs can put enhanced audit procedures in place and track the impacts of the measures taken to solve the issues of the Syrian refugee workers stemming from their lack of official work permits. TNCs can also ask producers to provide updates regularly on the working conditions of the illegal Syrian refugees. By so doing, they can remain engaged with their contractors and strive to solve the problems.

#### **E. Communicate Externally on How the Company Addresses Human Rights Impacts**

Significant number of TNCs source from tens of garment factories in the Turkish RMG sector. To illustrate, according to a 2016 study, among many global brands, Inditex has 158, Primark approximately 100, C&A 87 and H&M has 72 direct first-tier suppliers in Turkey.<sup>55</sup> These TNCs can communicate with each other to learn about their ways of dealing with the issue of working conditions of Syrian workers without work permits. Moreover, they might be sourcing from the same factories and becoming aware of each other's policies concerning refugee workers can facilitate alignment of the commitments. In this way, they can together use their leverage on the contractors more strongly and nudge the contractors to achieve progress. Otherwise, the contractors might have to fulfill many different

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<sup>55</sup> BHRCC, "Syrian refugees in Turkish garment supply chains: An analysis of company action to address reports of serious exploitation & abuse", p.3, <https://www.business-humanrights.org/sites/default/files/160131%20Syrian%20Refugee%20Briefing%20FINAL.pdf>, Access Date: 24.11.2020.

standards which might be excessively burdensome and have unintended consequences such as hiding information from the brands and non-reporting on some of the working conditions of refugees.

## **F. Remediation**

Due to the lack of monitoring of regulations concerning refugee workers' rights in Turkey,<sup>56</sup> TNCs have specific responsibilities to remedy labor rights abuses committed in their supply chains. Since Syrian refugee workers in the informal RMG sector are afraid of initiating judicial procedures against their employers to protect their rights as this will most likely cause them their job,<sup>57</sup> one thing that TNCs can do is to try to reach out to workers directly by establishing complaint procedure within the company as an operational-level non-judicial grievance mechanism<sup>58</sup> and inform the workers about the procedure. Just like the other HRDD steps, collaboration with civil society organizations can facilitate the workers' access to the procedure by providing them with necessary information on the procedure and helping them in accessing it. Such a complaint mechanism will not only constitute a way to remedy abuses that Syrian employees working illegally in the RMG sector, but also empower the workers and give them a chance to raise their voices.

## **CONCLUSION**

In this article, we argued that there is a large number of the Syrian refugees working in the Turkish RMG sector without official work permits and in very poor working conditions. Yet, since the sector is primarily export-oriented and the footprint of TNCs is large in it, these TNCs can have a considerable positive impact on the conditions of the Syrians. It is in their capacity to facilitate notable improvements in these conditions by thoroughly conducting HRDD over their supply chains in Turkey.

9-year civil war in Syria left millions of people displaced and many of them ended up in Turkey. Although, through its open-door policy, Turkey let millions of refugees in the country, regulations are lagging behind the realities. The number of Syrians who obtained work permits and, consequently, the participation rate of Syrians in the legal work force in Turkey are still at very low levels. On the other hand, the Turkish government needs to consider protection of its labor market and balance economic and social considerations when issuing work permits to foreigners since the unemployment rates have already been high.<sup>59</sup> Most of all, if

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<sup>56</sup> MYERS, Caysie, "Challenges and Opportunities for Syrian Refugees Working in Turkey" <https://www.turkheritage.org/en/publications/analysis-by-tho-contributors-and-liaisons/challenges-and-opportunities-for-syrian-refugees-working-in-turkey-3234> Access Date: 24.11.2020.

<sup>57</sup> FAEK.

<sup>58</sup> UNGPs, Principle 29.

<sup>59</sup> OECD, "Turkey" <https://data.oecd.org/turkey.htm>, Access Date: 24.11.2020.

the deteriorating and increasingly delicate economic conditions in Turkey are considered, it is possible that issuing work permits to Syrian refugees in large numbers might have greater economic impacts.

While lacking basic vocational trainings, experiencing language and cultural barriers and not accurately knowing their legal rights, the Syrian refugees in Turkey are compelled to work irregularly, without any social security, for excessive hours and very low salaries and in labor intensive sectors such as construction, agriculture and textile. As has been demonstrated in this study by presenting certain challenges the Syrians are faced with in the Turkish RMG sector and their experiences, it becomes clear that the current temporary protection status is insufficient in the face of the societal and legal realities. It simply does not enable them to have a healthy and ordinary living and working conditions.

One of the problems the refugees encounter is the reluctance on the part of many employers to apply for work permits for Syrians. Additionally, the process of issuance of work permits for Syrian refugees that will allow them to work legally has its flaws. For instance, the existence of upper limits concerning the time period for which the work permits can be extended, Syrian worker quotas introduced on a workplace-basis or the prohibition on foreigners to work in certain sectors can lead these people either to work informally or under indecent working conditions. Similarly, the temporary protection status assigned to the refugees cannot alleviate their vulnerability and protect them from exploitation in workplace. Some legal requirements are based on legitimate grounds, such as the knowledge of Turkish for certain jobs and certificates or payment of the work permit application fee by employers. However, they can cause problems for Syrian refugees, even for the ones with legal work permits and these problems continue to beg for solutions.

In this respect, under the international human rights law and especially the newly flourishing field of business and human rights, there can be some responsibilities falling on TNCs that source from the Turkish RMG sector towards the Syrian refugees working in their supply chains. HRDD responsibilities of these companies over their global supply chains can easily come into question with respect to the protection of labor rights of Syrian refugees. In this regard, such TNCs need to assume responsibility to protect the labor rights of Syrian refugees working in their supply chains without an official work permit by conducting due diligence as prescribed by the UN Guiding Principles and OECD MNE Guidelines. Although these are not legally-binding standards, companies can still voluntarily prefer to comply with them and they have to do so if they want to avoid causing, contributing to or being directly linked labor rights violations committed against Syrian workers in the informal sector.

Depending on the context, what TNCs can do for the protection of labor rights of throughout their global supply chains might vary fundamentally. As for the TNCs sourcing from the Turkish RMG sector, they can achieve an important step to

fulfill their responsibility to respect human rights and perform due diligence if they follow the recommendations proposed here. However, it is worth noting that the actions that companies can take with respect to each step of the HRDD are not limited to the recommendations in this paper and companies still need to constantly review their HRDD practices according to the changing circumstances and contexts.

As a final remark, it should be noted that what is argued in this article is by no means that the Syrian refugees in the Turkish RMG sector should be provided with more favorable conditions than their Turkish counterparts. What the TNCs could do for the Syrian refugees will also work for the Turkish employees working in their supply chains. If they do integrate HRDD in their supply chain policies, also Turkish employees will certainly benefit from this. Yet, given the more precarious and insecure working conditions of the Syrian refugees, the benefits they can reap from such a policy integration by the TNCs will most likely be greater than their counterparts.



## **EK BEYAN**

### **Arařtırmacıların Katkı Oranı Beyanı ve atıřma Beyanı**

#### **Yazar Katkı Oranları**

Yazarlar alıřmaya eřit oranda katkı saęlamıřtır.

#### **Arařtırma ve Yayın Etięi İlkelerine Uygun Hareket Edildięine Dair Metin**

Makalenin tım s urelerinde İMHFD arařtırma ve yayın etięi ilkelerine uygun olarak hareket edilmiřtir.

#### **ıkar atıřması Bildirimi**

Bu alıřmada herhangi bir potansiyel ıkar atıřması bulunmamaktadır.

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