



EuroMed Rights
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الأورو-متوسطية للحقوق

Return Mania. Mapping policies and practices in the EuroMed region



Chapter 6

Pushbacks and expulsions from Cyprus and Lebanon:

The risks of (chain) refoulement to Syria

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Acknowledgment

This chapter is part of a wider research work, coordinated by EuroMed Rights, which aims at providing an overview of the current return policies and practices in the Euro-Mediterranean region by sharing testimonies and examples of these policies. It highlights the similar trends adopted across the region and sheds light on the violations of human rights entailed by this “return obsession” and which is shared across Member States, EU institutions and third countries alike.

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Executive Summary

This study maps different return policies and practices at the Cyprus-Lebanon and Lebanon-Syria border and analyses their impact on the rights of displaced Syrians to international protection. In the light of its empirical findings, the study provides concrete recommendations for action to the EU, its Member States, Lebanon, UNHCR and international donors.

Boat departures of predominantly Syrians from Lebanon to Cyprus have significantly increased in 2020. Smuggling routes to Cyprus reflect a lack of access to meaningful international protection in Lebanon, where only 20% of Syrians have a legal residence permit. Cypriot authorities, however, have repeatedly resorted to pushing back boats and denying individuals access to an asylum procedure. At least one Syrian pushed back by the Cypriot coastguards to Lebanon had serious protection needs there. Unable to gain access to a legal means to reach a safe asylum country from Lebanon, this person is currently in Syria, where because of his conscription refusal he is subject to a prison sentence.

In Lebanon, authorities have - despite promises to EU funders – undermined possibilities for Syrians to have access to legal residence, work and shelter, pressuring thus Syrians to accept return even if conditions for safe and dignified return are not yet met. Since 2018, Lebanese authorities have intensified pressure and created possibilities for both deportations and group returns facilitated by General Security (GSO). UNHCR Lebanon has limited capacity to conduct pre-return interviews with refugees who have signed up for GSO-returns. Lebanese return policies and practices do not take into account the security situation on the ground in Syria. The Government of Syria has since 2011 consistently created barriers for the return of Syrian refugees, including non-access to property and prison sentences for Syrian men who did not comply with military service requirements. Syrian refugees who want to return to Syria need to apply for security clearance with the regime's Intelligence Services beforehand, and can be arrested and detained despite prior clearance or reconciliation. The UN, researchers and civil society organisations have all documented how Syrians can be arrested, detained, tortured, killed and/or forcefully conscripted into the army upon return to Syria.

List of abbreviations

CoI	Independent International Commission of Inquiry on the Syrian Arab Republic
GSO	General Security Organization, Lebanon
HRW	Human Rights Watch
RPW	Refugee Protection Watch
SACD	Syrian Association for Citizen's Dignity
SNHR	Syrian Network for Human Rights
UNHCR	United Nations High Commissioner for Refugees
SAA	Syrian Arab Army

I- INTRODUCTION

25 years-old Mohamad from Idlib fled Syria in 2015.¹ In Lebanon, he was not registered with UNHCR, could not pay his rent and was barred from working due to stringent labour regulations. He feared being forcibly returned deported to Syria because he had no legal papers to stay in Lebanon: “I stayed in the same town all the time to avoid the police.” In September 2020, he tried to seek asylum in Cyprus together with two other female family members. “We spent about 20 hours on the boat heading to Cyprus, but we never reached the shore. [Every time...] we tried to get near the shore, the Cyprus coast guard encircled us [causing waves]. [...] We spent two days in their territorial waters. Eventually, they transferred us to another boat, saying they would bring us to Cyprus. Instead, the army surrounded us. [...] My brother [in Cyprus] called UNHCR and a lawyer called me. I gave the lawyer’s name to the Cypriot authorities on the boat, but they refused to take the call. I used their interpreter to explain that I was asking for asylum and that I wanted for them to talk to my lawyer. No one interviewed me, however. The Cypriot authorities just wrote our names on paper and turned us over to Lebanon General Security”.²

Upon return to Lebanon, Mohamad had serious protection challenges, but was not able to access a legal means to reach a safe asylum country. When Human Rights Watch (HRW) tried to follow up on his well-being three months after the pushback, they found that Mohamad was no longer in Lebanon, but in Syria.³ Too afraid to talk on the phone, HRW was not able to get further information about his safety.

Mohamad is one of 1.500.000 Syrian refugees in Lebanon and one of 500.000 who were not able to register with UNHCR. Even registration with UNHCR, however, does not grant Syrians a residence permit or protect them from receiving a removal order. Legal pathways to countries with effective international protection are extremely scarce. In 2019, for example, UNHCR was able to arrange for only 7.442 resettlement departures.⁴ In 2020, newly accepted files decreased and departures got significantly delayed due to Covid-related restrictions.

The international community has not been sharing protection responsibilities equally with lower income countries in the Middle East ever since the start of the Syrian displacement crisis in 2012. Today, under six million Syrian refugees live in Lebanon, Turkey, Jordan, Iraq and Egyptⁱ. Lebanon alone hosts roughly one million registered Syrian refugees, with Lebanese authorities claiming that the total number of all, i.e. also unregistered, Syrians is at 1.5 million. This makes Lebanon the host of the eighth largest refugee population worldwide in absolute numbers, and the country with the second highest refugee population relative to the national population in the worldⁱⁱ.⁵

Instead of providing safe and legal pathways to refugee protection by opening up resettlement places, the EU has focused its response to the Syrian displacement crisis on trying to contain Syrians in the region. Its so-called “resilience building” approach was supposed to synchronize migration management tools with development objectives.

¹ All names are pseudonyms.

² Interview conducted by Bill Frelick (Human Rights Watch), September 2020.

³ HRW does not have details about the personal circumstances and modalities of Mohamad’s arrival to Syria.

⁴ <https://reporting.unhcr.org/node/22140>

⁵ The country with the highest refugee population worldwide is an island called Aruba, with a population of 100,000 inhabitants just off the Venezuelan coast.

Even though Lebanon is not signatory to the 1951 Refugee Convention, the EU traded financial arrangements, capacity-building and trade facilitation schemes with the Lebanese state against promises to host Syrian refugeesⁱⁱⁱ. Despite such promises in amongst others the EU-Lebanon Compact 2016-2020^{iv}, Lebanese governments have in practice consistently refused steps that could result in the integration of Syrians in Lebanon. This leaves Syrians in Lebanon in limbo without meaningful access possibilities to neither integration, nor remotely sufficient resettlement places.

Since 2019, Lebanon as one of the key host states for displaced Syrians is facing an unprecedented economic and political melt-down. In October 2019, a popular uprising illuminated that the political establishment had entirely lost its legitimacy. In March 2020, the country defaulted on its debt payments. Citizens lost their savings and the country's currency lost 80% of its value in the space of a few months. As a result, 50% of Lebanese citizens⁶ and 91% of displaced Syrians in Lebanon are under the poverty line.^v

Despite serious allegations of corruption and mismanagement in Lebanon, the EU's aid architecture for the refugee response in the region continues to channel funding to the power establishment.^{vi} In fact, the EU's 2020 Pact on Migration and Asylum renews its commitment to externalizing protection responsibilities through partnership agreements with neighbouring countries. The EU Pact on Migration and Asylum also counts heavily on return policies, notably in the form of accelerated border procedures for asylum seekers, which is particularly problematic for Europe's Southern countries, such as Cyprus.⁷

Grouped together euphemistically as "return" policies, non-admissions (pushbacks) and readmissions (deportations) are in fact different kinds of expulsion practices. State officers can formally decide at a border that there are legal grounds not to admit a person into the territory (cf. Schengen Border Code). In the case of pushbacks, however, police officers do not assess whether the respective person has a right to access the territory. The Refugee Convention provides that people in search of international protection should in principle not be penalized for irregular entry and obliges state authorities to grant individuals access to an asylum procedure if thus requested.^{vii} Art. 4 of Protocol 4 of the European Convention of Human Rights prohibits collective expulsions of aliens and thus requires police officers to individually assess reasons of arrival. Finally, the international human right to life overrules any administrative question of legal entry into state territory and thus also implies positive obligations for police authorities to rescue individuals at sea.^{viii8}

By contrast, readmission (deportation) procedures concern people who are already within the territory of a state. States are only allowed to forcibly readmit individuals after a careful assessment of international human rights, such as for example the principle of non-refoulement, which forbids a state from sending an individual to a place where they would be subjected to inhumane or degrading circumstances.^{ix} Party to the Convention against Torture and the ICCPR, Lebanon is prohibited from forcibly returning a person to a country where there are substantial grounds for believing that the person would be subject to torture. In order to protect people from refoulement, readmission procedures need to be based on an official decision from a judge and grant the concerned individual meaningful access to challenge this decision with the help of a lawyer (cf. General Comments on Art. 3 of CAT).

⁶ <https://www.lorientlejour.com/article/1224000/la-communaute-internationale-espere-lever-26-milliards-de-dollars-pour-le-liban.html>

⁷ Cyprus has been divided since 1974 when Turkey invaded the North following a Greek-backed military coup by forces seeking to unify the country with Athens. For the sake of easy reading, this chapter will refer to the Republic of Cyprus as Cyprus. Hence any reference to Cypriot authorities refers to authorities in the Republic of Cyprus.

⁸ <https://hudoc.echr.coe.int/spa#%7B%22itemid%22:%5B%22001-109231%22%5D%7D>

This study provides insights into Syrian experiences of pushbacks and expulsions at the borders between Cyprus and Lebanon, as well as between Lebanon and Syria.⁹ By analysing state practices by an EU member state and by a country which is not signatory to the 1951 Refugee Convention, the study seeks to bring a regional dimension to the current return debate in Europe. Which international actors are pushing for the return of Syrians to Syria, and why? What return policies and practices exist at the Cyprus-Lebanon and Lebanon-Syria borders, and how are they to be assessed from a human rights perspective? What has and can happen after return to Syria? How could human rights monitoring improve EU migration and asylum practices, as well as protect Syrians from refoulement?

The chapter seeks to provide answers to the above questions by drawing on a desk review, 20 key informant interviews, as well as 13 interviews with displaced Syrians who were victims of pushbacks and (failed) expulsions. The chapter opens by first providing background to the Syrian displacement crisis, explaining how international actors have turned the question of “return” from a human rights issue into a political bargaining game. Second, the chapter analyses recent push-back cases from the Republic of Cyprus to Lebanon, illuminating how the return obsession in European policy-making is putting at risk fundamental human rights, such as the principle of non-refoulement. Third, the chapter analyses the pressured return¹⁰ of Syrians from Lebanon to Syria, partially organized by Lebanese security forces themselves, as well as expulsions of refugees from air and land borders to Syria. Fourth, the chapter reviews practices of the Syrian regime in power that illustrate that testimonies of Syrian refugees who have endured human rights violations after their return to Syria are not isolated, but systematic. Fifth the chapter concludes by proposing concrete mechanisms for human rights monitoring in Cyprus, Lebanon and Syria.

II- THE INSTRUMENTALISED QUESTION OF “RETURN” FOR DISPLACED SYRIANS

Since the start of the civil war in Syria in 2011, roughly 5,6 million Syrians have become refugees outside of their country, with a further 6,6 being internally displaced.¹¹ Since 2018 and 2019, armed conflict has shifted to smaller sections of the Syrian territory. Nonetheless, the war is not yet over. As the Syrian government, allied forces and other armed groups continue to commit war crimes and other serious violations of international humanitarian law^x, Syrians continue to flee regime-held areas.^{xi} People are, for example, fleeing places, such as Daraa when re-taken by the government of Syria through so-called “reconciliation agreements.”¹²

⁹ Voluntary returns are outside of the scope of this research project.

¹⁰ Refugees and other migrants can end up registering for returns because of economic, political or legal pressures by their destination countries. These returns are pressured because not fully voluntary or simply reluctant, but also not yet fully obliged through detention or removal orders, or fully forced. See also, Newland, K., and Salant, B., (2018), *Balancing Acts: Frameworks for Migrant Return and Reintegration*, Washington DC, Migration Policy Institute.

¹¹ <http://data2.unhcr.org/en/situations/syria>

¹² <https://syacd.org/reconciliation-agreement-in-daraa-insecurity-continued-repression-and-collective-punishment/>

In Syria, forced displacement of civilians has not been a mere consequence of the conflict, but also a deliberate strategy by parties to the conflict. As the UN's International Commission of Inquiry on the Syrian Arab Republic pointed out, the displacement of civilians in the Syrian conflict was perpetrated as part of a widespread and systematic attack against civilians, including the use of sieges as a weapon of war.^{xii}

Over the years, the regime repeatedly used a "starve to surrender" policy to pursue its political and security objectives.^{xiii} Up until today, the Syrian government continues to engage in demographic engineering^{xiv}, notably by preventing people from returning to their homes in areas that have been retaken^{xv}.

Syria has been a police state at least since the late 1970s, relying heavily on their Intelligence Services to exert control over citizens^{xvi}. Both before and after 2011, the regime subjected citizens to enforced disappearances, torture and other-ill treatment causing deaths in detention, which according to Amnesty International amount to crimes against humanity^{xvii}. In the face of highly fragmented authority structures in Syria today, the regime has been able to re-exert control over territory with the help of international allies, such as Russia and Iran. The president Bashar Al Assad's Intelligence Services remain pervasive and extremely powerful all throughout territory under the control of the government.¹³ In fact, citizens also settle personal feuds by denouncing others through report-writing, contributing thus to the arbitrariness in state action and the general lack of rule of law.

Presidential election results in 2021 will not fundamentally alter realities on the ground in Syria, nor attitudes of the regime towards those who left the country and sought asylum abroad. Various high-ranking officials of the government of Syria have made it clear that all Syrians who have left the country (or even just areas under its control) are considered to be traitors.¹⁴ The high-ranking Syrian general Issam Zahreddine, for example, went on state television in 2017 warning refugees never to set foot in Syria again: "We will not forgive them and never forget what they have done."^{xviii} Air Force Intelligence Head, Jamil al-Hassan, also went on record in 2018, saying that the regime only wants loyalists to return. In his words, "a Syria with 10 million trustworthy people obedient to the leadership is better than a Syria with 30 million vandals [...] After eight years, Syria will not accept the presence of cancerous cells and they will be removed completely."^{xix} Bashar Al Assad himself said that the loss of young people had helped to create a "healthier and more homogenous Syria"^{xx}.

Some international actors are nonetheless pushing for the return of Syrians to Syria also in the absence of a political solution in Syria. Who are these actors and what are their motives? Since 2018, Russia has sought to influence the government of Syria to move towards accepting the return of refugees. Isolated on the international stage, one strategy for Moscow and Damascus is to trade a shift towards accepting the return of Syrian refugees against a lifting of international sanctions and the activation of early recovery funds^{xxi}. Humanitarian funds are tightly controlled by the regime¹⁵ and early recovery funds would be financially beneficial also for Russian companies in government-controlled areas of Syria. By turning displaced Syrians

¹³ A Higher Regional Court in Koblenz, Germany, will be judging two former officials of Assad's security apparatus who are charged with crimes against humanity. In the context of this trial, The German Federal Public Prosecutor is currently gathering evidence on torture and sexual violence by the Mukhabarat.

¹⁴ Fares Shehabi: Tweets on his Twitter account, https://twitter.com/ShehabiFares/with_replies

¹⁵ In a quest to tightly control humanitarian aid in Syria, the government of Syrian has increasingly closed off international border crossings. After the conflict between Bashar Al-Assad and Rami Makhlouf in the summer of 2020, a yet bigger share of UN contracts and funding streams in government-controlled areas are going through the Syria Trust, which is directed and managed by Bashar Al-Assad's wife, Asma Al-Assad. <https://www.mei.edu/publications/battle-syrian-charity-giants-asma-al-assad-versus-rami-makhlouf> and <https://foreignpolicy.com/2020/06/24/how-to-aid-syria-without-aiding-assad/>

into an international bargaining chip, Russia is trying to benefit from European desires to return Syrian refugees to Syria.

The Damascus conference on returns on 11 and 12 November 2020 is to be understood in this light. The conference did not discuss causes of displacement, nor hurdles to return.^{xxii} On the ground, the conference did not alter practices. For example, Syrians who return to Syria continue to be obliged to have to exchange a minimum of 100\$ into Syrian Pounds upon entering Syrian territory.¹⁶ The EU abstained from attending, highlighting the barriers and risks that returnees face in practice.¹⁷

In Lebanon, political parties affiliated to the March 8 alliance have used the call for the return of Syrians instrumentally to win votes in elections, in particular advocating for the return of Syrians in coordination with the Government of Syria. Lebanon's key Shia parties, Amal and Hezbollah, Christian parties, such as the Free Patriotic Movement, independent Sunni coalitions and the Druze Democratic Gathering Party, have been at the forefront of this movement. Historically, these parties have wanted Lebanon to consolidate ties with the Syrian regime. Hezbollah has even backed the regime by directly intervening in the conflict on the other side of the border. It is interesting to keep in mind this political landscape when looking at recent shifts in EU member states on access to international protection for Syrians in Europe.

The Danish government announced in June 2020 its intention to fast-track a review of residency permits for approximately 900 Syrian refugees from Damascus, claiming that conditions in the Syrian capital are no longer severe enough to warrant their "Temporary Protected Status". They did so although they had in February 2020 informed the Danish parliament that they would not actually implement expulsions to Syria.^{xxiii} As a result, however, concerned Syrians are deportable and constrained to live in centres under restrictions of movement and withdrawal of financial support. In Sweden, too, the migration agency ended automatic residency to all Syrian asylum seekers in 2019, declaring parts of Syria safe and thus paving the way to a discussion on internal flight alternatives.

In Germany, the Federal Office for Migration and Refugees started in 2019 to provide financial support of 1,200 Euro to Syrians who voluntarily choose to return. At least two of the roughly 437 Syrians who relocated from Germany to Syria have been reported disappeared since they arrived in Syria^{xxiv}. While the German Ministry of Foreign Affairs is clear about the security situation in Syria, the Ministry of Interior is contradicting this position, asking for the deportations of Syrians who have been charged with criminal matters in front of German courts. Criminals have human rights, too, however, and not all allegations of terrorist connections are based on well-founded evidence.

A principled approach to the question of return takes into consideration empirical evidence on the human rights consequences for refugee returnees in Syria. Human right standards on access to international protection are clear. A sense of security requires not only the absence of an active conflict, but also the absence of explicit or implicit threats from government, militias and other social groups.

¹⁶ Email correspondence, Syrian Network for Human Rights, December 2020.

¹⁷ Declaration by the High Representative on behalf of the EU on the refugee conference in Damascus, 10 November 2020: "While the decision to return must always be an individual one, conditions inside Syria at present do not lend themselves to the promotion of large-scale voluntary return, in conditions of safety and dignity in line with international law. The limited returns that have taken place illustrate the many obstacles and threats still faced by returning internally displaced persons and refugees, in particular forced conscription, indiscriminate detention, forced disappearances, torture, physical and sexual violence, discrimination in access to housing, land and property as well as poor or inexistent basic services." <https://www.consilium.europa.eu/en/press/press-releases/2020/11/10/syria-declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-refugee-conference-in-damascus/#>

Consequently, returns to Syria require a political solution to the Syrian crisis, as sought after by the Constitutional Committee and the UNSC Resolution 2254.

As preliminary steps to a human-rights based discussion on return, Syria needs to see its security apparatus dismantled, a political settlement needs to be found and citizens detained on political grounds need to be released.¹⁸ Currently, conditions for safe and dignified returns to Syria are not yet met.¹⁹

III- PUSHBACKS FROM THE REPUBLIC OF CYPRUS TO LEBANON

In September 2020, 30 years-old Abdullah from Idlib left Lebanon by boat to join his brother in Cyprus. Just a few kilometres off the coast, Cypriot coastguards intercepted the boat. During a two-day hold off, Cypriot coastguards not only impeded the boat from arriving at land, but also repeatedly put the lives of the 52 Syrians and 4 Lebanese individuals on board at risk by encircling their small boat at high speed, creating waves that risked capsizing the boat. “We were really afraid that the boat would sink. We had women and 12 children on the boat. One woman was pregnant.”²⁰

Abdullah sought to leave Lebanon because he was no longer able to send money to his wife and four children in a Syrian refugee camp close to the Turkish border. He had tried to legally travel to Turkey, but had not been able to get a visa because Syrians authorities refused to issue him with a paper certifying that he had a clean criminal record. Abdullah had not responded to his call for compulsory military service and Syrian authorities consider this a crime.

Abdullah was one of 229 individuals whom Cypriot authorities pushed back and expelled in at least five separate instances from Cypriot waters to Lebanon in September 2020.^{xxv21} Human Rights Watch (HRW) documented with the help of 15 testimonies that Cypriot coastguards repeatedly brandished weapons at incoming boats from Lebanon, encircled them at high speed, abandoned some at sea without fuel and food and in other instances proceeded to beat passengers on board.²²

From July to October 2020, more than 700 individuals left or attempted to leave Lebanon irregularly by boat for Cyprus (based on triangulation of information available to UNHCR Lebanon). Roughly 80% of these individuals were Syrian and just under 20% Lebanese.²³ In comparison to 2018 and 2019, the number of individuals and boats that left, or attempted to leave, Lebanon for Cyprus sharply increased in 2020.²⁴

¹⁸ See also the conditions that displaced Syrians set for their return: <https://syacd.org/we-are-syria/>.

¹⁹ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24229&LangID=E>

²⁰ Interview by the author, December 2020.

²¹ See also data on the arrivals of refugees from Lebanon by boat provided by the Cyprus Police to the journalist Michalis Hatzivasili as published on 25th of September 2020 by Phileleftheros Newspaper: <https://www.philenews.com/f-me-apopsi/arthra-apo-f/article/1025188/>

²² <https://www.hrw.org/news/2020/09/29/cyprus-asylum-seekers-summarily-returned>

²³ According to UNHCR Lebanon, based on information available for those whose profile could be verified, 57% of the individuals who left, or attempted to leave, by boat from Lebanon to Cyprus in the summer 2020 were men, 14% were women and 28% children.

²⁴ In addition to the above-mentioned boats from Lebanon, the Republic of Cyprus also receives boats from Turkey and from the Northern territories of the island. With the Covid-induced closing of the green zone between the Northern territories and the Republic of Cyprus, some Syrians also became victims of pushbacks by Cypriot coastguards from waters belonging to the Republic of Cyprus to the Northern territories. UNHCR Cyprus does not operate directly in the northern part of Cyprus, but implements a project through an NGO in to prevent refoulement. The NGO screens asylum seekers for international protection needs and assesses whether their forced return could amount to refoulement. Should this be the case, it intervenes to stop the forced return

This increase in sea departures can be explained by considering structural weaknesses of asylum policies in the EU, as well as the lack of meaningful protection for Syrians in Lebanon.

Cypriot authorities, for example, generally grant only subsidiary protection to Syrian refugees, barring them from reuniting with family members through legal channels. Some of those Syrians on the boats had family members in Cyprus.

With regards to the lack of meaningful protection for Syrians in Lebanon, one pushed back Syrian explained to HRW that he had opted to leave by boat to Cyprus after an attempted arrest by unidentified men and a subsequent warning to leave Lebanon^{xxvi}. Ahmed had been unable to access resettlement in Lebanon and had already been imprisoned in Syria before seeking refuge in Lebanon. Other Syrians left on boats for Cyprus because they risked becoming homeless in Lebanon. With the increase in the cost of living, the loss of value of the Lira and the economic recession in 2020, an increasing number of Syrians are no longer able to earn enough money to eat sufficiently, let alone access health care or education for their children. 32 years-old Mustapha from Raqqa, for example, left on a boat for Cyprus because he was unable to receive UNHCR assistance in Lebanon even though he is blind in one eye and has shrapnel in his legs from an explosion that occurred when he was in Syria. His children are selling flowers on the streets in Tripoli^{xxvii}. 46 years-old Hitam also left on a boat with his wife and four children because they were at risk of being expelled from their home for not being able to pay rent.^{xxviii} Although, the entire family was born and raised in Lebanon, restrictions in Lebanese law prevented the children in the family from acquiring nationality and thus a permanent right to residency. International maritime law imposes a clear duty on all vessels at sea to rescue people in distress. A survivor interviewed by Human Rights Watch, however, testified that a Cypriot coast guard or naval vessel encountered an inflatable boat carrying five men that was in distress on September 4 and then abandoned it to drift without fuel.

“We told them we had no fuel and could not go back or go anywhere without fuel. We showed them our empty fuel containers. They only gave us two bottles of water, about three liters, and left us. They stayed about a kilometer away, watching us, then, at sunset, about 45 minutes later, they just left.” [...] “We were just pushed by waves. The sun was very hot. After two days, we started drinking sea water. We thought we would die. I gave up. I only thought of my children in Syria. Then, [... after six days] a Lebanese fishing boat saw us and reported us to Lebanese naval forces and we were finally rescued.”²⁵

Cypriot authorities have publicly acknowledged that they have expelled individuals, such as Abdullah, Ahmed, Mustapha and Hitam from Cyprus to Lebanon in the summer of 2020. The Cypriot government, however, denies that individuals on the boats had expressed their intention to seek asylum.²⁶ In his interview with Human Rights Watch, Mohamad from Idlib explained how he was asking for asylum while on the boat: “I gave the lawyer’s name to the Cypriot authorities on the boat, but they refused to take his call.”²⁷ Other testimonies collected by the author confirm that Cypriot authorities systematically ignored explicit and repeated asylum requests.

²⁵ <https://www.hrw.org/news/2020/09/29/cyprus-asylum-seekers-summarily-returned>

²⁶ Interview with the Cypriot lawyer Nicoletta Charalambidou, November 2020.

²⁷ Interview conducted by Bill Frelick (Human Rights Watch), September 2020.

In his interview with the author, Abdullah, for example, testified that he and fellow passengers on his boat had explained to the translator of the Cypriot coast guard that they were Syrian and wanted to seek asylum in Cyprus. Although he also mentioned his brother in Cyprus as one of the reasons why he was coming, he had clearly used the Arabic word for asylum in his request to the Cypriot coastguard.²⁸

In response, the coastguards told him that they had received instructions not to let any refugees enter the island. UNHCR Cyprus also has credible reports indicating that some of those pushed back had repeatedly asked for asylum.²⁹

The European Court of Human Rights has ruled that an assessment of people's intentions to seek asylum needs to be individual and cannot take place at sea (cf. *Hirsi v. Italy*, as well as *Sharifi and others vs. Italy and Greece*). In the absence of an individualized assessment of nationality and reasons of arrival, readmission procedures constitute collective expulsions, forbidden under both national and international law^{xxxix}.

In September 2020, the Cypriot police brought some new arrivals to the quarantine section of the Pournara camp. There was no vulnerability screening prior to the transfer and UNHCR did not have access to the quarantine section. A Syrian woman and mother of seven children explained to the author how they were called for a second PCR test, but then transferred onto a boat and expelled to Lebanon.

What happened with her, her children, Abdullah, Ahmed, Mustapha, Hitam and others after their pushback from Cyprus? UNHCR Lebanon was monitoring the situation closely to ensure that Syrians sent back by the Cypriot authorities would be readmitted to Lebanon.³⁰ Lebanon has a strict non-readmission policy for Syrians who have left the country. In addition, the Higher Defence Council, an inter-ministerial body headed by the President of Lebanon, had decided in 2019 that Syrians who had entered Lebanon after April 2019 could be expelled to Syria without judicial procedure or legal remedies. Lebanese authorities have also implemented this decision, deporting at least 2.700 Syrians from Lebanon in 2019.^{xxx} Hence, it was entirely possible that pushed back Syrians would be put into an expulsion procedure to Syria by Lebanese authorities upon arrival at the port. Consequently, UNHCR Lebanon closely monitored reception procedures at the port in September and October. At the end of the day, none of the pushed-back Syrians were put into a deportation procedure to Syria following their re-admission to Lebanon. This practice is not embedded, however, in a legal framework that would constitute a guarantee for Syrians who are pushed back to Lebanese borders.

Following the first pushbacks to Lebanon, Cypriot authorities visited Lebanon on five October 2020. Interior Minister Nicos Nouris was cited by media outlets after the meeting: "We want to send out a clear message that we will not let traffickers exploit the current situation in Lebanon by bringing people into our country illegally."³¹ People's right to seek asylum in Europe, however, is not affected by the regularity of their entry into EU territory. Hence, Cypriot police was obliged to grant Abdullah and others access to the asylum procedure once they had entered Cypriot waters.

²⁸ Interview by the author, December 2020.

²⁹ UNHCR Cyprus was able to talk with individuals who were admitted to the territory and asylum procedures in Cyprus and some family members of others in the concerned boats. These individuals confirmed that many on the respective boats did express their intention to ask for asylum. Interview UNHCR Cyprus, November 2020.

³⁰ Interview with UNHCR, December 2020.

³¹ <https://cyprus-mail.com/2020/10/06/cyprus-and-lebanon-discuss-shared-strategies-in-fight-against-illegal-arrivals/>

Did these expulsions take place in the framework of a legally valid and human-rights compliant readmission agreement? It is not clear what Lebanese and Cypriot authorities agreed on during the October meeting. The meeting might have served to operationalize a 2002 bilateral readmission agreement between both countries.³² The agreement does not contain an explicit non-refoulement clause, but Art. 11 provides that the agreement is subject to the obligation arising from the 1951 Refugee Convention and the European Convention on Human Rights. While the agreement does contain a third country national clause, Lebanon only ratified the agreement, but not its implementing protocol.³³ The fact that Lebanese authorities have not ratified the implementing protocol makes it questionable whether the readmissions occurred in a legally-valid framework.³⁴

In conclusion, Cypriot authorities need to put the rescue of lives at sea before any other consideration and provide individuals who arrive at the coast access to territory and individualized assessments of their asylum requests. Agreements with third countries need to be human rights-compliant, negotiated in a transparent manner and fully ratified by respective parliaments.

IV- EXPULSIONS AND PRESSURED RETURNS FROM LEBANON TO SYRIA

As regime forces recaptured his area of residence in Syria, Hamodi, a civil engineer, was afraid because he had been supporting relief efforts for internally displaced Syrians from Homs and Al-Qusayr. Weary of the regime's track record of targeting humanitarian workers, Hamodi fled with his wife, daughter and three sons to Lebanon in 2014. Wanting his three sons to get a university education, Hamodi tried to send them to Turkey to study in 2016. Turkish authorities, however, did not admit the three young men and sent them back to Lebanon. Upon arrival at Beirut airport, Lebanese authorities confiscated the boys' passports. At six am in the morning, Hamodi received a text message from one of his sons, saying that the police were deporting them to Syria. As a well-connected humanitarian worker in Lebanon, Hamodi was in no time able to mobilize the help of a lawyer, a journalist and UNHCR. A car accident between Beirut and Damascus delayed the arrival of the police car at the Masnaa border crossing by half an hour. Hamodi described how this delay was crucial for UNHCR to be able to negotiate with Lebanon's General Security Organisation (GSO) a two-hour suspension of the expulsion procedure. Following a social media campaign by a Lebanese journalist, the Minister of Interior eventually agreed to instruct General Security to stop the expulsion. An expulsion order had never been issued.³⁵

In the aftermath of the failed refoulement attempt of his three sons, Hamodi mobilized himself on the matter of illegal expulsions from Lebanon. Between 2017 and 2018, he was able to document nine and prevent five refoulement attempts to Syria by Lebanese authorities. Out of the four expulsions that Hamodi was unable to stop, one individual forcibly disappeared after the expulsion. Until today, the parents of this young man have not heard about the whereabouts of their son.

³² Agreement between the Government of the Republic of Cyprus and the Government of the Republic of Lebanon on the readmission of persons without unauthorized stay, 2002.

³³ Interview with UNHCR Lebanon, December 2020.

³⁴ Email correspondence with Nicoletta Charalambidou, December 2020.

³⁵ See Twitter account of Nohad Machnouk and Carol Malouf 19 October on 2015

In 2018, General Security did not renew Hamodi's residence permit in Lebanon and instead stamped his passport with a request for him to leave Lebanon in 14 days. When in 2019 Lebanese authorities further stepped-up pressure on Syrians to leave Lebanon, Hamodi received a phone call from a trusted contact at General Security, informing him that the Lebanese politician and leader of the Free Patriotic Movement, Gebran Bassil, had personally given permission to a high-ranking officer to forcibly return him. UNHCR tried to intervene, but despite oral assurances, General Security did not withdraw the removal order or renew the residence permit.

At the end of the day, Hamodi's deportation was halted and he was able to access one of the very few resettlement places for Syrians in Lebanon. Today Hamodi, his wife and three sons are in Sweden with full access to international protection. The sons are following Swedish language classes in view of finally completing their university studies.

As this testimony illustrates, Hamodi and his sons faced a real risk of refoulement from Lebanon to Syria. They did not have access to international protection in Lebanon, nor did they have the option of legal travel to other places of safety. Their resettlement from Lebanon to Sweden is the exception to the rule. How does the case of Hamodi and his three sons fit into the broader picture of policy developments and legal frameworks for Syrians in Lebanon?

First, Lebanon is not a signatory of the 1951 Refugee Convention and access possibilities to legal stay for Syrians are extremely limited and often also very costly. Nonetheless, Article 323 of the "Law Regulating the Entry and Exit of Foreigners in Lebanon and their Exit from the Country" (1962) provides criminal charges and penalties, such as imprisonment of one to three months, payment of a fine, and expulsion from Lebanon, for individuals convicted of entering and staying in Lebanon without valid travel documentation and visas^{xxx}.

In the aftermath of the popular uprising in Syria in 2011, Lebanese authorities first adopted a laissez-faire approach.^{xxxii} Many Syrian workers had migrated to Lebanon to work in the agriculture, construction and service sectors since 1943.^{xxxiii}³⁶ In October 2014, however, Lebanon introduced visa requirements for Syrians, as well as other restricting measures for the entry and legal residence of Syrians in Lebanon^{xxxiv}. In May 2015, Lebanese authorities de-facto asked UNHCR to stop giving registration cards to Syrian refugees. In practice, however, UNHCR registration cards do not grant Syrians access to a regular stay in Lebanon either, or protect them from receiving removal orders³⁷. As 30 years-old A. from Rural Damascus testifies: "If I show this card at a checkpoint, the Lebanese police will laugh. The card doesn't have any power." With a change in conflict dynamics in Syria and a Russian return initiative in 2018,³⁸ the climate for rights-based laws and policies for Syrians in Lebanon further deteriorated. Discussions of UNHCR's three "durable solutions" started in practice to be limited only to return. In 2018, Lebanon's General Security Organisation (GSO) made an agreement with the Syrian government and started organizing group returns.

³⁶ As of 2013, Syrians were only allowed to work in manual professions, such as construction, cleaning and agriculture. "Occupations Restricted to Lebanese", Lebanese Ministry of Labour, Decision No. 19, 2 February 2013 (Arabic).

³⁷ Following the 2019 Higher Defence Council decision, in principle, only individuals who have come irregularly from Syria after 24 April 2019 are at risk of deportation.

³⁸ See further details on the Russian initiative, see footnote 7 in (ICG 2020)

The Lebanese authorities present these as voluntary returns. While Syrians can opt out of the GSO-organized group returns, broader policies and practices by Lebanese authorities also create serious constraints for Syrians that do not allow for free and informed decision-making about returns.³⁹

When 28 years-old Hassan went to General Security in Lebanon in an attempt to regularize his status in Lebanon, General Security gave him a removal order and confiscated his passport. In order to retrieve his passport, Hassan is supposed to pay 400.000 Lira and promise to leave Lebanon. Unable to go to Syria, Hassan and his family are trapped in Lebanon without access to rights and documentation. Hassan's marriage and the birth of his baby son are not registered, rendering thus his child de-facto stateless^{xxxv}.

Racism and xenophobia have been mounting in Lebanon over the last few years and repeatedly result in violent instances. In an online panel carried out by *Refugee Protection Watch*, 72.3% of respondents feared how local authorities would address and treat them, including the discriminatory implementation of curfews, threat of expulsion and misconduct at checkpoints^{xxxvi}. Lebanese lawyers have also observed that GSO at times confiscates passports or issues expulsion orders when Syrians try to regularize their legal situation or when making enquiries about GSO return operations.⁴⁰

"When I went to General Security to renew my residence permit, they gave me an expulsion order. I'm registered with UNHCR, but when I told them about this, they said that they could not do anything to help me. They only gave me a hotline number in case I was to be deported. (...) I will kill myself if they take me by force to Syria, honestly. The Syrian regime killed my father, without any accountability. They arrested me twice before I came to Lebanon."

Finally, levels of information about what happens with Syrian refugees after arrival to Syria remain notoriously low and do not currently allow for informed choices. Only 32.7% of respondents in a 2020 online survey with Syrian refugees in Lebanon, for example, reported to have reliable information on the situation in their area of origin inside Syria.^{xxxvii}

UNHCR's possibilities to assess prior to GSO-organized group returns whether return decisions were made freely, however, are insufficient. In 2020 and 2019, UNHCR received the lists of individuals who had signed up for return to Syria just a couple of days prior to the actual return movement. In order to be able to provide information about conditions in Syria to concerned individuals and advice on legal documents, registration processes and medical support to concerned individuals, UNHCR Lebanon would instead require three to four weeks.

³⁹ Response by Lebanese authorities: "Any Syrian arriving in Lebanon who doesn't meet entry conditions is voluntarily and willingly asked to return to Syrian, expressing that he doesn't wish to stay as a resident for any reason and signing a responsibility pledge stating that he chooses to voluntarily return with facilitation from the GDGS". <https://www.general-security.gov.lb/ar/news/details/707>

⁴⁰ General Security only enforces expulsion orders for Syrians who came to Lebanon after 24 April 2019.

Displaced Syrians and civil society organizations that advocate on their behalf criticise UNHCR for not fulfilling its mandate^{xxxviii}. In fact, UNHCR Lebanon's work is based on a 2003 Memoranda of Understanding, which has been criticised for its pragmatic concessions, leaving the agency with a limited margin of manoeuvre^{xxxix}. In 2018, for example, the then Minister of Foreign Affairs, Gebran Bassil,, threatened UNHCR with not renewing their employees' residencies after it had broadcasted text messages to all registered Syrian refugees clarifying certain elements of the General Security organised return program^{xl}.

According to UNHCR, General Security returned 8.827 individuals to Syria in 2019, of which 48% were women^{xli}. In the first half of 2020, GSO implemented one group return of around one thousand Syrian refugees to Syria, but then halted operations due to Corona between March and December.⁴¹ On December 2, GSO opened up for new registrations for returns to Syria. On December 2, GSO opened up for new registrations for returns to Syria. In addition to GSO-organised return operations to Syria, Lebanese authorities have also created the legal framework for actual deportations to Syria. As mentioned above, the Higher Defence Council had announced that Syrians who entered Lebanon through irregular means after 24 April 2019 should be deported to Syria.

The Higher Defence Council decision creates a high risk of refoulement as it allows for expulsion orders to be issued and executed on the basis of a mere verbal order from Public Prosecution without any judicial oversight and procedural safeguards for concerned individuals.

Under this order, the Directorate General Security deported 2,447 Syrian refugees to Syria between May and August 2019.⁴² In practice, General Security has in at least three cases deported also Syrians who had entered Lebanon before April 24^{xlii}, as well as Syrians who are fully registered with UNHCR^{xliii}. At least three Syrians deported by Lebanon's General Security back to Syria have been detained by the authorities after their deportation^{xliv}.

In addition to rendering Syrians in Lebanon vulnerable to refoulement, Lebanese authorities have also continued to exert pressure on Syrians to accept GSO-organized returns. In June 2019, for example, General Security started to implement a decision by the Higher Defence Council, ordering them to demolish "semi-permanent structures" built by Syrian refugees in informal camps^{xlv}. In 2019, security forces also increased raids of camps to detain male refugees, in most cases for lacking residency. UNHCR is on high alert and seeks to prevent deportations to Syria without due process guarantees, through interventions with the General Security and other Lebanese authorities, but is not always successful. In April 2019, for example, although UNHCR knew of this case and a delegation was present at the borders to negotiate with Lebanese authorities to suspend the removal order, General Security did not cooperate and the group of Syrians were deported^{xlvi}.

One year after their marriage, Sham's husband went to the General Security department to enquire about their return program. He never returned from the trip. One year later, Sham got a phone call from Syria. A family member of her husband called to say he had met her husband in prison prior to his own release. Sham has not had news about her husband since.⁴³

⁴¹ Interview UNHCR Lebanon, December 2020.

⁴² <https://www.amnesty.org/en/countries/middle-east-and-north-africa/lebanon/report-lebanon/>

⁴³ Interview with the author, November 2020.

In July 2020, the Lebanese Ministry of Social Affairs announced a “Return Plan”, which was discussed at the Damascus conference in November of the same year.^{xlvii} The so-called plan is not built on a consultative process with neither protection and civil society actors, nor displaced Syrians. It urges Syrians to return to Syria and advocates for not linking the return of displaced Syrians to the political process in Syria. The plan also frames Syrians as a threat to Lebanon’s public security and safety and proposes to carry out a national media plan, as well as awareness raising campaigns about return to Syria. Finally, the Ministry of Social Affairs seeks through the plan greater control by the Lebanese state over the work of international organizations, including by imposing a compulsory share of aid to be channelled to return and resettlement, rather than protection, access to services and integration measures in Lebanon.⁴⁴

Just like Hamodi and his family, roughly 80% of all Syrians in Lebanon do not have legal residency^{xlviii}. The above outlined law and policy frameworks thus render 80% of all Syrians in Lebanon vulnerable to potentially receiving removal orders. While mass deportations have not happened, Lebanon’s police practice lacks judicial oversight. Any Syrian who receives an expulsion order or is put into an expulsion procedure needs to be able to access legal assistance. In the case of deportations, legal procedural safeguards that exist in the Lebanese law need to be fully implemented and respected.

V- RISKS FOR REFUGEE RETURNEES IN GOVERNMENT-CONTROLLED AREAS IN SYRIA

When her husband was arrested in Syria in 2012, 39 years-old Tasnem from South West Damascus suddenly saw herself forced to flee the country and seek refuge in Lebanon. After four years of displacement in Lebanon and learning that her husband had died under torture in detention, Tasnem could no longer take living in a camp without any possibility to work and earn money and she thus decided to try and return to family property in Syria with her three children and her sister-in-law in 2016. Upon arrival at the border, however, Tasnem was to her surprise arrested and detained.

Thanks to her sister-in-law, her three children (6, 8 and 10 years-old at the time) could travel to the house of their grandparents. Security forces released Tasnem after two full months. When Tasnem was finally able to join her children, former neighbours and community members refused to talk with her and consciously kept a distance. They did not want to be associated with someone whose husband had died in prison and who had been imprisoned herself. The Intelligence Services and their community focal points continue to monitor those they release from prison. After less than a year, Tasnem gave up on living in her place of origin and instead went with her children to join displaced family members in a refugee camp in Idlib. From here, she is hoping to be able to move on to Turkey.⁴⁵

⁴⁴ Ministry of Social Affairs, (2020), Policy Paper for the Return of Internally Displaced Persons.

⁴⁵ Phone interview with a former neighbour of Tasnem in Syria, November 2020.

Tasnem's testimony illustrates that Syria is not a safe country of return. This mirrors findings by the Independent International Commission of Inquiry on Syria, which has reported that returnees are subjected to harassment, arbitrary arrest, detention, torture, enforced disappearance and forced conscription.⁴⁶ OHCHR has also continued to receive reports of arbitrary arrests and enforced disappearances, including cases of returnees in areas controlled by the Government.⁴⁷

Tasnem's testimony also illustrates how risk profiles are not individual, but need to be assessed in connection to people's family networks. Although she had not been politically active herself, security forces arrested her because of her late husband. Returns, as in this case, can also result in further cycles of displacement^{xlix}. Unable to start a new life in her former place of residence, Tasnem moved on and is still in quest of a safe and dignified place of refuge. Finally, the return of a refugee to a country that has not seen a regime change poses particular challenges. What does it mean to return to a territory that is still under the control of the same president and security apparatus that was at the heart of the Syrian displacement crisis?

First, Syrian refugees who want to return to Syria need to apply for security clearance from Syrian security services prior to relocating^l. Syrians in Lebanon can apply for security clearances through General Security in Lebanon, or try to use contacts or bribes to get information directly^{li}. The Syrian government has rejected the return of some refugees^{lii}.

In the case of a rejection, the written responses are restricted to the correspondence between the security branches and the official authorities, and the person concerned does not receive any written response.⁴⁸

In practice, authorities' definition and understanding of security issues is extremely broad. The Syrian Baath party has for decades relied on a system where citizens report on each other to security agencies. This practice continues today and includes Syrians living in Lebanon who seek either personal gains or wish to settle scores^{liii}. As a result, approximately 15% of all citizens reportedly have security issues^{liv}.⁴⁹

Second, refugees need to go through a so-called "reconciliation" process if they find during the security clearance process that their name is on a blacklist. Reconciliation committees consist of officers representing the regime's security branches and dignitaries, clerics and officials from the region, which are also partially appointed by the regime's security branches.⁵⁰ During this process, returnees have to share extensive personal information with the Syrian security apparatus, which according to SACD has used such data to blackmail or arrest individuals who are perceived as a "security threat"^{lv}.

⁴⁶ UN Human Rights Council, *Report of the Independent International Commission of Inquiry*, 15 August 2019, www.ecoi.net/en/document/2016403.html, para. 8.

⁴⁷ UN Security Council, *Implementation of Security Council Resolutions 2139 (2014), 2165 (2014), 2191 (2014), 2258 (2015), 2332 (2016), 2393 (2017), 2401 (2018) and 2449 (2018): Report of the Secretary-General*, 16 December 2019, S/2019/949, www.ecoi.net/en/document/2022113.html, para. 17.

⁴⁸ Email correspondence with the Syrian Network for Human Rights, December 2020.

⁴⁹ The Syrian oppositional website "Zaman al-Wasl" maintains an online database containing 1.5 million entries of people who are wanted in Syria (Zaman al-Wasl: "1,5 Gesuchte vom Assad-Regime", <https://en.zamanawsl.net/news/article/33629/>). The regime itself has indicated that it has compiled a database of wanted persons that is approximately twice as comprehensive (Middle East Monitor: "Syria regime prepares list of 3m wanted persons", MEMO, 02.08.2018,

<https://www.middleeastmonitor.com/20180802-syria-regime-prepares-list-of-3m-wanted-persons/>).

⁵⁰ According to the Syrian Network for Human Rights, reconciliation committees cannot perform any work without the approval of the regime's security branches. There is also a Russian Center for Reconciliation in Latakia, affiliated with the Russian Ministry of Defence and the Hmeimim Airbase headquarters and consisting solely of Russian officers. This center only intervenes when there are large protests by the people or when the Syrian regime enters and re-imposes control over a new area. Email correspondence with the SNHR, December 2020.

As Syrian intelligence services are divided into at least five branches and do in practice not coordinate with each other^{lvi},⁵¹ formal clearance prior to return or reconciliation is not a full guarantee of safety from arrests and detention. Despite prior reconciliation, the high-profile human rights activist and torture survivor, Mazen Al-Hamade, for example, was arrested and forcibly disappeared immediately upon his arrival at Damascus airport in February 2020^{lvii}.

Risks for returnees to regime-held Syria depend on personal profiles and places of residence prior to return, rather than just mere places of origin, but can also be arbitrary or evolve over time.⁵² As explained earlier, the government of Syria considers Syrians who have left government-controlled areas as traitors. In addition, Syrian men are at risk of arrests and detention if amongst others they have not responded to calls for compulsory military service, if they have participated in demonstrations and protests after 2011, if they have otherwise voiced publicly a political opinion against the regime, as well as if they have lived in areas that have been under control of parties to the conflict other than the regime.

Male refugee returnees who have evaded the draft for compulsory military service in Syria will be arrested and detained upon return. According to the 1960 Military Criminal Code (revised in 1973), evaders face up to five years in prison during war time. In practice, deserters from the Syrian Arab Army (SAA) have been tortured during detention, physically assaulted and forcibly disappeared^{lviii}. Serving in the military exposes Syrian men to the high risk of being forced to commit war crimes. The Independent Commission on Inquiry into Syria has documented that the SAA has committed war crimes and crimes against humanity^{lix}, has structurally infringed on human rights during the conflict, and has used chemical and prohibited weapons against civilians and civilian infrastructure and humanitarian personnel and facilities^{lx}.⁵³

In theory, the Government of Syria had issued on 9 October 2018 a decree, granting amnesty for individuals accused of deserting or avoiding military conscription if they would turn themselves in within four - for those residing inside Syria - or six months - for those present outside of Syria^{lxi}. Only one month after the above-mentioned amnesty was issued, however, the Government of Syria de facto nullified the amnesty by publishing a list of 400,000 males that could still be called for military conscription^{lxii}. A study by *Refugee Protection Watch* documented how many refugees from Lebanon had been forcefully conscripted into the army upon arrival to Syria despite the amnesty. In November 2020, the EU Court of Justice has qualified that conscription refusal in the context of the Syrian war can be a form of political expression, thus paving the way for Syrian men to access one of the five grounds for asylum.⁵⁴

With the exception of military service, Syrian women can also be arrested and detained for the same reasons as men. Importantly, women are also at risk if they merely have male relatives who have participated in revolutionary events, have voiced public opinions against the regime or have lived in opposition-held areas.

⁵¹ The Syrian Intelligence Services consists of branches for amongst others military intelligence, air force intelligence, general intelligence, political intelligence, plus the military police.

⁵² In early 2019, a number of pro-regime journalists were exiled or jailed, apparently for criticizing lawless behavior by pro-regime militias. "The regime punishes prominent Assad-supporting journalists", *The Syrian Observer*, 7 March 2019 (International Crisis Group 2020, 21)

⁵³ See also <https://www.armscontrol.org/factsheets/Timeline-of-Syrian-Chemical-Weapons-Activity>

⁵⁴ Court of Justice of the European Union: "In the context of the civil war in Syria, there is a strong presumption that refusal to perform military service there is connected to a reason which may give rise to entitlement to recognition as a refugee." <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-11/cp200142en.pdf>

The UN, for example, has documented how security forces at times arrest women as a means to put pressure on men to come and surrender.⁵⁵

What are the risks for refugee returnees to be arbitrarily arrested and detained?

- *In a survey conducted by the Syrian Association for Citizen's Dignity (October 2019), 62% of respondents stated that they or one of their relatives have been subject to arbitrary detention upon return to Syria, while 68% said that they or their relatives are wanted for arrest.*
- *In 2020, the Syrian Network for Human Rights documented 62 cases of arrests and detention among returnees from Lebanon alone, of which 37 remained in detention at the time of publication (2020).*
- *In 2019, the Syrian Network for Human Rights documented 638 forced disappearances and 15 deaths as result of torture for refugee returnees (2019).*
- *Between 2014 and August 2020, the Syrian Network for Human Rights documented 1.916 cases of arrests and detention, including 219 children and 157 women, among refugee returnees. Some of these cases had received prior security clearances (2019).*

Empirical evidence of the detention of refugee returnees mirror broader dynamics of arbitrary arrests and summary detention under conditions that lead to the arbitrary deprivation of life in Syria. A September 2020 report by the UN Commission of Inquiry on Syria (CoI), for example, documented “ongoing patterns of arbitrary detention, enforced disappearance, and torture and death in detention” in government-held areas. In this report, the UN Commission of Inquiry on Syria stated, it has reasonable grounds to believe that acts of enforced disappearance, murder, torture, sexual violence and imprisonment are perpetrated “in pursuance of a continued State policy” and amount to crimes against humanity^{lxiii}.

Detention in Syria may amount to enforced disappearance. People are dying in custody even if very young and thus presumably in good health. Families do not hear about their deaths, or only after a very long time, or actually accidentally^{lxiv}. The UN has also documented, there are no guarantees that refugee returnees can count on due to the general lack of rule of law in Syria and the strong security grip that intelligence forces hold over territory under the control of the government of Syria. The European Court of Human Rights has ruled in *Othman v. the United Kingdom* that lack of fair trial on criminal grounds also triggers non-refoulement obligations.

Finally, the Government of Syria has sought to cement displacements of the last eight years as permanent by systematically depriving individuals and communities perceived as government opponents from access to their property^{lxv}. Under a series of laws and decrees passed during the armed conflict, the government of Syria has engineered demographic change whereby individuals are dispossessed if considered to be part of the political opposition, civically active, formerly detained, or internally or externally displaced.⁵⁶

⁵⁵ Interview UN, December 2020.

⁵⁶ Gender-bias in Syrian inheritance laws furthermore creates additional difficulties for women to claim property in the absence of fathers, husbands or brothers upon arrival to Syria (A/HRC/42/51, para. 92).

One-third of Syrian legislation and regulations have been adopted during the conflict^{lxvi}:

- *Law No. 11 (2011) and Decree No. 43 (2011) establish that people need security clearance for various property transactions.*
- *Decree 63 (2012) allows the Syrian Finance Ministry to confiscate the property of Syrians accused of an act of terrorism. Law 19 created a Counterterrorism Court, which is considered contrary to international and constitutional standards for providing a fair trial.*
- *Decree 66 (2012) allows the Syrian government to dispossess and forcibly relocate inhabitants of certain redevelopment zones and to transfer assets to private companies and regime cronies.*
- *Law No. 11 (2016), Law No. 12 (2016) and Law No. 33 (2017) create a series of obstacles for recovering or transferring property records.*
- *Law No. 35 (2017) allows for the confiscation of properties of people failing to perform military service.*
- *Law 10 (2018) designates certain areas as a redevelopment zone, paving the way to arbitrary property confiscations of above all those individuals who are displaced and thus unable to prove ownership with local authorities.*
- *The amendment of Art. 97 of Syria's Military Conscription Law in February 2021 allows the Syrian Ministry of Finance to seize the property of all men who did not serve in the military and failed to pay the 8,000 USD exemption fee regardless. The Ministry of Finance can confiscate and sell property without providing notice or giving the respective owner an opportunity to challenge the decision. The law also enables the government to seize the assets of wives, children, and other immediate relatives of "military evaders".^{lxvii}*

While some of the Syrians who relocate to Syria from Lebanon on a genuinely voluntary basis do manage to overcome challenges, the World Bank has also pointed out that there is an overall lack of knowledge of whether returnees are able to return "to their original place or whether they were arrested, killed, or became displaced again^{lxviii}." Just like all UN agencies, NGOs and humanitarian actors, the Independent International Commission of Inquiry on Syria and UNHCR face high limits in monitoring what happens with refugees who return to Syria. Like all UN agencies in Syria, UNHCR has limited operational space, requiring prior authorizations from the government of Syria for both access to territories and operations. Despite efforts, UNHCR Syria can only connect to a minority of those Syrian refugees who return through the operations organized by Lebanon's General Security Organisation. Next to access to territory, trust appears to also be an issue. When *Refugee Protection Watch* asked refugee returnees from Lebanon whether they would contact UNHCR if they were to face protection issues in Syria, respondents overwhelmingly reported that they would not do so due to their distrust in UNHCR's capabilities.^{lxix} Indeed, it is very difficult also for Syrian civil society organizations and displaced Syrians themselves to have reliable information on conditions in Syria. As phone calls are regularly monitored, refugee returnees are unable to fully reveal instances of arbitrary arrest and forced conscription to family members and other actors abroad. If people have to risk their lives to document what happens to people like Tasnem after their arrival to Syria, then clearly returns are premature.

VI- CONCLUSIONS

As narrated at the start of this chapter, 25 years-old Mohamad from Idlib ended up back in Syria after his failed attempt to access a safe protection space in both Lebanon and Cyprus. Mohamad's story illustrates well what the consequences can be for refugees when countries compromise on international human right standards and prioritize pushbacks and returns over access to asylum. When the Cypriot police pushes back boats with people who intend to seek asylum, it is violating the principles of non-refoulement. Pushbacks from Cyprus to Lebanon put Syrians at risk of chain refoulement to Syria and also bar Lebanese citizens from accessing asylum in case they fear persecution in Lebanon. Concretely, violations of these human right principles have life and death consequences for people. Mohamad faces the risk of arrest and detention in Syria for having evaded military service and the possibility of being persecuted on other grounds, exposing him in the Syrian context thus also to risks of torture and death.

The government of Syria deliberately created drivers of displacement for Syrians and continues to be an obstacle to safe and dignified return. Initial reasons for forced migration from Syria remain unchanged in the largest part of Syria and under risk almost everywhere else. If the international community wants safe and dignified returns, then it should abstain from indirectly channelling funds into the hands of the Assad regime. As documented above, fears by Syrian refugees to return to Syria are well-founded. There are documented risks that refugees can be arrested, detained, tortured, killed and/or forcefully conscripted into the army upon return to Syria.

In Lebanon, possibilities for Syrians to either integrate and legally reside, or get resettled to a third country have become increasingly less available ever since 2015. Instead, their vulnerability to receive expulsion orders and factors that oblige Syrians to leave Lebanon have increased since 2018. Syrian refugees who leave Lebanon for Syria are not in a position to make a free and informed choices, but return often simply due to economic, social and political pressures on them in their country of displacement. Both returns and smuggling routes from Lebanon in 2020 hence reflect a lack of access to meaningful international protection in Lebanon.

In the interest of international human right standards that were set in the aftermath of the catastrophe of mass scale displacement following the Second World War, Cypriot authorities need to grant access to the asylum procedure to any individual who expresses his or her intention to seek international protection. Lebanese authorities need to stop violating the principle of non-refoulement and offer blanket complementary or temporary protection for all. In turn, EU member states need to express their solidarity by putting into place relocation and resettlement mechanisms from both Lebanon and Cyprus, as well as by providing humanitarian support for refugees in Lebanon. Whether or not the principle of non-refoulement protects people and helps them to access asylum needs to be monitored by independent institutions who have full access to sea, land and air borders.

In its Pact on Migration and Asylum, the EU is proposing to put into place an independent mechanism to monitor effective access to EU asylum procedures^{xx}. In line with this initiative, Cypriot coast guard boats should be equipped not just with translators, but also with fully independent human right monitors. In the context of the Lebanon-Syria border, UNHCR holds the mandate for the protection of refugees. Given that protection thresholds and parameters for refugee return to Syria set out by UNHCR have not been met, however, efforts of the agency should continue to focus on maintaining protection space in Lebanon and carrying out pre-return monitoring of factors that oblige Syrian refugees to return to Syria prematurely.⁵⁷

⁵⁷ See also UNHCR's Lebanon Crisis Response Plan (LCRP).

VII- RECOMMENDATIONS

a) Common Mashreq recommendations

EU and EU Member States:

- In line with the EU's position that **Syria is not safe** for refugees to be returned,
 - Refrain from shifting national policies towards depriving certain categories of refugees from Syria from their protected status, or reverse this where they have already done so.
 - Refrain from financially supporting any programmes that may incentivize return, as it exposes individuals to risks and falsely gives the wrong impressions to others that it is safe to return.
- Provide more resettlement and complementary pathway opportunities for better **responsibility sharing**:
 - o *Resettlement* should be activated as the ideal form of responsibility sharing, enabling also genuine collaboration with countries, such as Lebanon and Turkey. Given the Covid-related decrease in departures, resettlement countries should expand their quotas in 2021 and 2022.
 - o Other complementary pathways – *humanitarian visas, family reunifications, third country scholarships* - should also be mobilized to improve responsibility sharing. In the light of travel restrictions in 2020, embassy resources to treat humanitarian visa applications need to be reactivated and enhanced.
- Better monitoring of the **human rights compliance of agreements with third countries**

b) Recommendations connected to the Syrian context

- **Special Envoy to Syria** to raise the issue of human rights violations of refugee returnees on the basis of existing UN monitoring bodies, such as the Independent International Commission of Inquiry on the Syrian Arab Republic
- **Regime change** should be a prerequisite for any forced readmissions to Syria.
- Direct **participation of the displaced Syrians** in defining the conditions for a safe, truly voluntary and dignified return, and the definition of a safe environment necessary as prerequisites for assisted returns to Syria
- Close **monitoring of human right implications of funding for early-recovery and humanitarian funds** that flow into Syria so as to not rehabilitate a regime that is responsible for mass-scale human rights violations.

UNHCR:

- Put in place a well-funded **pre-return monitoring mechanism** that closely monitors the conditions for safe, voluntary and dignified return of displaced Syrians.
- Negotiate a tripartite agreement with state border authorities and human rights or Syrian-led NGOs at the Cyprus/Lebanon, Lebanon/Syria and Turkey/Syria borders to facilitate, fund and promote **human rights monitoring of border movements**.
- Communicate more clearly about the **limits of their access and monitoring capabilities** and highlight the gaps in knowledge and risks inherent in this lack of access and monitoring.
- Enable refugees to take free and informed choices on return by providing factual and up-to-date information about conditions in Syria, including about **protection risks for refugee returnees**
- UNHCR must highlight that returns should not be encouraged and that facilitation should not occur until the conditions exist under which safe, dignified and voluntary returns can take place

c) Recommendations specific to the Cyprus and Lebanon chapter

EU, EU Member States and international donors:

- In the face of the economic and political meltdown in Lebanon, not just Syrian refugees, but increasingly also Lebanese citizens are without access to basic rights. Hence it is most urgent for EU member states to open up **resettlement places for displaced Syrians in Lebanon**.
- Use funding to have more tangible effects on improving the livelihoods and rights of both refugees and hosting communities, notably by
 - o facilitating **access to legal residency** for Syrian refugees in Lebanon, as well as by
 - o redesigning its **aid architecture** to provide support, resources and funding directly to organizations on the ground
- The European Commission should press the government of Cyprus to respect **the right to seek asylum and the principle of non-refoulement**, i.e. not returning people to a place where they could face threats to life and freedom and other serious harms.
- Support the creation of an **independent mechanism to monitor effective access to EU asylum procedures**, respect for fundamental rights and respect for the principle of non-refoulement at the EU's borders; and ensure that any such mechanism is truly independent from national authorities, well-resourced and able to act on information received from individuals from both sides of the border. In case of violations, the European Commission must be able to take effective measures to ensure accountability for rights violations. Findings should be publicly available and potential victims should receive legal advice and have effective access to justice.

Cypriot authorities:

- **Rescue vessels in distress** and stop endangering lives by using manoeuvres, such as high-speed circling of boats.
- Grant people on boats that arrive at their territorial waters or coast at least temporary **access to territory** so that the relevant authorities can establish people's nationality, as well as whether individuals came to Cyprus to seek asylum.
- Conduct a transparent, thorough, and impartial **investigation** into allegations that Cypriot coast guard personnel are involved in acts that put the lives and safety of migrants and asylum seekers at risk. Any officer engaged in illegal acts, as well as their commanding officers should be subject to disciplinary sanctions and, if applicable, criminal prosecution.
- Ensure full **transparency about cooperation agreements with third countries**, notably by informing parliament.
- Ensure asylum seekers have access to a vulnerability screening prior to being placed in quarantine, as well as **access to UNHCR** and service providers during the quarantine period.

Lebanese authorities:

- Uphold the **right to international protection** for Syrian refugees, as well as facilitate **access to legal residency** for Syrian refugees in Lebanon.
 - o Allowing UNHCR to resume the registration of refugees.
 - o Review local provisions relating to residencies and work permits in accordance with domestic laws and Lebanon's international obligations, including bilateral agreements in effect with Syria.
 - o Honouring its commitments made by previous governments and expanding the residency fee waiver to apply to all refugees regardless of entry date, registration profile or border crossed and ensures consistent implementation of the waiver.
- **Respect the principle of non-refoulement.**
 - o Annul the Higher Defence Council Decision No. 50 of 15/4/2019 and the General Director of the General Security decision No. 48380 of 13/5/2019 ordering the expulsion or deportation of Syrian nationals who entered Lebanon through unofficial border crossing after 24 April 2019 without the application of the necessary legal procedural safeguards to prevent refoulement
 - o Immediately implement the State Council's ruling No. 421 of 8 February 2018 in order to ensure legality and public order in Lebanon and suspend the General Security regulations issued in 2015 and its subsequent amendments regarding the conditions of entry and residence for Syrian nationals in Lebanon;
- Commit to a **moratorium on deportations of Syrian refugees – particularly if without due process guarantees**, notably by

- Ensuring the right of appeal against a removal order with an independent administrative and/or judicial body within a reasonable period of time from the notification of that order and with the suspensive effect of the appeal on the enforcement of the order
 - Committing to guarantee the right of the Syrian refugee to be assigned a lawyer to defend him or her, in accordance with Art. 47 of the Lebanese Code of Criminal Procedure, as well as the Universal Declaration of Human Rights and the United Nations Convention against Torture.
- Provide full clarity and transparency about the **modalities of the so-called “return plan”** issued by the Ministry of Social Affairs, and ensure that any such plan is based on Lebanon’s international human rights obligations as spelled out amongst others in the Convention Against Torture, as well as taking into account the conditions for safe, voluntary and dignified return outlined in the UNHCR Protection Thresholds. Halt any further steps towards implementation of the plan before a clear dialogue with relevant stakeholders – including with UNHCR, humanitarian INGOs and local CSOs – is conducted.
- Lebanon’s General Security Organisation needs to notify UNHCR of the names and contact details of individuals at least four weeks prior to implementing “voluntary” return operations so as to enable UNHCR Lebanon to carry out effective and **individualized protection monitoring** prior to any organized group returns.

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