

Position Paper

On the decision to summarily deport Syrian nationals who entered Lebanon irregularly

I. Facts: Lebanon starts forcibly deporting Syrian nationals to Syria

- On 15 April 2019, the Lebanese [Supreme Defense Council](#) adopted a number of decisions pertaining to Syrians nationals in Lebanon. They were confidential, as is the case for this council's decisions, unlike the government's decisions. According to the [official statement](#), one decision emerged "to request the relevant ministries to take the necessary measures and procedures to control the smuggling of people and goods through land borders."¹
- It later appeared that this decision requested from security and military forces to take immediate measures to stop the irregular entry to Lebanon of Syrian nationals.² In practice, the decision led to the deportation of Syrian nationals who entered Lebanon through unofficial border crossings. On 24 May 2019, the National News Agency reported that since May 7, **301 Syrian nationals had been deported to Syria** pursuant to this decision without further clarification: 197 of them by the Lebanese Armed Forces (LAF), 100 by the Internal Security Forces (ISF), and four by the General Security (GS).
- The Council's decision was not published, and its legal grounds and clauses remain unknown, especially regarding the conditions and mechanisms of deportation. Some unofficial media leaks indicated that the goal was to tackle the cases of refugees registered with the UNHCR who cross from or into Syria via the official Syrian crossings without passing through the official Lebanese crossings in order to maintain refugee status in Lebanon. However, media and security statements indicate that the application of this deportation mechanism is not limited to these cases; rather, it extends to all Syrians who entered Lebanon irregularly and involves no verification of the threats their lives and freedom may face should they be returned to Syria.
- It has also emerged that the **General Director of the General Security (GDGS)** issued a decision on 13/5/2019 to **deport all Syrians who entered Lebanon irregularly after 24 April 2019**.³ The decision allows the deportation to be executed based on a verbal order from the Public Prosecution without referring the Syrian nationals to trial. The General Security's decision did not restrict its application to those who exited Syria via official crossings, which indicates that the deportations applies to all those who entered Lebanon through unofficial border crossings without exception. Most importantly, such deportations would occur without any judicial investigation to ascertain that the lives and freedom of the Syrian nationals are not in any danger in Syria.
- Most concerning is the fact this decision, unlike the previous policy and practices, stipulates handing the deported Syrian nationals directly to the Syrian authorities, at which point they

¹ Official Press Release issued by the Supreme Defense Council, dated 15/4/2019

² Supreme Defense Council, Decision No. 50/م.س/ج اد/ع/15 of 15/4/2019

³ General Director of the General Security Decision No. 43830/ع.ق.م. of 13/5/2019

will likely be subjected to danger according to any objective observer. This is the first time that the Lebanese authorities are taking this step after Lebanon was committed to [not deporting Syrians since 2012](#). General Security had committed to not handing Syrians over even in the cases of [deportation from Beirut airport](#), where it merely transported them to the Lebanese-Syrian border. Lebanon may be the first state in the world to resume deportations to Syria despite knowing that the authorities there violate their citizens' rights on a wide and systematic scale.

II. Legal Arguments:

On that basis, the signatories would like to make the following observations about the two decisions issued by the Supreme Defense Council and the General Security:

1. Reasons to seek asylum from Syria in Lebanon continue to exist:

It can be assumed that the two decisions were based on the Lebanese authorities' conception that they may summarily deport Syrian nationals to Syria because they no longer have any reason to seek asylum in Lebanon or to fear the repression of Syrian authorities or other dominant parties. This conception has also been predominant in the official discourse of several political parties represented in the Council of Ministers and the Supreme Defense Council.

This is however a misconception that is not based on any evidence or objective information about circumstances in Syria. It is also contrary to the many reports that demonstrate otherwise. For instance, the Washington Post published a report on 2 June 2019 regarding the arrest and torture of more than 2000 people who returned from Lebanon to Syria. Syrian authorities also continue to refuse UN access to some areas in Syria in order to observe returns.

In reality, while the reasons to seek asylum may no longer generally apply to all people from Syria as they did previously, they still exist for many of them, whether Syrian or Palestinian. These include those coming from certain Syrian regions where security is unstable, young men who refuse military conscription, women and minorities at risk, political opponents, rights defenders and people at risk of detention (and the rampant torture) in Syrian prisons – all of whom the Lebanese state has a duty to protect from forced returns to Syria.

2. The decisions ignore the fact that Lebanon imposes on Syrian nationals entry conditions that contravene laws and judicial rulings:

To this day, neither the government nor the General Security have implemented the ruling of the Lebanese [State Council](#) (the high administrative court in Lebanon) that annulled the conditions of entry and residence for Syrians issued in early 2015 ([State Council Decision no. 421/2017-2018](#), dated 8 February 2018). This ruling declared these conditions illegal because they were issued by an incompetent authority. It was notified to the Ministry of Interior on 4 June 2018 and to the General Security on 7 June 2018. It is important to note that the State Council rulings are mandatory to all administrative bodies according to Article 93 of the Statute of the State Council.

The most important points of this ruling are:

- The General Security decision issued in 2015 modifying the conditions entry and residence for Syrian nationals is illegal because it was issued by an incompetent body.
- The Council of Ministers is the authority competent to amend the conditions of foreigners' entry and residence.
- General Security's role is limited to applying these conditions. It has no right to amend them or impose new fees.
- There is no legal justification for the Council of Ministers to not exercise this prerogative as it has been functioning and the conditions for exceptional circumstances that could justify bypassing its powers have not been met.
- Any amendment to the conditions of Syrians' entry and residence in Lebanon must respect the international agreements signed with Syria, which guarantee freedom of movement of people between the two countries and freedom of residence and work.

3. **The Supreme Defense Council does not have the authority to issue deportation orders against foreigners:**

According to the law, the Supreme Defense Council does not have the authority to issue deportation orders against foreigners (Article 8 of the National Defense Law No. 102 of 1983). Nor does this authority belong to the security and military apparatuses such as the LAF or the ISF, which have carried out the bulk of the deportations so far. Lebanese law restricts the authority to issue deportation orders against foreigners who entered the country through unofficial border crossing to the **criminal courts** after a fair trial during which the foreigners can present the appropriate defense against the deportation sanction (Article 32 of the Law on Entry and Exit issued on 10 July 1962 and Articles 71, 88 and 89 of the Criminal Code).

The law also stipulates that the General Director of the General Security (GDGS) has the authority to issue orders to deport foreigners **in exceptional cases** where the foreigner's presence poses a threat to public safety and security (Article 17 of the 1962 Law).⁴ This clause cannot be applied *en masse* on a group of foreigners on the mere basis that they contravened entry regulations (that are illegal to begin with) without additional evidence that their presence in Lebanon constitute a threat to public safety and public. This threat must be assessed on an individual basis and requires the oversight of the Minister of Interior. This essential condition – **oversight by the Minister of Interior** – was incorporated into the law following the objections of many members of Parliament to granting deportation powers to the GDGS without subjecting the decision to the oversight of the Minister, who, in turn, is subject to political oversight by Parliament. The State Council's jurisprudence has confirmed the need

⁴ Article 17 of the Law on Entry to, Stay in and Exit from Lebanon issued on 10/7/1962:

“A foreign national shall be deported from Lebanon by decision of the General Director of the General Security if the presence of that foreign national is considered to be a threat to public safety and security. The General Director of the General Security is required to immediately submit a copy of his or her decision to the Minister of Interior.

The Deportation shall be executed either by notification of the person concerned to leave Lebanon within a deadline set by the General Director of the General Security or by having the person taken to the border by the Internal Security Forces.”

for this essential condition to be fulfilled for an administrative deportation order issued by the GDGS to be valid.⁵

4. **The right to seek asylum in Lebanon is a constitutional right and any deportation order to Syria requires that the foreigner is granted the right of defense:**

The right to seek asylum in Lebanon for people fleeing from persecution is a **constitutional right** (Para B of the Constitution's Preamble),⁶ similarly to the principle of no settlement of non-Lebanese (Para I of the Preamble). It is therefore necessary for Lebanese authorities to ensure equal respect of both these constitutional principles.

All Lebanese authorities are legally bound by **the obligation not to forcibly deport anyone to Syria** as per the Lebanese Constitution, the customary principle of non-*refoulement* and Article 3 of the Convention against Torture, which Lebanon ratified in 2000.⁷ Moreover, the right of defense is a natural right guaranteed by the Lebanese Constitution, international conventions and court jurisprudence. It applies to all administrative bodies that issue decisions and sanctions infringing on people's rights. It obligates authorities to provide people with a fair chance to present a defense against any such decision or sanction.

These principles require (at least) that any foreigner subject to a deportation order to Syria be granted sufficient time to **present a defense**, challenge the order, clarify their reasons for entering Lebanon irregularly and reasons for not wanting to return to Syria, and to resort to the judiciary or search for another country to relocate to.

Hence, any deportation order to Syria executed without granting the foreigner the opportunity to challenge it constitutes a flagrant violation of the natural right to defense and of the Lebanese Constitution, which enshrines the right of asylum and the obligation to protect any foreigner who may face persecution in their country.

⁵ See for instance, State Council rulings No. 235 of 17/5/1971 and No. 56 of 13/5/1969

⁶ The preamble of the Lebanese Constitution (Para b) states that Lebanon is bound by the Universal Declaration of Human Rights (UDHR). The Constitutional Council jurisprudence has confirmed that the Preamble is an integral part of the Constitution and that the rights guaranteed by the UDHR have constitutional value. Article 14 of the UDHR states: "(1) **Everyone has the right to seek and to enjoy in other countries asylum from persecution.**"

⁷ Law No. 185 of 24/5/2000 Authorization to the Lebanese government to join the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 3 of this Convention states the following: "**1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.**"

III. Requests:

Based on these observations, the petitioners remind the Lebanese government and its various bodies of the following:

- All the provisions governing Syrians' entry and residence in Lebanon today are illegal per a decision issued by the highest judicial authority, namely the State Council ruling No. 421 of 8 February 2018;
- There is no justification for disregarding the law when it comes to the lives of Syrian nationals and protecting them from forced deportation, in accordance to the State Council ruling No. 241/2018 that found that the legal conditions for exceptional circumstances have not been met in order to potentially justify legal violations and the General Security bypassing its powers.
- Failure to implement the State Council's ruling No. 241/2018 is a flagrant violation of the Constitution and the rule of law. This requires a political and institutional will to confront the erosion of the rule of law before any other matter.
- The summary deportation of any person to Syria without granting them the right of defense and the right to challenge the decision is a flagrant violation of the Constitution and international conventions.

We therefore request from the Lebanese Council of Minister, Supreme Defense Council, Minister of Interior and General Director of the General Security:

1. **Annul** the Supreme Defense 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 summary deportation of Syrian nationals who entered Lebanon through unofficial border crossing;
2. **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;
3. **Assume** the responsibility to instate a general policy governing the asylum in Lebanon of persons from Syria in conformity with the Lebanese Constitution and Lebanon's humanitarian and international obligations.

We also ask all Public Prosecution offices to:

1. **Refrain** from giving orders to security forces leaving the matter of ruling on the deportation of foreigners coming from Syria to the General Directorate of the General Security;
2. **Refrain** from implementing deportation sanctions before referring foreigners from Syria to trial courts and granting them the right to a fair trial.

Petitioning Organizations:

1. The Legal Agenda

Represented by Director Nizar Saghieh
Association registered under No. 2360 of 22/12/2009

2. Frontiers Rights

Represented by Director Samira Trad
Association registered under No. 588 of 28/03/2015

3. Alef

Represented by Director George Ghali
Association registered under No.1855/2013

4. Lebanese Center for Human Rights

Represented by Board President Wadih Al-Asmar
Association registered under No. 218 of 22/02/2008

5. Umam for Documentation and Research

Represented by Lokman Slim
Association registered under No. 34 of 28/02/2005

6. Lebanon Support

Represented by Director Marie-Noëlle AbiYaghi
Association registered under No. 16057 of 24/11/2008

7. Social Media Exchange

Represented by Director Mohamad Najem
Association registered under No. 165 of 03/02/2010

8. Lebanese Labor Watch

Represented by Director Ahmad Al-Dirani
Association registered under No. 365 of 26/2/2011