

Refugees and asylum in the Aegean

The impact of the EU-Turkey statement

26 January 2018

56,311	Arrivals in Greek islands since EU-TR Statement (20 March 2016 to end 2017)
9,286	Arrivals in first half 2017; the lowest in many years
20,432	Arrivals in second half 2017; a sharp rise
1,484	Number of people returned to Turkey (April 2016 to end of 2017)
Zero	Probability for Syrians, Iraqis, Afghans who applied for asylum to be returned to Turkey (20 March 2016 to end 2017)

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Why are conditions so bad on the islands?

There is currently not enough capacity to accommodate more than a few thousand people in decent conditions on the Aegean islands. Since March 2016 far too little has been done to build up this capacity. This has led to permanent tensions and a humanitarian emergency.

Hotspot capacity and UNHCR accommodation, Greek islands, end of 2017¹

Accommodation	Capacity
Lesbos hotspot	1,500
Chios hotspot	1,100
Leros hotspot	1,000
Kos hotspot	1,000
Samos hotspot	850
Hotspots total	5,450
Apartments (UNHCR)	1,208
Buildings (UNHCR)	50
UNHCR total	1,258
Total	6,708

The problem is obvious:

If people stay on the islands on average for 5 months (as they did in 2017) and the average number of people who arrive each month is 2,000 (as it was until August), the capacity required to host people decently is at least 10,000.

If more than 2,000 people arrive in any months (as has been the case since August 2017), even more reception capacity is needed. Its absence means that people are forced to live outside, in tents and makeshift shelters without heating.²

The only way to address this without offering more reception capacity is to keep people on the islands for shorter periods of time.

At the same time there is a pattern: as more people were brought to the mainland, the number of new arrivals increased and the humanitarian problem on the islands worsened.

In August 2017, Greece transferred 2,566 people to the mainland. It was the biggest transfer since the start of the EU-Turkey statement.³ In September, 4,886 people crossed from Turkey. It was the largest monthly arrival since the start of the EU-Turkey statement.

¹ UNHCR, [“Weekly accommodation update”](#), 3 January 2018; European Commission, [“Hotspot state of play”](#), 8 January 2018. In addition, there is the capacity in a reception centre managed by Lesbos municipality (Kara Tepe).

² UNHCR, [“Fact Sheet Aegean Islands September 2017”](#), 9 November 2017; and UNHCR, [“UNHCR calls for accelerated winter preparations on Greek Aegean islands”](#), 6 October 2017.

³ UNHCR, [“UNHCR urges action to ease conditions on Greek islands”](#), 8 September 2017.

Fall (and rise) of arrivals from Turkey

The EU-Turkey statement entered into force on 20 March 2016. It led to a dramatic and immediate fall in arrivals from Turkey to the Greek islands. In the first six months of 2017, the total number of arrivals was 9,286 people, the lowest in any six-month period for years. September and October 2017 saw a sharp rise, with 9,010 people arriving in two months.

Arrivals by sea in Greece from Turkey⁴

Year	Arrivals
2011	1,467
2012	4,370
2013	11,831
2014	44,057
2015	873,179
2016	174,605
2017	29,718

Month	Arrivals	Daily average	Total	
January 2016	67,415	2,174	146,506	
February	57,066	1,967		
March 1-19	22,025	1,159		
March 20-31	4,598	383	26,593	
April	3,650	122		
May	1,721	56		
June	1,554	52		
July	1,920	62		
August	3,447	111		
September	3,080	103		
October	2,970	96		
November	1,991	66		
December	1,662	53		
January 2017	1,393	45		29,718
February	1,089	39		
March	1,526	49		
April	1,156	39		
May	2,110	68		
June	2,012	67		
July	2,249	73		
August	3,584	115		
September	4,886	163		
October	4,134	133		
November	3,215	107		
December	2,364	76		

⁴ Frontex, Annual Risk Analyses, [2014](#), [2017](#); UNHCR, Operational Portal Refugee Situations, [Greece](#), 31 October 2017.

Where are those who arrived?

Between 20 March 2016 and the end of 2017 a total of **56,311 people arrived** on Greek islands. **12,809 were still on the islands** at the end of 2017. The average duration of stay on the islands has been **4-5 months** in 2017.

Of the 56,311 arrivals the vast majority, 43,000, left the islands.

- A small number returned voluntarily via IOM: **1,560** by end August 2017⁵
- A smaller number returned or were returned to Turkey: **1,485** by 2017
- The others were brought or found their own way to the Greek mainland.

*Migrant population on the islands (end 2017)*⁶

Island	Population
Lesvos	6,830
Chios	2,289
Samos	1,922
Kos	868
Leros	720
Rhodes	137
Other	43
Total	12,809

⁵ These are voluntary returns assisted by IOM to countries of origin. The European Commission noted that around 70 beneficiaries per month left the islands between June and December 2016, and around 143/month in 2017. This adds up to 1,560 departures between June 2016 and August 2017. European Commission, [“Annex to the 7th report on the progress made in the implementation of the EU-Turkey statement”](#), 6 September 2017; IOM, [“IOM signs assisted voluntary returns program agreement with Greece”](#), 3 June 2016.

⁶ UNHCR, [“Fact Sheet Aegean Islands December 2017”](#), 9 January 2018.

How many decisions on asylum are being taken?

The Greek Asylum Service was created in 2011 and became operational in 2013. Since 2013 the number of applications and decisions has grown more than tenfold. Every year so far the asylum service has taken more negative than positive decisions.

The 12 appeals panels, the second-instance body, take very few decisions. In 2017, between March and May, they decided on average 47 cases per week. Between June and August this fell to 30 decisions, fewer than 200 per month. On average these appeals panels took 100 decisions a month for cases on the islands.⁷

*Greece: First-instance decisions on merit of asylum application*⁸

<u>Year</u>	<u>Applications</u>	<u>Negative</u>	<u>Positive</u>
2013	4,814	1,756	322
2014	9,431	4,255	1,711
2015	13,195	4,436	3,995
2016	51,092	6,597	2,712
2017	58,661	12,149	10,364

On the islands **5,225 applicants** received a negative first-instance decision (on merit or admissibility) by the end of September:

- **4,160** appealed

Of those, **1,695** received a negative second-instance decision (on merit or admissibility).

- **1,065** did not appeal⁹

*Islands: second-instance decisions by appeals panels (end September 2017)*¹⁰

<u>Decision</u>	<u>Nr.</u>
Negative	1,695
Positive	438

Those who did not appeal and those who received a negative decision are liable to be returned to Turkey: a total of 2,760 people by the end of August 2017.

⁷ European Commission, "[Seventh Report on the Progress made in the implementation of the EU-Turkey Statement](#)", 6 September 2017.

⁸ Greek Asylum Service, [Statistical Data of the Greek Asylum Service](#), December 2017.

⁹ European Commission, "[Seventh Report on the Progress made in the implementation of the EU-Turkey Statement](#)", 6 September 2017.

¹⁰ Ibid.

Who has been returned to Turkey so far?

From April 2016 to the end of 2017, 1,485 migrants were returned to Turkey, the largest number (386) in the first month. The average number of people returned to Turkey in these 21 months was 71 persons a month.

Monthly returns to Turkey¹¹

Month	Returned
April 2016	386
May	55
June	27
July	0
August	16
September	94
October	139
November	31
December	53
January 2017	64
February	34
March	45
April	150
May	87
June	48
July	60
August	19
September	29
October	57
November	75
December	16
Total	1,485

539 of these returnees had received a negative asylum decision.¹² All the others had withdrawn their application or did not applied for asylum in the first place.

Nationalities of those returned from Greece to Turkey (end 2017)¹³

Country	Returned
Pakistan	628
Syria	228
Algeria	173
Bangladesh	93
Afghanistan	87
Morocco	44
Iraq	41
Iran	39
Sri Lanka	17
Others	134

¹¹ European Commission, [“Operational implementation of the EU-Turkey Statement”](#).

¹² UNHCR, [“Returns from Greece to Turkey”](#), 31 December 2017.

¹³ UNHCR, [“Returns from Greece to Turkey”](#), 31 December 2017.

Let's look at the five main countries of arrivals in Greece since the EU-Turkey statement:

Top countries of arrivals (end 2017)¹⁴

Country	Arrivals
Syria	19,024
Iraq	8,349
Afghanistan	6,344
Pakistan	3,656
Iran	1,565

The probability for nationals of the first three countries (Syria, Iraq, Afghanistan) to return to Turkey has been below 2 percent. If one looks only at those who actually applied for asylum it is close to zero.

Probability of being returned to Turkey

Country	Arrivals	Returns	Percent
Syria	19,024	228	1.2
Iraq	8,349	41	0.5
Afghanistan	6,344	87	1.4
Pakistan	3,656	628	17.2
Iran	1,565	39	2.5

¹⁴ UNHCR, Operational Portal Refugee Situations, [Greece](#).

Deadly sea

The EU-Turkey statement has sharply reduced the number of deaths on the Eastern Mediterranean. In the two and a half months preceding the agreement, 362 people drowned. In the 21 months following the agreement, 133 people died.

Deaths in the Aegean in 2016-17¹⁵

Month	Deaths	
January 2016	275	
February	46	362
March 1-19	41	
March 20-31 2016	4	
April	10	
May	0	
June	0	
July	7	
August	3	72
September	27	
October	2	
November	14	
December	5	
January 2017	1	
February	1	
March	11	
April	24	
May	0	
June	0	
July	8	62
August	0	
September	1	
October	0	
November	15	
December	1	

¹⁵ IOM/Missing Migrants Project, [Mediterranean](#).

The end of Relocation

In two years, 21,000 people were relocated from Greece to other European Union member states and Schengen countries. The official relocation programme came to an end in September 2017. Some countries – such as Germany – have continued to voluntarily relocate people from Greece after that.

Asylum seekers relocated from Greece by end of 2017¹⁶

Receiving state	Relocated
Germany	5,371
France	4,394
Netherlands	1,754
Sweden	1,656
Finland	1,202
Portugal	1,192
Spain	1,124
Ireland	755
Belgium	700
Norway	693
Romania	683
Switzerland	580
Lithuania	355
Luxembourg	300
Latvia	294
Slovenia	172
Estonia	141
Malta	101
Cyprus	96
Croatia	60
Bulgaria	50
Slovakia	16
Czech Republic	12
Liechtenstein	10
Total	21,711

¹⁶ European Commission, [“Member states’ support to Emergency Relocation Mechanism”](#), as of 22 December 2017.

The irrelevance of Dublin

Under the Dublin system Greece should take charge of almost all asylum seekers that enter its territory. Those who continued on to other EU countries should be returned to Greece.

In fact, due to insufficient reception conditions in Greece most member states suspended Dublin transfers to Greece between 2011 and 2016.¹⁷

In December 2016, the European Commission recommended to all member states to restart transfers of asylum seekers to Greece in March 2017.¹⁸

The first requests were made in August 2017. By the end of October 2017, no one had been transferred to Greece. Since early 2013 a total of 27 people had been transferred to Greece.

Dublin requests and actual transfers to Greece, 2013-17¹⁹

Year	Incoming requests	Accepted	Transfers
2013	9	4	0
2014	50	18	2
2015	139	67	15
2016	6,003	60	11
2017 (-Oct)	1,393	76	0

¹⁷ European Court of Human Rights, "[Dublin cases](#)".

¹⁸ [Commission Recommendation \(EU\) 2016/2256 of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation \(EU\) No 604/2013](#). The Dublin III Regulation (604/2013) is available [here](#).

¹⁹ Greek Asylum Service, "[Dublin Fact Sheet](#)", 7 October 2017.

Towards a humane and effective policy in the Aegean

The challenge for Greek and EU policy makers is clear: to ensure humane reception conditions in line with EU standards for every asylum seeker and migrant who arrives on the islands. If the average time people spend on the islands were 2 months only, and arrivals were below 3,000 a month, the accommodation capacity needed on all islands would be 6,000.

The other challenge for Greek and EU policy is to be able to discourage people from getting into boats in the Aegean. But for this to happen preconditions need to be met, concerning both returns to Turkey and resettlement from Turkey.

On 22 September 2017 the Greek Council of State, the highest administrative court in the country, upheld the rejection of an asylum application of a Syrian national as inadmissible on the basis that Turkey was a “safe third country” in this case. The appeals committee had taken into consideration a series of letters from the Turkish government, the European Commission and UNHCR. One dissenting judge criticised this, arguing that these sources were not enough to substantiate that Turkey is safe, pointing out that what matters is not merely the legislation of a country but whether and how it is implemented in practice.

It is certain that the matter of Greek asylum decisions will end up in Strasbourg before the European Court of Human Rights (ECtHR). It is highly likely – given previous judgements – that the ECtHR will agree that there is a need for assurances and individual guarantees going beyond letters and diplomatic assurances. This is how the court has ruled in previous cases involving other European countries.

A 2014 judgment concerning the transfer of an Afghan family from Switzerland to Italy under the Dublin system highlights the standards that need to be met. The Afghan family claimed that, if they were returned to Italy, they would be exposed to inhuman and degrading treatment, which is banned under Article 3 of the European Convention on Human Rights, since they would be left without any accommodation or be accommodated in inhuman and degrading conditions.²⁰

The family criticised that Switzerland had not obtained any individual guarantees as to how they would be taken care of. The court agreed. The judgment in the case (*Tarakhel v. Switzerland*) noted:

“It is ... incumbent on the Swiss authorities to obtain assurances from their Italian counterparts that on their arrival in Italy the applicants will be received in facilities and in conditions adapted to the age of the children, and that the family will be kept together ... **in the absence of detailed and reliable information** concerning the specific facility, the physical reception conditions and the preservation of the family unit, the Court considers that the **Swiss authorities do not possess sufficient assurances** that, if returned to Italy, the applicants would be taken charge of in a manner adapted to the age of the children ... It follows that, were the applicants to be returned to Italy without the Swiss authorities having first obtained [such] individual guarantees ... there would be a violation of Article 3 of the Convention.”²¹

In December 2016 the European Commission proposed how to meet these standards in the case of the resumption of Dublin returns to Greece. Its recommendation spelled out how Greece

²⁰ [European Convention on Human Rights](#).

²¹ European Court of Human Rights, Grand Chamber, “[Judgment in the case Tarakhel v. Switzerland](#)” (application no. 29217/12), 4 November 2014.

needed to enhance its asylum and reception system and stressed that (in line with the case law of the ECtHR) Greece would have to give *individual assurances* for each applicant to be transferred to Greece:

“Before transferring an applicant to Greece, Member State authorities are invited to cooperate closely with the Greek authorities in order to ensure that the conditions indicated in point 9 are met and **in particular that the applicant will be received in a reception facility meeting the standards set out in EU law, in particular in the Reception Conditions Directive 2013/33/EU, that his or her application will be examined within the deadlines specified in the Asylum Procedures Directive 2013/32/EU**, and that he or she will be treated in line with EU legislation in every other relevant respect. The Greek authorities are invited to fully cooperate in providing such assurances to the other Member States.”²²

The Commission also proposed a monitoring system:

“EASO should establish a team of Member States’ experts to be deployed in Greece with the task of supporting the cooperation between Member States and reporting on whether the persons transferred back to Greece under the Dublin Regulation are treated in accordance with the assurances to be provided by Greece referred to in point 10.”²³

The EU Returns Directive and the Frontex Code of Conduct for Joint Return Operations also oblige Member States to set up a system for monitoring forced returns.²⁴ The monitoring bodies or institutions should be independent from the authorities enforcing return. In Greece, the responsible monitoring body is the ombudsperson.

In short, for Greece to be able to return asylum seekers and irregular migrants to Turkey on the assumption that they are safe there as defined by the jurisprudence of the ECtHR. Turkey would need to provide assurances for each individual case and allow for a mechanism to verify how domestic asylum laws and other relevant legal obligations are applied in practice. To implement the EU-Turkey statement, Greece, Turkey and the EU need to set up a mechanism to monitor returns. This could either involve the ombudspersons of both countries or require creating an “Ombudsperson for the EU-Turkey Statement.”

It is imperative that humane reception conditions are created immediately for all asylum applicants on the Greek islands. The reality of thousands of asylum seekers spending the winter in tents and without adequate services is shameful. This is a European, not just a Greek, responsibility. It raises the spectre of the Greek islands turning into a European Nauru.

The Greek government and all the main parties in the Greek parliament have ruled out simply moving everyone from the islands to the mainland. They fear that this would simply lead to rising numbers of arrivals in the Aegean and an even deeper humanitarian crisis, both on the islands and on the mainland. What is needed urgently is a policy that is respectful of the requirements of both EU law and European and international human rights standards. It needs to address the concerns of the people of Lesbos, Chios and the other islands with reassurances

²² EUR-Lex, [Commission Recommendation \(EU\) 2016/2256 of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation \(EU\) No 604/2013 of the European Parliament and of the Council](#), 8 December 2017.

²³ EUR-Lex, [Commission Recommendation \(EU\) 2016/2256 of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation \(EU\) No 604/2013 of the European Parliament and of the Council](#), 8 December 2017.

²⁴ [Returns Directive](#) (Directive 2008/115/EC of 16 December 2008), Article 8, paragraph 6; Frontex, [Code of Conduct for joint return operations coordinated by Frontex](#), December 2013, Articles 13 and 14.

that nobody who arrives on the islands from now on should remain there for more than two months.

The Greek government needs to spell out to its European partners what it requires in terms of concrete support to immediately improve reception conditions and the operations of its asylum system. EU member states could in turn support Greece by continuing the relocation of recognised refugees from the Greek mainland, suspending Dublin returns to Greece, and discussing the issue of a credible monitoring mechanism with Turkey.

The EU-Turkey statement is either implemented in a manner respectful of human rights or it will fail. Ensuring that it does not should be a matter for the highest priority for both the Greek government and its European partners.