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POLICY BRIEF

Human Rights Violations by Design: EU-Turkey Statement Prioritises Returns from Greece Over Access to Asylum¹

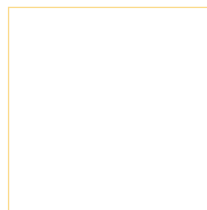
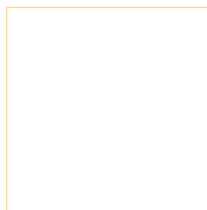
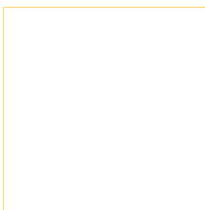
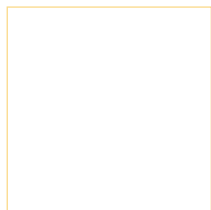
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Lesbos, October 2016, Photo: Saima Hassan

The EU-Turkey-Statement proposes to reduce arrival rates and deaths in the sea by subjecting individuals who arrive on Greek islands after 20 March 2016 to fast-track asylum procedures and, in the case of negative decisions, to returns to Turkey. In exchange, EU member states have agreed to take one Syrian refugee from Turkey for every Syrian readmitted from Greece to Turkey. The Statement builds on the deterrent effect of returns and turns high return rates into an

1. This Policy Brief was researched and written in the context of a research project initiated by Ilse van Liempt at the University of Utrecht and financed by the Netherlands Organization for Scientific Research (NWO). We thank project members Annelies Zoomers, Orcun Ulusoy, Harald Glöde and Saima Hassan, as well as Thomas Spijkerboer, Kleio Nikolopoulou, Valeria Hänsel, Lorraine Leete and the anonymous reviewer for their input and critical reflections. Last, but not least, we would like to thank our interview respondents. If you have any comments about this policy brief, please get in touch with the team of authors under m.j.alpes@gmail.com.



indicator for a successful border policy. This policy brief examines the impact of the Statement's focus on returns for people seeking asylum in Greece. The analysis draws on interviews with asylum seekers and practitioners, phone interviews with people who were returned from the Greek islands following the EU-Turkey Statement, as well as on participant observations at refugee camps and inter-agency meetings on Lesbos and Chios in July and August 2017.²

While people who arrive on the Greek islands have the right to apply for asylum, the Statement's focus on returns has led to a series of human rights violations there. First, the EU-Turkey Statement encourages discrimination and detention on grounds of nationality. As a result, access chances for individuals from nationality groups with low recognition rates are deteriorating. Second, delays in asylum procedures and poor living conditions in hotspots have resulted in asylum seekers and *prima facie* refugees losing hope and concluding that access to asylum in Europe may no longer be possible for them. With no other alternatives at hand, some have felt obliged to accept returns to either Turkey or to their countries of origin. Third, there are important barriers to comprehensive and effective human rights monitoring for people in pre-removal proceedings after negative asylum decisions. As a result, the Greek authorities and the UN are not always in a position to guarantee that the returns from the Greek islands do not violate people's right to access asylum.

The Statement Prioritises Returns from Greece

Only 1,360 people were returned from Greece to Turkey up until October 2017.³ But the Statement's focus on returns has changed the organizational logic of asylum applications for all 37,000 people who arrived on the Greek islands since April 2016⁴.

2. The policy brief draws on observations at refugee camps (Moria, Vial, Souda, Pikpa), 11 interviews with asylum seekers on Greek islands (Lesbos and Chios) and 20 phone interviews concerning 37 returned individuals. The researchers also observed inter-agency and coordination meetings (4) and interviewed lawyers (3 Turkish, 5 Greek), practitioners working at international NGOs (4), representatives of UN and EU institutions (9) and civil servants working with the Greek police and local municipalities on Chios and Lesbos (4).

3. UNHCR, 06/10/17, Returns from Greece to Turkey, retrieved from: <https://data2.unhcr.org/en/documents/download/60306>

4. Amnesty International, 14 July 2017, Greece: Lives on Hold. Update on Situation of Refugees and Migrants on the Greek Islands, Public Statement. AI Index: EUR 25/6745/2017, retrieved from <https://www.amnesty.org/en/documents/eur25/6745/2017/en/>

Before the EU-Turkey Statement asylum seekers were free to travel to the mainland to lodge their asylum claims there. Now, people are obliged to apply for asylum in separate 'border procedures' in so-called hotspots. People are only allowed to travel to the mainland to access standard asylum procedures if they are recognised as being vulnerable. Reception conditions and access to legal assistance is slightly less poor on the Greek mainland. As a result, people's access to protection has become partially dependent on being classified as 'vulnerable'.⁵

The European Asylum Support Office (EASO) and the Greek Asylum Service (GAS) do not manage their asylum caseload predominantly on grounds of the date when people apply. Instead, EASO and GAS apply different procedures to an individual asylum application according to his or her country of nationality. They further differentiate nationality groups according to asylum recognition rates below 25%, above 25% or above 75%. When and how an individual assessment takes place depends on these categorisations.

Syrians and individuals from nationality groups with recognition rates above 75% are generally subject to admissibility procedures based on the safe-third-country concept. In such an admissibility assessment, authorities do not examine whether asylum can be granted, but whether an application will be accepted. By subjecting these asylum applicants to potential referrals to third countries, GAS and EASO postpone the examination of whether an asylum applicant is eligible for protection. As a result, even *prima facie* refugees, such as Syrians, are kept in a limbo not knowing whether they will receive protection in Greece or be deported to Turkey.⁶ When GAS decides that an asylum application is inadmissible, this shifts protection responsibilities to Turkey. Because the question of whether or not Turkey can be considered a safe third country is highly controversial,⁷ no individual has so far been deported to Turkey after

5. The Greek Asylum Service currently fails to document the different access chances to protection status in, respectively, border procedures and standard procedures on the Greek mainland.

6. By 'prima facie refugees', this Policy Brief refers to asylum seekers with an extremely high recognition rate.

7. Amnesty International, 2017, Greece: Court decisions pave way for first forcible returns of asylum-seekers under EU-Turkey statement, retrieved: <https://www.amnesty.org/en/latest/news/2017/09/greece-court-decisions-pave-way-for-first-forcible-returns-of-asylum-seekers-under-eu-turkey-deal/>



an inadmissibility decision. All 1,360 individuals who were returned from Greece to Turkey from April 2016 to October 2017 were returned on grounds other than inadmissibility.⁸

Applications from individuals from nationality groups with lower recognition rates are generally directly subjected to eligibility procedures.⁹ In other words, the Greek authorities examine substantive claims for asylum only when the success chances are low. When chances for positive asylum decisions are high, the Greek authorities examine whether asylum seekers can be returned to Turkey to file their application there instead. This type of asylum case management prioritizes rejections and returns over the granting of refuge. The Greek authorities prioritize in particular the fast tracking of applications of individuals from nationality groups with asylum recognition rates below 25%.

Interviewed policy makers attribute low return rates and delays in asylum procedures to lengthy and numerous appeals. In a move to increase return rates, the Greek Ministry of Migration Policy, in March 2017, decided to limit the time to appeal first instance negative asylum decisions on Greek islands to five days. They also decided to exclude those who go into the second instance from future applications for IOM return programmes.¹⁰ Even though appeals are crucial for refugee status determination, the new eligibility criteria for IOM return programmes discourages asylum seekers from using all available means to gain access to protection. As a result of the implementation of the EU-Turkey Statement, procedural safeguards are being represented as bureaucratic hurdles that get in the way of efficient returns. Point 10 of the Joint Action Plan on the Implementation of the EU-Turkey Statement, for example, recommends that “Greek authorities [...] explore the possibility to

8. As will be explained later in this brief, so far 216 Syrians felt obliged to accept a return to Turkey and 1,144 non-Syrians have been returned because they had been registered as either having “no will to apply for asylum”, because they withdrew their will to apply or their application, because their case was closed for other reasons or because their asylum application was rejected on eligibility grounds.

9. Procedures have varied greatly over time and between different islands. Authorities also carry out so-called merged procedures in which admissibility and eligibility assessments are carried out at the same time.

10. The official rationale for the change of eligibility criteria is to prevent the so-called “abuse” of the asylum system.

limit the number of appeal steps in the context of the asylum process [...]”. The responsibility for lengthy appeal procedures, however, rests with the Greek government and not with asylum seekers who quite naturally appeal in their quest for protection.

Discrimination on Grounds of Nationality Lowers Asylum Recognition Rates

The statement’s drive for returns encourages discrimination on grounds of nationality for asylum seekers in Greece. In a quest to increase return rates, the Greek police on Lesbos has proceeded to systematically detain individuals from nationality groups with low asylum recognition rates immediately upon arrival in pre-removal centres.¹¹ This police practice is supposed to prevent the spontaneous movement of asylum seekers from the Greek islands to the Greek mainland and, from there, onwards to other EU member states. It violates, however, the right to individualized assessment prior to detention and systematizes the differential treatment of individuals based on their nationality.

Discrimination on grounds of nationality can lower asylum recognition rates in several ways. First, discrimination based on nationality reinforces presumptions about the outcome of asylum applications of individuals. An 18 June 2016 police circular describing the detention policy, for example, termed people from “low rate of recognition” nationalities as applicants with an “economic”, rather than “refugee profile.”¹² Second, discriminatory practices create practical barriers to asylum for concerned individuals. Access to legal aid and legal information is harder for asylum seekers who are in detention.¹³

11. From December 2016 to May 2017, the police targeted individuals amongst others from Pakistan, Bangladesh, Algeria, Tunisia, Morocco and Egypt. The police resumed and this practice on a greater scale in August 2017. <http://www.legalcentresbos.org/2017/09/30/september-report-on-rights-violations-and-resistance-in-lesvos/>

12. <http://www.legalcentresbos.org/2017/09/30/september-report-on-rights-violations-and-resistance-in-lesvos/>.

13. Interview material from this study documents that people subject to this police practice did not receive detention decisions, thus violating Art. 5 ECHR. This finding is in line with a call by the EU’s Fundamental Rights Agency for improvement in individual assessments prior to people’s detention and for people’s access to information in pre-removal detention. Fundamental Rights Agency, November 2016,



Lesbos, August 2016, Photo: Saima Hassan

A Pakistani man who was detained for two months, in late 2016, shared the following experience: “When we were inside, we never thought we had any rights. We had no information. Other detainees told me this jacket does this and that jacket does that.”¹⁴

While detained asylum seekers theoretically have a right to ask for a lawyer, they mostly are unable to communicate with police officers that serve as guards in the pre-removal centres. The Greek police does not have its own translators and only commanders in the higher ranks speak English. IOM psychologists and social workers can enter the pre-removal centre, but are not trained or

Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy, p. 47-48.

14. Staff from different NGOs and international organizations wear different jackets to identify their professional affiliations.

mandated with the provision of legal information or aid.¹⁵ UNHCR can speak to detainees through a fence when these are in the yard and not locked into their cells.¹⁶ Beyond this, UNHCR and lawyers need to make separate access requests with the police to be able to speak to individual asylum seekers in detention.

As legal information and legal aid is crucial for access to asylum, the systematic detention of individuals from targeted nationality groups risks further lowering their asylum recognition rates, thus becoming a self-fulfilling prophecy. The deterrent effect of detention for other aspiring migrants is not certain. In an interview, a Pakistani man who had been detained immediately upon arrival shared how he had advised relatives, after his release, to invest in a different smuggling route. While the Pakistani man had, in 2016, paid 4,000\$ to reach the Greek islands, the son of his relative in 2017 gave 7,000\$ to a smuggler to be brought straight to France.

15. While IOM psychologists can refer detainees to legal aid actors if detainees make explicit requests, they do not generally have sufficient time or knowledge about procedural safeguards in the context of pre-removal detention to be able to pick up on potential human right violations on their own initiative.

16. Detainees are allowed to be at the yard only some hours per day and not all of them at the same time. Whether detained asylum seekers are able to reach out to UNHCR on their own initiative depends on whether they have access to the yard and the fence at the time of UNHCR’s visit.

The Hotspot Approach Forces Returns on Asylum Seekers



Chios, August 2017, Photo: Maybritt Jill Alpes

Research data from this study reveals that asylum seekers on the Greek islands felt forced to accept returns because conditions in the hotspots put the safety and health of their families at risk. Due to the geographical restriction of the EU-Turkey Statement, asylum seekers on the Greek islands are not allowed to go to the Greek mainland while their asylum application is handled and this can last for months or for years. As a result Greek hotspots are overcrowded. While Greek hotspots can officially accommodate 6,835 persons, the number of asylum seekers held there was almost double that in September 2017.¹⁷ Interviewed asylum seekers experienced hotspots as being humiliating. Women mentioned that they did not feel safe to go to the toilet alone at night. The sub-standard living conditions in hotspots can reinforce and worsen existing trauma of those who have fled wars and who have put their lives at risk during journeys across the Aegean Sea.¹⁸

17. European Commission, 2017, Seventh Report on the Progress made in the implementation of the EU-Turkey Statement, p. 7, retrieved from: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20170906_seventh_report_on_the_progress_in_the_implementation_of_the_eu-turkey_statement_en.pdf

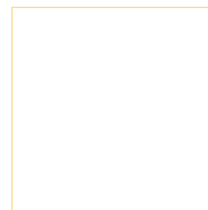
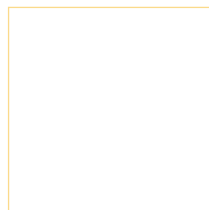
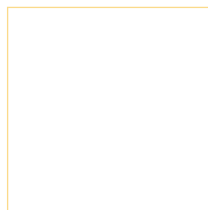
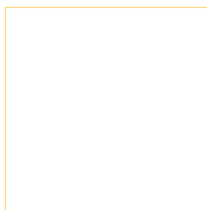
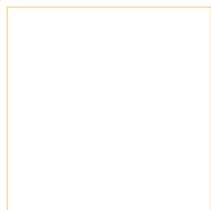
18. On Lesbos, Médecins Sans Frontières (MSF) psychologists carried out 767 mental health consultations and observed a marked deterioration in people's mental health status immediately after the implementation of the EU-Turkey Statement. In particular, MSF psychologists saw a 2.5 fold increase in the percentage of patients with symptoms of anxiety and depression, and a threefold increase in the percentage of

The trauma and stress of living in overcrowded hotspots have notably pushed 216 Syrians to accept returns to Turkey. A 32-year old Syrian man who accepted to return from Chios to Turkey with his pregnant wife in May 2016 explained: "Tents were being burnt and there were fights every day. It was not safe at all. People from rightwing parties came and started throwing explosives on us. We never felt safe in this camp." "I didn't have any lawyer. No one was giving us any information. All the volunteers, organizations and even UNHCR were telling us that there was a high chance of being sent back to Turkey." "We never got an interview date. We lost hope and decided to go back to Turkey." Looking back, he adds: "I would not recommend anyone to return [to Turkey]. It was a very big mistake."¹⁹

For asylum seekers blocked on the Greek islands, the situation in hotspots continues to be alarming in 2017 and also drives non-Syrians with strong protection claims to give in to the pressure to return. In February 2017, for example, Bilisumma (pseudonym) decided to opt for the IOM's return programme to Ethiopia: "I've decided to go back to Ethiopia. I know I could be put in prison and be tortured, but I'm in a prison here and people are dying in this prison, too." Referring to Greek hotspots as prisons, Billisumma refers to suicides that occurred in Moria and Vial after the EU-Turkey Statement.²⁰ Six hours after he patients with post-traumatic stress disorder over the year. Médecins Sans Frontières, 2017, "One year on from the EU-Turkey statement", retrieved from: <http://www.msf.org/en/article/one-year-after-eu-turkey-deal-migrants-and-asylum-seekers-are-paying-price-their-health>

19. After ten months of living in a closed detention camp in Turkey, the young Syrian man returned to Syria together with his newly pregnant wife and baby in February 2017. At the time of the phone interview in August 2017, he was hiding from Al-Nusra and Al-Qaeda. See also, Alpes, M. J., Tunaboyle, S., and Ulusoy, O., (2017), "Post-deportation under the EU-Turkey Statement: What happens after readmission to Turkey?", EUI Policy Brief.

20. The Fundamental Rights Agency lists two deaths, three rapes, and four suicide attempts between April and November 2016. Fundamental Rights Agency, November 2016, "Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy", p. 40. Newspaper articles document at least five deaths before and during the winter of 2016: <http://www.bbc.com/news/world-europe-38804002>, <https://www.reuters.com/article/us-europe-migrants-greece/third-migrant-dies-in-a-week-in-harsh-greek-camp-conditions-idUSKBN15E1GW>, <http://greece.greekreporter.com/2017/02/01/housing-units-replace-tents-in-moria-after-series-of-deaths/>, <http://www.aljazeera.com/news/2017/01/concern-spate-deaths-greek-refugee-camps-170130180746859.html>. NGOs and journalists



arrived in Ethiopia, Bilisumma was arrested while being reunited with his mother and family in Addis Ababa. He was taken to an Intelligence Agency site where he was beaten, insulted, and denied food.²¹

The IOM states that its returns must be voluntary and that this is a precondition for its activities.²² Nonetheless, addition, individuals on the Greek islands who sign up for IOM returns to countries of origin are detained in closed facilities immediately after their decision. They are handcuffed during transfers to the mainland and they are kept in pre-removal detention centres for a few weeks or months until their travel documents are processed. The Greek police justifies the use of such constraints by pointing to the risk of absconding and possible secondary movements. The empirical basis for this argument is inconclusive. IOM staff has so far accepted the constraints of the Greek police on the participants of its return programmes. The IOM in Greece also asks returnees to sign a form discharging the IOM and any other participating agency or government from liability or responsibility in the event of personal injury or death during and/or after return.²³

also reported on a series of later suicide attempts and other deaths in 2017: <https://www.hrw.org/news/2017/02/03/death-and-despair-lesbos>, <https://www.thenationalherald.com/156620/syrian-refugee-self-immolates-delays-asylum-request/>; <http://infomobile.w2eu.net/2017/01/29/death-in-greek-camps/>.

21. Bilisumma was an active leader in the Oromo community and had been arrested and tortured by authorities prior to fleeing Ethiopia in 2016. Without a guarantee of when his application for refugee status would be processed, Billisumma applied and was accepted to a university in the United States. Because he was prohibited from leaving the island of Lesbos, he was unable to access the U.S. consulate to secure a visa. Bilisumma made the difficult decision to return to Ethiopia through the IOM in view of getting a visa for the U.S. from there. Lesbos Legal Center, 2017, Refugee voluntarily returned from Greece severely tortured upon arrival in Ethiopia, retrieved on 20/10/17 from: <http://www.legalcentresbos.org/2017/06/16/refugee-voluntarily-returned-from-greece-severely-tortured-upon-arrival-in-ethiopia/>

22. IOM, Assisted Voluntary Return and Reintegration, retrieved from: <https://www.iom.int/assisted-voluntary-return-and-reintegration>

23. Excerpt from IOM Voluntary Return Declaration and Authorization for Collection of Personal Data (2017): “I hereby, for myself, as well as for my dependents, heirs and estate, release, discharge and agree to hold harmless IOM from any liability or damage caused, directly or indirectly, to me, my child or my family in connection with this authorization. I agree for myself, as well as for my dependents, heirs and estate, that in the event of personal injury or death during and /or after my participation in the IOM project, neither IOM, nor

Insufficient Human Rights Monitoring Puts Refugees at Risk of Deportation

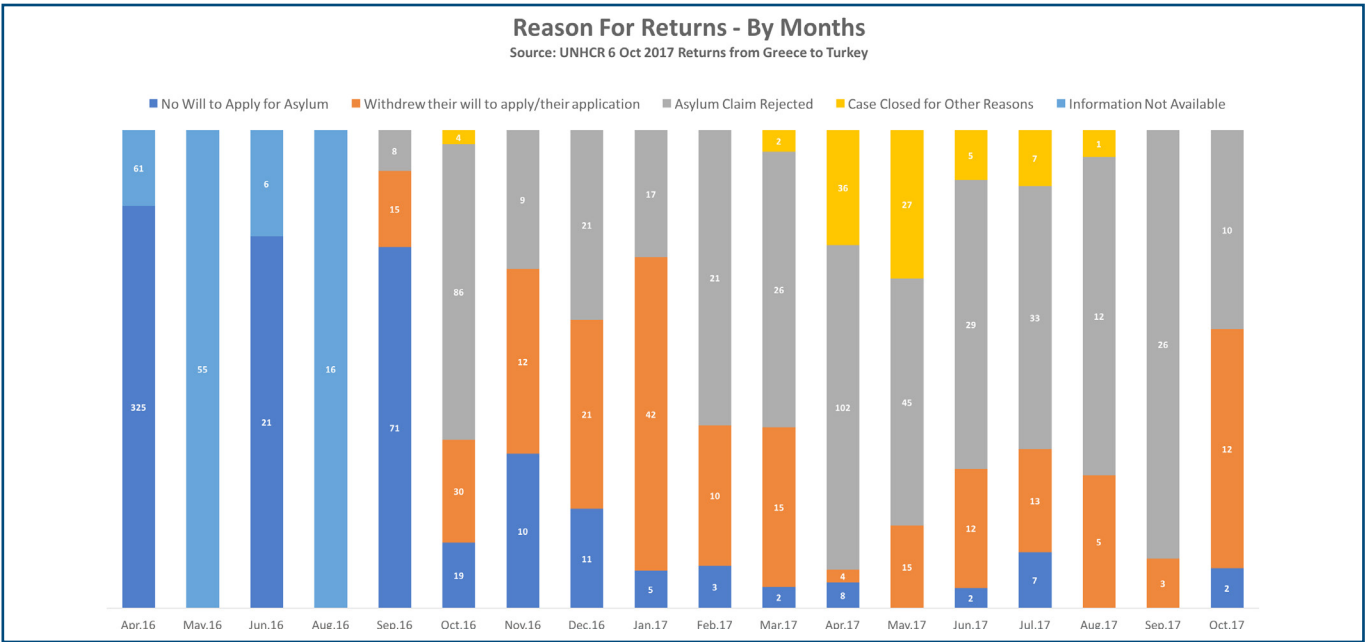
Existing monitoring efforts do not sufficiently guarantee that people with protection needs or vulnerabilities will not be deported to Turkey. The Greek Ombudsman has monitored a sample of return operations, but also gives to understand that they did not have “full and timely information about all stages of the returns / readmissions procedure, in order to be able to form a comprehensive picture [...]” for the investigation of specific incidents.²⁴ UNHCR on the Greek islands tries to access individuals prior to return operations, but its capacity to do so depends on the Greek police and whether they wish to share relevant information about people in pre-removal proceedings in a timely manner. The police notable does not inform UNHCR about the names of the persons included in a particular return operation, nor about their legal and asylum situation.²⁵ The scope for human-rights monitoring is further constrained as people in pre-removal proceedings can be detained at local police posts or in pre-removal centres, both of which are handled by different administrative bodies. People’s police files are kept on the island where they first arrived, not on the island from which they are deported. And finally, lawyers who want to intervene at the third instance need to raise funds for punitively high administrative fees (roughly 800 Euro per file).

Human rights monitoring prior to deportations and returns is necessary for several reasons. First, despite considerable efforts by the authorities, people still lack

any other participating agency or government in any way be held liable or responsible.”

24. Greek Ombudsman, April 2017, Migration Flows and Refugee Protection: Administrative challenges and human rights issues, p. 39. Retrieved from: https://www.synigoras.gr/resources/docs/greek_ombudsman_migrants_refugees_2017_en.pdf. In an October 2017 report, the Greek Ombudsman flags funding issues for its external monitoring work, as well as concerns about the internalization of monitoring responsibilities with the conversion of FRONTEX into a European Border and Coast Guard Agency. Greek Ombudsman, (September 2017), Return of Third Country Nationals, retrieved from <https://www.synigoras.gr/?i=human-rights.en.recentinterventions.457395>.

25. Although UNHCR can see the detainees list and is aware of who is subject to removal, the police does not inform UNHCR about who is going to be readmitted each time. If for example 50 people are subject to return, UNHCR will know that ten will be returned on a specific date, but not who specifically is going to be returned on that date.



legal information and legal aid and thus struggle to have their asylum application heard.²⁶ For all return operations, an average of 36% of all individuals were registered as not having wanted to apply for asylum (see graph, Reasons for Return, April 2016- October 2017). On the first five return operations the share of people registered as not wanting to apply for asylum was even higher, raising questions about the validity of this registration (see graph, Reasons for Return – by Months). 17 out of 37 individuals in this study’s sample, for example, were reportedly not given a chance to apply for asylum prior to their return.²⁷

A 19-year old Bengalese man deported on 21 May 2016 said: “We tried many times to ask for asylum. We said that we have political issues back at home. But we didn’t get any response from them.” Three other interviewed returnees testified that they had been deported because officials in Greece had taken and not returned their asylum

26. A lack of legal information and legal aid means, for example, that people fail to realize their right to re-open closed asylum applications (see graph, reasons for return) or to opt for the IOM’s return programme to countries of origin instead of a deportation to Turkey.

27. All cases concern returns that were part of the first five return operations from April 2016 to September 2016. In its September 2017 report, the Greek Ombudsman flags that people are being returned with incomplete case files, which is an indicator for the potential disregard for the right to have one’s asylum request heard. Greek Ombudsman, (September 2017), Return of Third Country Nationals, p. 14, retrieved from <https://www.synigoros.gr/?i=human-rights.en.recentinterventions.457395>.

registration cards. UNHCR, Amnesty International, Human Rights Watch and the Greek Council for Refugees documented similar cases.²⁸

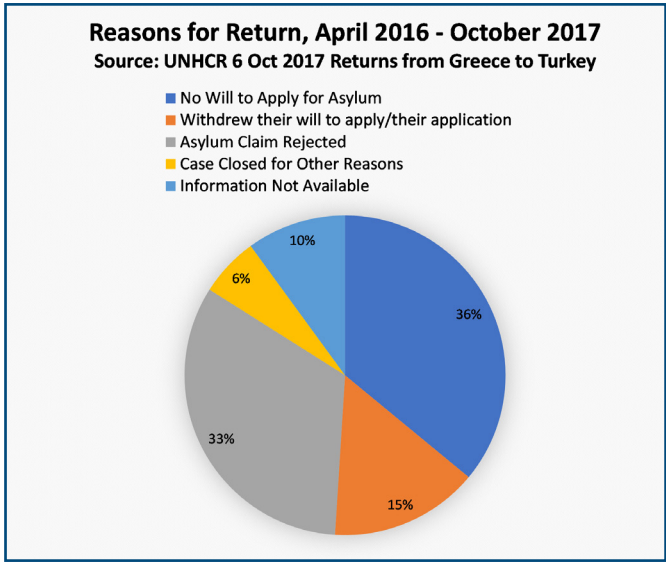
Second, it is almost impossible for people to get protection after deportation to Turkey. Between April 2016 and September 2017, only 57 out of 1,144 (non Syrian) deportees succeeded in filing an asylum application from within Turkish detention centres.²⁹ At the same time, only 33% of all deportees had been able to complete their asylum application in Greece prior to their deportation to Turkey. Hence, most people who were deported

28. Human Rights Watch, 19/04/2016, First Turkey deportations riddled with abuse, retrieved from: <https://www.hrw.org/news/2016/04/19/eu/greece-first-turkey-deportations-riddled-abuse>. Greek Council for Refugees, 2016, the Implementation of the EU- Turkey agreement violates fundamental rights, retrieved from: <http://www.gcr.gr/index.php/en/news/press-releases-announcements/item/557-deltio-typou-efarmogi-symfonias-ee-tourkias-kata-paravasi-themeliodon-dikaio-maton>. UNHCR, 21 October 2016, Concern over the return of 10 Syrian asylum-seekers from Greece, retrieved from: <http://www.unhcr.org/news/briefing/2016/10/5809e78d4/unhcr-concern-illegal-return-10-syrian-nationals-greece.html>. Amnesty International, 28 October 2016, Greece: Evidence points to illegal forced returns of Syrian refugees to Turkey, retrieved from: <https://www.amnesty.org/en/latest/news/2016/10/greece-evidence-points-to-illegal-forced-returns-of-syrian-refugees-to-turkey/>

29. European Commission, Seventh Report on the Progress made in the implementation of the EU-Turkey Statement, p. 5-6 retrieved from: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170906_seventh_report_on_the_progress_in_the_implementation_of_the_eu-turkey_statement_en.pdf



to Turkey were not in possession of a negative asylum decision, but they were nonetheless unable to apply for asylum in Turkey. Syrians who return to Turkey can access temporary protection; but this legal status can be revoked at any time and does not, in practice, give them access to a work permit.³⁰



Third, medical conditions and vulnerabilities that develop over time in hotspots are not reassessed prior to return operations. With asylum procedures delayed and living conditions in hotspots being poor, people can become depressed, suicidal or physically sick during their stay and thus should be exempted from returns.³¹ In our study, we came across the case of a man who due to a lack of vulnerability screening almost got deported and thus separated from his unborn child and partner whom he had met on Lesbos. Due to a lack of effective human rights monitoring, another removal was only prevented by volunteers who were acquainted with and coincidentally nearby when an asylum seeker who was

30. For more details on what happens with Syrians and non-Syrians who are readmitted from Greece to Turkey, see also Alpes, M. J., Tunaboylu, S., and Ulusoy, O., (2017), “Post-deportation risks under the EU-Turkey Statement: What happens after readmission to Turkey”, EUI Policy Brief; and Ulusoy, O., & Battjes, H. (2017). Situation of Readmitted Migrants and Refugees from Greece to Turkey under the EU-Turkey Statement. (Migration Law Series), p. 23-24, retrieved from https://rechten.vu.nl/en/Images/UlusoyBattjes_Migration_Law_Series_No_15_tcm248-861076.pdf.

31. Vulnerabilities are not always visible and hence require assessments by medical and psychological staff. MSF, 2017, Confronting the mental health emergency in Samos and Lesbos, p. 12 retrieved from: http://www.msf.org/sites/msf.org/files/2017_10_mental_health_greece_report_final_low.pdf

not appeal rights exhausted was being escorted to return to Turkey.

Human Rights Violations by Design

Human rights violations under the EU-Turkey Statement result from its design, not only bad and partial implementation. Defining returns as a political priority creates barriers to asylum, undermines human rights principles and forces asylum seekers to accept returns for a lack of viable alternatives. Even though policy makers are under a lot of pressure to make the EU-Turkey Statement appear as a success, the Statement does not work in practice. A sustainable EU approach to migration management would, instead, need to move from shifting responsibilities through returns to third countries, towards fairly sharing protection responsibilities both within the EU and globally. Sharing protection responsibilities according to economy and population size is both necessary and feasible.³² Despite its economically privileged position in the world, EU member states currently host very few of the world’s 0.3% world population who are refugees.³³

In the absence of political will to fundamentally shift the narrative on protection responsibilities, the Greek government should stop the systematic detention of individuals from certain nationality groups upon arrival and ensure that migration related detention is in all cases based on an individual assessment of proportionality and necessity. It should also reverse the recent policy limiting a person’s eligibility for IOM return programmes in the case of appeals. The IOM should guarantee that participants in its voluntary return programmes will not be subjected to constraints, such as detention and handcuffs.

Rather than investing in the construction of pre-removal centres on the Greek islands, the EU should work together with Greece to move refugees out of the Greek islands. These should be taken to both the Greek mainland and to

32. Responsibility sharing translates into creating and strengthening legal pathways to asylum, such as granting humanitarian visas, expanding resettlement programmes, and lifting bureaucratic hurdles for family reunification.

33. UNHCR, 2017, Figures at a glance, retrieved on 20/10/17 from <http://www.unhcr.org/figures-at-a-glance.html> and de Haas, 22/08/16, Refugees small and relatively stable, retrieved on 20/10/17 from: <http://heindehaas.blogspot.fr/2016/08/refugees-small-and-relatively-stable.html>



other European countries through relocation and family reunification.³⁴ In the absence of such steps, people will give up on regular routes and invest in human smugglers, rather than lawyers. The EU also needs to provide Greece with immediate and adequate support to ensure the dignified reception of those arriving on the Greek islands, as well as the timely and fair examination of all asylum claims on their *merits* and irrespective of people's nationality. Access to legal assistance also needs to be strengthened.

Finally, deportations from the EU border require comprehensive and effective human rights monitoring by a fully independent agency. For this, the Greek police needs to inform UNHCR and other bodies sufficiently ahead of time about the names of people and their legal and asylum situation for specific scheduled removal operations.

34. https://www.oxfam.org/sites/www.oxfam.org/files/joint-ngo-letter-pm-tsipras_0.pdf

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