

One Year Stranded & What's Changed?

An Update to the October 2016 Joint NGO Policy Brief on the Situation for Displaced Persons in Greece¹

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It is one year since the introduction of Europe's flawed migration policies to close borders along the Western Balkan route and return migrants and refugees to Turkey, leaving thousands stranded in Greece. This update provides an overview of the current situation in Greece, and sets out what eight national and international responding agencies see as the most urgent issues to address and the major concerns with Europe's response to this crisis.

To start with, there remains the need for a coherent European Union (EU)-wide approach that shares responsibility in managing migration while upholding international obligations and protecting human rights. To date, actions taken by European countries point toward the contrary. The EU-Turkey Statement and the subsequent Joint Action Plan¹ for its implementation are examples of policies that are eroding rights enshrined in the Refugee Convention, exacerbating the vulnerabilities of people seeking protection, and exposing them to an array of new rights abuses. It is alarming that this may become the model for future responses to children, women and men seeking international protection in Europe. EU leaders, the Greek Government and donors must commit to supporting a principled approach to managing migration based on the Refugee Convention and international human rights law.

To improve and adapt the response to this protracted situation, while upholding international human rights law, all stakeholders must work together to address persistent issues in two main areas of concern:

- (1) Safe, humane reception conditions, long-term accommodation, and access to essential services; and**
- (2) Access to due process in seeking international protection, legal aid, and accurate, up-to-date and reliable information.**

¹ European Commission, "Annex 1: Joint Action Plan on Implementation of the EU-Turkey Statement," December 2016. https://ec.europa.eu/commission/sites/beta-political/files/december2016-action-plan-migration-crisis-management_en.pdf

The continued need for improved, appropriate accommodation & services, as well as integration

The Greek Government estimates more than 62,000 people fleeing conflict, crisis and poverty are stranded in Greece, with 48,000 on the mainland and 14,400 on the islands.² Roughly 2,100 are unaccompanied or separated children (UASC), of whom more than 1,000 are on a waiting list for safe shelter, including 178 children in island reception and identification facilities and 16 in police protective custody (detention).³

Sites vary throughout the country in their suitability to provide short-term, safe accommodation and critically needed services, yet nowhere is this more pronounced than between the mainland and islands. Since October 2016, island accommodation capacity has increased from 7,450 to 9,014. This nevertheless falls short for a population consistently above 14,400. Some sites remain dangerously overcrowded, substandard, and people continue to live in tents.⁴ With support from humanitarian agencies, significant progress was made by the Greek authorities in late 2016 to move people out of some of the most dangerous mainland sites and to ensure that all sites were heated and could shelter residents from the winter; however, similar efforts to improve conditions in all island sites have yet to be made, despite repeated calls for action, including from the local authorities.

Positively, the Greek Government has made efforts to transfer those most vulnerable and those eligible for family reunification to the mainland, enabling some decongestion of the islands. According to safeguards in Greek Law, such cases are exempt from accelerated border procedures. The European Commission's Joint Action Plan recommends amending Greek law to eliminate this exemption, which may remove the possibility of transferring such cases to the mainland in the future.

All indications suggest that tens of thousands of people will remain in Greece for months more to complete their asylum, family reunification or relocation procedures. Meanwhile, almost half of those stranded will ultimately seek asylum and stay in Greece, making it critical that all stakeholders support a transition to urban integration. Humanitarian agencies still await official plans outlining the government's long-term vision for the response and the transition from encampment to more appropriate, long-term accommodation, services and integration following the Ministry of Migration Policy's recent announcement that almost all sites will be closed by the end of 2017. To the increasing frustration of those now in Greece for a year, little to no integration measures have been implemented to date. The best practical means for social and economic integration, adapted to men's, women's and children's unique needs have yet to be proposed. Many camps are in remote areas, far from urban centres, reducing the possibilities of interaction with and integration into local communities. For people accommodated in urban areas, accessing basic services can still remain challenging, often leading to isolation. Additionally, no provisions are in place to accommodate people once they receive refugee status. While some integration measures have been provisioned in the Asylum Migration and Integration Fund Multiannual Programme overseen by DG Home, the Greek authorities have yet to make use of these funds.

Despite the growing need, clear gaps and challenges remain in the provision of health care, specialized services for survivors of gender-based violence (GBV), mental health and psychosocial support, and there remains a severe gap in services for more complex conditions. This is mainly due to the impact of the economic crisis on Greek hospitals and social services, as well as the lack of interpreters and cultural mediators. Additionally, many of the UASC currently living outside of formal shelters are without a guardian to ensure their access to needed services and support. This remains a critical gap for this most vulnerable group.

Positively, there has been some progress in rolling out educational services and reception classes for refugee children in the Greek public schools on the mainland. Unfortunately, similar opportunities have yet to be extended to those aged 15 to 18, for youth above 18, and for children on the islands.

Over the last six months, safety and security for migrants and refugees has also not improved. There have been several deaths, reports of sexual assaults and child abuse within reception sites, and migrants and refugees

² Greek Government, "Summary Statement of Refugee Flows," 28 February 2017. While this is the official government figure, it is believed that the actual number may be lower.

³ EKKA, "Situation Update: Unaccompanied Children in Greece," 1 March 2017

⁴ Ibid.

attacked with Molotov cocktails and boulders thrown by Greeks affiliated with far right groups. Factors contributing to this deteriorating situation include: restrictions of people's freedom of movement and the use of detention; lack of appropriate and timely police involvement when an incident occurs; a perceived sense of impunity; substandard living conditions, particularly on the islands, with insufficient protection safeguards (e.g., sanitation facilities without adequate lighting or locks); lack of procedural safeguards and identification and referral mechanisms for vulnerable groups; lack of mental health services; increased frustration caused by the lengthy asylum processes; and insufficient cross-cultural communication (e.g., lack of trained interpreters and cultural mediators).

While Greek Law 4375/2016 sets out that applicants for international protection have access to the labour market, obstacles remain in obtaining necessary documentation for employment, and few opportunities are available on account of Greece's depleted economy. Thus, people continue to rely on distributions of food, non-food items and financial assistance to meet their basic needs, perpetuating a parallel system for service delivery, impeding integration prospects, and increasing the risk of exploitation.

Our key recommendations have not changed. The Greek Government should:

- **Establish regular meetings with UNHCR, Greek civil society, international organizations, and relevant donors** to inform decisions on key issues impacting the response.
- **Urgently develop and implement a long-term plan with a commitment to transition from encampment to safe urban accommodation, deliver comprehensive and gender-sensitive services and social and economic integration.**
- **Organise movement of vulnerable cases and individuals with family reunification cases off of the islands to safe accommodation on the mainland.**
- **Uphold EU and international standards and not use detention automatically or en masse but rather only as a last resort, in limited cases, on an individual basis, and never for children.** Detention is never in the best interest of the child.
- **All reception and accommodation must remain in open facilities, allowing residents to come and go freely.**
- **As a minimum standard, commit, alongside the European Commission, to promote respect for article 8 of the Reception Conditions Directive and article 15 of the Returns Directive, on the use of detention as a last resort.**
- **Clearly communicate safety and security protocols, and the roles and responsibilities of the Hellenic military and police** to ensure residents are protected in all sites.
- **Authorise, alongside donors, humanitarian agencies to fulfill their protection mandates to support populations living outside of official sites, including to identify vulnerable cases to be referred to adequate accommodation and specialised services.**
- **Ensure all UASC are assigned a trained and vetted guardian upon arrival to support their access to comprehensive services, safe accommodation and a durable solution in their best interests.**

An Urgent Need for Timely Access to International Protection, Legal Aid & Reliable, Up-to-Date Information

Practical and administrative obstacles and delays in accessing the asylum procedure continue to jeopardize the legal status and well-being of thousands of people. The need for legal assistance remains significant and sufficient legal aid before the appeals stage remains a major gap. EU member states have failed to provide the committed trained and qualified asylum experts to support the Greek Asylum Service (GAS) not only with procedures on the islands, but also for the relocation scheme and processing of family reunification applications.

In 2016, 51,091 asylum applications were registered with the GAS,⁵ of which almost 5,000 were for family reunification and more than 21,000 for relocation. As of early February, 15,000 people have yet to be fully-registered.⁶ All people who are fully registered will still need to complete their asylum interview and receive a final decision, which is expected to take several months more, causing increased uncertainty, anxiety and stress.

By and large, the system for those seeking to reunify with family in Europe is not working. The reasons for this include a lack of political will among European governments to remove the obstacles to smoother and quicker transfers, a restrictive definition of family, failure to provide information about the process, and the absence of legal aid to support applicants. And while the recent increase in transfers under the relocation scheme is positive, only 9,633 people⁷—or 15% of the 63,302 committed—have been transferred to date, meaning it has taken a year to merely move a fraction of people to another EU state where they will now start the lengthy asylum process. Relocation is furthermore only for certain nationalities and only for those who arrived before 20 March 2016, so not an option for those continuing to arrive. We urge the Greek authorities to take up offers of support and additional capacity from other EU member states.

On the islands, where the EU-Turkey Statement is in effect, the situation is alarming. The admissibility procedure, governs the examination of asylum applications by first determining if it is safe for an individual to be returned to Turkey, meaning individuals do not get the opportunity to explain why they are seeking international protection. There are grave concerns that individual claims are not reviewed based on need, that the legal procedures change so frequently and without appropriate explanation that it is impossible both for the individuals and for legal actors to ensure that their rights are upheld, and that certain nationalities are prioritized over others and equal access to asylum is not in place. Applied measures to expedite the examination procedures for asylum applications have undermined the quality of the asylum process. Also, as a direct outcome of this approach, some nationalities (e.g., Afghans, Iraqis) have remained status-less while waiting months before their application is even registered. Asylum seekers must receive legal aid, accurate information about their rights, and all should have the opportunity to lodge a claim for asylum and appeal the decision in accordance with Greek law.

It is deeply troubling that the Greek Government is now considering implementation of recommendations outlined in the European Commission's Joint Action Plan,⁸ whereby vulnerable people could be returned to Turkey and family reunification would be completed from or even *in* Turkey, and where people could be sent to Turkey before they have even received their appeal verdict.⁹ This is contrary to current Greek legal safeguards which exempt the vulnerable and those eligible for family reunification under the Dublin Regulation from the accelerated border procedures, and allow them to complete the process on the mainland.¹⁰ Processing all of these people on the islands would require an amendment to Greek Law 4375/2016, would end decongestion efforts, cause further overcrowding, and heighten the pressure on an already overburdened and understaffed system. A year into implementation of the EU-Turkey Statement, the Joint Action Plan's intention to further diminish rights and increase the use of detention¹¹ is of extreme concern.

There remains a severe lack of coordinated legal service provision response on the mainland and the islands. Legal information, counselling and assistance is core to the provision of adequate asylum procedures that ensures access to national and international legal safeguards and a protection-centered humanitarian response. Thousands continue to navigate a complicated legal asylum system in languages they are not familiar with, resulting in delays, wasted resources and diminished trust in the asylum system. A year into this situation, the persistent lack of specialized lawyers, interpreters, and the lack of clear, up-to-date and accessible information have meant that

⁵ Στατιστικά στοιχεία Υπηρεσίας Ασύλου (1.1.2016 – 31.12.2016), www.asylo.gov.gr

⁶ Ibid.

⁷ European Commission, "Member States' Support to Emergency Relocation Mechanism (as of 2 March 2017)". https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf

⁸ Annex to the Fourth Report on the Progress made in the implementation of the EU-Turkey Statement: https://www.neweurope.eu/wp-content/uploads/2017/02/december2016-action-plan-migration-crisis-management_en-4.pdf

⁹ GAS, "Asylum Procedure in the Context of the EU-Turkey Statement," February 2017. <http://asylo.gov.gr/en/wp-content/uploads/2017/02/Asylum-procedure-in-the-context-of-the-EU-Turkey-statement.pdf>

¹⁰ Article 60(4) L 4375/2016

¹¹ Annex to the Fourth Report on the Progress made in the implementation of the EU-Turkey Statement: https://www.neweurope.eu/wp-content/uploads/2017/02/december2016-action-plan-migration-crisis-management_en-4.pdf and European Commission Press Release: European Agenda on Migration: Commission presents new measures for an efficient and credible EU return policy: http://europa.eu/rapid/press-release_IP-17-350_en.htm

people continue to go through complicated procedures without legal aid, receive the wrong information, listen to rumours, and are increasingly likely to make harmful decisions, such as abandoning the asylum procedure and moving on with smugglers, as they wait too long in a process they cannot understand.

Our key recommendations have not changed.

- **Vulnerability assessments and procedures should remain as per current Greek Law 4375/2016.** Vulnerable individuals should not be put through the accelerated border procedures and family separation should be seen as a contributing factor to vulnerability and avoided.
- EU member states should fulfill their commitments to **deploy a sufficient number of well-trained asylum experts and lawyers to support the GAS** with the asylum, family reunification and relocation processes for those now stranded for a year on the mainland and islands, as well as comply with relocation allocations under Council Decisions by making needed places available for those eligible.
- EU member states should **ensure safe and legal pathways are available to individuals seeking international protection as guaranteed by existing international law.** Access to asylum procedures should be open to all, with priority for the most vulnerable.
- **Ensure that free legal aid is readily available for the first and second instance of the asylum process,** by ensuring funding for training and contracting of lawyers and interpreters of all languages.
- The Greek Government, UNHCR and EASO should **improve the provision of legal information about the asylum process,** including when and how to ask for asylum, the estimated timeline for decisions on admissibility, appeals of admissibility decisions, or the ability to lodge formal asylum applications, in all relevant languages.
- The Greek Government and EASO should **increase the hiring and training of asylum service staff to be able to deal with relocation and family reunification applications as well as first instance asylum claims** in a timely and efficient manner. There should also be increased staffing of appeals committees.
- The European Commission's **definition of family within the Dublin Regulation should be expanded to support the reunification of extended and adult immediate family members,** and EU member states should accept both written and oral evidence to prove family connections.
- Assistance provided by the Greek Government and all humanitarian agencies must follow a principled **needs-based approach centered on protection,** and ensure non-discrimination.
- All stakeholders should increase **targeted communication with all communities,** to address concerns and ensure they are informed in their own languages and in a format they can understand (e.g., audio, video).
- All stakeholders should **invest in the increased provision of trained interpreters and cultural mediators.**