

Refugees and asylum in the Aegean

The impact of the EU-Turkey statement

27 November 2017

46,598	Number of arrivals on Greek islands (20 March 2016 to end of September 2017)
13,456	Number of asylum seekers and migrants on the islands at the end of September 2017
9,286	Number of arrivals in the first six months of 2017; the lowest in many years
9,010	Number of arrivals in September and October 2017; a sharp rise
1,337	Number of people returned to Turkey before the end of September 2017
30	Average number of decisions all 12 Greek appeals panels take in a week
Zero	Probability for Syrians, Iraqis and Afghans who applied for asylum to be returned to Turkey (20 March 2016 to end of September 2017)

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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.

Annual sea arrivals in Greece from Turkey¹

Year	Arrivals
2011	1,467
2012	4,370
2013	11,831
2014	44,057
2015	873,179
2016	174,605
First half 2017	9,286

Monthly arrivals on Greek islands from Turkey²

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	
April	3,650	122	26,593
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	
February	1,089	39	
March	1,526	49	
April	1,156	39	
May	2,110	68	24, 139
June	2,012	67	
July	2,249	73	
August	3,584	115	
September	4,886	163	
October	4,134	133	

¹ Frontex, Annual Risk Analyses, [2014](#), [2017](#). UNHCR, Operational Portal Refugee Situations, [Greece](#), 31 October 2017.

² UNHCR, Operational Portal Refugee Situations, [Greece](#), 31 October 2017.

The situation on the islands

Between 20 March 2016 and end-September 2017 a total of **46,598 people arrived** on the Greek Aegean islands. **13,456 were still on the islands** by the end of September 2017. The average duration of stay on the islands has been **4 to 5 months** in 2017.

Of the 46,598 arrivals since the EU-Turkey agreement, **33,142** left the islands:

- A small number returned voluntarily to their home countries: **1,560** by end August 2017³
- An even smaller number returned or were returned to Turkey: **1,337** by end September 2017
- The others were brought, or found their own way, to the Greek mainland.

*Migrant population on the islands (end September 2017)*⁴

	Population (UNHCR)
Lesvos	6,587
Samos	2,381
Chios	2,078
Kos	1,269
Leros	841
Rhodes	150
Other	150
Total	13,456

In August 2017, Greece transferred 2,561 people to the mainland. It was the biggest transfer since the start of the EU-Turkey statement.⁵

In September 2017, the following month, 4,886 people crossed from Turkey. It was the largest monthly arrival since the entering into force of the EU-Turkey statement.

³ These returns are assisted by IOM. Around 70 beneficiaries per month left the islands between June and December 2016; 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. Also see IOM; [“IOM signs assisted voluntary returns program agreement with Greece”](#), 3 June 2016.

⁴ UNHCR, [“Fact Sheet Aegean Islands September 2017”](#), 9 November 2017.

⁵ UNHCR, [“UNHCR urges action to ease conditions on Greek islands”](#), 8 September 2017.

Decisions on asylum

The Greek Asylum Service was created in 2012 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 appeals panels, the second-instance body, take very few decisions. Between March and May this year they decided on average 47 cases per week.⁶ Between June and August this fell to 30 decisions, fewer than 200 per month.⁷

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

	Applications	Negative	Positive
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 (-Sept)	42,935	8,609	6,964

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

- **4,160** appealed
 - Of those, **1,695** received a negative second-instance decision (on merit or admissibility)
- **1,065** did not appeal⁹

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

*Islands: Second-instance decisions by appeals panels (end August)*¹⁰

	Decisions
Negative	1,695
Positive	438

⁶ European Commission, [“Sixth report on the progress made in the implementation of the EU-Turkey Statement”](#), 6 September 2016.

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”](#), September 2017.

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

¹⁰ *Ibid.*

Returns to Turkey

From April 2016 to September 2017, 1,337 migrants were returned to Turkey, the largest number (386) in the first month. The average number of people returned to Turkey in these 18 months was 73 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
Total	1,337

445 of the 1,337 returnees had received a negative asylum decision.¹² All the others had withdrawn their application or not applied for asylum in the first place. This includes all Syrians returned before October 2017.

Nationalities of those returned from Greece to Turkey (6 Oct. 2017)¹³

Citizenship	Returned
Pakistan	593
Syria	216
Algeria	163
Bangladesh	92
Afghanistan	77
Morocco	38
Iran	34
Iraq	28
Sri Lanka	16
Others	103

¹¹ European Commission, [“Operational implementation of the EU-Turkey Statement”](#), as of 7 November 2017.

¹² UNHCR, [“Returns from Greece to Turkey”](#), 6 October 2017. The share of 33 percent who received a negative decision was applied to the number of 1,337 returnees by the end of September.

¹³ UNHCR, [“Returns from Greece to Turkey”](#), 6 October 2017.

The five main nationalities who have arrived since the EU-Turkey statement:

Main nationalities of arrivals, March 2016–September 2017¹⁴

Nationality	Arrivals
Syria	14,789
Iraq	6,416
Afghanistan	4,948
Pakistan	3,625
Iran	1,364

The probability of the three main nationalities (from Syria, Iraq, Afghanistan) to return to Turkey was below 2 percent. If one looks only at those who applied for asylum it was close to zero.

Probability of being returned to Turkey

Nationality	Arrivals	Returns	Percent
Syria	14,789	216	1.5
Iraq	6,416	28	0.4
Afghanistan	4,948	77	1.6
Pakistan	3,625	593	16.4
Iran	1,364	34	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 19 months following the agreement, 118 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	46
June	0	
July	8	
August	0	
September	1	
October	0	

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

The end of relocation

Two EU relocation decisions in 2015 envisaged a total of 63,302 asylum seekers to be relocated from Greece to other European countries.¹⁶ In two years, the actual number was 21,000. The official relocation programme came to an end in September 2017.

*Asylum seekers relocated from Greece (as of 2 November 2017)*¹⁷

Receiving state	Relocated
Germany	5,196
France	4,322
Netherlands	1,709
Sweden	1,649
Portugal	1,217
Finland	1,200
Spain	1,096
Belgium	698
Norway	693
Romania	683
Ireland	646
Switzerland	542
Lithuania	355
Latvia	294
Luxembourg	271
Slovenia	172
Estonia	141
Malta	101
Cyprus	96
Croatia	60
Bulgaria	50
Slovakia	16
Czech Republic	12
Liechtenstein	10
Total	21,229

¹⁶ [Council Decision \(EU\) 2015/1523 of 14 September 2015](#) and [Council Decision \(EU\) 2015/1601 of 22 September 2015](#). See also [Resolution of the Representatives of the Governments of the Member States](#), 20 July 2015.

¹⁷ European Commission, [“Member states’ support to Emergency Relocation Mechanism”](#), as of 2 November 2017.

The irrelevance of Dublin

Under the Dublin system Greece should take charge of almost all asylum seekers that enter its territory. Those who continue 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 2016.¹⁸

In December 2016, the European Commission recommended to all member states to restart transfers of asylum seekers to Greece in March 2017.¹⁹ The first requests were made in August 2017. As of the end of September 2017 no asylum seekers had been transferred to Greece. Since early 2013 a total of 27 people had been transferred to Greece.

Dublin requests and transfers to Greece, 2013-17²⁰

Year	Incoming requests	Accepted	Transfers
2013	9	4	0
2014	50	18	2
2015	138	67	15
2016	5,982	60	10
2017 (-Sept)	822	45	0

¹⁸ European Court of Human Rights, "[Dublin cases](#)".

¹⁹ [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](#).

²⁰ Greek Asylum Service, [Dublin Fact Sheet](#), 7 October 2017.

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 growing worse every winter.

Hotspot capacity and UNHCR accommodation, Greek islands, November 2017²¹

Accommodation type	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)	1,098
Buildings (UNHCR)	50
UNHCR total	1,148
TOTAL	6,598

The problem is obvious:

If people stay on the islands on average for 5 months (as they do), 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.²²

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

²¹ UNHCR, [“Weekly accommodation update”](#), 21 November 2017; European Commission, [“Hotspot state of play”](#), 20 November 2017.

²² See UNHCR, [“Fact Sheet Aegean Islands September 2017”](#), published 9 November 2017, and UNHCR press release, [“UNHCR calls for accelerated winter preparations on Greek Aegean islands”](#), 6 October 2017.

Conclusion: the central problem 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.

However, to transfer *everyone* who arrives to the Greek mainland after 2 months might lead to rising arrivals, as we have seen before March 2016 and again in recent months. This would worsen the humanitarian situation both on the islands and on the mainland. The alternative is to find a way to return larger numbers of people to Turkey. But for this to happen certain preconditions need to be met.

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.” The appeals committee had taken into consideration a series of letters from the Turkish government, the European Commission and UNHCR.

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 it were returned to Italy, it would be exposed to inhuman and degrading treatment, which is banned under Article 3 of the European Convention on Human Rights, since it would be left either without any accommodation or be accommodated in degrading conditions.²³

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.”²⁴

In December 2016 the European Commission proposed how to meet these human rights standards in the case of the resumption of Dublin returns to Greece. Its recommendation spelled out how Greece needed to enhance its asylum and reception system and stressed that (in line

²³ [European Convention on Human Rights](#).

²⁴ European Court of Human Rights, Grand Chamber, [“Judgment in the case Tarakhel v. Switzerland”](#), application no. 29217/12, 4 November 2014.

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.”²⁵

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.”²⁶

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.²⁷ 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, requires Turkey to provide assurances for each individual case and the ability to verify independently how Turkey applies its domestic asylum laws and other relevant legal obligations in practice to the individuals returned. 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.”

Unless this challenge is addressed immediately, along with enough human resources for faster decisions at the first and second instance levels by creating additional appeals panels that work fulltime for applications on the islands, the humanitarian situation on the islands will deteriorate further.

It is imperative that humane reception conditions are created immediately 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 lead to rising

²⁵ [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.](#)

²⁶ *Ibid.*

²⁷ [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.

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 addresses this crisis in a comprehensive manner. It needs to be respectful of the requirements of both EU law and European and international human rights standards, for legal, political and moral reasons. It needs to address the concerns of the people of Lesbos, Chios and the other islands with reassurances 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 fail should be a matter of highest priority for both the Greek government and its European partners.

Further reading:

- On refugees and asylum in the Mediterranean: www.esiweb.org/refugees
- [Why people don't need to drown in the Aegean](#) (17 September 2015)
- [The Merkel Plan – A proposal for the Syrian refugee crisis](#) (4 October 2015).
- [Fire in the Aegean – Scenario of failure – How to succeed](#) (11 October 2016)
- [A Rome Plan for the Mediterranean migration crisis](#) (19 June 2017)
- ["Realism Over Migrant Returns Can Break Deadly Cycle in Mediterranean"](#) (11 July 2017)
- [Deadly failure – Rome Plan](#) (21 July 2017)
- [Media reactions](#)