

Limits of Indignation: the EU-Turkey Statement and its implementation in the Samos ‘hotspot’

Summary

The current report aims to briefly highlight the effects that the March 18, 2016, EU-Turkey Statement (henceforth, the “Statement”), coupled with the ongoing failure of the Greek authorities to address the situation in a humane manner, have brought on the lives of refugees and asylum seekers reaching Greece’s Eastern Aegean islands.

The report draws primarily from our November 12-14, 2018, monitoring visit to Samos and is complemented by a range of internal and external sources, including interview-discussions with beneficiaries, organizations and officials on the ground.¹ It aims to provide a brief, yet concrete contextualization of the subject matter, followed by a number of relevant conclusions and recommendations.

It argues that, though the Statement has been oftentimes presented as a “success” and “game changer”, not only has it detrimentally affected the lives of refugees and asylum seekers, but is ultimately of questionable applicability and relevance for the Greek-specific context.



¹ We would especially like to thank the Greek Asylum Service (GAS), the Greek Reception and Identification Service (RIS), the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) for accepting to meet with us and for the information provided during our meetings.

The Case of Samos

The case of Samos is illustrative of the deadlocks created in the aftermath of the Statement's implementation in the spring of 2016. Since March 2016, conditions for refugees and asylum seekers arriving in Samos have been steadily deteriorating, on account of the increasing levels of severe overcrowding.

At the time of our November 12-14, 2018, visit, the island's Reception and Identification Center (RIC), whose capacity remains limited to **648** places, was "hosting" close to **5,000** asylum seekers.² As a result, asylum seekers were forced to live in highly cramped conditions, with newcomers being called to provide for the means of their accommodation exclusively by themselves, and many being forced to live outside the facility's premises.

"When I arrived, the only thing they told me was 'go find your brothers from Cameroon'"³

For all intents and purposes the situation in Samos signaled the virtual abolition of reception provisions, and their replacement by what had seemingly become a practice of **shifting the State's legal obligation to provide reception conditions to asylum seekers, to beneficiaries themselves.**

In the meantime, living conditions both within and outside the RIC were clearly unsuitable, with the RIC's very location on a steep hill/mountain, covered with olive trees and bushes, serving to expose asylum seekers to a series of health and others risks.

Outside the RIC, beneficiaries were at best living in unsuitable summer tents, lacking access to running or clean water, to electricity and lighting, as well as to protection from the weather. Many, furthermore, were suffering from dermal conditions, which were no less aggravated by the prevalent substandard sanitary conditions and the inability of accessing healthcare services, while most –if not all– also displayed distinct marks of bug and bed-bug bites, as the area also served as a habitat for insects, rodents, and various other types of wildlife.

² Specifically, 4,969 on the 12th, 4,858 on the 13th and 4,844 on the 14th of November 2018. Data are regularly provided on the website of the [Greek Ministry of Digital Policy, Telecommunications and Media](#). For the specific time period, see <https://bit.ly/2LsohvV>, <https://bit.ly/2A7yj1h> and <https://bit.ly/2R7htZV>, respectively.

³ Interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 14.11.18.

‘Bed bugs go to your back and leave you blisters [*sic.*]. The mattresses are full of them. [But] snakes and scorpions are more dangerous; we have had to kill several of those [while living here]’⁴

Inside the RIC, though conditions were relatively better, they were similarly nowhere near adequate or humane. Many of the facility’s inhabitants had to resort to sleeping in tents and makeshift “shelters”, with the rest living in crammed, temporary, accommodation units (i.e. containers). Hygiene conditions were poor to clear-cut inhumane, with the facility’s total number of **20** communal latrines (i.e. chemical toilets) – themselves in highly substandard condition– being nowhere near sufficient to cover the needs of the population, while throughout our visit garbage piles only ever seemed to be increasing in mass. In more than a few cases, this meant that asylum seekers both within and outside the RIC were forced to live in close proximity to rubbish and sewage waste, which, overflowing from the toilets, would end up reaching their tents.

Lastly, as if to top the overall feeling of neglect and abandonment, and notwithstanding the overall inability to tend to the needs of the most vulnerable segments of the population, the situation was perhaps nowhere near more degrading than in the section designated for the accommodation of unaccompanied minors. Most of the facility’s estimated population of 250 unaccompanied children were living in highly crammed and broken containers, with the lack of sufficient spaces forcing many to sleep on the floor, and others under an open air makeshift “shelter” they had themselves created at the section’s far end, next to the overflowing, filthy, toilets.

Post-visit developments

Considering how the major issue at the RIC of Samos was and remains the severe degree of overcrowding, which de facto makes it impossible to provide anything even remotely resembling the barest minimum of decent living conditions to asylum seekers, it is remarkable how little has been done to decongest the island in the period that followed our November visit. If anything, during the first months of 2019, the RIC’s overcrowding has very much continued its upward trend, functioning at **587%** of its

⁴ Interview with young Syrian refugee in Samos, on 13.11.18.

capacity as per the last available data during the time of writing (March 31st, 2019).⁵

However, and without diminishing the Greek State's legal and moral responsibility to protect the refugees and asylum seekers found on its territory, it should be acknowledged that, throughout the period discussed (November 2018-March 2019), there have also been significant –even if insufficient– efforts to decongest the island RIC (it is reminded that in November, the population verged towards 5,000), while further such efforts have by necessity stumbled upon the capacity of mainland sites, which has similarly become exhausted. This, in turn, necessarily brings us to the impasses created by the EU-Turkey Statement.

An approach doomed to fail: enter the Statement

Why the Statement? Because, at its core, it remains the reason why, upon arrival, forcibly displaced populations are forced to remain on the islands, in facilities which were never envisioned or designed to serve this purpose.

As part of the EU's "hotspot approach to Migration", specifically, the island RICs were never meant to serve as anything but short-term transit Centers,⁶ where following an initial registration and identification procedure, newcomers '*claiming asylum [would have been] **immediately channeled** into an asylum procedure [...]*'.⁷ Crucially, said "channeling" (or referral) was to be made in the mainland, and specifically ***in Piraeus** [...]* where asylum seekers [would have been] received from different arrival points';⁸ a mechanism which, considering the sheer proportion

⁵ See Ministry of Digital Policy, Telecommunications and Media, *National situational picture regarding the islands at eastern Aegean sea (31/03/2019)*, available at: <https://bit.ly/2GcevgN>.

⁶ Something, after all, which is explicitly stated in the January 8, 2016, Joint Ministerial Decision for the establishment of both the Samos and Chios island RICs, where reference is made to the establishment of "*First Reception Centers and Temporary Accommodation facilities*". See Government Gazette, Number 6634/1-147524 –Issue B 10, 8 January 2016, available (in Greek) at: <http://www.odigostoupoliti.eu/sistasi-kentron-protis-ipodochis-ke-prosorinon-domon-filoxenias-politon-triton-choron/>.

⁷ European Commission, *Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions: A European Agenda on Migration*, 13 May 2015, p.6, available at: <https://bit.ly/2ktwjtE>.

⁸ European Commission: Migration and Home Affairs, *The Hotspot approach to managing exceptional migratory flows*, 11 September 2015, available at: https://ec.europa.eu/home-affairs/e-library/multimedia/publications/the-hotspot-approach-to-managing-exceptional-migratory-flows_en

(close to 1 million) of arrivals, at the time, could have served as a significant building block towards establishing a functional system of reception.

Instead, with the Statement leading to the practical “reframing” of the “hotspot approach” as regards its implementation in Greece, and transforming the RICs into reception *and* long-term accommodation facilities, the conditions of severe overcrowding and in turn for the creation of ‘*some of the most appalling, mismanaged, and dangerous refugee camps in the world*’,⁹ also came to be. This, to be noted, despite the exponential decrease in the post-March 2016 number of Greek-bound arrivals, which, jointly considering how the Statement was envisioned as ‘*a temporary and extraordinary measure which [was] necessary to end the human suffering and restore public order*’,¹⁰ and the human suffering and tensions to which it has ultimately resulted, should, in principle, have also led to its abolition.

On the non-implementation of the EU-Turkey Statement

In a similar vein, it should be noted that frequently used arguments, attributing the ongoing situation for asylum seekers on the Aegean islands to the Statement’s modality of implementation (i.e. slow rate of returns and slow asylum procedures), are only marginally accurate.

Not only are there limits to the expediency with which asylum applications can be examined, if effective safeguards are to be respected and asylum seekers protected from the risk of *refoulement*, but slow processing times have also been attributable to the ongoing levels of understaffing, which, in themselves, remain to a large degree the result of international dynamics. Namely, ongoing austerity measures, which remain applicable even in Greece’s “post-bailout” period.

More importantly, this seemingly dominant view overlooks the relative incompatibility between the Statement’s aims, which ultimately amount to the return of ‘*[m]igrants not applying for asylum or whose application*

⁹ Human Rights Watch, *Déjà vu on the Greek-Turkey Border*, 20 December 2018, available at: <https://www.hrw.org/news/2018/12/20/deja-vu-greek-turkey-border>.

¹⁰ European Council (press release), *EU-Turkey statement, 18 March 2016*, available at: <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>.

ha[ve] been found unfounded or inadmissible [...],¹¹ and the complicated reality to which it was applied. With respect to “inadmissible decisions”, it suffices to note the very low number of such decisions that have been issued in the post-Statement era, which have been steadily declining, from 4.85% of the total number of decision issued in 2016, to 1.76% in 2017 and 0.86% in 2018.¹² On the other hand, and for the statistical purposes ultimately underlying the Statement’s implementation (e.g. diminishing the number of arrivals and speeding-up returns), even to this day irregular migration to Greece has kept consisting of, primarily, “refugee-profile” populations, with high chances to be in need of international protection. And though the refugee determination procedure remains –and rightly so– a process to be fulfilled on a case-by-case basis without prejudice towards beneficiaries’ nationalities, this further serves to question not only the Statement’s applicability in the case of Greece, but also its ultimate relevance.

Recommendations

With a view to re-positioning human rights at the forefront of the agenda, Greece, with the support of EU member states, should consider and ultimately move forward with implementing the following non-exhaustive list of recommendations:

1. Reconsider the “benefits” of the EU-Turkey Statement and immediately cease the imposition of a geographical restriction to the freedom of movement of asylum seekers on the eastern Aegean islands. Asylum seekers should be quickly registered and transferred to the Greek mainland, so as to avoid the ongoing vicious circle of despair and suffering.
2. Reconsider the safe-third country clause, which by distinguishing between admissible and inadmissible asylum applications inserts a flawed interpretation of the Geneva Convention, ultimately

¹¹ European Council (press release), *EU-Turkey statement, 18 March 2016*, available at: <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>.

¹² As per the relevant statistics provided by the Greek Asylum Service (GAS). The last update up to 28 February 2019 can be found at the following link: <http://asylo.gov.gr/wp-content/uploads/2019/03/Greek-Asylum-Service-Statistical-Data-GR.pdf>.

diverting the responsibility to protect persons in need of international protection while further consolidating a practice of responsibility-denial.

3. Create appropriate and effective, safe legal channels for asylum seekers to reach the EU. The current system of voluntary relocations, though commendable in spirit, is nowhere near sufficient, nor does it rescind the legal and moral obligation to respect international, EU and national human rights law.
4. As part of ongoing discussions on the Common European Asylum System (CEAS), the Dublin Regulation should be reconsidered so as to allow for the possibility of sharing, rather than outsourcing, responsibilities at the fringes of the EU (or beyond). This is the only way forward towards a truly common system that would not expect from a few countries to fulfill the human rights responsibilities of a continent.
5. Drastically improve conditions at the RICs, by primarily ensuring the timely registration of newcomers and their subsequent transfer to appropriate accommodation in the mainland, where asylum seekers will be able to live in humane and decent conditions for as long as their asylum applications are examined. To the extent possible, accommodation should be provided in suitable spaces (e.g. apartments) within residential areas, so as to also facilitate applicants' first steps towards integration.
6. Towards this aim, the capacity of the RIS and all island-based Services should also be properly staffed, so as to facilitate the timely processing of arrivals.
7. Take all necessary steps to speed-up the asylum procedures, while ensuring that all asylum seekers have access to proper information and legal support, both during registration and prior to their interview.