



Resolution 2108 (2016)¹

Human rights of refugees and migrants – The situation in the Western Balkans

Parliamentary Assembly

1. In 2015, 856 000 people crossed the Aegean Sea from Turkey to the Greek islands, almost 20 times the number in 2014. Almost as many people arrived in the first two months of 2016 as in the first seven months of 2015 and there is every reason to expect that the level of arrivals will exceed last year's. The overwhelming majority – more than 90% – are from major countries of origin for refugees, especially Syria, Afghanistan and Iraq. Those arriving in Greece and transiting through the western Balkans may for the most part be refugees, but they do not wish to apply for asylum in any of these countries.

2. The influx of refugees and migrants entering the contiguous continental European Union via the western Balkans is not a new phenomenon, and their number had begun rising significantly by as early as 2012. In August 2015, however, unprecedented numbers of arrivals led many of these countries to change their policies unilaterally, either by attempting to block irregular entry to their territory or by facilitating rapid transit across it. By September, the situation had stabilised, with a relatively safe route emerging from Greece to western Europe which, although physically demanding and no substitute for humanitarian pathways, was at least reasonably efficient.

3. A contagious fear of the consequences of border closures further north, however, led the western Balkan countries to raise increasingly restrictive barriers to entry: first by introducing “nationality screening”, then by introducing daily quotas on admission and, in the case of Austria, on the number of asylum applications accepted. By the end of February 2016, the western Balkans route was in practice closed to all but a few hundred refugees and migrants per week, although the number of arrivals in Greece showed no sign of abating. There is now deliberate discrimination (nationality screening), deliberate denial of access to protection for arbitrary administrative reasons (daily quotas on admissions and acceptance of asylum applications) and deliberate failure to comply with binding international judicial decisions or authoritative advice not to return asylum seekers to countries that are known to be unable to provide effective protection (returns to Serbia, “the former Yugoslav Republic of Macedonia” and Greece).

4. As a result, the humanitarian situation of the refugees and migrants in the western Balkans has deteriorated and they are increasingly at risk of exploitation and abuse, notably by traffickers in human beings and migrant smugglers. Since August 2015, there have been regular reports suggesting the use of excessive force against refugees and migrants by police and security forces of “the former Yugoslav Republic of Macedonia”, Croatia or Hungary at their borders. It is expected that within the near future, as many as 100 000 refugees and migrants will be trapped in Greece, which is well known to lack sufficient reception capacity and longer-term shelter and to have a dysfunctional asylum system; yet despite these serious deficiencies and their consequences for refugees and asylum seekers, other European Union member States have effectively failed to implement the agreement on relocation of asylum seekers from Greece and Italy.

5. The Parliamentary Assembly is also concerned about the situation in Hungary. Hungary unilaterally erected razor-wire fences along its borders with Serbia and Croatia, thus closing itself off from the flow of refugees and migrants along the western Balkans route towards Austria and redirecting it through Croatia and Slovenia. Hungary also introduced very restrictive asylum legislation, lacking essential procedural safeguards.

1. *Assembly debate* on 20 April 2016 (15th Sitting) (see [Doc. 14013](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Tineke Strik). *Text adopted by the Assembly* on 20 April 2016 (15th Sitting).



Around half of the asylum seekers in Hungary are detained, sometimes in inadequate conditions. The Assembly considers that Hungary's asylum procedures and detention policy appear to be incompatible with its obligations under the European Convention on Human Rights (ETS No. 5), European Union law and the 1951 UN Convention relating to the Status of Refugees, and that the anti-migrant public discourse of its government and other public authorities is incompatible with the fundamental values of the Council of Europe.

6. Europe has so far failed to find a proper, sustainable response to the refugee and migration crisis in the western Balkans. There has been an almost complete failure to implement some of the most important agreements reached in autumn 2015, notably that on relocation of refugees from Greece, and those of the Western Balkans Route Leaders' Meeting intended to ensure adequate reception capacity and longer-term shelter for refugees and migrants along the route. Mutual trust and confidence have been undermined by unilateral actions and the exclusion of Greece from regional consultations on migration issues. Instead, the focus has shifted to border controls and preventing refugees and migrants from leaving Turkey. The only apparent response to all other problems is money; the idea of relocation seems almost to have been forgotten.

7. The Assembly recalls the fragility of political stability in the western Balkans region. It is absolutely essential that the countries concerned are fully supported in their efforts to deal with the current refugee crisis and that all countries avoid taking unilateral action that might undermine mutual trust and the prospects for effective co-operation.

8. The Assembly believes that no response to the current situation can succeed in the longer term unless it is based on genuine solidarity and recognition of the need for collective action and equitable sharing of responsibility, with full respect for the human rights of refugees and migrants and the basic principles of international and European law.

9. The Assembly therefore calls on the western Balkan countries, namely "the former Yugoslav Republic of Macedonia", Serbia, Croatia and Slovenia, as well as Greece and Austria, to:

9.1. ensure compliance with the principle of *non-refoulement* regarding asylum seekers at the border claiming international protection, in accordance with the standards of the European Convention on Human Rights, as interpreted by the European Court of Human Rights;

9.2. refrain from implementing policies that deny access to protection on discriminatory grounds of nationality or on arbitrary grounds of administrative convenience;

9.3. ensure that police and security forces implement border controls without recourse to excessive force, respecting refugees' and migrants' fundamental right to dignity;

9.4. ensure that national capacity for short-term reception and longer-term shelter is sufficient to accommodate, in appropriate conditions, asylum seekers in transit or seeking protection;

9.5. take all necessary measures to ensure that national asylum systems meet the standards of the 1951 Convention relating to the Status of Refugees, the European Convention on Human Rights and European Union law, as applicable;

9.6. refrain from returning asylum seekers to countries that are unable to guarantee protection in accordance with the above standards, where applicable;

9.7. refrain from implementing border control policies that would unreasonably impose a disproportionate responsibility for the protection of refugees and migrants on other States that are more vulnerable to their arrival;

9.8. implement in full all aspects of the agreement reached at the Western Balkans Route Leaders' Meeting;

9.9. ensure that long-term responses to the refugee and migrant crisis are only implemented following consultation with all other States concerned.

10. The Assembly also calls on the European Union to:

10.1. ensure that human rights are given priority in policies to address the situation in the western Balkans, in particular the right to seek and enjoy asylum, the prohibition on degrading treatment and on *refoulement*, the right to liberty and security, the right to an effective remedy and the prohibition of discrimination;

10.2. ensure that relevant European Union law is implemented in full by all member States, in particular the reception conditions, asylum procedures and qualification directives;

10.3. ensure full implementation of previous decisions and agreements, notably on relocation of refugees from Greece and on reception and longer-term shelter capacity in the western Balkans, action against migrant smuggling and human trafficking, provision of information to refugees and migrants on applicable rules and their rights and obligations, registration of arrivals and exchange of information on flows of refugees and migrants;

10.4. provide all necessary financial and technical support to affected States, at levels sufficient to meet the challenges they face and avoiding onerous procedural requirements that may unduly delay provision of assistance in emergency situations;

10.5. reform the Dublin system with a view to a more equitable sharing of responsibility, thus avoiding further overburdening of member States with insufficient protection and reception capacities.