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Human rights implications of the European response to transit migration across the Mediterranean

Committee Opinion[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Ms Tineke STRIK, Netherlands, Socialist Group

A. Conclusions of the committee

1. The committee welcomes the timely report of the rapporteur of the Committee on Migration, Refugees and Displaced Persons, Mr Miltiadis Varvitsiotis (Greece, EPP/CD) on this issue of continuing political importance and persistent concern from the perspective of respect for the basic rights of refugees and migrants.

2. The committee especially welcomes the rapporteur's efforts to assess developments since the Assembly's 2016 reports on a range of aspects covered by the title of the report. With a view to ensuring that the resolution does indeed reflect the latest information on the relevant factual situations from authoritative, independent sources and that it makes recommendations covering all the most important areas of concern, the Committee proposes certain amendments.

B. Proposed amendments

Amendment A (to the draft resolution)

In paragraph 2, replace the first sentence with the following sentence:

"Since the Assembly last examined the situation one year ago, the situation in Greece has seen some improvements despite the fact that Greece has become a destination country where almost 100% of newly arriving refugees and migrants request asylum."

Amendment B (to the draft resolution)

In paragraph 2, delete the third sentence.

Amendment C (to the draft resolution)

In paragraph 3, replace the first sentence with the following sentence:

"The Assembly notes that its concerns relating to possible returns of Syrian refugees to Turkey as a "first country of asylum" or "safe third country" under the EU–Turkey Agreement have not materialised, as until now no Syrian asylum seeker (or any other nationality) has been returned to Turkey on that basis."

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1. Reference to committee: Doc. 14168, Reference 4252 of 10 March 2017. Reporting committee: Committee on Migration, Refugees and Displaced Persons. See Doc. 14341. Opinion approved by the committee on 27 June 2017.

Amendment D (to the draft resolution)

In paragraph 3, delete the final sentence.

Amendment E (to the draft resolution)

Replace paragraph 4 with the following paragraph:

"Furthermore, the Assembly notes that its concerns relating to the systematic detention of asylum seekers in hotspots appear to have been superseded by subsequent practice; once registered, asylum seekers can now go in and out of hotspots freely although the lack of alternative accommodation means that other than some members of vulnerable groups, most have no choice but to reside there, where living conditions are far from satisfactory."

Amendment F (to the draft resolution)

After paragraph 4, insert the following paragraph:

"Serious concerns remain in many important areas, including delays in the registration and processing of asylum claims, despite the significant efforts made by the Greek Asylum Service; 'protective detention' of unaccompanied children in police stations, even for short periods; inappropriate age assessment procedures; the absence of an effective guardianship system for unaccompanied minors; sexual and gender-based violence in reception facilities; insufficient access to education and health care; and inadequate integration measures, despite the Greek authorities' implementation of an integration action plan. The Assembly also notes the continuing deficiencies in the Greek legislative and administrative framework and lack of co-ordination for responding to the basic needs of refugees and migrants, including an inability to absorb and make effective use of the available international funding."

Amendment G (to the draft resolution)

In paragraph 7, after the first sentence, insert the following sentence:

"New arrivals, including unaccompanied minors, often spend excessive periods of time in hotspots, which are neither intended for nor suited to this purpose, and the great majority are then accommodated in exceptional, temporary first reception facilities that lack essential amenities and services."

Amendment H (to the draft resolution)

In paragraph 7, after the second sentence, insert the following sentence:

"Deficiencies also exist in relation to legal regulation of the hotspots, including the basis of detention there, and the use of force to compel new arrivals to provide their fingerprints, especially given the reports of use of excessive force and even torture in this context. There are also serious delays in the registration and processing of asylum claims, concerns about the effectiveness of the remedy of appeal against rejection of asylum applications and an inadequate guardianship system for unaccompanied minors."

Amendment I (to the draft resolution)

At the end of paragraph 8, add the following sentence:

"Any co-operation with the Libyan authorities must be based on effective respect by both sides for essential provisions of international human rights law, including the right to leave a country, the right to seek and enjoy asylum and the prohibition on refoulement."

Amendment J (to the draft resolution)

At the end of paragraph 11.1.3, add the following words:

"on condition that the Libyan Coast Guard can be verified as operating with full respect for the fundamental rights of refugees and migrants, including by not exposing them to situations in which they are at risk of serious ill-treatment"

Amendment K (to the draft resolution)

In paragraph 11.1.4, after the words "ensure that", insert the words "the extremely serious and widespread violations of the rights of refugees and migrants are brought to an end and".

Amendment L (to the draft resolution)

At the end of paragraph 11.2.2, add the following words: "where they have proved their capacity to make more efficient and effective use of such funding than alternative actors"

Amendment M (to the draft resolution)

After paragraph 11.3.4, insert the following paragraph:

"ensure that European Union member States immediately fulfil their commitments regarding relocation deriving from the decisions of the European Council and the Council of Europe and take all the necessary measures on non-compliant member States;"

Amendment N (to the draft resolution)

After paragraph 11.3.7, insert the following paragraph:

"ensure full implementation of family reunification from Greece and Italy based on European Union and international law, including the Dublin Regulation and the Family Reunification Directive"

Amendment O (to the draft resolution)

At the end of paragraph 12.2.1, add the following words: "and withdraw their policy of denying access to the IOM's Assisted Voluntary Return and Reintegration programmes to those who appeal against negative decisions"

Amendment P (to the draft resolution)

After paragraph 12.3, insert the following paragraph:

"to implement an effective integration policy for recognised refugees and consider including within its scope asylum seekers whose nationalities suggest a high probability of being recognised as refugees"

Amendment Q (to the draft resolution)

After paragraph 13.1.1, insert the following paragraph:

"ensure that asylum seekers are not detained in hotspots for longer than the period allowed by law, increase the number of places in permanent reception centres and avoid the use of exceptional, temporary facilities for long-term accommodation"

Amendment R (to the draft resolution)

At the end of paragraph 13.2.1, add the following words: "and ensure that the appeals system meets the procedural requirements of an effective remedy".

Amendment S (to the draft resolution)

At the end of paragraph 14.2, add the following words: "access to asylum and the prohibition on *refoulement*"

C. Explanatory memorandum by Ms Tineke Strik, rapporteur for opinion

1. I welcome Mr Varvitsiotis' report on this issue, which remains both politically important and sensitive and a matter of serious, persistent concern from the perspective of respect for the basic rights of refugees and migrants. I am glad that the Parliamentary Assembly will have this opportunity to take stock of developments since last summer and to determine whether the numerous technical recommendations it then made to

ensure protection of these rights remain relevant and necessary. I have therefore carefully examined the latest documents from authoritative, independent actors, with a view to clarifying the situation and proposing any necessary corrections to omissions or misunderstandings that may appear in the draft resolution.

1. Clarifications concerning the situation in Greece

2. In April 2017, the Office of the United Nations High Commissioner for Refugees (UNHCR) submitted its "Recommendations for Greece in 2017", accompanied by an explanatory memorandum, to the Committee of Ministers in the context of the latter's supervision of the execution of the relevant judgments of the European Court of Human Rights.[2] These documents set out the UNHCR's ongoing concerns in relation to the following areas:

– Registration and processing of asylum claims. "Six months after their arrival on the Greek islands many asylum seekers are still waiting for the full registration and processing of their asylum claims. … On the mainland, first instance decisions for those pre-registered during the summer of 2016 will take approximately two years. The lack of capacity to fully process asylum claims within a reasonable time-frame needs to be addressed." "Access to asylum for vulnerable individuals, including unaccompanied and separated children (UASC), remains a challenge. … As things currently stand, the requirements in EU and national legislation that a claim be 'lodged' immediately or as soon as possible after the 'making' of an application, are not met … The absence of a national guardianship system and the gaps in the legal representation of UASC when lodging an application for international protection, especially for UASC younger than 15 years of age, creates further difficulties. … The Independent Appeals Committees (IAC) are limited by the fact that the judges have to carry out their regular judicial tasks in their respective positions within the courts, in addition to their functions on the Committee, and by the lack of expert support as regards country-of-origin information. At the end of 2016, there were a total of 6 193 cases pending before the IACs, [which] have not achieved a stable pace of examination yet and have rendered a small number of decisions. Current examination time far exceeds the three month limit foreseen in the law. The doubling of the number of IACs since February 2017 is still insufficient compared to the number of cases."

– Serious problems on the islands. In particular, "keeping people on the islands in overcrowded, inadequate and insecure conditions is inhumane and must no longer be maintained". "Reception conditions remain very poor and persons on the islands are actually subject to the geographical restriction [preventing movement to the mainland] for almost one year now."[3]

– The reception system on the mainland. "Conditions in accommodation facilities vary, and some continue to be considerably below the standards set out by EU and national law. Most of the facilities established on an emergency mode lacked appropriate conditions … This is the case for facilities that are not suitable for human habitation, such as the remaining [four out of eight] warehouses in central Macedonia and the remaining informal sites in Attica, which should be immediately closed. One main challenge in the area of reception is the lack of clear and organised co-ordination structures … on behalf of the Greek Government. … Although official figures suggest a capacity of available unoccupied spaces of approximately 30,000 places, UNHCR … assesses that the actual capacity of places ready to be occupied in mid-March 2017 is lower, given that for example, some places are not in suitable shelters, lack electricity or other connections, and others need considerable repairs." The UNHCR notes the need for a longer-term plan on the part of the Greek authorities, with transition to a sustainable reception system.

– Care for children, who "are exposed to on-going protection risks, including sexual exploitation and abuse, due to insufficient security, sub-standard and overcrowded reception sites, lack of specific services and non-sufficient access to formal or non-formal education, and lengthy asylum procedures for reuniting families, which also severely impacts their psychosocial well-being. The national capacity for accommodating UASC is still far from meeting the needs – roughly half of the approximately 2 400 UASC in Greece currently do not receive adequate or appropriate care … Accompanied and unaccompanied children are in some circumstances detained in closed reception or police facilities, sometimes with adults." "There is a lack of adequate presence and coverage by child protection actors across Greece …, resulting in limited access to child protection services (health, psychosocial support,

2. DH-DD(2017)435 and DH-DD(2017)84 respectively.

3. Several of the Greek islands continue to hold far more asylum seekers than they have capacity properly to accommodate: Chios, with capacity for 1 309, holds 3 982; Samos, with capacity for 986, holds 2 218; Kos, with capacity for 1 170, holds 2 466, and Rhodes, with capacity for 50, holds 654. UNHCR, "Weekly map indicating capacity and occupancy (Governmental figures)", 6 June 2017.

legal aid, family tracing, alternative care, education, durable solutions). … Detention of UASC in police stations is totally inappropriate. Moreover, there is no maximum duration or limit set out in the law for such detention. … UNHCR is also concerned that due to deficiencies in the age assessment processes,[4] UASC may be registered and detained as adults." On 4 May 2017, there were 168 UASC living in hotspots, close to the average for the previous two months, and 53 in "protective custody", significantly above the average for the previous nine months; there were 1 302 places in UASC shelters and a waiting list of 996, with neither of these figures having changed significantly in the previous three months.[5]

– Sexual and gender-based violence (SGBV): "Conditions in a number of sites in Greece, including the lack of adequate security, expose women, men, boys and girls to sexual violence, abuse, and exploitation as well as domestic violence. Limited livelihood opportunities further amplify the risk of sexual exploitation, trafficking, survival sex and early forced marriages." "SGBV risk mitigation measures have not always been taken into consideration in the course of the design of emergency camp-like accommodation facilities and the implementation of activities, resulting in an increased risk of and vulnerability to SGBV. … Isolation of certain facilities and lack of police or other security mechanisms during the night have contributed to the sense of insecurity and the risk of SGBV."

– Inadequate co-ordination and establishment of clear responsibilities: the UNHCR calls on the Greek Government, "and the Ministry of Migration Policy in particular, to establish clear co-ordination structures with all humanitarian stakeholders to ensure a coherent and efficient response where gaps are addressed, overlap avoided and resources optimised and ensure the timely development of contingency plan and Standard Operating Procedures to handle critical events. This would allow UNHCR and other humanitarian actors to move out of the current ad hoc response mode, as witnessed in the winterisation response, and encourage confidence from the donor community in the humanitarian response in Greece".

– Self-reliance and integration: "Investment is needed … to support refugees who will stay in Greece to achieve meaningful self-reliance and integrate into the host community. This will require investment in promoting effective access to social welfare services, existing language and orientation courses, vocational training and job placement programmes … Further investment is also necessary to support host communities to enhance positive relations with refugees … Efforts are needed to continue to build on the positive community engagement and support from Greek civil society and volunteers."

– Access to health services: "In practice, asylum seekers do not have access to health services, as they are required to be holders of 'Foreigner's Insured Healthcare Card, whose issuance is not yet implemented by the Ministry of Health. Also, due to bureaucratic hurdles, asylum seekers do not always hold or experience delays in getting hold of a social security number, which could, alternatively, secure access to health care."

– Education: "According to the national legal framework, migrant/ refugee children are 'subject to the same requirement of compulsory education as Greek nationals … However, limited numbers of children have been enrolled and attended morning classes together with Greek pupils … School started gradually since October 2016, but despite Ministry's efforts not all refugee children attend formal primary and secondary education."

– Detention: "maximum detention time limits are considered in practice from the moment of the lodging of the application, and the time that the asylum seekers is detained prior to the lodging is not taken into consideration. Thus asylum seekers may be detained for a total period exceeding [the limit of three months]. Moreover, … asylum seekers do not have effective access to [ex officio judicial review of the detention order] due to a lack of interpretation, legal assistance and limited capacity of the Administrative Courts."

3. The Committee of Ministers' subsequent decisions on the relevant judgments against Greece make clear that it shares the UNHCR's most pertinent concerns.[6] The Committee invited the Greek authorities "to elaborate … a plan for the registration and processing of asylum applications, so that they are processed within a reasonable time"; "to develop a strategy securing the full protection of unaccompanied minors in the basis of an effective guardianship system"; "to improve conditions of detention in all detention facilities where irregular migrants and asylum seekers are detained, including by providing adequate health-care services";

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4. It can be noted that the Greek authorities use a method for age assessment that was criticised in the Assembly's report on "Harmonising the protection of unaccompanied minors in Europe": see Doc. 14142, paragraph 47.
5. "Situation Update: Unaccompanied Children in Greece", National Centre for Social Solidarity, 4 May 2017.
6. CM/Del/Dec(2017)1288/H46-15, 7 June 2017.

and "to ensure, as a matter of priority, that alternatives to the detention of minors are found and that where, exceptionally, minors are detained, they are held separately from adults and in conditions adapted to their vulnerable nature".

4. Also in April 2017, the Greek Ombudsman issued a detailed, damning report entitled "Migration Flows and Refugee Protection: Administrative Challenges and Human Rights Issues". This report, reflecting the situation up to its date of publication, confirms all of the UNHCR's concerns and even expands on them in relation to, for example, poor conditions in the island hotspots and other accommodation facilities; deficiencies in the provision of food and health-care to asylum seekers; ineffective access to education; and, at great length, inadequate administrative co-ordination and planning, deficient legislative and regulatory frameworks and the Greek State's inability to absorb the available EU financing. The Ombudsman's report also notes the existence of an "insouciance about human rights, which means lack of due respect towards human rights upon implementing the legislative framework" in relation to, for example, detention, including of UASC, forced returns, living conditions, age assessment and access to education.

2. Clarifications concerning the situation in Turkey

5. The Committee of Ministers also received a submission from Amnesty International, which additionally described how "asylum seekers are at risk of return to Turkey despite not having access to effective protection there".[7] This followed Amnesty's publication of a report specifically on the EU–Turkey Agreement, containing extensive, detailed information on a range of issues, including, amongst others, serious deficiencies in the Turkish asylum system and the risk of onward *refoulement* of asylum seekers returned to Turkey.[8]

3. Clarifications concerning the situation in Italy

6. Italy too is confronted by numerous problems, not all of which are apparent in Mr Varvitsiotis' report, including the following:[9]

– National law does not regulate the hotspots in detail and the Ministry of Home Affairs' Standard Operating Procedures (SOPs) for the hotspots have no clear basis in law, despite the fact that the authorities' actions in the hotspots, including detaining refugees and migrants, may interfere with human rights.

– National legislation does not envisage the use of force, or at least anything other than minimal force, to ensure that fingerprints are taken. Nevertheless, Amnesty International has reported on numerous allegations of use of excessive force, even torture, when taking fingerprints from new arrivals.

– New arrivals, often exhausted, confused and distressed and lacking information, are almost immediately questioned by police officers on their reasons for coming to Italy, although not on whether they intend to claim asylum. Failure at this stage to state an intention to claim asylum may lead to their being detained in pre-removal centres, even if they subsequently make an application. In some cases, new arrivals are asked if they intend to work in Italy; if they do, they may be classified as "economic migrants" even if they also intended to claim asylum, with the result again that they may be detained in pre-removal centres.

– Age assessment procedures for UASC (other than victims of trafficking) are not clearly set out in law, although the hotspot Standard Operating Procedures appear to take a positive approach, giving the benefit of the doubt to the applicant in case of uncertainty.

– The hotspots are neither intended nor equipped for prolonged accommodation, yet migrants are reportedly often held there for weeks; even months for UASC, on account of the shortage of specialised accommodation. The resulting overcrowding exacerbates problems including lack of running water, poor sanitary conditions, inadequate separation of male and female occupants and general lack of space.

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7. DH-DD(2017)307.

8. Amnesty International, "A Blueprint for Despair: Human Rights Impact of the EU–Turkey Deal", February 2017. See also "Greece: A Year of Suffering for Asylum Seekers", Human Rights Watch, 15 March 2017.

9. For further details, see for example "Report of the fact-finding mission to Italy by Ambassador Tomas Bocek, Special Representative of the Secretary General on migration and refugees", SG/Inf(2017)8, 2 March 2017; "Background information for the LIBE Delegation on Migration and Asylum in Italy", European Parliament, March 2017; and "Hotspot Italy: How EU's Flagship Approach Leads to Violations of Refugee and Migrant Rights", Amnesty International, October 2016.

– By far the greater part of the reception capacity for asylum applicants is in exceptional temporary facilities, often in isolated suburban or rural locations with few if any services. Since it may take years for applications to be processed, the pressure on reception capacity grows with every new arrival. Asylum-seekers should quickly progress from first to second reception centres, with better conditions, facilities and services (including integration-related services), but lack of capacity prevents this from happening.

– The guardianship system for UASC is dysfunctional, with a lack of qualified guardians leading to "institutional guardians" being greatly overburdened. Institutional guardians can include directors of reception centres, which may give rise to conflicts of interest. Without a guardian, UASC cannot apply for family reunification.

– The extreme pressure on the asylum system often causes delays of several months before an application can be made and official asylum-seeker status and associated rights obtained.

– Recognition rates vary enormously between different territorial commissions, from 75-80% of decisions being positive to only 15%.

– Since 2014, over 53 000 negative decisions have been appealed, of which 81% were still pending (as of January 2017). Rights of appeal against negative asylum procedures have recently been greatly curtailed, excluding any genuine possibility of adversarial proceedings and limiting further appeals to points of law before the Court of Cassation, which as a result risks being confronted by a backlog of cases and delays in proceedings.

4. Clarifications concerning the situation in Libya

7. Mr Varvitsiotis' report makes several references to Libya but does not describe the situation faced by refugees and migrants in that country. Refugees International has very recently published a substantial report entitled "Hell on Earth: Abuses against Refugees and Migrants Trying to Reach Europe from Libya". This report sets out detailed information, in part provided and corroborated by international organisations including the UNHCR and the International Organization for Migration (IOM), on the horrendous violations suffered by refugees and migrants in Libya. These include killings, torture and physical and sexual abuse; unlawful detention by smugglers and militias and indefinite, arbitrary detention by the authorities, in both cases in inhuman conditions; and human trafficking, forced labour and being sold into slavery. Indeed, so serious are these allegations, and so credible and substantiated the reports, that the Prosecutor of the International Criminal Court (ICC) is considering initiating an investigation into the situation.[10]

8. A proper appreciation of the appalling situation in Libya must be the starting point for any proposals to enhance co-operation with the Libyan authorities. It must be recalled that the UNHCR has urged States "to refrain from returning to Libya any third-country nationals intercepted at sea and to ensure that those in need of international protection are able to access fair and effective asylum procedures upon disembarkation".[11] Also of note is the statement issued by a group of United Nations human rights experts, who were "highly concerned that by agreeing a deal with Libya, whereby migrants trying to flee human rights violations are being pushed back to those same conditions, the principle of non-refoulement will be violated … Limiting departures from the Libyan coast simply means accepting and legitimising the human suffering prevailing in Libya and pushing people back to conditions where migrants suffer [serious violations]".[12] One should also note that international human rights law protects the right to leave a country, including one's own, and the right to seek and to enjoy asylum.

9. These considerations do not seem to have been taken into account in Mr Varvitsiotis' report. His conclusions and recommendations on co-operation with the Libyan authorities must therefore be treated with the utmost caution.

10. "Thirteenth Report of the Prosecutor of the ICC to the United Nations Security Council", 8 May 2017.
11. "UNHCR Position on Returns to Libya, Update I", October 2015 (still in effect).
12. "Malta Summit: 'Is Libya the right disembarking point for migrants?' – UN rights experts", François Crépeau (United Nations Special Rapporteur on the human rights of migrants), Nils Melzer (United Nations Special Rapporteur on torture), Urmila Bhoola (United Nations Special Rapporteur on slavery) and Setondji Roland Adjovi (Chair of the Working Group on Arbitrary Detentions), 3 February 2017.

5. Explanation of amendments

Amendment A

It is misleading to suggest that the situation in Greece has improved "as a consequence" of the EU–Turkey Agreement; on the contrary, along with the closure of the Western Balkans Route and the failure of the European Union's relocation programme, the agreement has contributed greatly to the challenges that Greece continues to face. This amendment seeks to reflect this situation more accurately.

Amendment B

It cannot be simply stated that registration and processing of asylum claims have become much more efficient: in fact, they continue to raise serious concerns, as shown in recent UNHCR documents and Committee of Ministers' decisions.

Amendment C

The current wording is misleading. In fact, many of those returned did not have their applications examined on the merits, as they either did not apply or subsequently withdrew their applications. What is true is that none of the asylum seekers whose applications were considered inadmissible on the basis that Turkey was for them a safe country of refuge have been returned there.

Amendment D

The current wording is misleading. In fact, most applications have not yet been examined at all; rejections have mostly been on the basis of inadmissibility, with no examination of the merits; and the position of the Greek appeals committee has not been consistent, having changed dramatically following reform of its composition.

Amendment E

The current wording is misleading: the Assembly's concerns about detention in the hotspots were well-founded at the time, but the Greek authorities appear since then to have minimised deprivation of liberty, although many asylum seekers have no choice but to live in the hotspots. This amendment seeks to reflect this situation more accurately.

Amendment F

In the interests of balance and completeness and in order to provide a factual basis for the following recommendations, it is necessary to refer to some of the outstanding concerns, as expressed by, amongst others, the UNHCR, the Greek Ombudsman and the Committee of Ministers.

Amendment G

In the interests of balance and completeness and in order to provide a factual basis for the following recommendations, it is necessary to refer to some of the other concerns, as expressed by, amongst others, the Special Representative of the Secretary General on migration and refugees and Amnesty International.

Amendment H

This amendment is required in the interests of balance and to provide necessary factual background.

Amendment I

The issue of co-operation with the Libyan authorities must be treated with the utmost caution, given the political, security and human rights situation in the country. At the very least, it must be ensured that it takes place with full respect for essential provisions of international human rights law.

Amendment J

This is related to the previous amendment, in connection with an area of particular sensitivity and concern from the perspective of refugees' and migrants' rights.

Amendment K

Also related to Amendment I, this is intended to promote EU action in relation to the wider situation of extremely serious violations faced by refugees and migrants in Libya.

Amendment L

Serious concerns have been expressed by a range of bodies, including the Greek Ombudsman and the UNHCR, about the administrative capacities of the Greek authorities. It would thus be irresponsible to encourage the European Union to direct more of its funding to the Greek authorities, unless they were able to prove their capacity to spend it more efficiently and effectively than other potential recipients. Otherwise, the impact of funding on the situation of the intended beneficiaries would be reduced.

Amendment O

The Assembly should strongly discourage a member State from penalising individuals' exercise of their right to an effective remedy under Article 13 of the European Convention on Human Rights (ETS No. 5).

Amendment P

Given their nationality, the situation in many of their countries of origin and the failure of the European Union's relocation scheme, it is most likely that a large number of refugees will remain in Greece for a considerable length of time. The Greek authorities must come to terms with this and begin integrating these people into Greek society.

Amendment Q

The draft resolution should contain summary reference to these problematic issues as a factual basis for the following recommendations.

Amendment R

There have been criticisms of recent reforms to the Italian asylum appeals system. The Italian authorities must ensure the availability of an effective remedy, an essential part of the protection against *refoulement*, as required by the European Convention on Human Rights.

Amendment S

The Turkish asylum system is still not fully operational, and there have been widespread reports of pushbacks and other forms of *refoulement* of refugees and asylum seekers from Turkey.