



Resolution 2174 (2017)¹

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

Parliamentary Assembly

1. More than a year after the adoption of the EU–Turkey Agreement of 18 March 2016, the Parliamentary Assembly acknowledges that the implemented measures have delivered some tangible results with regard to the challenges underlying the refugee and migration crisis. While in the weeks before the implementation of the agreement the daily average number of people arriving on the Greek islands was almost 2 000, since then it has fallen to under 100 per day. The number of fatalities, which amounted to 376 between the beginning of January and 20 March 2016, dropped significantly in the corresponding period in 2017 when 13 people lost their lives.
2. Since the Assembly last examined the issue 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. At present, there are 63 000 asylum seekers waiting in Greece for the outcome of their status determination procedure – 14 000 of them are confined to the islands. Thanks to the creation of hotspots, reception, registration and asylum processing have become much more efficient and, given the continuous efforts of the Greek authorities and other stakeholders to improve these processes, they raise less concern than before. However, overall, reception conditions are still poor, and the situation of unaccompanied minors is of utmost concern. Of the 2 000 minors registered in Greece, only 1 352 live in shelters adapted to their specific needs.
3. 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 without an examination of the application on its merits. As at April 2017, the total number of people returned since the adoption of the EU–Turkey Agreement was 1 487.
4. Furthermore, the Assembly notes that its concerns relating to the systematic detention of asylum seekers in hotspots appear not to have been realised. Subsequent practice has shown that, once registered, asylum seekers can go in and out of hotspots freely. However, the lack of alternative accommodation means that, except for some members of vulnerable groups, most have no choice but to reside there, even though living conditions are far from satisfactory.
5. 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.

1. *Assembly debate* on 28 June 2017 (23rd Sitting) (see [Doc. 14341](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Miltiadis Varvitsiotis; and [Doc. 14359](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Tineke Strik). *Text adopted by the Assembly* on 28 June 2017 (24th Sitting).



6. A direct consequence of the implementation of the EU–Turkey Agreement and the closure of borders was an 83% decrease in the number of new arrivals in the countries of the Western Balkans and Hungary. In terms of migrants stranded in these countries at the end of 2016, the majority remain in Serbia (5 633) and Bulgaria (5 560).

7. The implementation of the EU–Turkey Agreement and the closure of the borders on the Western Balkans Route arguably have had no impact on the number of people using the Central Mediterranean Route between North Africa and Italy. Even if the number of arrivals in Italy increased by more than 30% in the first five months of 2017, this phenomenon is linked to the unstable situation in Libya and the growing inflows of migrants from different African countries.

8. The reception conditions and asylum procedures in Italy, even if they are also improving, require urgent action. As with Greece, Italy has become a destination country and continuous mass arrivals risk overwhelming the country's reception capacity. 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 temporary first reception facilities that lack essential amenities and services. Deficiencies also exist in the legal regulation of the hotspots, including the basis of detention there and the use of force to compel new arrivals to provide their fingerprints. 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. The question of the return of rejected asylum seekers should be given immediate consideration; the large number of irregular migrants represents a threat for the whole asylum system and social stability.

9. The arrival of migrants in Italy is, to a large extent, the result of the inability of the Libyan authorities to control their borders. While the level of search and rescue operations should be maintained, the European Union should increase its efforts to effectively combat networks of smugglers in the Mediterranean and enhance co-operation with the Libyan Coast Guard. 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*.

10. The Assembly stresses that the lack of accessible and safe pathways forces refugees and migrants to take enormous risks by trying to cross the sea. The use of existing legal ways to enter Europe, family reunification or resettlements for example, would substantially contribute to reducing irregular migration across the Mediterranean.

11. The Assembly also refers to its recent resolutions dealing with various aspects of the mass arrivals of refugees and migrants across the Mediterranean, and in particular [Resolution 2109 \(2016\)](#) on the situation of refugees and migrants under the EU–Turkey Agreement of 18 March 2016, [Resolution 2147 \(2017\)](#) on the need to reform European migration policies, [Resolution 2118 \(2016\)](#) "Refugees in Greece: challenges and risks – A European responsibility", [Resolution 2107 \(2016\)](#) on a stronger European response to the Syrian refugee crisis, [Resolution 2108 \(2016\)](#) "Human rights of refugees and migrants – the situation in the Western Balkans", [Resolution 2088 \(2016\)](#) "The Mediterranean Sea: a front door to irregular migration", [Resolution 2072 \(2015\)](#) "After Dublin – the urgent need for a real European asylum system", [Resolution 2089 \(2016\)](#) on organised crime and migrants and [Resolution 2136 \(2016\)](#) on harmonising the protection of unaccompanied minors in Europe.

12. The Assembly calls on the European Union:

12.1. with regard to reducing the number of sea crossings and saving lives, to:

12.1.1. maintain at least the present level of search and rescue operations;

12.1.2. enhance the fight against smugglers and traffickers;

12.1.3. step up its co-operation with the Libyan Coast Guard and, in particular, ensure funding for training programmes, assist in establishing a maritime rescue co-ordination centre and support the provision of additional patrolling vessels and ensure their maintenance, 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;

12.1.4. engage with the Libyan authorities to ensure that the extremely serious and widespread violations of the rights of refugees and migrants are brought to an end and the conditions in centres for migrants are improved, with particular attention given to vulnerable people and minors; step up co-operation with the Office of the United Nations High Commissioner for

- Refugees (UNHCR) and the International Organization for Migration (IOM) in this respect; support capacity building in migration management for the Libyan authorities; and launch co-operation programmes with Libyan host authorities;
- 12.1.5. mobilise funding for migration-related projects in North Africa in the framework of the European Union Emergency Trust Fund for Africa;
- 12.1.6. launch a process of serious reflection on the possible establishment of hotspots outside Europe, in full compliance with international human rights standards;
- 12.2. with regard to reception and living conditions in the countries of first arrival and transit, to:
- 12.2.1. increase financial, human and administrative support with a view to improving reception and living conditions;
- 12.2.2. ensure transparency, monitoring and accountability of financing procedures and, to this end, focus on public authorities as first instance beneficiaries where they have proved their ability to make more efficient and effective use of such funding than other stakeholders;
- 12.3. with regard to asylum procedures, to:
- 12.3.1. refrain from transferring asylum seekers back to Greece and Italy under the Dublin Regulation, as long as these countries are dealing with a disproportionate number of asylum seekers;
- 12.3.2. continue providing the necessary support, through the relevant agencies of the European Union, to the national asylum services in front-line member States, and in particular remedy the current shortfall of experts from the European Asylum Support Office (EASO) by calling for more pledges from member States and extending the duration of the mandate of individual experts;
- 12.3.3. review, and redefine if necessary, the mandates of relevant agencies providing expert advice, financial and technical resources and co-ordination support to Greek and Italian asylum services with a view to eliminating existing shortcomings and increasing the efficiency of their actions;
- 12.3.4. address, as a matter of urgency, the question of accommodation and processing of applications of unaccompanied minors;
- 12.3.5. appoint a child protection officer for every hotspot and refugee camp;
- 12.3.6. 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 against non-compliant member States;
- 12.3.7. consider the extension of the relocation mechanism beyond September 2017 and redefine the criteria for eligibility, in particular to include Iraqis and Afghans;
- 12.3.8. step up the pace of resettlements from Turkey;
- 12.3.9. speed up the work on the reform of the Common European Asylum System, including the revision of the Dublin Regulation and, in the future, the modalities of applying the principles of responsibility and solidarity;
- 12.3.10. ensure full implementation of family reunification from Greece and Italy based on European Union and international law, including the Dublin Regulation and [Council Directive 2003/86/EC](#) of 22 September 2003 on the right to family reunification;
- 12.3.11. ensure that people who are found not to be in need of international protection are returned with dignity to their countries of origin, to the extent possible;
- 12.3.12. facilitate returns from Greece and Italy through bilateral agreements with the migrants' countries of origin;
- 12.3.13. step up financing for voluntary returns, including the creation of special centres for people awaiting return.

13. The Assembly calls on the Greek authorities:

13.1. with regard to reception conditions, to:

13.1.1. continue increasing reception capacity on the islands and on the mainland and ensure that all unsuitable sites are closed as a matter of urgency;

13.1.2. step up efforts aimed at the prevention of and fight against sexual and gender-based violence as well as all kinds of exploitation in the refugee centres;

13.1.3. focus more attention on the specific needs of unaccompanied and separated children, in particular by ensuring specialised support and care and appropriate living conditions, and paving the way to normality and integration within the host society;

13.1.4. end the systematic detention of rejected asylum seekers and use a proportionality test in each individual case, in accordance with the principles of Article 5 of the European Convention on Human Rights (ETS No. 5), substantially improve detention conditions and, in that light, abolish the practice of detaining migrants in police stations;

13.2. with regard to asylum procedures, to:

13.2.1. speed up the processing of asylum applications from registration to appeal, in line with European Union and international law standards and withdraw their policy of denying access to the IOM's Assisted Voluntary Return and Reintegration (AVRR) programmes to those who appeal against negative decisions;

13.2.2. adopt, as a matter of urgency, standard operating procedures which constitute an essential element for clarifying responsibilities and harmonising procedures in hotspots and other disembarkation ports;

13.2.3. appoint permanent co-ordinators in hotspots with a view to improving co-ordination, ensuring effective communication and information sharing by different stakeholders and taking full responsibility for the overall management of hotspots;

13.2.4. adopt legislation on guardianship in line with European best practices, and implement it without further delay as soon as it enters into force;

13.2.5. ensure that all non-governmental organisations (NGOs) involved in hosting and aid processes are in line with European Union and State regulations;

13.3. with regard to the use of European Union funding, to:

13.3.1. speed up the process of the use of European Union long-term funding for reception and hosting facilities;

13.3.2. activate the programmes aimed at the monitoring of the Aegean Sea area using European Union long-term funds;

13.3.3. 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.

14. The Assembly calls on the Italian authorities:

14.1. with regard to reception conditions, to:

14.1.1. increase the number of adequate facilities to accommodate unaccompanied minors and other vulnerable asylum seekers and process their applications;

14.1.2. 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 temporary facilities for long-term accommodation;

14.1.3. establish national standards for refugee camps and centres, and increase their monitoring and accountability;

14.1.4. step up efforts aimed at the prevention of and fight against sexual and gender-based violence as well as all kinds of exploitation in refugee centres;

- 14.2. with regard to asylum procedures, to:
 - 14.2.1. review asylum procedures in order to increase their efficiency in the light of the considerably increased number of requests for asylum and ensure that the appeals system meets the procedural requirements of an effective remedy;
 - 14.2.2. address, as a matter of urgency, the question of the processing of applications from unaccompanied minors and, in particular, clarify the procedures to enable their relocation;
 - 14.2.3. ensure quick and full implementation of Law No. 47 on unaccompanied minors (“Legge Zampa”).
15. The Assembly reiterates its long-standing calls on the Turkish authorities to:
 - 15.1. withdraw their geographical limitation to the United Nations 1951 Convention relating to the Status of Refugees;
 - 15.2. ensure that all migrants returned to Turkey under the EU–Turkey Agreement are treated in compliance with international human rights standards, including with respect to detention, access to asylum and the prohibition on *refoulement*;
 - 15.3. refrain from threatening to withdraw from observing the obligations set down in the EU–Turkey Agreement.