



Utrecht University

Faculty of Geosciences
Human Geography and Planning

Evidence-based assessment of migration deals the case of the EU-Turkey Statement



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Photo: Saima Hassan

Final Report

Ilse van Liempt, Maybritt Jill Alpes, Saima Hassan,
Sevda Tunaboylu, Orcun Ulusoy, Annelies Zoomers



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Colophon

Authors

Ilse van Liempt¹, Maybritt Jill Alpes¹, Saima Hassan⁴,
Sevda Tunaboynu³, Orcun Ulusoy², Annelies Zoomers¹

¹ Utrecht University, Human Geography and Planning

² Borderline Europe

³ Universitat Pompeu Fabra

⁴ Independent consultant

Human Geography and Planning

Faculty of Geosciences

Utrecht University

Heidelberglaan 2

3584 CS Utrecht

The Netherlands

Website

<https://migratiedeals.sites.uu.nl/>

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Contents

1	Introduction	5
2	What was promised under the EU-Turkey Statement and how has it materialized?	7
2.1	Declining numbers of arrivals	8
2.2	Improvement of the situation of refugees in Turkey?	9
2.3	Increasing numbers of returns to and resettlement from Turkey?	10
3	Methodology	II
4	The situation in Greece after the EU Turkey Statement was introduced	15
4.1	Fast Track Procedures	15
4.2	The Hotspot Approach	15
4.3	Distinctions by nationality and vulnerability assessment within the asylum process	17
4.4	Accepting (Voluntary) Return from Greece	18
5	What happens with migrants after readmission to Turkey?	20
5.1	Is Turkey a safe country?	20
5.2	Access to Asylum in Turkey after readmission	21
6	Returns from Greece and Turkey to Pakistan	23
6.1	Deterrent effects of sending people back?	24
7	Resettlement from Turkey to Europe	25
7.1	How do Syrians in Turkey learn about resettlement possibilities?	25
7.2	The pre-departure orientation in Turkey	26
7.3	What happens to people after resettlement?	27
8	Conclusions	28
	References	30

1 Introduction

On 17 and 18 March 2016 the Members of the European Council, together with the Presidents of the European Council and the European Commission, met Turkey's Prime Minister Ahmet Davutoglu to discuss Turkey-EU relations and address the so-called 'European refugee crisis' (<http://www.consilium.europa.eu/media/23720/160316-euco-background-note-final.pdf>). The main output of that meeting was a press release entitled the 'EU-Turkey Statement' which was posted on the website of the European Council and the Council of the EU¹. One of the EU Turkey Statement's main action points was that, as of 20 March 2016, all new asylum seekers irregularly entering Greece from Turkey would be returned to Turkey.

The statement allows deportations back to Turkey of all migrants who arrive on the Greek islands via the Aegean sea after 20 March 2016. These deportations would follow a fast-track asylum procedure during which a decision is taken as to whether Turkey is a safe third country or a country of first arrival where people can process their asylum claims. In return the Statement provides legal pathways under the 1 for 1 regulation for the most vulnerable, in the shape of resettlement. The EU promised to accept up to 72,000 Syrians from Turkey via quotas. Turkey would also receive three billion Euros to invest in border control and reception of refugees as well as visa liberalisation for the Schengen area for Turkish citizens. Furthermore, the EU accession negotiations would be resumed.

The EU-Turkey Statement has been the subject of much controversy since its inception. Among the main issues for discussion two key questions have attracted most of the attention, the first being its actual legal nature from the perspective of European law. In other words, what exactly is it? Is it an international agreement or something else? And secondly, does it comply with the EU Charter of Fundamental Rights in light of the unsafe conditions asylum seekers and refugees encounter in Turkey? These questions have been widely debated in civil society and academic and political arenas and have resulted in court cases (Carrera et al. 2017). Nevertheless, the EU Turkey Statement is high on the political agenda and considered to be an effective migration control measure because it promises to bring down the numbers of arrivals and reduce smuggling (and migrant deaths) by providing legal alternatives.

At the same time the Statement is severely criticized for the human rights violations it has caused on Greek islands, as well as the lack of responsibility taken by European Member States by sending asylum seekers to a country – that is Turkey – that is far from safe for asylum seekers. Turkey cannot be considered a safe country for refugees and the implementation of the deal risks violating the principle of *non-refoulement*. People ought not to be returned to a country where they cannot request or receive protection. There is limited knowledge on the implementation of Turkey's law on protection and in particular on what happens to people once they are returned to Turkey or even further away (for example to Pakistan). We also know little about how these measures impact on migration flows, change routes and directions and whether other entry points are being used.

1 European Council (2016), EU-Turkey Statement, 18 March, Press Release. (<http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>).

Based on empirical research in Greece, Turkey, Pakistan and the Netherlands this research project gives insights into how the deal has transformed mixed migration flows and people's reliance on human smugglers and how the deal impacts daily lives on the ground of refugees who are on the move, or in the process of trying to move. The EU Turkey Statement has very much sent a message that people can be traded for money and/or for other people. The EU promised financial support to Turkey for the support of refugees. Initially € 3 billion was promised under the Facility for Refugees in Turkey. Once these resources had been almost used up the EU would mobilise additional funding for the Facility of up to an additional € 3 billion to the end of 2018. The rule that for every Syrian returned to Turkey one Syrian (family) can be resettled to Europe illustrates the idea of refugees being treated as interchangeable commodities. This research focused on the personal experiences behind these measures but it also asks the question of what we can learn from these insights for future collaborations with other countries in the context of migration.

2 What was promised under the EU Turkey Statement and how has it materialized?

During the Dutch EU Presidency the EU-Turkey Statement (signed on 18 March 2016) was introduced as a 'new' and innovative 'solution' for the influx of mixed migration. The 28 EU heads of state and Turkey agreed that all new irregular migrants arriving on the Greek islands as of 20 March 2016 were to be returned to Turkey. At its core the agreement aims to 'break the business model of smugglers' and to decrease the inflow of mixed migration. Turkey would have to take 'any necessary measure' to prevent the opening up of new irregular sea or land routes to the EU. The EU and Turkey also welcomed the ongoing work on the upgrading of the Customs Unions. Through the deal, leaders hoped to send a message to smugglers and would-be asylum seekers that travelling to Europe is dangerous and involves the risk of a forced return.

In order to prevent the opening up of new irregular routes and to break down the so-called smuggling networks, EU and Turkish authorities increased cooperation in the field of security and appointed liaison officers for operational cooperation. In April 2016, a Frontex liaison officer was deployed in Ankara for '*regular operational contacts and daily reporting with the Turkish National Frontex Point of Contact.*' (EC 2016b, page 3). Moreover, in May 2016, a Turkish Liaison Officer was stationed with Europol. Furthermore, Turkish authorities set up units on migrant smuggling and human trafficking and Turkish Coast Guards increased their patrols in the Aegean Sea and registered a large number of prevented departures from Turkey (EC 2016c, page 4).

Since the 2000s concern has been growing about irregular migrants passing through Turkey towards Europe and over time it has become a major theme of the accession negotiations with the European Union (Kirisci 2005, Ozcurumex & Yetkin 2014). However, as Heck & Hess (2017) point out, this process has been accompanied by contradictions, obstacles and delays. On the one hand Turkey has fulfilled crucial EU demands and has introduced a series of new laws in recent years (Tolay 2012). It has revised its laws on work permits and naturalization, adopted the Palermo Protocols regarding trafficking, expanded deportation facilities with the financial support of the EU and intensified the protection of Turkish borders in 2006 within the scope of the National Action Plan for the Implementation of Turkey's integrated Border Management (IBM) Strategy. Visa regulations have also been reformed in accordance with EU visa allocation policies (Tolay 2012).

At the same time geopolitical and economic interests in the Middle East and Africa led to a revision of its restrictive visa policy in 2005 (Genc 2015) which contradicts the agreements that were made with the EU. For example, when Turkey started to establish and intensify economic relations with African countries it lifted its visa restrictions with African countries. Another example is that Turkey has had a mutual visa exemption agreement with Syria since 2009. This agreement applied to both states and included the formulated aim to create a Schengen type joint visa policy together with Iran and Iraq which would be called *Samgen* (Gokalp Aras & Sahin-Mencutek 2015, Ozler 2013). This caused a lot of friction with the EU.

A last ongoing obstacle within the collaboration between Turkey and the EU is the geographical limitation² that Turkey has in its refugee law. Up to now Turkey has always resisted demands to lift this geographical ban because it feared it would become a reservoir for asylum seekers who have been rejected from the EU and without having ensured Turkish accession to the EU this law will not be changed. While keeping the geographical limitation, it did however agree with the EU Turkey Statement. In exchange for the possibility to readmit irregular migrants from Greece to Turkey, EU Member States promised to increase the resettlement of Syrian refugees residing in Turkey under the Statement. The visa liberalisation roadmap for Turkish nationals was also supposed to be accelerated with a view to lifting the visa requirement entirely for Turkish citizens at the latest by the end of June 2016. However, after initial efforts, the Visa Liberalisation process for Turkish citizens came to a halt because certain agreements of the Visa Liberalisation Roadmap had not been fulfilled by the Turkish side, including revising legislation and practices on terrorism in line with European standards.

In the Progress Report on the implementation of the EU Turkey Statement (September 28, 2017) three intended effects are pointed out: 1) declining numbers of arrivals, 2) improvement in the situation of refugees in Turkey, and 3) increasing numbers of returns and resettlements. In the next few paragraphs we assess these three intended effects.

2.1 DECLINING NUMBERS OF ARRIVALS

The first intended outcome is a decrease in the numbers of arrivals from Turkey to Greece. Although this is hard to deny (see figure 1) it is important to bear in mind that other factors have played a role in getting these numbers down in addition to the introduction of the EU Turkey Statement alone. These include the closure of the Balkan route and seasonal effects (see also Spijkerboer 2016 for this argument). Figure 1 clearly shows that border crossings had already decreased prior to the passing of the EU Turkey Statement. We also see a slight increase again after July 2015, the time of the attempted coup d'état in Turkey, when Turkish citizens started to use the same route to escape the deteriorating political conditions in the country (see also Heck & Hess 2017 for this argument).

We would like to add to this the 'natural' development of asylum peaks that always tend to evolve with most people who had to leave Syria having left Syria by the time the EU Statement was introduced and the fact that being stuck in Greece with little chance of moving onward was such an unappealing prospect for those who still were on the move that they decided to wait or take another route if possible.

Apart from getting the number of arrivals down, the EU Turkey Statement is also implicitly aimed at getting the number of deaths down by combating people smuggling. The progress report makes no mention of the number of deaths. From the IOM database on missing persons we see, however, that there was an increase in the fatality rate for the entire Mediterranean from 1.4% in 2016 to 2% in 2017, so people are still drowning. On top of this, relatively more people are drowning now even though the numbers have gone down. One explanation for this could be that vulnerable people who would not normally travel this way are now also undertaking the dangerous routes because there is no other way to leave Turkey. Plambech (2017) shows that there has been an increase in women and children taking the dangerous sea crossing recently and argues that women are more at risk of dying at sea than men. On the ships women and children are often placed below deck by their male family members in order to protect them during the crossing. But this location can quickly become a trap, often with tragic consequences. Besides that, women are more likely to be poor swimmers and their attempts to save children often lead to higher risk of drowning. The Olympic Syrian refugee girl (Yusra Mardini) who swam for 3 hours in sea to push a sinking boat and rescue 19 people shows, however, that these general statements do not

2 Although Turkey has been a signatory party to the 1951 Geneva Convention relating to the Status of Refugees, the Refugee Convention is geographically limited as regards its application which essentially means that asylum-seekers coming to Turkey from outside of Europe cannot be recognised as refugees in Turkey. The limitation denies refugees from non-European countries the prospect of long-term integration in Turkey.

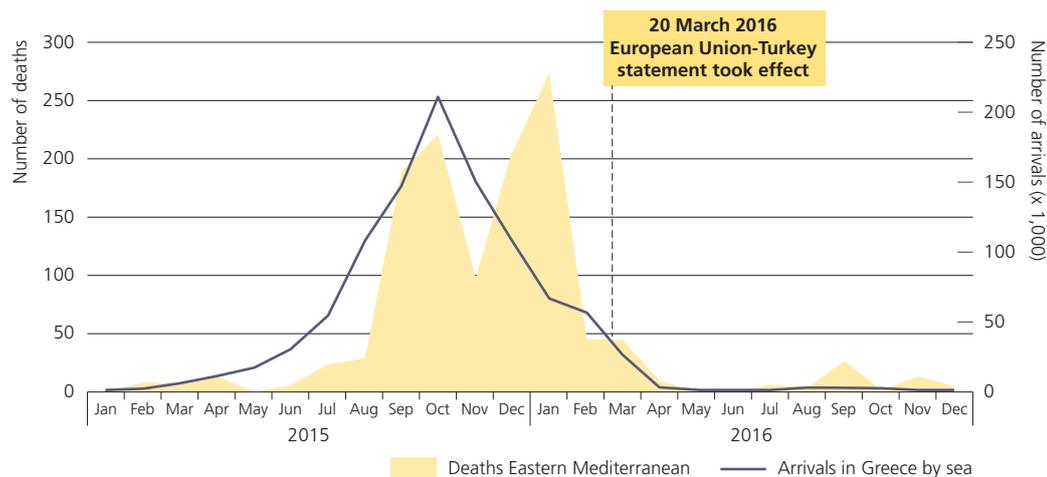


Figure 1 Number of arrivals and deaths in the Eastern Mediterranean (2015–2016).
Source: Hellenic Police; Missing Migrants Project, 2017.

apply to everyone (<http://www.independent.co.uk/news/people/yusra-mardini-rio-2016-olympics-womens-swimming-the-syrian-refugee-competing-in-the-olympics-who-a7173546.html>).

Another explanation for the increase in deaths might be that smugglers may need to take more risks because of the increased control and penalties on smuggling. This cat and mouse game played at the border (Andreas 2009) and its deadly consequences is something we are aware of from previous research in other border areas as well.

2.2 IMPROVEMENT IN THE SITUATION OF REFUGEES IN TURKEY?

The second intended effect according to the Progress Report is that money is invested in education and healthcare in Turkey to improve the conditions of refugees in Turkey. In May 2016 the Steering Committee for the Facility agreed on six priority areas for assisting Syrian refugees in Turkey, namely humanitarian assistance, migration management, education, health, municipal infrastructure and socio-economic support. These six priority areas were grouped under two implementing modalities, namely humanitarian and non-humanitarian assistance. As of September 2017, of the € 2.9 billion allocated, contracts have been signed for 48 projects for an amount of € 1.664 billion. However, only about half of this amount, € 838 million, was disbursed during this period for both humanitarian and non-humanitarian assistance (EC 2016c, page 11). As such it would be justifiable for Europe to send asylum seekers back to Turkey because they would have a sustainable alternative there (read no need to come to Europe).

In reality the situation for refugees in Turkey is desperate and legally insecure. The 2013 Law on Foreigners and International Protection introduced two forms of international protection for non-Europeans, that is the conditional refugee status (in the case of people who are under direct personal threat) and subsidiary protection (in the case of people coming to Turkey from countries where a general situation of violence prevails). Syrian refugees were, however, excluded from both categories because they have been granted temporary protection status (TPS), according to which TPS Syrians are entitled to access basic health care services, education and a work permit and are not forcibly encamped. Nevertheless, the actual living conditions in Turkey are harsh as our interviews stated. This temporary protection makes life very difficult and is filled with ambiguities in terms of access to jobs, education but also prospects for long term naturalisation are not clearly defined. For Syrians the main reason to leave Turkey is the temporary nature of their legal status, the legal insecurity. The time spent in Turkey does not qualify them for a long-term residency permit.

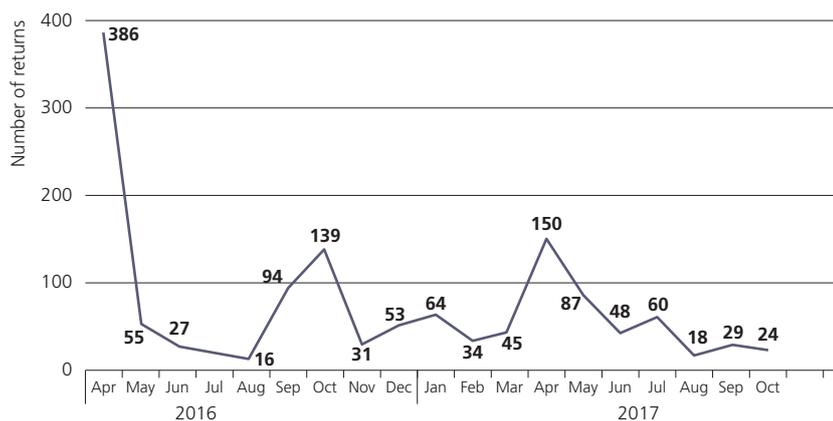


Figure 2 Number of returns from Greece to Turkey between April 2016 and October 2017

2.3 INCREASING NUMBERS OF RETURNS TO AND RESETTLEMENTS FROM TURKEY?

The third intended effect is that the numbers of returns and resettlements have increased. However, it needs to be added that, despite all the efforts made, the numbers of return from Greece to Turkey have actually been quite low so far. Until October 2017 1,360 people have been returned from Greece to Turkey (see figure 2).

Despite European pressure on the Greek Asylum Service, Greece has refrained from systematically qualifying Turkey as a safe third country and, to date, the Greek police has been unable to deport Syrians to Turkey. The use of the safe third country concept is something that is new if we compare it to previous migration compacts or partnerships. At the same time it is also highly disputed.

When it comes to resettlement a similar picture arises. Despite the efforts made and amount of time and money invested, numbers are relatively low. At the start of the EU Turkey Statement it was foreseen that 72,000 Syrians would be resettled from Turkey to Europe. So far fewer than 10,000 refugees have been resettled to Europe.³

Closely related to resettlement is the relocation programme that was designed as an emergency plan to relocate tens of thousands of asylum seekers out of countries with exceptional high numbers of arrival (Greece and Italy). So far few people have been relocated from Greece. In two Council Decisions in 2015 EU member states committed to relocate 160,000 people from Greece and Italy. By 12 May 2017 18,418 persons have been relocated (5,711 from Italy and 12,707 from Greece). The numbers are increasing but are still very low.

³ By 18 September 2017 9,676 had been resettled from Turkey under the deal (https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-materials/docs/state_of_play_eu-turkey_en.pdf).

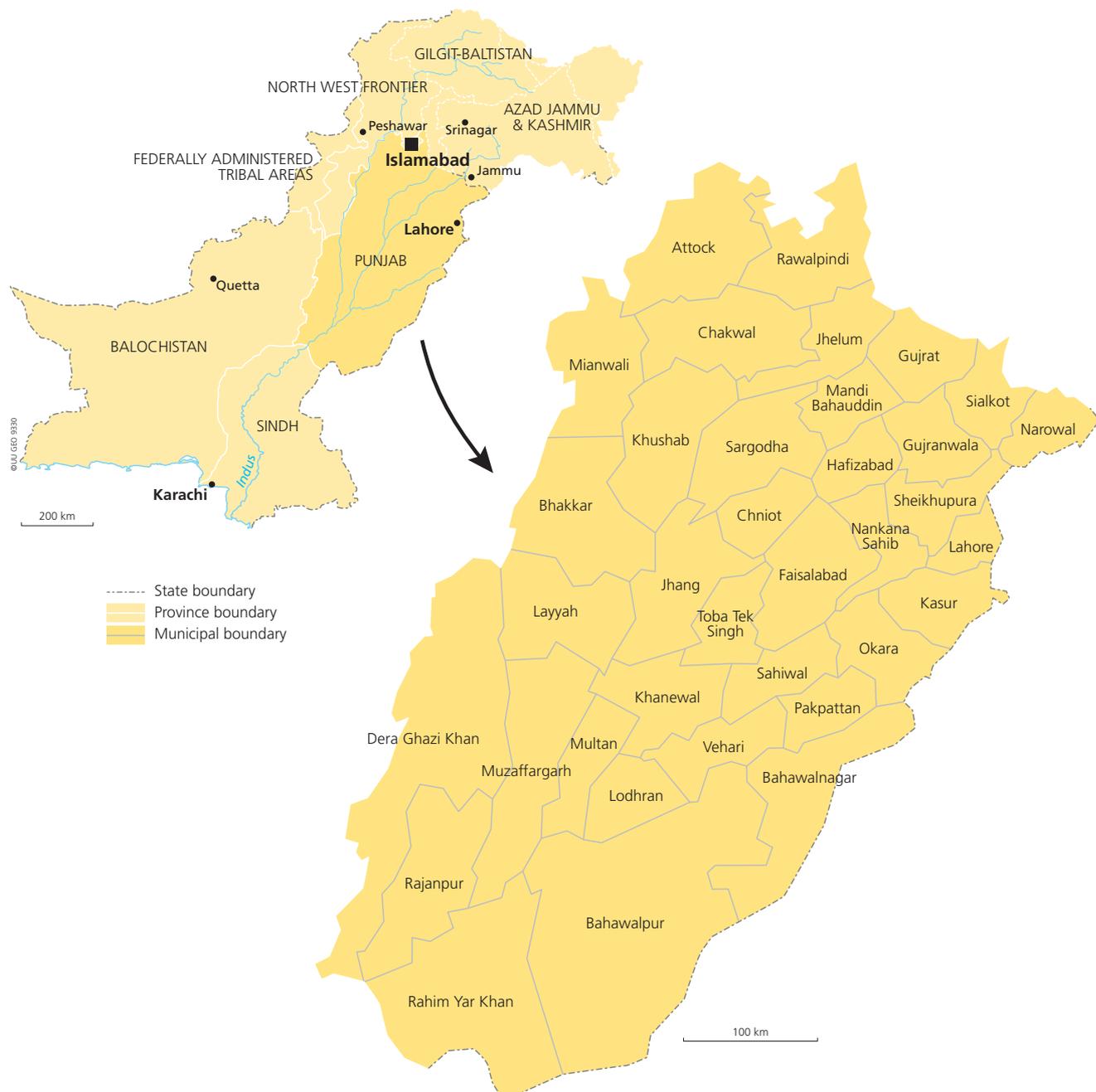
3 Methodology

This research project assessed the logics underlying the EU-Turkey Statement. It evaluated the wider impact of the EU Turkey Statement on migration routes, mixed migration flows and partnerships in other geographical contexts. However, it also looked at how the EU Turkey Statement has impacted migrants trajectories and daily lives on the ground. For this we undertook physical fieldwork in Greece, Pakistan and the Netherlands and collected virtual data (by Skype) in Turkey.

We started our research with a scoping exercise, asking NGOs engaged in advocacy work in the field what empirical evidence was lacking on the implementation of the deal and its effect of people. In parallel we also carried out desk research. Document analysis and statistics are needed to assess the underlying logics of the deal and evaluate its outcomes in terms of numbers. We collected data on the number of border crossings, the number of returns, the number of deaths and the number of relocations and resettlements. However, in addition to numerical insights based on document analysis and statistics we also collected empirical data on the ground by interviewing both professionals and people on the move.



Map 1 Map of Greece and the coastal region of Turkey



Map 2 Map of Pakistan and the Punjab region

We collected data in Greece in July and August 2017. Observations were made in refugee camps in Lesbos and Chios (Moria, Vial, Souda and Pikpa) and we interviewed 18 asylum seekers on these two islands. We also conducted phone interviews with 34 refugees/migrants who had been repatriated from Greek islands to Turkey (10 Syrians, 4 Pakistanis, 15 Afghans, 1 Bangladeshi, 1 Zimbabwean, 1 Gambian, 1 Ivorian, 1 Iraqi). While 11 of the respondents were in Turkey at the time of the interviews, 4 were in Syria, 4 were in Pakistan, 1 was in Afghanistan, 1 was in Iraq, 1 was in Ivory Coast and 6 were back in EU member states. We also interviewed 5 Greek lawyers, 4 NGO workers, 9 representatives of UN and EU institutions and 4 civil servants working with the Greek police and local municipalities in Chios and Lesbos (see map 1). On top of this 4 inter-agency and coordination meetings were attended.

We reached our first respondents through lawyers and key informants (i.e. well-connected asylum



Map 3 Locations of the resettled Syrian families we spoke to in the Netherlands

seekers and refugees in the islands, volunteers and activists) and the rest of the respondents through snowball sampling. It is difficult to reach people who are deported to Turkey from Greece, as they are detained upon arrival in Turkey and are not allowed to keep their mobile phones inside the detention centre. For access and security reasons the fieldwork in Turkey was replaced with phone interviews. To compensate we organized an expert meeting in Lesbos to which we invited Greek and Turkish lawyers and NGO workers to discuss the situation on the ground and to connect them. We managed to invite 3 Turkish lawyers and during the meeting we discussed some of the lawyer's cases of people who had been deported to Turkey under the deal. After the attempted coup d'état a nationwide crackdown on human rights defenders was started which made it even more difficult for Turkish lawyers to provide legal aid to readmitted individuals.

Our limited access to returnees were established either after they had been released from detention in Turkey, or after they had been deported to their country of origin. Interviewing asylum seekers who are at risk of deportation in Greece was similarly challenging. To avoid being detained after receiving a negative decision on their asylum application, asylum seekers preferred to keep a low profile and keep out of the public gaze. Despite these challenges we managed to conduct phone interviews with returnees in Turkey, Syria, Afghanistan, Pakistan, Iraq and Ivory Coast, as well as with asylum seekers who were hiding or detained in pre-removal centres in Lesbos and Chios. Interviews were conducted with the help of translators in Arabic, Urdu, Farsi and Hindi languages.

In Pakistan we made contact by phone with 31 migrants and refugees based all over Pakistan and actually travelled to Pakistan to meet 17 of these. All of them were based in the Punjab region (see map 2). Most

of those who had come to Europe and who we spoke to are from the Northern and Western region, which includes cities like Gujrat, Gujranwala, Jhelu, Mandi, Bahuddin, Sialkot and Mianwali (see map 2).

The size of the Punjab region as well as the fact that a significant number of the migrants we wanted to talk to are land and farm owners meant having to travel great distances to rural and interior areas where there is no infrastructure and public transport. Through phone conversations and previously established network and trust inside camps in Greece (the fieldworker worked as an aid worker in Lesbos), we were able to obtain their local phone numbers and addresses and ensure they were willing to meet and speak. Travelling to meet them also meant that we were invited into their homes and provided the opportunities to meet their families and speak to their wives, parents and interact with their children as well.

In the Netherlands we interviewed 11 Syrian families who had been resettled from Turkey under the EU Turkey Deal in the Netherlands. They had been displaced and were living in remote areas in the Netherlands (see map 3). Interviews were conducted together with a Syrian translator in people's homes.

4 The situation in Greece after the EU Turkey Statement was introduced

4.1 FAST-TRACK PROCEDURES

One way of implementing the promise to bring down the number of arrivals to Europe through the EU Turkey Statement is to subject those who arrive on the Greek islands to so-called ‘fast-track’ asylum procedures and, in the event of negative decisions, return them to Turkey. This procedure foresees a final decision on admissibility or eligibility within 15 days, including appeal. As a result a whole new infrastructure has been introduced to process asylum requests on the Greek islands since the introduction of the EU Turkey Statement.

How is this financed? Since the beginning of 2015 Greece has been awarded € 181 million in emergency assistance. For 2016, the Commission has significantly increased the emergency assistance budget under the *Asylum Migration and Integration Fund* (AMIF) and the *Internal Security Fund* (ISF) – the total amount of emergency funding available in 2016 for the refugee ‘crisis’ was € 464 million and € 267 million had been earmarked for Greece. This funding was made available to finance reception centres on the islands, as well as support return operations (transport and accompanying measures). It came on top of the € 509 million already allocated to Greece under the national programmes for 2014–2020 (€ 294.5 million from AMIF and € 214.7 million from ISF). Under the budget of the *European Asylum Support Office* (EASO), € 1.9 million was made available to support Member States under particular pressure in 2016 with the funding of, for example, case workers and judges and some of the mobile containers. During our observations on the ground it became clear that little of this funding was directly being used to improve the situation and many NGOs are now leaving the islands because of a lack of funding. Moreover, there is nothing very ‘fast’ track about this ‘fast track’ because the numbers of people being stuck on the islands is still very high.

4.2 THE HOTSPOT APPROACH

Until March 2016 the Greek islands tended to be used more as a transit location. However, due to the geographical restrictions of the EU Turkey Statement, asylum seekers on Greek islands are no longer allowed to go the Greek mainland. They are now obliged to apply for asylum in separate border procedures in so called *hotspots*. At first these hotspots were closed detention facilities but gradually they opened up. People now have a bit more freedom to move about, but they are still stuck on the islands and not allowed to go to the mainland. Access to the city centre remains a challenge, however, as the camps in Lesbos and Chios are located far away from the city centre. Although public buses have been provided to run between camps and the centre, asylum seekers still have to pay 1.60 euros for a one-way ticket, which is a lot considering the 90 euro monthly allowances.

The mismatch between the number of arrivals and returns and the fact that people are no longer automatically sent to the mainland has resulted in large numbers of people being stuck on the islands, causing a major change in Greek asylum landscape. With the increase in arrivals on August and September 2017, and the full hotspots, people sometimes opt to sleep in squats or informal arrangements, particularly after a first negative decision.

Photo: ©Saima Hassan.



Picture 1 Refugees in one of the squats in Mytilene (Lesbos), 2017.

Those who are accommodated in hotspots complain about the overcrowded conditions. While Greek hotspots can officially accommodate 6,835 people the number of asylum seekers held there was almost double that in September 2017 (EC 2017). Since April 2016 37,000 people have arrived on the Greek islands and their lives have largely been put on hold (Amnesty International 2017a). Our respondents described the situation in the hotspots as humiliating. Women mentioned they did not feel safe to go to the toilet at night alone. There were fights in the camps, tents were put on fire and access to basic services like food and water have remained low. People also told us that the police used tear gas on numerous occasions and conducted random arrests and searched tents. Moreover, the tents were not weatherproof, making the refugees and migrants susceptible to both intense heat and cold in summer and winter respectively.

Another big worry is that access to mental health support inside the camps is limited. In Lesbos there is only one psychiatrist providing free care for Greeks and asylum seekers and people told us they had to submit multiple requests and that waiting times can be as much as 4 months.

Besides that the substandard living conditions can exacerbate the traumas of those who have fled wars and who have put their lives at risk across the Aegean Sea. Medicins Sans Frontieres (MSF) has conducted research on Lesbos with 767 asylum seekers who had mental health consultations and observed a deterioration as a result of the implementation of the EU Turkey Statement, or more specifically as a result of being stranded. Symptoms of anxiety, depression and post-traumatic stress disorders increased rapidly (MSF 2017) as well as negative coping mechanisms such as self-harm, alcohol and drug use and suicide attempts.

Because of capacity problems people are also poorly informed about their right to apply for asylum and long waiting lists even apply to entering the asylum procedure. The few lawyers who are working on the Greek islands are overburdened but there is a huge need for assistance with preparing asylum requests, first instance interviews (what evidence to bring), second instance interviews and the appeal stage. During our fieldwork we heard several stories about people who were not informed about their interview or were informed very late and we came across a lack of interpreters on the islands which in some cases can have detrimental negative effects on people's chances of getting legal protection. Our respondents, who had been in similar situations, testified that there had been immense shortage of legal aid on the islands. One 19 year old Bengali man we interviewed after he had been deported from Greece told us:

“We tried many times to apply for asylum. We said that we have political issues back at home. But we did not get any response from them.”

Three other people we interviewed who had been deported from Greece told us that officials had taken their refugee cards and not returned them. UNHCR (2016), Amnesty International (2016), Human Rights Watch (2016) and the Greek Council for Refugees (2016) have documented similar cases.

4.3 DISTINCTIONS BY NATIONALITY AND VULNERABILITY WITHIN THE ASYLUM PROCESS

Asylum case management in the hotspots is designed in such a way that distinctions are made a priori between nationality groups with high and low recognition rates. If you are from Syria (or any other country where recognition rates are above 75%) you will be subject to admissibility procedures based on the safe third country concept. Other procedures apply to people from countries with low recognition rates. This nationality-based design is problematic because it is arbitrary and discriminatory and does not treat people's claims individually. In other words the assessment does not focus on a person's individual need for international protection, but only on whether this case can be accepted and whether this acceptance can be done elsewhere.

Even though European Asylum Support Office (EASO) country reports recognize that people from low recognition rate countries like, for example, Pakistan might be eligible for refugee status it was not uncommon to hear sentiments from those within the camp who felt that EASO/GAS officers did not even look at the case or evidence and immediately decided to reject when they saw that the person in question had come from Pakistan.

Once a decision has been taken that an asylum application is inadmissible, the people concerned have to be sent to Turkey. However, because of the discussion as to whether Turkey is a safe third country to send inadmissible asylum seekers from this group to, no deportations on this ground have taken place so far (Alpes et al. 2017b). This has resulted in prima-facie refugees not being able to gain access to protection and being stuck in limbo on Greek islands.

In terms of asylum procedure the distinction between low and high recognition rate cases means that only the asylum cases of people who are most likely to be rejected are processed, while and for the others the focus is on assessing whether their asylum procedure can take place elsewhere. This focus on rejection and return is worrisome because it turns attention away from protection which should, in principle, be at the heart of an asylum procedure.

The same problem applies to relocation. Only those with recognition rates higher than 75% can apply for relocation and there is a date restriction which is arbitrary from a protection point of view. No one who arrived after March 20 2016 to Greece can apply for relocation because they now have to be returned to Turkey under the EU Turkey Statement.

People from nationality groups with low asylum recognition rates are also subject to differential treatment by the police. The Greek police on Lesbos systemically detain individuals from nationality groups with low recognition rates immediately upon arrival in pre-removal centres (see picture 2). The police circular of 18 June 2016 legitimizes the detention policy for lower recognition rates in terms of those people having an 'economic' profile rather than a 'refugee' profile (Legal Centre Lesbos 2017). The formalisation and institutionalisation of discrimination on grounds of nationality is of great concern to human rights organisations.

Detention lowers people's access possibilities to legal aid and therefore also asylum. In this way discrimination risks creating self-fulfilling prophecies. Although detained asylum seekers theoretically have a right to ask for a lawyer, they are mostly unable to communicate with police officers that serve as guards. UNHCR can speak to detainees through a fence when these are in the yard and not in their cells. Detainees are allowed to be in the yard for only a few hours a day and they are not all allowed to be there at the same time. Access to legal aid and legal information is therefore much harder in detention.

A Pakistani man who was detained for two months, in late 2016, shared the following:

"When we were inside, we never thought we had any rights. We had no information. Other detainees told me this jacket does this and that jacket does that."

Staff from different NGOs and international organisations wear different jackets to identify their professional affiliations.

Greek Law 4375/2016 was enacted in order to implement the EU Turkey Statement and this law exempts *vulnerable cases* that can be excluded from admissibility procedures (and returned to Turkey). As



Picture 2 Pre-removal centre section B at Moria, Lesbos

a result, access to refugee protection on Greek islands now hinges in part on vulnerability, rather than on prosecution in countries of origin which is just as problematic as the distinction by nationality. Groups of people who are deemed ‘vulnerable’ are unaccompanied children, single parents with minor children, the elderly and also those eligible for family unification in another EU state.

There are several additional problems relating to the category of vulnerability. First of all, only those who are visibly vulnerable (e.g., pregnant women, disabled people) or those who self-identify as vulnerable (e.g., unaccompanied minors) automatically go through a vulnerability assessment. Secondly, a lot of expertise is needed to be able to address vulnerability properly, especially in cases where the vulnerability is not physically evident, as is the case of rape victims. Thirdly, people are still dependent on others as regards whether this claim is really materialised, for instance in the case of minors who, after months of waiting for their birth certificate to be recognized, are often denied access to the vulnerability procedures.

One of our respondents from Pakistan who has now been deported back to Pakistan, for example, told us that he has Hepatitis C. He should have been transferred to the mainland but this never happened.

“I have Hepatitis C. My medical papers said that and yet they did not send me to Athens. No one would help us. The NGOs they just say that they will help but no one actually does anything [...]. I even paid 300 euros and this person said that he will get me my Athens papers to go ahead on the medical basis. It never happened [...]. Now I don’t know what to do. I can’t go and experience so much humiliation again. None of the Arab countries will accept me because of my illness. I thought at least Europe would help and accept me if they knew of my condition.”

4.4 ACCEPTING (VOLUNTARY) RETURNS FROM GREECE

Another worry is that our research shows that an increasing group of asylum seekers who are stuck on the Greek islands feel forced to accept returns because the conditions in the hotspots put the health and safety of their families at risk. Greek hotspots are referred to as ‘prisons’ and our respondents often mentioned that some people committed suicide in Moria and Vial after the EU Turkey Statement had been introduced. Conditions within refugee camps in the European Union’s hotspots are therefore so bad that some people even decide to return to the unsafe conditions they were initially fleeing from.

Lesbos Legal Centre documented a case of an Ethiopian man who voluntarily returned to Ethiopia from Greece via IOM’s return programme even though he knew he was going to be detained upon arrival. He was an active leader in the Oromo community and had been arrested and tortured by authorities prior to fleeing to Europe in 2016. Six hours after arrival in Ethiopia he was arrested while being reunited with his mother and family in Addis Ababa. He was taken to an Intelligence Agency site where he was beaten and assaulted. Ironically he had applied to an American university while in Greece and was accepted. However, because he was unable to access the US consulate to secure the visa the only option he saw was to return to Ethiopia and try to get the visa for the US from Ethiopia (<http://www.>

legalcentresbos.org/2017/06/16/refugee-voluntarily-returned-from-greece-severely-tortured-upon-arrival-in-ethiopia/). The question is whether these returns can be called voluntary in the absence of legal and viable alternatives.

The majority of those who were returned from Greece to Turkey between October and June 2017 experienced barriers to asylum in Greece (see Alpes et al. 2017a). Our empirical data shows that people tend to drop their asylum case or not even apply for asylum on the Greek islands because they are confronted with a lack of information, lack of legal aid and sometimes the desperate situation in the camps on the islands leaves them little choice but to opt for return.

So far 216 Syrians have accepted returns to Turkey, mainly because of the trauma and stress of living in overcrowded hotspots. For example, one 32 year old Syrian man we interviewed accepted a return from Chios to Turkey with his pregnant wife in May 2016:

“Tents were being burnt and then there were fights every day. It was not safe at all. People from rightwing parties came and started throwing explosives at us. We never felt safe in this camp. [...] I did not have a lawyer. No one was giving us information. All the volunteers, organisations and even UNCHR were telling us that there was a high chance of being sent back to Turkey. [...] We never got an interview date. We lost hope and decided to go back to Turkey.”

Looking back he adds:

“I would not recommend anyone to return [to Turkey]. It was a very big mistake.”

In Turkey he stayed in a closed facility for 11 months with his wife and new born child. He opted not to leave this camp, because of the uncertainty of living in the city without any help and starting a new protection application process. After 11 months, he decided to go back to Syria. Now he lives in Idlib with his family where his life is in danger (see also Alpes et al., 2017b).

5 What happens with migrants after readmission to Turkey?

As pointed out earlier the use of the safe third country concept is something new and highly disputed in the EU Turkey Statement. In principle Greece can now reject asylum applications by people who passed through Turkey as being inadmissible and shift responsibility for assessment to Turkey. Despite political pressure and the Noori ruling of September 2017 in which the Greek Council of State denied the final appeal of two Syrian refugees and therefore agreed that Turkey is a safe country for them, Greece has not yet deported individuals on the grounds of safe third country although it is theoretically possible.

5.1 IS TURKEY A SAFE COUNTRY?

As Turkey lacked a comprehensive and dedicated law on international protection until 2014, UNCHR was in charge of carrying out refugee status determination and organising the resettlement of recognised refugees. Asylum seekers from non-European countries such as Afghanistan, Iraq, Pakistan could apply to UNHCR and, if their refugee status is approved, would be resettled to a third country. It was only in 2014 that Turkey started to implement the Law on Foreigners and International Protection which created the Directorate General for Migration Management (DGMM) and put it in charge of asylum applications. The new law maintains the geographical limitation but creates a new status for non-European refugees, calling them 'conditional refugees'. Conditional refugee status means refugees can legally stay in the country, although access to education or the labour market is limited. What is more conditional refugees do not have the prospect of obtaining a long-term residence permit in Turkey and are not entitled to protection in Turkey (Alpes et al. 2017b).

The adoption of the Temporary Protection Regulation in October 2014 provided a framework for refugees from Syria for their basic rights, including non-punishment of illegal entries and stays (Art. 6 TPR) and the non-refoulement principle (Art. 7 TPR) and regulated their access to social services such as healthcare and education. However Turkey does not provide Syrians with accommodation, or assistance with accommodation costs, outside the camps and, while registered refugees and asylum seekers are entitled to access free health care in public facilities, language problems render this right ineffective. Unregistered refugees and asylum seekers are given access only to narrowly defined emergency healthcare. Art. 7(3) and 25 of the TPR explicitly exclude temporary protection beneficiaries from a long-term and durable solution and put the legal statuses of temporary protection beneficiaries on hold and make a long-term and durable solution impossible for them (Ulusoy & Battjes 2017). It is highly debatable whether Turkey can be considered a safe third country for refugees. Besides, in the light of the country's current political situation and recent failed coup d'état it is even less secure for asylum seekers in Turkey and there is growing evidence of human right violations.

The current political situation, including Erdoğan's Decree 676, further fuels the uncertainty looming over the fate of asylum seekers, as their application process may be halted and their status within Turkey revoked at any time if terrorist affiliations are confirmed, without any judicial oversight. On 29 October 2016 Presidential Decree No. 676 made significant amendments, notably to Art. 36 and Art. 54 of the

Law on Foreigners and International Protection. As a result asylum seekers, as well as fully recognised refugees, can be deported at any point if they are recognised as a ‘member of a terrorist organisation’. The provision does not require a court decision or formal procedures for declaring a foreign national to be a member of a terrorist organization. As such Turkish law no longer respects the principle of *non-refoulement* which is another reason why Turkey would not be safe for asylum seekers (see also Amnesty International 2017b).

5.2 ACCESS TO ASYLUM IN TURKEY AFTER READMISSION

Only 57 people readmitted from Greece to Turkey under the deal (out of 1360) were able to make an application for international protection while in detention in Turkey (EC 2017). This low number raises serious concerns about procedural rights and access to protection in Turkey for those who are returned under the Deal.

The non-Syrians who are readmitted to Turkey are immediately detained (either in Kirklareli or Kayseri Removal Centers) with the stated purposes of secondary deportation to respective countries of origin which makes it difficult (or hardly impossible) to apply for asylum. Access to legal aid and means of communication are limited or almost non-existent in these detention centres that are a four to ten hour bus ride away from Istanbul and Izmir. Turkish lawyers face access problems due to discretionary powers of detention centre management and its staff’s relative lack of familiarity with the new 2014 Law on Foreigners and International Protection.

Our fieldwork showed that, out of a sample of 33 non-Syrians who had been deported from Greece to Turkey, 16 stated that they had been unable to apply for asylum in Turkey and 25 were intimidated and threatened in Turkish detention centres in bids to make them accept returns to countries of origin. One 33 year old man we interviewed from Cote d’Ivoire stated:

“We did not have any opportunity to express our wish to apply for asylum [...]. There was the logo of European Union and human rights everywhere in the centre, but nothing was done to defend ours”.

Many of our respondents complained about the fact that they could not communicate with their relatives. During our research we also heard that people were tortured if they did not hand over their IDs and cooperated in making return possible. We also heard they were actively discouraged by the guards from applying for asylum. A 35 year old Pakistani man who is now back in Pakistan told us:

“If we chose to request asylum, they would take away our blankets and make the rooms extra cold [...]. It was freezing, how could we stay there for six months?”

People were sometimes also forced to sign papers that would lead them to their return. A 16 year old Afghan asylum seeker detained from April to November 2016 said:

“Every month officers visited and they kept telling us to sign the deportation papers. They said that otherwise they would keep us there for our whole lives.”

Those people who were lucky to get access to asylum from within Turkish detention centres usually managed to get access through relatives who were connected to volunteers or lawyers who could then help them get access to legal protection and out of the detention centres. Their situation is better but also not ideal as they are now struggling with access to housing, education and the labour market.

For Syrians the situation is different. They are not detained but placed in so-called temporary removal centres (either Düziçi Temporary Accommodation Camp in Osmaniye city or Islahiye 2 Camp in

Gaziantep). After identification and security checks readmitted Syrians are given the option of staying in the closed camp or leaving in order to live by their own means in an assigned Turkish city, the so-called satellite cities. 177 of the 216 readmitted Syrians decided to go and live in satellite cities (EC 2017). Once they are there they need to register at the local offices of the Directorate General Migration Management (DGMM) in order to receive temporary protection cards, or Kimlik. Only through this registration can they gain access to public services. Two out of the ten readmitted Syrians we interviewed had not been able to register with the authorities despite repeated attempts and getting access to work permits had been really difficult. While Turkey introduced new regulations on refugee access to work permits in 2011, only 15,000 work permits (less than 0.5% of all Syrian refugees in Turkey) had been officially granted to Syrian refugees in Turkey as of November 2017 (<http://www.infomigrants.net/en/post/5933/half-of-syrians-in-turkey-would-like-to-stay>). For some the lack of access to work or social security is a reason to stay and live in the closed camps (see also EC 2017).

Those who are able to submit asylum requests to UNHCR and DGMM are sent to a satellite city where they are obliged to reside and report to the police every week. They must continue to stay there so as not to lose their registration status. They have access to healthcare and education (the basics) and, following the recent legal changes, they also have access to formal employment (in theory). The social realities on the ground are, however, very different to the legal reality. In satellite cities there are often no economic opportunities and many actually leave for Istanbul and give up their international protection status in order to be able to survive in Turkey. Not having any legal prospects in Turkey is a trigger for some to continue their journeys to Europe.

The situation for Syrians in Turkey is so desperate that 19 out of 193 readmitted Syrians have decided to return to Syria where, given developments in the conflict, their lives are now again at risk. We have also interviewed a Syrian family who made that decision. A 32 year old Syrian man returned to Idlib in February 2017 with his pregnant wife and one year old child:

“When we asked to go back to Syria, the [Turkish] authorities told us that if we leave Turkey now, we will not be able to go back. Now we are in an area controlled by Al-Qaeda and the situation is really bad [...] We are asking the Turkish government to open the borders. Otherwise, we will be killed here.”

The EU Turkey Statement runs the risk of preventing refugee access to asylum and their right to protection from *refoulement*.

6 Returns from Greece and Turkey to Pakistan

Out of the 1,360 individuals who Greece readmitted to Turkey between April 2016 and October 2017, 593 are Pakistani (this is 44% of the total). Pakistani nationals are also amongst the highest population migrants deported from Turkey. This exceptionally high number of Pakistani nationals among the returned individuals from Greece to Turkey can be explained by another readmission agreement that Turkey signed with Pakistan. Just two weeks after the EU Turkey Statement was introduced, on 7 April 2016, Turkey ratified the long awaited readmission agreement, that had been under review for 5 years, with Pakistan⁴.

In practice this readmission agreement allowed Turkey to deport Pakistan nationals back to their country of origin swiftly, once they had been returned from Greece. This procedure can be regarded as a secondary deportation, or chain deportation. Furthermore, the spokesperson of the Turkish Ministry of Foreign Affairs announced on 2 March 2016 that Turkey had proposed readmission agreements to 14 countries but did not identify those countries during the press conference.⁵ Signing and ratifying additional readmission agreements with countries whose nationals are returned from Greece will allow Turkey to deport migrants back to their countries within a very short time frame. In the absence of procedural safeguards and proper monitoring mechanisms this practice may lead to human rights violations, including the principle of non-refoulement.

Very little is known about the situation of readmitted Pakistanis under the EU Turkey Deal. In September 2017 we carried out fieldwork in Pakistan, speaking to 17 readmitted migrants in person and 14 by phone during this fieldwork. Out of the 17 people 10 had undergone Assisted Voluntary Return (AVVR) through IOM. The remainder had been deported to Turkey following a rejection of their second instance appeal. All of the 10 people who opted for AVVR stated that they did not want to go to Turkey from Greece. However, because of the new rule that had been implemented none were able to go directly as they had already reached the second appeal stage and had to be sent back to Turkey first.. 7 of our 17 respondents had been forcibly returned to Turkey and then deported to Pakistan. All of them reported that they had been intimidated and threatened in detention prior to signing 'voluntary' returns forms in Turkish detention centres.

Upon arrival in Pakistan, jail officials and policemen who were present or working there spoke to them disrespectfully and used abusive language and verbally tormented them. When they were able to see a judge, they were fined 10,000 Rupees and had to pay an additional 2,000 to the Public Defender, after which they were released and able to return home to their families. People returned to Pakistan are often put in jail and can only be freed if money is paid. Even the ones who return under Assisted

4 Turkey and Pakistan signed a bilateral readmission agreement on 7 December 2010 regarding their citizens in irregular situation in their respective countries. However this agreement was never ratified (and was therefore never implemented) by the parties until April 2016. On 7 April 2016 the Turkish government ratified the agreement and published it in the official gazette.

5 Statement by the spokesperson of the Ministry of Foreign Affairs, Tanju Bilgiç (in Turkish) ; 02/03/2016, available at: http://www.mfa.gov.tr/disisleri-bakanligi-sozcusu-tanju-bilgic_in-basin-bilgilendirme-toplantisi_-2-mart-2016_-ankara.tr.mfa [accessed 18 April 2017].

Voluntary Return Programmes need to pay to get released from jail. Part of the pocket money given by IOM therefore needs to be spent on freeing oneself upon arrival.

Our respondents pointed out that throughout the process after arrival the various authorities that they interacted with asked them for bribes in return for less jail time, help with obtaining a lawyer and less work. Those that had returned with IOM stated that all the officials knew that they had 1,000 Euros with them and as such they would have to spend anywhere between 100-400 Euros to fulfil the airport and jail authorities' requests for bribes.

6.1 DETERRENT EFFECTS OF SENDING PEOPLE BACK?

Out of the 7 who had been deported from Turkey to Pakistan, 3 recently paid smugglers to leave Pakistan and are planning to move away from Pakistan again, 2 have already gone back to Europe (France and Italy) and 1 is already in the Middle East. The story was similar for the other 14 people we interviewed who were forcibly returned under the EU Turkey deal. 5 of them are currently in Turkey, 5 were deported by Turkey to their countries of origin and 4 have resorted to smugglers to return to Greece or other EU member states.

These numbers show that the deal is also creating repeat clients for smugglers while simultaneously altering, but not stopping smuggling routes. We now see arrivals from Turkey to Italy and Cyprus, as well as the emergence of a new route from Turkey across the Black Sea to Romania (EC 2017). It is also creating higher payment routes because now the smugglers are sending migrants and refugees directly to Athens or are finding routes that will have them bypass Greece altogether, which is more costly. Currently, the price for the Pakistan to Italy route is USD 17,000 and the price for Athens is around USD 5,000. Smugglers that we spoke to informally during our fieldwork in Pakistan stated that they know they will never run out of business, their customer base will always exist, just as it has in the past. Similarly, some of our interviewees felt that there was an abundance of available smugglers and that it would not be difficult to find one when they were ready to make the journey again – “*they are like mosquitoes outside our houses*”.

Whether the EU Turkey Statement has a deterrent effect is unclear. Stories that we heard from people who have been repatriated under the Deal show that there is still a strong willingness to migrate to Europe, despite the returns and the talk about returns. One respondent said, “*Those 13 months did not shatter my dreams to go to Europe.*” What is more, people still advise others to go, albeit via different routes. A Pakistani man who had, for example, been detained immediately upon arrival shared how he had advised relatives, after his release, to invest in a different smuggling route. While the Pakistani man had paid 4,000 US Dollars to reach the Greek islands in 2016, the son of his relative gave 7,000 US Dollars to a smuggler to be brought straight to France in 2017.

7 Resettlement from Turkey to Europe

The second logic was to resettle some of those who chose to stay in Turkey and offer them legal migration opportunities. To what extent have these promises been fulfilled? And how have these decisions been rationalised?

Some of the people who are now resettled under the EU Turkey Deal would have been resettled anyway because the pledges were taken from non-filled pledges from other countries. The number of 72,000 was calculated within the framework of existing commitments consisting of 18,000 from the European Resettlement Schema and 54,000 unallocated places under the temporary relocation scheme. As such it is not entirely correct to add these numbers at the list of successes of the EU Turkey Deal because it would have been part of the policy anyway.

Looking at the list of countries and the numbers that have been fulfilled it is also very clear that Europe is internally divided. Some countries are not doing anything (Bulgaria, Croatia, Cyprus, Check Republic, Denmark, Hungary, Ireland, Malta, Poland, Slovakia, Slovenia, United Kingdom, Norway) whereas others are taking a large share (Germany and the Netherlands). The non-mandatory element of this resettlement programme should be criticized if we want all European Member States to take responsibility.

7.1 HOW DO SYRIANS IN TURKEY LEARN ABOUT RESETTLEMENT POSSIBILITIES?

Our interviews with resettled Syrian families in the Netherlands show that none of the Syrians we interviewed had been in contact with a lawyer or UNHCR before they entered the scheme. The majority of our respondents had found out about resettlement as an option through family members living abroad or local policymakers who they had contacted because of problems accessing the labour market, housing market or health care as refugees in Turkey.

We learned to our surprise that Syrians in Turkey who have the Temporary Protection Status (TPS) are not even allowed to apply for resettlement, which explains why we did not come across people who had applied for protection in Turkey before. The scheme is aimed at vulnerable people and, within this logic, it excludes people who have already made protection claims by preventing them from applying for international protection with UNHCR. Turkey agreed that people who were subject to temporary protection would not be registered with UNCHR and would not be processed for refugee status determination under its mandate.

The 11 Syrian families we interviewed in the Netherlands had all opted for resettlement because their situation in Turkey was unsafe and/or unhealthy. Their vulnerability had developed over time while residing in Turkey.

We came across several stories where parents felt forced to allow their children to work because they could not provide for themselves in Turkey. One family for example told us:

“We were in Turkey for 4 years, in Adana, where my brother lived. But it was very bad there. In Syria my children did not go to school, but in Turkey the conditions were so bad that they had to

work and could not go to school either. I could not find a job. My two daughters (14) worked in the textile industry and my son (15) in the steel industry.”

Apart from poor labour conditions we documented poor housing conditions and health problems relating to these poor living conditions that were the main reason to opt for resettlement. One family with small children who we interviewed said:

“Our housing conditions in Turkey were bad. We lived in a basement, it was more like a prison, very dark and no fresh air. Our child got severe health problems because of that. There was no light there, no air. Every 5 or 6 weeks we had to go see a doctor with our child who got problems with breathing. It was official housing of the Turkish government and hard to get, we had waited for it for a long time, but it was very very bad.”

This family was made aware of the option of resettlement by a local municipality officer (Istanbul) to whom they had complained about their situation. Their housing conditions were poor, they had a small child and also a difficult financial situation because the father could only find work in the informal economy that paid poorly.

When they applied for resettlement they had to go to Ankara for the official interview and they thought they would never get it because they had heard it was difficult. The criteria applied during application procedures are discretionary, but Turkey has the right to draw up an initial list. They use vulnerability as a criteria and that makes the selection for receiving countries biased. This family heard after just 1.5 months that they would go to the Netherlands and that they would have a second interview at the Dutch embassy in Ankara before leaving.

“We did not have a preference for a country because we do not have relatives in Europe. And we thought the Netherlands was fine.”

7.2 THE PRE-DEPARTURE ORIENTATION IN TURKEY

The receiving state enjoys having the final say as regards hosting a person. The second interview at the Dutch embassy was about the Netherlands and what this family could expect upon arrival. During the last few years more time and money has been invested in so-called pre-departure orientation and the majority of our respondents have had this orientation.

“It was a whole day, from 8 in the morning until 4 in the afternoon. They had also booked a hotel for us. It was all very comfortable. But they asked us funny questions, about how we would react to gays and stuff like that, we laughed and said everything is fine for us, we are open people.”

Everybody we talked to was rather positive about the preparatory interviews they had at the Dutch embassy in Ankara. They were well informed about what was going to happen to them and in retrospective they told us that being informed to such a large extent helped them deal with the insecurity at the start of a new adventure in a new country. For example they greatly appreciated the fact that they knew that their stay in the reception centre was only temporary and that they knew they were going to be offered a house on their own pretty soon. The fact that they had already been told in Ankara at the Dutch embassy that it could maybe take a while before they could move into their own house because of the housing shortage and the crisis that was going on but that their stay in a reception centre would be temporary was important information that helped them understand their position upon arrival.

The family who was introduced above left by plane ten days after the second interview.

“We could not believe it. Some people pay such large amounts of money for this journey and we just got it, as a gift.”

An unexpected finding was the fact that people had positive memories and experiences of the collective flight. Most people had met the others at the embassy, in the hotel or during the flight and could share experiences. During interviews in the Netherlands we sometimes heard that people were still in touch with their travel companions they had met during the resettlement procedure.

“When we got our house we took a friend with us to have a look. We did not know anybody in the Netherlands so we asked him. He was one of the single men we knew from Ankara with whom we came to the Netherlands in the first place.”

Something that people were less positive about was the situation after arrival, the longer term perspective. Even though they had only been in the Netherlands for one year or so they already complained how hard it was to learn the language and find a job. Paradoxically the Netherlands explicitly includes ‘the willingness to integrate’ as a criteria in the resettlement procedures. However, the first selection was based on vulnerability (and done by the Turkish government) which results in a selection of vulnerable people for whom it is likely that extra efforts might be needed to help them integrate.

7.3 WHAT HAPPENS TO PEOPLE AFTER RESETTLEMENT?

Research with 11 Syrian families in the Netherlands who were housed under the 1 for 1 scheme showed that most were happy that they were safe in the Netherlands. However, they also felt isolated and alone.

Some people complained about the location such as one family in Nibbixwoud:

“We would have preferred to stay in Alkmaar, where we were before. There are more shops there. My son now needs to cycle to Hoorn to go to school and to the football club. That’s a very long way.”

Remote locations were also considered a worry in case anyone needed medical assistance. One family whose son was suffering from a post-traumatic stress disorder was very upset that they were not close to a hospital and had not seen a doctor since they had arrived. They had been selected for resettlement because of medical needs, but had received no help since arriving in the Netherlands. A lack of access to interpreters was also something we came across regularly during our fieldwork.

Another worry that was revealed in this research was that people had often been forced to leave adult children or family members behind in Turkey because they were not allowed to travel with them under the terms of the scheme.

“I am worried about my brothers who are still in Turkey. I am sure they will need to make the dangerous crossing because they will not be so lucky as to travel like we did. We also cannot go and see them because for Turkey we need a visa. I hope they make it here soon safely.”

Ironically these family members may still have to make the dangerous crossing across the Aegean in the near future, which this deal was supposed to prevent. Resettlement programmes need to reflect critically on their definition of family members and try to get it closer to refugees’ understanding of who family is. It also shows that resettlement should not and cannot be seen as a substitute for the right to seek asylum but is a different policy aimed at specific groups of vulnerable people.

8 Conclusions

The EU Turkey Statement fits a wider trend in Europe that has been going on for a while, the one of externalizing migration policies (Bialasiewicz 2012, Boswell 2003, Lavenex 2004, Lahav & Guiraudon 2000, Samers 2004) and of a larger movements towards shifting responsibilities for migration control onto countries of origin and transit (Hyndman & Mountz, 2008). At the same time, in the context of (perceived) increasing asylum and migration flows in Europe and a hardening political climate, we observe that the EU Turkey Statement and the solution of offshoring and outsourcing responsibilities is increasingly presented as a way to solve the ‘crisis’ (Zoomers et al. forthcoming).

Our research shows that, so far, the EU Turkey Statement has not been successful in turning the tide and should not be seen as a ‘solution’ to a complex multi-layered problem. People are still arriving on the Greek islands, albeit in smaller numbers. Syrians make up the largest share of these new arrivals, illustrating that Turkey does not function as a safe third country for them at all. Besides that the EU Turkey Statement resulted in a slowing down of the migration flows in general with so many people being stuck on the islands and it also resulted in people taking higher risks to cross borders and becoming even more dependent on smugglers.

In the short term it is true that the EU Turkey Statement has curbed a particular flow of people entering the EU, but we also know that in the long term people will find other ways to enter. Interviews with repatriated migrants show that many people will try to come to Europe again, even after repatriation. The most problematic part of this cat and mouse game played at the border is the high human cost it involves. The number of people dying while attempting to cross is not decreasing and we have no information on what is happening at, for example, the border with Iran, Iraq and Syria, as well as at the land borders with Greece and Bulgaria. More systematic research is needed to be able to measure the impact of the EU Turkey Statement on migration flows in the region. Apart from these general findings our research shows three specific problems with the design and implementation of the EU Turkey Deal.

The first is the **fast-tracking** procedures that are implemented within the framework of exceptional measures in times of a ‘crisis’. These exceptional fast measures should, however, not replace quality assessment and should guarantee access to the asylum system. Shortening the backlog of the application, appeals and resettlement procedures is essential and more efficient asylum application procedures could greatly contribute towards improving the administrative process as well as mitigate the recorded negative mental health effects of long application procedures have had on asylum-seekers. However, accelerated procedures may pose a serious risk to fairness and on the ground the procedures have actually not proven to be that fast. With large numbers of people being stuck on the islands, overcrowded camps in desperate situations where not even a minimum level of dignity can be guaranteed for people it is clearly time to open up the islands and let people move to the mainland to have their asylum procedures processed in better conditions.

Second, we observed **discrimination on grounds of nationality** in both asylum case management as well as police practices. In asylum case management there have always been ways to distinguish between nationalities and to make first quick scans, but to single out people from higher rate recognition

and lower rate recognition countries and systematically assess their individual claims according to a collective logic is problematic. It becomes even more problematic when we take a closer look at how these distinctions are materialised on the ground. People with low recognition rates suffer from a clear discriminatory police practice and they are detained immediately upon arrival. This lowers the chances of their asylum application being successful because of a lack of information and legal aid available in pre-removal centres (see also Alpes et al. 2017a). People with high recognition rates also suffer from discrimination on grounds of nationality because their asylum claim is not examined for whether protection can be granted but whether this person could and should apply for asylum in Turkey. Both discriminatory practices prioritises returns and put at risk the right to asylum on European territory.

The third problem with the EU Turkey Statement is the fact that it is designed around the fiction that **Turkey is a ‘safe third country’**. The EU has long collaborated with countries of origin and transit in the form of migration compacts, readmission agreements and Memoranda of Understanding, but the EU-Turkey Statement is different from prior forms of agreements because of the use of this safe-third-country concept. As a result of this concept Greece can actually reject asylum applications of people who have passed through Turkey as being inadmissible and shift the responsibility of merit assessments to Turkey. Whether Turkey can really offer effective protection and be considered a safe-third-country is highly disputed by academics and NGOs and even lawyers. In the light of Turkey’s disrespect for procedural safeguards and the principle of *non-refoulement* our research shows that the EU-Turkey Statement runs a real risk of preventing refugee’s access to asylum (Alpes et al. 2017b). Collaborations with a country where human rights violations are taking place on a large scale and protection for asylum seekers cannot be guaranteed should not be Europe’s priority and is undermining Europe’s own core values. The EU Turkey Statement also resulted in making the ‘refugee crisis’ less visible for Europe. Our research in Greece, Turkey and Pakistan highlighted the rather invisible consequences of the EU Turkey Statement and, in terms of human rights violations, that is something Europe should be ashamed of.

The European Commission is currently discussing new ‘compacts’ with Jordan and Lebanon and exploring the possibility of formulating partnerships with Niger, Nigeria, Senegal, Mali and Ethiopia. The EU Turkey Statement is sometimes even explicitly referred to when other deals are made, or parts of the deal are copied. For example, the Kenyan government announced plans in May 2016 to speed up the repatriation of Somali refugees and to close the Dadaab refugee camp (the largest refugee camp in the world) and referred to Europe’s policies to turn Syrians away from the border as a legitimization for this new policy direction⁶. As such the EU Turkey Statement and previous partnerships fit in with the future plans of the European Commission for High-Level Dialogues on Migration, the European Neighbourhood Policy and ‘Results-Oriented Partnerships’ to mobilise and focus EU action and resources on external work on managing migration (Adepoju et al. 2010, EC 2016).

We argue that Europe should not outsource its responsibility to third countries but should respect migrant’s human rights. Europe’s responsibility does not end at the borders of Europe. Solidarity within the EU should receive more attention than outsourcing responsibilities if we really want to ‘turn the tide’. Finally, a lot of what we have seen in our research were ‘emergency’ actions rather than sustainable solutions. A real sustainable solution would need to move from shifting responsibilities through returns to third countries towards fairly sharing protection responsibilities both within the EU and globally. Sharing responsibility translates into creating and strengthening legal pathways to asylum, such as granting humanitarian visas, expanding resettlement programmes, perhaps including private sponsorships as in Canada, and eliminating bureaucratic barriers for family reunification. Finally, contributions towards peace and conflict resolution in the Middle East should be prioritized if we really want positively impact on the refugee situation in Europe.

6 In February 2017 the High Court blocked this decision ruling that it was discriminatory and contrary to international law to close the camp and repatriate Somalis.

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