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Greece: Lives on Hold

Update on Situation of Refugees and Migrants on the Greek Islands

Almost sixteen months since the EU-Turkey deal came into effect on the Greek islands on 20 March 2016, thousands of asylum-seekers continue to wait in limbo in sub-standard living conditions as a result of the deal, which aspires to return everyone arriving on the islands back to Turkey regardless of their international protection needs.

Although returns of asylum-seekers on the basis that Turkey is safe have not yet taken place, the expectation that they would be returned under the deal continues to condemn many to extended asylum procedures stuck on overcrowded islands. The preoccupation of Greek authorities and the EU with returns is also resulting in discriminatory treatment of different nationalities arriving on the Greek islands. Many of those coming from countries prejudged to be producing “economic migrants” rather than “refugees” have been arbitrarily detained and their asylum applications rejected under fast-track procedures with limited guarantees to have them rapidly returned to Turkey. Others with a high chance of getting refugee status in Greece are, on the other hand, kept in limbo waiting for months on end for a final decision on their case. The insistence on returning asylum-seekers back to Turkey, has even caused some refugees with a right to protection being detained in conditions that are even inadequate for very short term stay.

Instead of a focus on returns under the EU-Turkey deal which is the main driver of these human rights violations, Greece must end the policy of confining asylum-seekers to the islands and transfer them to mainland Greece. Asylum-seekers should also not be detained with the sole purpose of being returned to Turkey without an individualized assessment of the necessity and proportionality of such detention. Other EU member states must continue with the relocation of asylum-seekers from Greece, including those who arrived after the EU-Turkey deal, and open up safe and legal routes for refugees in Turkey in meaningful numbers.

Confinement to the islands in sub-standard reception conditions:

The Greek islands have been on the frontline of the so called “refugee crisis” in Europe with over 800 thousand people reaching their shores in 2015 and some 150 thousand in the first quarter of 2016. While the Greek authorities were not prepared to respond to these numbers, which resulted in appalling reception conditions, people did not have to endure them for long as they continued on their journey to mainland Greece, and then to other EU countries.

This, however, drastically changed with the EU-Turkey deal of 18 March 2016.¹ To ensure the return of large numbers of asylum-seekers and migrants arriving on the Greek islands, the islands became de facto detention centres, where, as a rule, new arrivals are not allowed to leave until their status or claim to remain in Greece is assessed. Given the lack of sufficient reception capacity on the islands and the lengthy asylum procedures, this meant submission of thousands of asylum-seekers and migrants to sub-standard living conditions for months on end.

Currently, new arrivals are held in the Reception and Identification Centres on the islands until their registration with the Reception and Identification Service is completed.² In May 2017, this registration was completed on the same day of arrival on Lesbos, while it could take a few days on other islands. After registration, they are then released with a geographical restriction requiring them to stay on the islands. Majority of the individuals arriving on the islands then approach the Greek Asylum Service to register an asylum application. However, when they register with the Asylum Service, their asylum-seeker card indicates that it’s only valid on the islands, which continue to restrict the movement of registered asylum-seekers to the islands.

According to the Greek Police, over 37,000 people arrived on the Greek islands since the deal.³ While Greek authorities estimate that almost 15,000 people remain on the islands as of beginning of July 2017, the official capacity to host them, including accommodation

¹ Council of the European Union, “EU-Turkey Statement,” 18 March 2016, available at <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>.

² “Restriction of Liberty” described under the Article 14 of the Law 4375/2016.

³ According to the data the Readmission Unit of the Greek Police provided Amnesty International on 28 June 2017, total number of third country nationals who arrived on the Greek islands between 20 March 2016 and 27 June 2017 was 37,270.

provided through UNHCR, is less than 9,000.⁴ Overcrowding, therefore, continues to be serious, leading to sub-standard reception conditions including insufficient access to services such as medical and mental health care.⁵

Of those who have left the islands, some are presumed to have left irregularly finding it unbearable to remain there or fearing return to Turkey. Others were returned to Turkey or to their countries of origin “voluntarily” or “by force.” According to the Greek Police, 1,341 individuals were returned to Turkey since the deal⁶ and 1,299 returned to their countries of origin participating in the voluntary return scheme of the International Organization for Migration.⁷ Syrian asylum-seekers, who are admitted to the asylum procedure in Greece, have also been able to travel to mainland Greece, while other asylum-seekers have to wait for the final outcome of their application. Additionally, the geographical restriction has been lifted for individuals identified as vulnerable⁸ and their families, as well as those falling under Article 8 to 11 of the Dublin III Regulation concerning family reunification.⁹

Since May 2017, however, vulnerable applicants are no longer allowed to leave the islands upon their identification as vulnerable, but instead have to wait until the completion of their first instance interview.¹⁰ With the arrival numbers rising and specialized care available to individuals with special needs being highly limited on the islands, this new policy is expected to cause more suffering to those confined to the islands.

The situation is likely to worsen with non-governmental and international humanitarian organisations reducing their presence on the islands as direct funds provided by the European Commission will largely run out at the end of July 2017. While the Greek government is expected to manage all aspects of service provisions on the islands, including distribution of European Commission funds under DG Home, after July, absence of a plan announced by the government is raising concerns over a gap period where vital services may be further reduced or completely absent.¹¹

NUMBERS IN PERSPECTIVE¹²

37,270: Arrivals on the Greek islands since the EU-Turkey Deal (as of 27 June 2017)

14,804: Asylum-seekers and migrants on the Greek islands (as of 5 July 2017)

8,689: Official reception capacity on the Greek islands (as of 5 July 2017)

A total of 22,466 individuals have departed from the islands (calculated by deducting the number of those currently on the islands from the number of those who have arrived since 20 March 2016 as provided above)

Those who have left the islands since the deal, include the following people:

- Asylum-seekers identified as vulnerable and their families (7,906 as of 11 June 2017),
- Asylum-seekers falling under Article 8 to 11 of the Dublin III Regulation concerning family reunification (2,687 as of 11 June 2017),

⁴ Summary statement of refugee flows to Eastern Aegean islands, 5 July 2017, available at: <http://mindigital.gr/index.php/%CF%80%CF%81%CE%BF%CF%83%CF%86%CF%85%CE%B3%CE%B9%CE%BA%CF%8C-%CE%B6%CE%AE%CF%84%CE%B7%CE%BC%CE%B1-refugee-crisis/1449-summary-statement-of-refugee-flows-to-eastern-aegean-islands-05-07-2017>. Non-governmental organisations working on the islands, however, estimate that both figures are less. UNHCR also reports that there are less people on the islands according to their estimates without providing figures.

⁵ See for example, UNHCR, *Aegean Islands Fact Sheet*, May 2017, available at: <https://data2.unhcr.org/en/documents/details/58265>.

⁶ According to data Greek Police provided Amnesty International on 28 June 2017, 1,229 individuals were returned to Turkey from the Greek islands since the EU-Turkey deal, under the EU-Turkey statement and 103 under the bilateral readmission protocol between Turkey and Greece. 1,341 is calculated by adding to these figures, the 9 Syrians returned to Turkey on 5 July 2017: http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=GR&perform=view&id=6180&Itemid=646.

⁷ Press Release by Greek Ministry for Citizen Protection, 5 July 2017, available at:

http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=GR&perform=view&id=6180&Itemid=646.

⁸ Under Article 14 para 8 of Law 4375/2016, vulnerable groups are considered: “a) Unaccompanied minors, b) Persons who have a disability or suffering from an incurable or serious illness, c) The elderly, d) Women in pregnancy or having recently given birth, e) Single parents with minor children, f) Victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation, persons with a post-traumatic disorder, in particularly survivors and relatives of victims of ship-wrecks, g) Victims of trafficking in human beings”.

⁹ Article 60 paragraph 4(f) of Law 4375/2016.

¹⁰ Information obtained from non-governmental organisations and lawyers working on the islands (through interviews between 10 and 13 May 2017 on Lesbos, as well as follow up contact by phone and e-mail).

¹¹ Statement by CARE, International Rescue Committee Médecins du Monde, Médecins Sans Frontières, Norwegian Refugee Council, Save the Children, and Solidarity Now, “Lack of handover plans for the response in Greece puts asylum seekers at risk, NGOs warn,” 11 July 2017.

¹² Number of arrivals and returns (to Turkey and to countries of origin under IOM's voluntary return scheme) was provided to Amnesty International by the Greek Police on 28 June 2017. Number of returns after that date up to 5 July 2017 was added from the press release of the Greek Ministry for Citizen Protection, 5 July 2017, available at:

http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=GR&perform=view&id=6180&Itemid=646. Number of asylum-seekers and migrants, as well as the official reception capacity on the islands as of 5 July 2017 is available at:

<http://mindigital.gr/index.php/%CF%80%CF%81%CE%BF%CF%83%CF%86%CF%85%CE%B3%CE%B9%CE%BA%CF%8C-%CE%B6%CE%AE%CF%84%CE%B7%CE%BC%CE%B1-refugee-crisis/1449-summary-statement-of-refugee-flows-to-eastern-aegean-islands-05-07-2017>. The number of those identified as vulnerable and as falling under the family provisions of the Dublin III Regulation, and Syrians admitted after an admissibility assessment was provided to Amnesty International by the Greek Asylum Service (e-mail correspondence, 13 June 2017).

- Syrians admitted following an assessment on whether Turkey can be considered a safe third country or not (503 at first instance, as of 11 June 2017),
- Those who received an international protection status (799 at first instance, between 1 January 2017 and 11 June 2017),
- Those returned to Turkey (1,341 as of 5 July 2017),
- Those returned back to their countries under the voluntary returns scheme (1,299 as of 5 July 2017),
- Those transferred to detention on mainland Greece for return to their countries of origin, and
- Those who left irregularly.

Asylum procedures overburdened

The increase in the number of asylum applications in Greece following the closure of the Greek-Macedonian border in early March 2016¹³ placed a considerable burden on the already strained asylum system in the country.¹⁴ On the Greek islands, the pressure over the asylum system was, however, further exacerbated with the demands of the EU-Turkey deal that imposed another layer into the asylum procedures on the islands, causing delays in the adjudication of asylum claims.

This additional layer is the admissibility procedures whereby it is assessed whether Turkey can be considered **a safe third country** (i.e. can provide protection to the readmitted person) or **a first country of asylum** (i.e. the person has already been recognised as a refugee in the country in question or would otherwise enjoy sufficient protection there) for individual asylum applicants.¹⁵ If the Greek Asylum Service decides that in the case of a particular asylum-seeker Turkey cannot be considered safe, only then his or her refugee claim can be heard and the applicant may receive international protection in Greece.

According to Article 56 of the Law 4375/2016 adopted on 1 April 2016 shortly after the EU-Turkey deal, a country can be considered a safe third country only if the applicant is not at risk of persecution, *refoulement* or other serious harm in that country. It should also be possible to seek asylum and receive refugee protection there that is in accordance with the 1951 Geneva Convention. Additionally, there has to be a connection between the applicant and that country, under which it would be reasonable for the applicant to return there.

Amnesty International's research shows that non-Syrian asylum-seekers in Turkey do not have access to fair and efficient procedures for determination of their status. They do not have timely or adequate access to what are known as two of the three durable solutions: integration and resettlement.¹⁶ Turkey is also not providing an environment where asylum-seekers and refugees, Syrian or non-Syrian, can be assured of the ability to live in dignity.¹⁷

In the first months following the EU-Turkey deal, it was only Syrian asylum-seekers, who were subject to the admissibility procedure. Since the end of 2016, however, also non-Syrian asylum-seekers from countries with a recognition rate of 25% or higher, have to go through the admissibility test.¹⁸

ASYLUM PROCEDURES ON GREEK ISLANDS

Fast-track border procedures apply to all arrivals on the islands unless, they are identified as:

- Vulnerable, or
- Falling under the family reunification related provisions of the Dublin Regulation.

Under fast-track border procedures:

- Asylum-seekers from countries with a recognition rate of 25% or over, go through **admissibility procedures**, where it is assessed whether Turkey can be considered a safe third country for them or not.

¹³ Statement is available at: <http://www.consilium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement/>

¹⁴ While 856,723 arrived in Greece in 2015, only 13,195 applications were registered although the UNHCR estimated over 90% of the arrivals in Greece that year were from the top three refugee producing countries. However, this changed with the progressive closure of the borders north of Greece. A total of 51,092 asylum applications were registered in 2016, although the total number of arrivals in Greece dropped to 173,450. Statistics are available on the official website of the Greek Asylum Service: http://asylo.gov.gr/en/wp-content/uploads/2017/05/Greek_Asylum_Service_Statistical_Data_EN.pdf and on UNHCR web portal on the Mediterranean situation: <http://data.unhcr.org/mediterranean/country.php?id=83>.

¹⁵ See Articles 54, 55 and 56 of Law 4375/2016.

¹⁶ The third durable solution, repatriation, is only feasible under certain conditions, including that there has been a fundamental change of circumstances in the country of origin of a refugee, making it safe for them to return.

¹⁷ Amnesty International, "No Safe Refugee: Asylum-seekers and refugees denied effective protection in Turkey," June 2016 (Index: EUR/44/3825/2016).

¹⁸ Phone interview with the Greek Asylum Service, 17 January 2017.

- **Syrian:** Majority receive a negative decision on admissibility (1,691 of 2,194 first instance admissibility decisions were negative as of 11 June 2017)
- **Non-Syrian:** All received a positive decision on admissibility as of 11 June 2017 (1,449 decisions)
- Asylum-seekers from countries with a recognition rate below 25%, do not go through admissibility procedures, but **have their asylum-claims assessed directly on its merit.**

As of 11 June 2017, the Greek Asylum Service issued only a total of 3,643 admissibility decisions. In all of the 1,449 decisions concerning non-Syrians, the Greek Asylum Service found that Turkey cannot be considered a safe third country and admitted the applicants to the asylum procedures in Greece. However, in the case of the 2,194 Syrians, the Greek Asylum Service found that majority can go back to Turkey admitting only 503 of them to the Greek asylum procedure to assess their claim on merit.¹⁹

Although no asylum-seeker has been returned to Turkey following a negative admissibility finding yet, this extra step puts additional pressures on the asylum system on the Greek islands and lengthens the time an asylum-seeker needs to wait to receive a final decision. Amnesty International met many Afghan families and individuals on Lesbos in May 2017, who had been waiting for a decision between 9 and 14 months. There are many other non-Syrians, for example from Iraq, whose waiting period for a first instance asylum decision had unnecessarily been extended as a result of having to go through admissibility procedures.²⁰

An Iraqi family Amnesty International met on Lesbos on 13 May 2017 had arrived on the island on 1 April 2016. After having a positive decision on their admissibility only in January 2017, the family finally received refugee status in July 2017 and were able to leave the island after fifteen months of waiting in limbo there.

In April 2017, the Greek Asylum Service began to hold admissibility and eligibility interviews at the same time to overcome the logistical difficulties of arranging interviews and interpreters twice for the same applicant (once for the admissibility interview, then for the eligibility interview) and as a result to cut down on the waiting time. While these measures may help shorten the waiting time for the adjudication of asylum claims, the existence of the admissibility procedures continue to add on the waiting period as decisions have to be first given on admissibility and then on eligibility even if the interviews are conducted on the same day.

In addition to the extra burden admissibility procedures impose on the asylum system on the islands resulting in longer waiting time, there are also concerns over the assessments in relation to Turkey being a safe third country, including in relation to the involvement of the European Asylum Support Office (EASO) in the admissibility assessments and interpretation of an applicant's connection with Turkey.

In May 2017, Amnesty International met non-governmental organisations and lawyers who worked on the Greek islands and assisted asylum seekers with their applications.²¹ They raised concerns over the individuality of the negative admissibility assessments drafted by European Asylum Support Office (EASO) case workers, who interview applicants and draft opinions for the Greek Asylum Service to consider when deciding on the admissibility of a case.²² Legal aid providers interviewed stated that EASO case workers' analysis often lack an assessment of the specific characteristics of the case. They said that EASO opinions fail to consider individual circumstances of the applicants, even when these are taken in detail during the interviews, and instead provide a standard analysis of the international protection regime in Turkey, whereby they find vast majority of the applications inadmissible regardless of the nationality of the applicant.²³

The Greek Asylum Service is clearly not following these EASO opinions in relation to non-Syrian applicants evidenced by all non-Syrians having been admitted to the Greek asylum procedure so far. These EASO opinions, however, demonstrate the pressure Greece is under to accept Turkey as a safe third country for Syrians and non-Syrians alike.²⁴ Allegations that EASO assessments are general rather than individual, also raise concerns over the negative admissibility decisions on the applications of Syrian asylum-seekers, some of which may be based on opinions drafted by EASO case workers.

¹⁹ E-mail correspondence with Greek Asylum Service, 13 June 2017 (on file with Amnesty International).

²⁰ Interviews were held with lawyers and NGO representatives on Lesbos between 10 and 13 May 2017. Updates were received from Lesbos and other islands through phone calls and e-mail exchanges.

²¹ Interviews involved eight lawyers directly working with asylum-seekers on the islands and representatives of organizations providing legal assistance, such as the Greek Council for Refugees, Metadrasi, Refugee Support Aegean, and HIAS amongst others.

²² Article 60(4)b of Law 4375/2016. EASO's role within the fast-track border procedures was also clarified during an interview with EASO field coordinators on Lesbos, 12 May 2017.

²³ Interviews were held with lawyers on Lesbos between 10 and 13 May 2017. Also see report by Greek Council for Refugees, European Council for Refugees and Exiles, Italian Refugee Council and Dutch Council for Refugees, "Strengthening NGO involvement and capacities around EU 'hotspots' developments: update on the implementation of the hotspots in Greece and Italy," 30 June 2017 and European Centre for Constitutional and Human Rights (ECHR), "Case Report, EASO's influence on inadmissibility decisions exceeds the agency's competence and disregards fundamental rights," April 2017.

²⁴ While Syrians can receive "temporary protection" on a prima facie basis, non-Syrians can only receive "conditional refugee status" after an individual refugee status determination procedure which can take for years with almost no support while waiting.

Since March 2017, EASO can also support Appeal Committees by drafting case reports, including appellant's claims, and providing case specific country of origin information.²⁵ Involving at second instance an agency that is already involved in the first instance assessment of asylum decisions raises serious concerns over the impartiality of appeal decisions issued with the use of EASO case reports.²⁶

Another concern over the admissibility assessments relates to the requirement for the applicant to have a connection to Turkey for the country to be considered a safe third country in his or her case. Legal aid providers Amnesty International interviewed state that the assessment that Syrian applicants can receive "temporary protection" in Turkey is found sufficient by the Greek Asylum Service to establish a reasonable connection with the country. A representative from the Greek Asylum Service also confirmed to Amnesty International that the Service assesses that Syrians can automatically receive temporary protection status in Turkey upon return and that, in their opinion, this is sufficient to establish a connection between Syrian asylum-seekers and Turkey.²⁷ However, for non-Syrians, assessments Amnesty International was able to review showed that the Greek Asylum Service considers whether an applicant has relatives in Turkey or if they have religious or cultural ties to the country when assessing the link to Turkey.

The difference in the standards used when assessing existence of a connection between a Syrian or a non-Syrian applicant and Turkey raises concerns over the fairness of the admissibility procedure. Additionally, if the ability to seek asylum was sufficient to establish a reasonable connection with the third country, the Law 4375/2016 would not have required both the possibility to receive refugee protection (Article 56(1)(e)) and the existence of a connection between the applicant and the country (Article 56(1)(f)).

Individuals identified as vulnerable and their families, as well as those falling under Article 8 to 11 of the Dublin III Regulation concerning family reunification are exempted from the fast-track border procedures²⁸ and have so far not been subjected to the admissibility assessment. While reports indicate that concerns continue to exist in the identification of vulnerable individuals arriving on the islands,²⁹ this has allowed thousands of asylum-seekers to move onto the mainland Greece. However, the Joint-Action Plan on the implementation of the EU-Turkey deal published in December 2016 recommended Greek authorities to no longer exempt asylum-seekers falling under these categories from the possibility of return to Turkey under the deal.³⁰ More worryingly, the report on the progress on the implementation of this Joint Action Plan published by the European Commission on 13 June 2017 indicates that legal amendments are pending to be sent to the Greek Parliament to no longer exempt family reunification cases under Dublin from the possibility of return to Turkey after an admissibility decision.³¹ Same report also suggest that the Greek Asylum Service is also developing procedures to subject vulnerable asylum-seekers to admissibility procedures although with the deadlines applicable under the normal procedure.³²

Syrians hostage to the EU-Turkey deal

Since the EU-Turkey deal came into force on 20 March 2016, approximately 12,000 Syrians arrived on the Greek islands.³³ Exact figures on how many have left the islands are not available. However, it is estimated that many were transferred to mainland Greece either because of specific vulnerabilities or falling under the family reunification provisions of the Dublin regulation.³⁴ Some have traveled irregularly onward and 193 "chose" to go back to Turkey according to figures by the Greek Police.³⁵ Of the remaining ones who were subjected to the admissibility procedures, only 503 had their asylum applications admitted to the Greek system while the Greek Asylum Service found in 1,691 asylum applications by Syrians that the applicant can go back to Turkey.³⁶

Those with asylum applications found inadmissible on the premise that Turkey is a 'safe third country' are entitled to appeal the first instance decision at Appeal Committees. Backlog Appeal Committees, which review appeals made up to and including 20 July 2016,

²⁵ Article 101 of Law 4461/2017.

²⁶ Press release on the proposed amendment to Law 4375/2016 by organisations under the Asylum Campaign: <http://asylum-campaign.blogspot.gr/2017/03/43752016.html>.

²⁷ E-mail correspondence of 23 June 2017.

²⁸ Article 60 paragraph 4(f) of Law 4375/2016.

²⁹ For most recent concerns, see Médecins sans Frontière, "A dramatic deterioration for asylum seekers on Lesbos," July 2017. For earlier concerns, see for example, Amnesty International, "Trapped in Greece: an avoidable refugee crisis," April 2016 (Index: EUR 25/3778/2016) and "Our hope is broken," September 2016 (Index: EUR 25/4843/2016) as well as Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy published on 29 November 2016 (FRA Opinion 5/2016 [Hotspots]) and the Aire Centre and ECRE, "With Greece: recommendations for refugee protection," June 2016.

³⁰ Annex to the fourth progress report on the implementation of the EU-Turkey Statement: Joint Action Plan on the implementation of the EU-Turkey Statement, 8 December 2017, available at: https://ec.europa.eu/commission/sites/beta-political/files/december2016-action-plan-migration-crisis-management_en.pdf.

³¹ Annex to the sixth progress report on the implementation of the EU-Turkey Statement, published on 13 June 2017: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170613_sixth_report_on_the_progress_made_in_the_implementation_of_the_eu-turkey_statement_annex_1_en.pdf.

³² Ibid.

³³ According to the data the Readmission Unit of the Greek Police provided Amnesty International on 28 June 2017, total number of Syrians who arrived on the Greek islands between 20 March 2016 and 27 June 2017 was 12,066.

³⁴ According to the Greek Asylum Service, as of 11 June 2017, 7,906 asylum applicants were transferred to mainland Greece having been referred to the normal procedures due to vulnerability and 2,687 were transferred because of falling under the family reunification provisions of the Dublin III regulation. Data was provided to Amnesty International by the Greek Asylum Service through e-mail correspondence. Nationality breakdown was not available at the time of the request.

³⁵ Data provided to Amnesty International by the Readmission Unit of the Greek Police on 28 June 2017.

³⁶ E-mail correspondence with Greek Asylum Service (on file with Amnesty International). Some of the 503 positive admissibility decisions on the applications of Syrian asylum-seekers may concern previous negative decisions overturned by Appeal Committees.

issued 423 decisions. In all, but three, these Committees overturned the negative first instance admissibility decision and concluded that Turkey is not safe for the Syrian applicants.

There are currently 12 new Appeal Committees, reviewing appeals that have been lodged after 21 July 2016 against both negative admissibility and eligibility decisions in Greece. Between 21 July 2016 and 30 June 2017, 7,408 appeals were submitted to the Appeal Committees, 2,319 of them concerning appeals lodged against decisions issued by Asylum Offices on the islands. 677 of the appeals, involving 1,104 individuals, challenged first instance decisions that found Turkey as a safe third country. In response to them, however, the new Appeal Committees operational since July 2016 have issued only 60 decisions as of 30 June 2017. In all of them, they confirmed the inadmissibility finding at first instance, i.e. found Turkey as a safe third country.³⁷

The limited number of appeal decisions on admissibility concerning whether Turkey is a safe third country or not, is mainly resulting from a decision pending at Greece's highest administrative court, the Greek Council of State. The pending decision concerns appeals submitted by two Syrians against the negative admissibility findings of Appeal Committees over their asylum applications. As the judgement of the Greek Council of State may set a precedence on whether Turkey can or cannot be considered a safe third country in the asylum applications of Syrian nationals, Appeal Committees, it seems, are holding back their decisions on similar cases.³⁸

In May 2017, for example, Amnesty International met a Syrian family on the island of Lesbos, who had been there since 20 March 2016, the date EU-Turkey deal became operational. Although they have been on the island for over a year, they were still waiting for a decision on the appeal they had submitted over the negative first instance decision of the Greek Asylum Service on the admissibility of their case. It is estimated that around 1,000 Syrians are waiting for the outcome of their appeal on the islands.³⁹

Detention of asylum-seekers

Asylum-seekers from countries with average recognition rates under 25%, such as Pakistan, Bangladesh, Morocco, Algeria and Tunisia, are not subjected to the admissibility procedures on whether Turkey can be considered a safe third country, but have their eligibility for refugee status directly assessed on the islands under **the fast-track border procedures** introduced by the Law 4375/2016 adopted on 1 April 2016 following after the EU-Turkey deal.⁴⁰

The whole asylum process under these exceptional border procedures should be completed within two weeks including the appeal stage. These time limits render the first instance and appeals procedures and the exercise of an effective remedy extremely difficult, particularly given that legal aid is scarce and free legal assistance is not guaranteed at first instance in Greece.⁴¹ The Law 4375/2016 guarantees legal aid at appeal stage of the asylum procedure and this has been largely provided by implementing partners of UNHCR. However, this programme is ending at the end of July to be replaced by a roster scheme Greek Asylum Service is setting up that is yet to become operational.

In addition to being subjected to these fast-track border procedures with such limited procedural guarantees, asylum-seekers from these countries have also been routinely detained without an individualized assessment of the necessity and the proportionality of their detention. Routinely detaining asylum-seekers or detaining them purely on the basis of their nationality is a breach of EU and international law. Detention of asylum-seekers should always be exceptional and based on an assessment of a person's individual circumstances. In July 2017, Amnesty International received reports from the island of Lesbos that this practice have stopped.

Among those detained on the islands are also rejected asylum-seekers, including some whose deportation to Turkey is suspended until a final decision on their court applications against the rejection of their asylum applications. In May 2017, Amnesty International met two Syrian men and a Syrian couple with their four children aged between ten and two, who were detained upon the rejection on appeal of their application on admissibility. Amnesty International is also aware of an Iranian detained on Lesbos, whose deportation to Turkey was also suspended by court orders.⁴² Three rejected asylum-seekers on Lesbos, including the Iranian asylum-seeker, are currently on hunger strike in protest of their detention.

Heba and Abdul,⁴³ among those detained, had escaped daily violence in Syria with their four children aged between 10 and two, and arrived in Greece on 23 July 2016. They were detained when their appeal on the negative first instance decision on the admissibility of their case was rejected on 28 April 2017 – almost a year after their arrival in Greece. They are now in a section housing families in

³⁷ Information in this paragraph is obtained from the Appeals Authority, phone interview, 12 July 2017.

³⁸ Interviews with NGOs and lawyers working in Greece.

³⁹ This estimate is based on the statistics available: 677 appeals involving 1,104 applicants were lodged at the new Appeal Committees in relation to negative admissibility decisions at first instance, and Appeal Committees gave decisions on 60 of those involving 81 individuals, leaving 617 appeal decisions involving 1,023 Syrians pending before the new Appeal Committees. Amnesty International does not have information on whether there are any admissibility cases pending before the Backlog Appeal Committees in relation to decisions finding Turkey as a safe third country.

⁴⁰ Article 60 paragraph 4.

⁴¹ For a more comprehensive analysis of the new legislation see Amnesty International's submission to the Council of Europe Committee of Ministers: *M.S.S. v. Belgium and Greece*, Application No 30696/09, 18 May 2016.

⁴² In May, the European Court of Human Rights issued interim measures requesting the Greek authorities to refrain from the removal of the Iranian asylum-seeker to Turkey until a court decided on the judicial review of his asylum case.

⁴³ All names are changed to protect anonymity of asylum-seekers and refugees interviewed.

Moria camp on Lesbos and are not allowed to leave the camp. Children, whether separated or with their families, should never be detained for immigration purposes as detention can never be in their best interest.

DETENTION IN MYTILLINI POLICE STATION

During a visit to Lesbos in May 2017, Amnesty International delegates met two rejected asylum-seekers detained in the Mytillini police station. One, from Algeria, had been there for 48 days and the other, from Iran, over two weeks. They both described their detention conditions as unbearable: sharing windowless cells of approximately 20 square meters with 10 to 12 others; no time in fresh air as there is no yard for detainees to be let out; only a corridor in front of their cells to stretch their legs; dirty smelly blankets and insufficient hot water in the two showers available to all detainees.

Both detainees also complained of being detained alongside those criminally charged and not receiving the medical care they needed. The Iranian asylum-seeker, was almost deported to Turkey until he was taken off a deportation boat at the end of April 2017. When Amnesty delegates met him, his court appeal against the rejection of his asylum application was still pending and he feared being kept in the police station until a final decision on his case, which may take months. He told Amnesty International that he got a skin infection shortly after his detention in the Mytillini police station, but had not seen a doctor despite his repeated requests.

Farid, on the other hand, had given up on his asylum and just wanted to be released from the police station. He said that he got an eye infection on the second day of his arrival in the Mytillini police station, but he was only taken to the hospital when his eye was fully closed due to inflammation. He was prescribed a medicine and told by the doctor to go back after a week if the infection did not clear up. That was 43 days before Amnesty International's visit, and the swelling and redness on Farid's eye were still visible. He said that he has not been taken back to the hospital despite his pleas since then. Following repeated requests to the Lesbos police by Amnesty International, the two asylum-seekers were finally transferred from the police station to the closed section of Moria camp five days after the organization's visit.

Amnesty International also talked to two Syrian asylum-seekers who were detained in the Mytillini police station after their appeal of negative inadmissibility decisions were rejected. Noori, a 21 year-old former nursing student from Syria, was detained in the Mytillini police station for over seven months until he was transferred to the detention section in Moria camp. He suffered scabies and serious mental health issues during his prolonged detention in sub-standard conditions on top of a post-traumatic stress disorder (PTSD) caused by his experiences during the Syrian conflict.

"I slept on a mattress on the floor in a cell with five other people. For seven months I didn't see the sun," Noori told Amnesty International when interviewed in Moria detention centre where he was transferred late April 2017.

Ibrahim, 26, used to work as a confectioner in his family's business in Damascus. After his appeal was rejected he was kept in the same police station for two-and-a-half months. He was transferred to the detention facility in Moria in April 2017 after deliberately cutting his chest with a razor and finally released on 29 June 2017 with a court order. He was also diagnosed with PTSD.

European Prison Rules 18.1 state that "[t]he accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation."⁴⁴ Additionally, according to Rule 27.1 "[e]very prisoner shall be provided with the opportunity of at least one hour of exercise every day in the open air, if the weather permits."⁴⁵ Similarly, the European Committee for the Prevention of Torture (CPT) has stated that "all prisoners without exception ... should be offered the possibility to take outdoor exercise daily."⁴⁶ CPT also emphasized that "the maintenance of good standards of hygiene are essential components of a humane environment." European Court of Human Rights found in a number of cases that unhygienic conditions and overcrowding contribute to judgements of degrading treatment.⁴⁷

Recommendations to the Greek government

- End restrictions on the freedom of movement of asylum-seekers arriving on the Greek islands beyond the time necessary for initial registration with the Reception and Identification Service and provide them with adequate reception on mainland Greece.
- Urgently devise a plan to ensure asylum-seekers and migrants on the islands have access to services, including medical and mental health care, and legal aid, while majority of the emergency funding by the European Commission on the islands expires.
- Examine all asylum claims on their merits in a full and fair asylum process with all procedural and substantial safeguards.

⁴⁴ Council of Europe, "Recommendation *Rec(2006)2* of the Committee of Ministers to member states on the European Prison Rules," 11 January 2006.

⁴⁵ Council of Europe, "Recommendation *Rec(2006)2* of the Committee of Ministers to member states on the European Prison Rules," 11 January 2006.

⁴⁶ CPT, "2nd General Report on the CPT's Activities," 1992.

⁴⁷ See for example, *Peers v. Greece*, No. 28524/95, judgment of 19/04/2001; *Dougoz v. Greece*, No. 40907/98, judgment of 06/03/2001.

- Do not return asylum-seekers to Turkey under the EU-Turkey deal on the grounds that Turkey is a “safe third country” or a “first country of asylum.”
- Continue to increase the capacity of the Asylum Service to promptly process all asylum applications.
- Stop the prolonged detention of asylum-seekers with the expectation of returning them to Turkey.
- Do not detain asylum-seekers and migrants in sub-standard conditions in police stations.
- Ensure migration related detention is exceptional, and that any migration- related detention of migrants and asylum-seekers are based on an individual assessment of proportionality and necessity in each case.

Recommendations to the EU

- Review the Joint Action Plan annexed to the European Commission’s fourth report on the implementation of the EU-Turkey Statement published on 6 December 2016 in terms of its potential human rights impact and revise it, in particular, by removing recommendations for limiting the number of appeal steps and concerning the inclusion of vulnerable asylum applicants as well as those with family links in the EU under the EU-Turkey deal.

EU member states

- Increase the number of available relocation places, by allowing access to the scheme for those who have arrived after the conclusion of the EU-Turkey deal and swiftly match relocation requests.