

STOCKTAKING OF THE IMPLEMENTATION OF THE EU-TURKEY STATEMENT

Danish Refugee Council calls for a people-centred and protection-focused response to the European refugee and migrant situation



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INTRODUCTION The EU-Turkey deal struck with Turkey in March 2016 is the result of the predominantly political crisis that the increase in arrivals to EU's borders caused in the EU during 2015 and the first quarter of 2016. It represents a regrettable move towards an increasingly restrictive EU policy focusing on deterrence and border management. Perceived as a success primarily based on reduced numbers of arrivals to Greece, the EU-Turkey deal has inspired the New Partnership Framework with third countries under the European Agenda on Migration, which further cements the quid pro quo principle characterizing the EU-Turkey Statement, that is effectively externalizing protection responsibilities to a third country in exchange for funding, and other inducements.



Photo: AFP Photo / Aris Messinis

DRC ADVOCATES that a people-centered and protection-focused response is adopted by the EU and Member States in the search for joined-up, sustainable solutions. We call on the EU and Member States to adopt a balanced narrative around refugees and migrants, framed in terms of manageability and solutions.

Taking stock of the implementation of the EU-Turkey Statement, DRC calls for:

ACCESS TO PROTECTION AND RIGHTS

- **Protection and rights must be at the core of any cooperation with third countries on return and readmission.** The increasingly restrictive EU policy, shifting responsibility for refugee protection to third countries risks undermining the right to asylum and the international protection regime. Full compliance with international and European human rights and safeguards as enshrined in the European asylum acquis, the European Convention of Human Rights, the 1951 Refugee Convention and international law relating to the principle of non-refoulement must be upheld.
- **Timely and effective access to asylum procedures must be ensured, including access to free legal assistance.** Despite great efforts by the Greek authorities, the overstretched Greek asylum system is struggling to ensure timely and effective access to asylum procedures and to provide appropriate legal assistance. The free legal aid required by law for applicants at the appeal stage is not fully available, and existing local NGOs that offer legal counselling are overwhelmed.
- **The functioning of the hotspots must be in compliance with the EU asylum acquis and international and national law.** Expedited processing within the “hotspots” must not be on account of refugees and migrants’ rights and safeguards. The implications of the lack of a clear policy framework surrounding hotspots and the consequent unclear role and responsibility of the involved EU agencies should be closely monitored. A pre-condition for the functioning of the hotspot approach is further that EU Member States honor their commitments in terms of relocation places and abide by their obligations

according to the Dublin-regulation when it comes to reuniting family members.

- **All legal safeguards must be fully respected in the admissibility procedure, and protection guaranteed in case of return.** While fully recognizing the tremendous task of hosting and supporting refugees that Turkey are faced with, reports¹ pointing to risks of refoulement, impediments in terms of lodging asylum claims and accessing information and legal counselling, as well as excessive use of detention are concerning. Better access to the detention centers by independent actors and independent monitoring of conditions under which the individuals returned from Greece reside are paramount. Independent reliable information on the situation in Turkey must be the basis for fair and impartial decision-making.
- **Return of migrants, and rejected asylum seekers must be conducted in safety, dignity and with respect for human rights,** as well as primacy for voluntary return in accordance with fundamental human rights and the international protection regime. While migrants in an irregular situation may not have a legitimate claim for asylum or a basis for legal stay, they have rights to life, protection, and dignified treatment en route, in transit and destination. Attention and support must be extended to rejected asylum seekers and those migrants who do not meet criteria for entry under regular channels, including by ensuring that States, which hold the responsibility for readmitting and reintegrating their citizens, are supported in this endeavor.

¹ CoE: Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, 30 May-4 June 2016; Amnesty International: *No safe refuge: Asylum-seekers and refugees denied effective protection in Turkey*, June 2016;



Photo: Reuters / Marko Djurica

DIGNIFIED AND SAFE RECEPTION CONDITIONS FOR ALL IN ACCORDANCE WITH NEEDS AND VULNERABILITIES

- **Adequate reception conditions in Greece must be ensured** in accordance with the Reception Conditions Directive. This must include a swift identification of vulnerabilities and provision of adequate accommodation in accordance with specific needs. Detention should only be used under exceptional circumstances, and not for children. In spite of efforts by the Greek authorities and a consequent increase in overall reception capacity, the majority of the facilities are temporary emergency facilities and some provide only the most basic reception conditions. The necessary support to the Greek authorities must be extended to ensure adequate reception conditions are available.
- **The problem of overstretched reception facilities on the islands must be addressed.** A continued situation where the number of people of concern on the islands exceeds the capacity with several thousand creates a multitude of protection issues. The automatic and lengthy use of detention in the hotspots without proper individualized assessment of the necessity is problematic and contrary to EU law. Transfer to adequate accommodation on the mainland must be implemented in a timely manner taking into account the capacity on the islands, and contingency planning must be in place in case of increased arrivals.
- **Unaccompanied and separated children are of particular concern, and must be promptly identified and moved immediately** through relocation or Dublin reunification procedures as appropriate. Unaccompanied and separated

children are particularly vulnerable to exploitation, and the insufficient pledges from Member States for unaccompanied children as well as the lengthy procedures for family reunification are unacceptable.

- **Safety and security in the sites must be appropriately addressed** both through improvement of the reception conditions and through adequate response from the authorities to safety and security incidents. Inadequate reception facilities in Greece, as well as the lack of timely and understandable information are creating an atmosphere of uncertainty and despair which causes tension and violence.

PROTECTING PEOPLE – NOT BORDERS: SAFE AND REGULAR ACCESS FOR REFUGEES AND MIGRANTS

- **A genuine objective of regulating flows and saving lives must include more safe and regular pathways for refugees and migrants.** Although the EU-Turkey deal may have contributed to decrease numbers crossing the Aegean Sea, it has not lowered the number of people in need of protection. Confronted with restrictive measures, people choose alternative routes and embark on more risky journeys using irregular methods and routes. They do so in the absence of safe and regular pathways and durable solutions in regions of origin. Rather than focusing on deterrence and prevention, EU should establish more safe pathways to seek asylum, including through humanitarian admission, resettlement, family reunification, and other safe admission schemes and expand opportunities for regular migration.

- **Resettlement must be preserved as an unconditional protection instrument for refugees** and should not be tied to readmission. While the resettlement of vulnerable refugees from Turkey to the EU is welcomed, the 1:1 resettlement scheme from Turkey is instrumentalising resettlement by making resettlement places in the EU conditional upon readmission rates. This instrumentalisation of resettlement is further cemented in the New Partnership Framework with third countries and in the proposed EU Resettlement Framework that rather than a commitment to global responsibility sharing is designed as a means to controlling flows towards the EU.
- **The human right to seek asylum must be upheld and crossing borders to seek protection must never be penalized.** The EU-Turkey Statement and its 1:1 resettlement scheme is effectively penalizing refugees making the desperate choice to cross the Aegean Sea by excluding them from resettlement. The right to move and cross borders in pursuit of protection, safety and dignity must be preserved and must never be penalized.

SUPPORTING HOSTING STATES AND SHARING RESPONSIBILITY FOR PROVIDING PROTECTION

- **The provision of humanitarian assistance to countries which host large numbers of refugees must be needs-based, and should not be conditional upon states' ability to prevent onward movement.** Recognition and financial support must be given to those host governments that play a disproportionately large role in hosting and extending support to refugees and migrants. Humanitarian aid should not be used as a means for political leverage.
- **Assistance programmes in regions of origin should be combined with Europe taking on greater responsibility.** The EU cannot expect that the regions of origin will respect the rights of refugees and migrants if the EU fails to do so. The EU must actively contribute to improving refugee protection in regions of origin, without undermining the right to seek asylum in Europe. The EU must find common solutions, and accept a fair share of the responsibility to provide international protection to those in need.



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About DRC

DRC delivers protection-focused programmes all along the displacement route from the regions of origin in the Middle East, Central Asia, Horn of Africa, and West Africa, to the transit areas in Iran, Turkey, Libya, Tunisia and South-Eastern Europe, as well as in Denmark as one of the destination points in Europe.

DRC is uniquely positioned with knowledge about people on the move, their situation in regions of origin, and their needs and protection concerns along the transit routes and in destination points.