REFUGEES IN GREECE: FACING A MULTIFACETED LABYRINTH

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1. INTRODUCTION[1]

Hanna Arendt wrote in 1951 about the refugees: "The conception of human rights, based upon the assumed existence of a human being as such, broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships – except that they were still humans" (Arendt, 1973: 229).

Since then, a comprehensive refugee protection law has been built. However, state sovereignty has remained particularly suspicious of recognising the refugee status and to include refugees into social structure. Refugees crossing into Greece and Europe today (2014 - 2018) face this same suspicion. For those not eligible to claim protection status in order to continue their way legally, this journey, within an ever-changing and uncertain environment, is dark and dangerous.

Those who hail from war-torn countries have a valid claim to refugee status and if not, shall be returned to their country of origin. The 1951 Geneva Convention is the key document which defines the relevant national and European law and policies outlining the rights of the displaced, as well as the legal obligations of states to protect them. Safe border crossing stems from the key provision that refugees should not be returned to a country where he or she fears persecution, as well as the obligation to rescue anyone in danger. For those not eligible to international protection, a state can designate or impose settlement and movement within the country or the EU and ensure the repatriation to the (safe) country of origin.

The present article aims at tackling the question of legal and political aspects that reflect European policies and law in relation to the refugee reception crisis in Greece. If the EU-Turkey agreement of 2016 has a cardinal position, specific issues are also tackled, such as reception mechanisms, asylum services, legality of movement to other EU countries, temporary protection, social integration, detention, and 'irregularity'. The main argument is articulated around the idea that European law and policies attempt to deviate from the fundamental values of human rights and rule of law that consolidate the European construct. The article aims at

presenting the state of affairs (facts and data) and the transformations that reshape the relevant law. It will highlight the volatility, uncertainty and insecurity which impose a new political and legal example, gradually formed within the EU. According to this example, any new entrant is considered undesirable, both before and after a possible entry. The article will also show how this thin line between refugees and "irregular migrants" is a hard frontier: states have the right to remove undocumented persons from their territory, whereas for refugees there are pre-existing regulations guaranteeing the reception and housing conditions. However, in recent years, the legal framework governing refugee protection has become suppler in favour of state security. The latter is not clearly defined. Last, the volatility observed in law and policies creates certain complexities, limiting the legitimate ways of movement between Turkey, Greece and other EU member states (see figure), in turn exacerbating the ambiguity and uncertainty.

Until February 2016, a massive influx of refugees all the way to Austria, Germany and Sweden through the Balkans was observed, lacking the necessary security measures. Since the beginning of 2016, mainly due to the blocking of the Balkan corridor, a major decline in the influx of migrants has been observed (UNHCR, 2017e). New legal parameters have been set, regulating the legal exit routes from Greece in a strict manner. These parameters are: a) the possibility of relocation of asylum seekers from Greece (and Italy) to another EU member-state added to the already statutory right of family reunification (among others: European Council, 2015); b) the return of any asylum seeker or migrant from Greece to Turkey, regulated by the EU - Turkey agreement of March 2016.

Since then, a fundamental change in the refugee basic framework has been made, namely the protection from returning to a "non-safe country". The universal value of the refugee international law started to fade and lose its effectiveness as the refugees started to move away from European territory. In this sense, the safe passage of the refugees to the first point of contact within the EU, Greece, is highlighted as a political and regulatory objective for Europe itself, together with another emerging objective, that of the creation of the conditions of housing and social integration. Anyone who manages to remain within the state territory is confronted with issues of legality (the "undocumented" ones), conditions of living and integration prospects (which apply to both legal and "undocumented" refugees).

2. REFUGEES IN A COUNTRY OF IMMIGRANTS

A new feature of the population on the move to Greece is that, for the first time, refugees - even though their numbers are fewer (50,000) - are more visible than the immigrants residing in Greece (around 800,000). The refugee reception crisis has clearly overshadowed other immigrant issues regarding their position within Greek society, their relation with the state, as well as their prospects of integration. A second characteristic is that refugees, who, have been residing in Greece since March 2016, i.e. the time when the Balkan route was blocked, leading to the introduction of an internal border after the EU-Turkey agreement, have limited legal exit rights (around 50,000) as opposed to 2015, when they were crossing Greece to find refuge in Europe (around 900,000). Many are waiting to move legally towards the West, others are trying to prevent their return to Turkey, while there are those who attempt and even complete a rather dangerous and illegal journey.

Asylum seekers are classified according to their rights as follows: a. those who will be recognised as refugees in Greece, b. those who will seek a chance to relocate to another European country and c. those who are eligible to family reunification. The main selection criterion is the 75% rule, i.e. the average recognition rate according to the country of origin. This threshold is passed by Syrians and Eritreans, but not by Afghans, Somalis or those originating from the Maghreb region. This 75% threshold regulates the ability of movement. It's a European-inspired "cutter" which collides with the main principle laid out by the refugee law, i.e. that the rights related to access to the asylum system are person-centred and cannot be subject to origin criteria. "This criterion is legally and ethically problematic, and has meant that even in its short time span, the nationalities eligible for relocation have changed considerably. For example, Iraqis were initially eligible for relocation, but later became ineligible" (Guild, Costello, and Moreno-Lax, 2017: 17).

The refugee management procedures were implemented under a state of emergency response plan. Apart from the factual basis of the argument, a "state of emergency" creates a condition of uncontrolled exclusion from legality: "It is a well-known fact, however, that during a state of emergency, where procedures in derogation of the provisions of the standard applicable regulatory framework are condoned, neither is the rule of law rigorously respected" (Greek Ombudsman, 2017: 11).

Ultimately, the EU and Greek law and policies on refugees depend on the actual situation of refugees residing in Turkey (around 4,000,000). The potential increase of the displaced from

Syria-Turkey to the EU will definitely set a basis of re-negotiation of the current, fragile framework governing any permissible movement. The closure of the Balkan route, and secondly the EU-Turkey statement, have already prevented population movements on a grand scale. Numbers may have stabilised in 2017, however, this can be reversed anytime since an end to the Syrian war, as well as in other war zones such as Iraq and Afghanistan, does not seem a likely prospect.

Figure: *[the figure to be placed here, in two pages or in one landscape orientation]*

3. THE CONFUSION: PEOPLE'S SAFETY OR BORDER SECURITY?

The new European refugee-migration framework was developed within an environment of suspicion and fear of foreigners, especially the Muslims. Any repulsion of migrants who are considered "dangerous" seems to prevail over any guarantee of rights. The continuous exclusionary rhetoric of othering is fuelled by the resurgence of right-wing populist and nationalistic in Europe and Greece politicized fear, especially regarding immigrants and asylum seekers (Krzyżanowski, Triandafyllidou, and Wodak, 2018: 2). Both groups became an easy target of stigmatizing political and media discourses and practices, "which not only contributed to a shift in public moods, imaginaries, or political preferences but often also resulted in outright physical violence toward the incoming 'refugees'" (Boukala and Dimitrakopoulou, 2018: 180).

Even the European institutions' position on the subject is indicative: In the European Council conclusions, February 2016, the term "refugee" was replaced by that of "migrant", who even "cross the borders illegally" (European Council, 2016a). Similarly, in the EU-Turkey agreement, the issue that needs to be settled constitutes a "migration crisis", while the terminology of this text focuses on the "migration influx", which also includes refugees. In the common declaration/agreement, the term "refugee" appears four times, while the term "migrant" and "irregular migrant" appear ten times (European Council, 2016b). This suggests a hierarchy of control on behalf of the EU over people and their rights.

Security policies as well as Islamophobic/xenophobic speech are not unknown in Greece (Kalantzi, 2017). The security-centred law aimed at preventing a possible entry to Greek territory and repatriating those found without documentation in the country. The concept of "security" at the Greek/European borders can be quite ambiguous: a. for refugees, especially as far as the rescue procedure and the safe crossing is concerned, and b. for the borders, with a

series of operations and special bodies which emerged to monitor the - mainly sea - borders, on the south and south-east (operation Poseidon, Frontex and the Rabit and EU NAVFOR squads), securing a continuous increase in relevant European funding (European Council, 2016). On December 6th 2016, the European Border and Coast Guard started its operations aimed at the immediate reinforcement and systematisation of the EU border control. The Guard also assists in the return process back to third countries.

The confusion over security has immediate and negative consequences on policy addressees, as it becomes obvious that both national and European borders are not threatened, but rather massively crossed by individuals who have valid reasons to claim asylum. This persistent, pro-security reference, as seen in European documents, legitimises any deterrence practices regarding the refugee movement, and undermines the rights.

As it is difficult for someone to see, in the face of thousands of desperate people, the reflection of an intruder who threatens the borders, the European alongside the Greek "defence" policy of the border protection is typically based on the notion of "war on traffickers", which has a distorted legal ratio and a political preconceived status: it aims at fighting international crime without taking into account the safe movement of those who are, in fact, trafficker victims. Rescue operations in the Aegean (and elsewhere in the Mediterranean, even according to the UN Security Council resolution 2240/2015) are conducted ultimately on the side-lines of war on traffickers. After all, as the initiator of the EU-Turkey admits, "At the heart of the EU-Turkey agreement is the goal to discourage irregular crossings by returning most of those who arrive on Greek islands to Turkey following a credible assessment of their asylum claims" (ESI, 2016).

However, the deterrence/return plan of the displaced to Turkey, underestimated (ESI, 2015) the fact that Turkey can hardly be considered a safe country according to the legal provisions outlined by ECHR and refugee law.

The 12km long fence in Evros (built by Greece), and the fence in Idomeni (built by FYROM) limited the possibility of movement through safe channels. When there are no refoulement practices conducted by the Greek army or the coast guard, tumultuous seas (just like the minefields in Evros riverbanks, in the past) act like "passive refoulement". Since the beginning of 2017, refugee and migrant refoulement in Evros as well as the push-back of Turkish fugitives, constitute a strict and illegal practice on behalf of the Greek government (HLHR, 2017).

Sometimes, the deterrence policies preventing entry to Greece violate any justifiable logic. Liberty deprivation as a means of deterrence and refoulement directly undermine the European Law, as it leads to the construction of designated units for vulnerable persons that need a special kind of treatment. Such a place is for instance, as per Decision 8.2.2017 of the Hellenic Police, a detention facility of Aliens in Kos. This decision states explicitly the dissuasive operations of this facility. According to the Greek Ombudsman (2017: 10), "The view that by maintaining rather uncomfortable living conditions in Greece these populations would voluntarily opt to return -return to where?-, while others would be discouraged from entering, is rather myopic, and does not seem to take into account, even today, self-evident factors: the root causes of the movement of the populations and the primitive instinct of self-preservation".

Finally, the European border surveillance policies overlooking the procedures of accountability and compliance with the protection of rights rules, raise major questions about the interconnection of the security market with the grey areas which exist in refugee-migration policy (Fotiadis, 2015), as well as about the military mechanisms used to monitor the borders in the vulnerable zones of first contact aimed at repelling the non-existent enemy. According to Afouxenidis et al. (2017: 33) "the strategy of "securitization" seems to produce top-down offensive sorts of imageries and vocabularies which run opposite to the overall sympathetic nature provided by ordinary citizens, civil society organizations, and individual volunteers. Despite the fact that a language of protection was used by the EU and a few member countries, the strategies and mechanisms utilized were/are still informed by ideologies of fear as well as color and difference". Prioritisation of migration as a "problem" resulted in sacrificing other priorities like human rights protection (Triandafyllidou and Mantanika, 2017: 36).

4. LOCATION AND TIME AS REFUGEE STATUS FACTORS

The timing of the refugee entry to Greece/Europe is determined by geography. For instance, the first safe country of entry is a crucial factor; there's a state of "bizonality" as a result of the Greece-Turkey statement. Depending of the time of entry into the European territory (see Greece, after the 20th of March, 2016), the displaced are trapped on the Eastern Aegean islands, they have fewer rights as opposed to other asylum seekers, and there is a risk of being returned to Turkey. On the other hand, all asylum seekers who have been sent to the Greek mainland raise claims of relocation to other European countries or they have a family reunification right, in what it seems

to be a never-ending wait (Oxfam, 2017). As far as the nature of rights is concerned, time and place conditions alter the content of refugee law and legitimise temporality as the basis of a non-stop suffering and insecurity.

According to the March 2016 agreement, there were created two zones in Greece (mainland, the islands) where refugees face two different kinds of reality, and one external zone, Turkey. These zones are intertwined through both legal and illegal routes. Those who crossed Greece after the 20th March and those who had already been in Greek territory after this date are subject to different rules. Those who arrived on the islands after the 20th March 2016 are to be returned. However, they are also divided into two sub-categories; the asylum seekers and the irregular migrants. The latter, are not offered any legal remedy to challenge the readmission process. For the asylum seekers, on the other hand, the process has been determined in detail by the Law 4375/2016, which regulates any implementation issues as defined by the EU-Turkey agreement. Whether Turkey is a safe third country, has become a crucial element to the possibility of return. If Turkey is considered a safe country, then the asylum seekers could be returned, while if not, their claim will be examined in Greece.

Within the European environment, the security aspects of migrants, i.e. "safe transit - safe settlement - safe relocation/return" are subject to changing conditions between two kinds of borders: the borders of the Schengen area and the national ones. In the case of the Balkan route, which links Greece with central Europe and operated until early 2016, national borders outside EU were also introduced. So the border is not just a line anymore and it becomes a zone within which the route from "entry" to "placement" is not subject to a single normativity but to various, often inter-conflicting, aspects of it. State sovereignty occasionally and unpredictably changes the border function. The development of an unofficial refugee settlement in Idomeni (2015 - 2016), where thousands of people were stopped while waiting to cross the border, is the most emblematic illustration of the situation.

The multiple borders play a crucial role in the application of refugee law, which acquires flexibility through time and geographical zones, undermining its unified and universal application. This multizonality in Greece constitutes a vague European border: A 'hard' external EU border to Turkey (partly fenced, in Evros), an internal border determined by the geographical restrictions to movement for asylum seekers from the island to the mainland, another external border to Albania and the Former Yugoslav Republic of Macedonia (fenced

at the Idomeni passage), and a soft EU border to Bulgaria. As Balibar says, "Europe conceived itself as developing borders of its own, but in reality it *has no borders*, rather *it is itself a complex 'border'*: at once one and many, fixed and mobile, internal and external. To say it in plainer English, Europe is a *Borderland*" (Balibar, 2015). The various border regimes in Greece affect security of refugees who attempt to pass. Securitisation thus attains a special meaning in Greece-*borderland*.

In theory, refugees who make it to the much-coveted destination of Central and Northern Europe have to face a cunning spectrum of the European law: the return of the asylum seeker to the first country of entry (Greece, Italy, Malta, Cyprus, Spain). The Dublin III Regulation, amended in 2013 according to the new conditions dictated by Greece's inability to provide safe conditions to asylum seekers, provides for the possibility of non-return to the first country of entry. The European Law of Human Rights case-law (ECtHR, 2011) was decisive. According to two additional decisions in 2016 (v. Hungary, interim measures ECtHR, 2016b and 2016c), Greece is still considered an unsafe country for asylum seekers, as a decent living cannot be guaranteed. The possibility of return to Greece was reactivated in 2017 (EC, 2017a; EC, 2017b), as the European Commission considered that Greece can provide law and living safety to asylum seekers, creating yet another possible intra-European flow to Greece. However, this rule ultimately constitutes an additional deterrence measure and, along with the closure of the Balkan route and the EU-Turkey statement, creates human warehouses (Spyropoulou and Christopoulos, 2016:71).

Impermanence and permanence are both decisive concepts regarding the inclusion to a particular protection status and the prospect of social integration. Aspects of the permanence/impermanence issue and its importance to refugees were highlighted with the *B.A.C v. Greece* case. The ECtHR found that Greece, through the prolonged and uncertain impermanence policy imposed by continuous postponements of asylum applications, has violated Article 3 of the Convention. Also, as the court held, there would be violation of Article 3 in conjunction with Article 13 ECHR, in the case of a Turkish asylum applicant in Greece being returned to Turkey, as the applicant was in real danger of being subjected to torture (ECtHR, 2016a).

5. TURKEY AS A "SAFE THIRD COUNTRY"

The joint EU-Turkey statement/agreement has various legal and political problems, for instance when it links the resettlement of a Syrian refugee to Europe from Turkey, with the return of another Syrian from the Greek islands to Turkey (European Council, 2015b) or when it is based on the firm assertion that Turkey is a safe country and a possible return to it does not have to be followed by an international protection status. However, the General Court in Luxembourg said that the statement doesn't constitute a legally binding agreement for the EU (GCEU, 2017).

The European Commission stated that Turkey is a "safe country" and called for the implementation of the statement (EC, 2016a).

The Commission thus makes an assessment according to which Turkey crossing shows a strong link with the country in order for the return legal criteria to be met, arguing at the same time that the guarantees provided by Turkey are sufficient enough to legally cover the collective readmission and return of asylum seekers and irregular migrants from Greece and Turkey. The Greek government has aligned itself totally with the Commission decision, creating the necessary legal prerequisites for implementing the return-to-Turkey program.

The assessment that Turkey is a safe country, as delivered by the asylum committees in the First Instance regarding the asylum seekers located on the islands, with the European Asylum Support Office (EASO) assent, did make it through the Second Instance committees, which explained that Turkey is in fact not a safe first country. The government reacted and by introducing the 4399/2016 law amended the composition of the Second Instance committees by appointing administrative law judges (ECRE, 2016b), succeeding in a rather more favourable outcome.

What in fact happened was that the protection of vulnerable people located on the islands, was restricted. Also, the urgent examination of asylum claims from applicants coming from countries with a low asylum recognition rate, like Pakistan, or the non-application of rights as these are set by the Dublin Regulation (Article 60.4, 4375/2016) is equivalent to depriving substantial access to the asylum process for many people stranded on the Greek islands (ECRE, 2016b).

However, the case law of the Strasbourg Court requires specific, personalised and sufficient guarantees. Most importantly, it requires that the states should prove that in fact the reality does not conflict with the principle of non-refoulement to a non-safe country (ECtHR, 2011; 2012; 2014).

The one-to-one return (one Syrian from Greece to Turkey, one Syrian from Turkey to Europe), the collective return scheme, and the shortfalls in meeting the guarantees required for qualifying Turkey as a 'first country of asylum' or 'a safe third country' in terms of the relevant Directives raise serious questions about the compliance with international human rights standards.

It is rather questionable whether according to Articles 38 and 39 of the 2013/32 Directive (Council of Europe, 2016; ECRE, 2016a; HRW, 2015), Turkey can be considered a "safe third country" or a "first asylum country" and thus a possible return to it cannot be lawful (Greece-Turkey Readmission Agreements)[2], since the reality and the Turkish legal framework cannot guarantee the necessary safety as per the Directive and the Geneva Convention (Ulusoy and Battjes, 2017). According to the European Ombudsman, the European Commission should carry out a human rights impact assessment in Turkey, i.e. to assess possible rights violation danger, implying that the Commission failed to do so before this Joint Statement (European Ombudsman, 2017).

As Peers and Roman stated in 2016, "the right to asylum in Turkey cannot be considered as 'fully established', especially because of the still largely dysfunctional asylum system and the existing inequalities in access to protection and content of protection, which at the present moment are affecting Syrian refugees in particular. For these reasons, the Samsom Plan proposing the systematic return of all asylum seekers from Greece to Turkey in exchange for increased refugee resettlement in Europe, appears to be not only very difficult to implement (due to both legal and practical obstacles), but also based on the doubtful presumption that Turkey may be (soon) considered a safe third country for refugees and asylum-seekers. Furthermore, it is unfortunate that the EU and Turkey did not agree to fully apply the Geneva Convention for Turkey […]". The recent history of the implementation of the agreement and the collapse of human rights and rule of law in Turkey during the prolonged "status of emergency" fully vindicated this early assessment.

On the contrary, the High Administrative Court of Greece (StE) found that "Turkey is a safe third country" and that returns are lawful (judgments 2347 and 2348/2017). Greek authorities are in line with EU organs which seem avoiding the crucial issue about accommodating migrants and refugees within European societies, and attempt to postpone solutions, even by damaging their own political and legal credibility and cohesion. As Pascouau (2016) comments, European summits on refugees, bring "big drama, little solutions", whereas the EU-Turkey agreement, legally ambiguous "could add further disorder to disorder and have political, legal and economic implications that could haunt the EU for years to come".

6. REFUGEE MANAGEMENT: A RECEPTION CRISIS

What we call a "refugee reception crisis" contains all those reception and settlement issues for asylum seekers, since the closure of the Balkan Route and thousands of people being trapped in Greece, without any hope of going elsewhere. These issues in question have been tackled occasionally without any solid plan or structures. The Ministry of Migration Policy lacks qualified staff in asylum issues, as well as funding. These deficits are related to the general economic crisis and a certain inability to recruit staff, both of which can be overcome with external help.

The Greek Ministry of Migration Policy was set up in 2015 and is in charge of managing the reception of refugees in Greece. According to Law 3907/2077, the First Reception Service is in charge of those who arrive at the five hotspots in Lesvos, Chios, Samos, Leros and Kos. Also, there are seven Regional Asylum Offices and ten Asylum Units where asylum applications are being registered and examined (GCR/AIDA, 2017: 27). The asylum service registers and identifies each individual who is then classified within 25 days: if they file an asylum application, they are referred to the Asylum Service. If they are undocumented then they are referred to the police for the removal procedure. Especially in the islands there is the fast track asylum application process, according to which this process is different for Syrian refugees and asylum seekers from other countries for which the protection status is recognised above or below 25% (GCR/AIDA, 2017:20). The legal aspects of this process are very complicated (Asylum Service, 2017c), as it creates a procedural labyrinth, which ultimately contributes to the ambiguity of the asylum seekers' hopes.

Two international organisations involved offer important services and expertise. These are mainly the Office of the United Nations High Commissioner for Refugees (UNHCR), which has assumed a coordinating role on many levels and a key role in creating accommodation spaces in urban areas, and the International Organisation for Migration (IOM), which carries out the voluntary returns program and provides services within the camps. In addition, there are other international organisations assisting or intervening in various fields, such as FRONTEX/European Border Police on returns to Turkey, EASO on consulting on asylum cases[3], UNESCO in education matters, etc. The Greek Army undertook the construction and supply of many camps while other NGOs have provided services both in camps and structures in urban areas covering various fields such as medical care, nutrition, legal aid, social welfare, care of vulnerable people, etc. Amid contradictory expectation and political aspirations and within a fragmented refugee management field, the Greek state often appears unable to impose common standards as far as the provided services are concerned, maintaining at the same time a chaotic scheme. Within this scheme, growing dependent relationships are developed (e.g. through funding) or practiced and certain rhetoric are imposed (from the strongest to the weakest), in what appears to be an -in advance- unequal exchange in help matters: the donor has the ability to decide; the recipient does not.

The work of the volunteers should also be stressed where in many cases they literally saved lives, especially during the first difficult phase of the refugee flows, with only basic facilities (2014-2016). Millions of food portions were cooked and distributed, as well as clothing, toys and care services were provided to all those in need.

The intensive humanitarian or administrative assistance, asylum-wise, concerns around 50,000 - 60,000 individuals, who remained in Greece from early 2016. According to the Asylum Service (2016), during the registration procedure in ummer 2016, it was found that the asylum seekers were from Syria (54%), Afghanistan (27%), Iraq (13%), Pakistan (3%), Palestine (2%), elsewhere (1%). Asylum seekers are classified according to the date of entry, before and after the 20th March 2016, as well as according to those who have the right to relocate to another EU state or to family reunification.

As hundreds of thousands of people were crossing Greece, it should be mentioned that the refugee inflow was a matter of urgency requiring special handling. Since the closure of the border and the retention of about 50,000 individuals, the amount of people has become

manageable; in a country with 850,000 migrants, legal and irregular, having developed the relevant law, policy, infrastructures and bureaucratic mechanisms which have served more than 2,000,000 migrants since 1990. The human management experience in such sizes - during the first contact or the social integration process - invoking the matter of urgency in order to manage 50,000 people, is only able to justify a narrative about those who welcome and not those who arrive.

On the other hand, Greek reception policies are often keen in making harder the life of those who intend to arrive and of those who have already arrived in Greece: detention is a collateral aim or a tool for the "irregulatisation" of refugees. "Crucially enough, the adoption of a detention strategy is reminiscent of the fact that closed facilities existed long before the recent 'crisis' and despite the relative reduction of the number of the detainees in early 2015, detention centers for 'irregular' migrants never ceased to exist" (Afouxenidis et al., 2017: 33).

6a. Settlement in the Greek Mainland: Those who Stay and Those who Leave

There are around 5,000 asylum seekers (as in February 2018) scattered in camps all over Greece, mainly in Central Macedonia and Attica. There were 40,000 a year earlier. Those are people having a legitimate claim to relocation and family reunification or to be granted asylum status in Greece. Alongside this, there are many who have been deprived of those rights. Living conditions within the camps are such that they constitute an offence to human dignity and have led to violent incidents, even deaths. No common regulations have been set, while the top management staff have been recruited indirectly, regardless of qualifications related to important camp management requirements. As the Ombudsman points out, "The lack of any central planning and coordination of the involved agencies and services, as well as the laxity in implementing the relevant provisions for addressing the situation, in combination with the failure to promptly and appropriately utilise European and domestic resources, are among the key reasons why the problem is created and persists" (Greek Ombudsman, 2017: 41).

As for the vulnerable groups, a large deficit in welfare is observed. First and foremost, the lack of criteria and the ability to identify the real vulnerability, which is not always obvious, worsens the situation. Among the "vulnerable groups" categories, such as pregnant women, single parent families and the sick and the elderly, unaccompanied minors are those worth mentioning: around 25,000 unaccompanied minors have filed an asylum application in these years. They reside in camps and even in detention facilities or island camps, in completely inappropriate conditions

for minors, while only 1,250 live in designated minor facilities (UNHCR, 2017c, UNHCR, 2017d).

Around 25,000 persons reside in facilities in urban areas on the basis of their vulnerability and the right to relocation (as long as it was still activated) and family reunification. The UNHCR programs, implemented in partnership with certain municipalities (Athens, Thessaloniki, Livadia, Kilkis), offer settlement to 22,000 e individuals coming from camps (UNHCR, 2018b). NGO or volunteer programs benefit the rest. However, prioritisation of vulnerable groups, as inappropriate as it may be, undermines the rights accessibility and care for the "non-vulnerable" young men, who are to a large degree "vulnerable" without the appropriate status recognition.

The already recognised refugees (21,000) do not receive a special social aid, as soon as they are granted refugee status. Here, we observe the paradox, that those who have no special rights or are under an asylum seeking status have access to the welfare system, while the recognised refugees, apart from the final recognition of their legal status, do not receive assistance. Accession is one-way street. However, those people don't have the means to take Greek language courses, be professionally trained or receive financial aid to search for housing. In reality they live in camps or apartments. So, it is expectable that many recognised refugees decide to leave Greece irregularly to every possible direction and possibly unaware that they have obtained the refugee status. Also, we should take into account the asylum seeker applicants who filed their request before June, 2013 who on early 2018 were 4,000 awaiting examination of their request from a committee (GCR/AIDA, 2017: 45). These are not eligible to reside in settlement structures aimed at those who arrived in Greece until March 2016.

6b. The Dream for the West. Relocation and Family Reunification

Many member states refused to take refugees through the relocation program (Sweden, Austria, Hungary, Poland) or accept a very small number (Bulgaria, Czech Republic, Croatia, Slovakia). Until the end of 2017, 66,400 asylum seekers must leave Greece. According to the Commission Decision (EU) 2015/2016, the EU should pay EUR 6,000 for each registered refugee taken (EC, 2015). While the EU tolerated non-compliance with the decision to relocate refugees (ECRE, 2017: 29) the relocation scheme was terminated in early 2018, and therefore the main legal way from Greece to the West has closed down. Approximately 22,000 refugees have been relocated from Greece (UNHCR, 2017a; Asylum Service, 2018; EC, 2017b) to several EU member states and 4,000 have been *reunified* with their family members. Germany has received the largest

number of family reunification applications. However, the procedure is slow and limited to a small number of refugees. In June 2016, in Germany, the rate of family reunification cases was up to 70 per month. In total 6,500 persons have been moved from Greece to an EU country in 2016-2018 under the Dublin regulation, for family reunification (art. 8, 9, 10, 11), humanitarian reasons (art. 17.2) or other grounds (art. 18.1.b, 16) (Asylum Service, 2018b).

6c. Stranded on Greek Islands: Setting the State of Exception

On the islands of the Eastern Aegean, another legal exit route has been consolidated; that of the return to Turkey. Until March 2018, 2,154 individuals have been returned to Turkey (EC, 2018) and another 15,000 are about to be returned, largely awaiting the outcome of the legal action taken against the decision that orders their return.

There were 11,270 (as in January 2018, UNHCR, 2018a) stranded on the islands (Lesvos, Chios, Kos, Samos and Leros, where there are the reception hotspots located) residing in camps or in their own private housing awaiting their return to Turkey or a definitive deterrence through the use of the appropriate legal remedies.

With the implementation of the Law 4375/2016, the rights of those located within the Eastern Aegean zone are subject to restrictions: as regards the respect to personal freedom and dignity, the asylum application procedure, personal safety, due care in case of vulnerability (families and unaccompanied minors) of those who arrived in Greece after the 3/20/2016 and are currently on the islands (ECRE, 2016b). Any restriction of free movement from the islands to the Greek mainland doesn't leave room for appeal, constituting another example of legal aberration (Bar Association of Chios, 2017) with regards the principles of refugee and general human rights law. Moreover, the geographic limitation has unexpectedly created illegal trafficking, mainly towards Thessaloniki and Athens.

In the end of 2017, the Greek government initiated collective transfers from the islands to the mainland, applying vulnerability criteria, due to overpopulation and political pressure from the local societies. Approximately 500 persons are transferred every week from October 2017 to March 2018.

6d. Outside the Protection System

Individuals without proper papers are those who applied for asylum status but were declined and those who never applied. Most of them are stranded without the prospect of legal movement, to the exception of the IOM voluntarily repatriation program according to which 10,000 individuals have moved (June 2016-March 2018). In some cases they are accepted to camps, securing thus the basic living necessities. However, they gradually become social outcasts and involved in criminal activities. These individuals are one of the two major challenges (the second one is social integration) for Greek and European policy.

7. FROM LIKELY "REFUGEES" TO "UNDOCUMENTED MIGRANTS"

Undocumented migrants are provided with a stay permit for exceptional reasons and for very short periods of time (e.g. six months) in the form of a postponed deportation/return. During this fragmented time, continuous impermanence establishes the legal uncertainty. If the time is sufficient, and if a posteriori legalisation allows it, stay permit can be granted for long term. This process is a battle over time and legitimacy, for which lawful employment is a sine qua non prerequisite. However, only a few will make it.

In the case of a constant non-legitimacy and irregular employment, the "undocumented migrants" can be placed under administrative detention for up to eighteen months, awaiting deportation. This deadlock and illegal practice - when deportation is an unlikely event - started to be implemented again, in the end of 2016, after the peak of the detention practice in 2011 - 2014 (FRA, 2011: 25). The result was the detention of thousands of people in pre-departure centres or in police departments.

The lack of state support is a permanent feature of Greek policies for those who are rejected from the asylum procedures. For undocumented migrants, along with those arrested and set free under the regime of the removal postponement, the state must ensure that, according to the law, basic decent living conditions in temporary facilities within public, welfare structures providing the necessary everyday needs and access to medical care and education are met. The state may also issue a work permit (Article 37.5, Law 390/2011).

Experience shows that the number of those "without papers" who reside in Greece for long periods of time (protracted irregularity) and are migrants is decreasing over the last years, while the number of refugees is rising. In both cases, they could stay in Greece if their return/deportation is impossible (unremovables) (Takis, 2013).

Migrants without papers are tolerated de facto and randomly by the administration until they are arrested, detained and eventually released, unless they can be returned to the country of origin or obtain a temporary stay permit, provided that their removal is plausible. The criminalisation of facilitating those without papers to move across the country to save themselves or even survive, demonstrates an outstanding issue which remains to be settled: the imminent criminal repression of this issue acts in a disorienting manner and doesn't contribute to its effective and fair treatment as required by the rule of law" (Kaiafa-Gbadi, 2016: 100). Similarly, detaining those without papers for a long period of time, doesn't offer any assistance in tackling this phenomenon; instead, it conceals it until it emerges again as a form of crime, enhancing xenophobia, while minimizing any prospect of social integration.

8. THE WAY TO SOCIAL INTEGRATION

The non-regulatory provisions of the Greek Migration Law regarding integration (Law 4251/2014) and the lack of a cohesive policy during the last 25 years prevented the introduction of solid social integration conditions (on education, employment, housing, connection to local communities, family, etc.). The "visibility" of the person invited to be integrated, should be the first objective for anyone who would become an active member of the society. For asylum seekers and recognised refugees living in Greece, according to the relevant law,[4] the government ought to create:

- Reception facilities for all, especially vulnerable groups.
- Conditions for integration to the labour market/education/welfare protection programs.
- Guarantees for a minimum income.

It is noteworthy that a ministerial decision (JMD 53619/735/25.11.15) establishes access to employment in a restrictive and partial manner and for specific employment fields, rather than as a whole, throughout the country, excluding the areas close to the Turkish borders. Moreover for those registered asylum seekers and refugees cash assistance is provided on a monthly basis. In January 2018, 39,233 eligible individuals (17,903 households) received cash assistance (UNHCR, 2018c). In any case, the needs of those who will stay in Greece long-term are similar to those of multiple migrants who have been settled in Greece for years, having established strong socio-economic ties. Invoking a state of emergency situation cannot facilitate the normalisation of social integration. According to the Greek Ombudsman,

> "Ensuring conditions towards 'normalising' the daily life of third-country nationals, access of minors to education and entertainment services, the provision to adults of employment opportunities, and the encouragement for everyone's participation in social, cultural and economic activities, are all political issues. By the same token, persisting in reflecting on the phenomenon, even in the manageable form it has taken, in emergency terms is also a deeply political choice" (Greek Ombudsman, 2017: 11).

The provision of education to the children of refugees (around 5,000 of them are currently in Greek schools) should take into account the child's welfare. Refugee-students have access to schooling through two paths: children who are settled with their respective families in urban areas should attend the local school, which provides additional Greek language classes. School-age children are around 4,800 (Ministry of Education, 2017). Needless to say, knowing how long the refugee is expected to reside in Greece and the time deeded for relocation to be achieved is crucial in the implementation of an educational policy. Yet, teaching of the language of the country of expected permanent relocation (e.g. German) is not provided. The integration process, which is defined by each member state, without central EU coordination, would clearly benefit enormously from such a prospect. Finally, pre-school children and those aged between 16 and 18 years old are not included in schooling programs, while children residing on the islands receive no education at all.

9. CONCLUSION

The refugee reception crisis brings to the fore main constitutional issues within a democratic and lawful society. The Greek case cannot be discussed outside the European institutional and political framework. The EU-Turkey Agreement caused harm and disorder to the institutional and legal foundations and after all it did nothing to enable the "returns" issue. The regression of the Greek central government between "security" and " Rule of Law" regarding the first reception of those in need, creates confusion at the expense of the security provided by the law and the integration prospects of refugee/asylum seekers/individuals "without papers". As it has been noted, "deterrence policies severely harm the democratic consolidation plan of the European acquis" (Takis, 2015: 19).

Harsh exclusion lines are not softened and a constant shift between "legal" and "illegal" continues. On the other hand, phenomena such as xenophobia and racism, along with their political implications, will thrive. The present article presented the refugee question in Greece

during and after 2016, as regards the relevant applicable law. As this article showed, the failure to efficiently grant protection to refugees and vulnerable groups, to guarantee distribution of burden among EU member states and to foresee robust social integration mechanisms undermines the project of social cohesion through the universal respect of human rights.

In the end, refugees in Greece are dependent on relocation mechanisms, i.e. the willingness of European states to take refugees. After the relocation scheme was terminated in early 2018, and family reunification proceeds slowly, numbers of asylum seekers will increase or people will follow irregular and dangerous ways towards the West. The second challenge for Greece, as well as for the EU, is the social integration process through sustainable terms, for both refugees/immigrants and the local societies. The last challenge regards those who are legally not able to be registered under any status, namely those who will stay under the label "irregular migrants".

The failure of the central European policy to deal with the refugees is not limited to a management level. Instead, it is deeply political, as it legitimises alternative, self-righteous policies, hoping either for a European border closure (e.g. Hungary) or a possible exit from the EU (e.g. Brexit) through rhetoric of fear and chauvinism. The Greek case shows that there is no escape from the aforementioned policies. On the one hand, the 2015-2018 government avoided a xenophobic rhetoric, yet on the other hand it implemented specific security-focused deterrence practices. However, insecurity of law caused by the intense volatility of the law and EU/Greece policies gradually became a state of normality, while security of the law became rather the exception. The joint EU-Turkey statement dramatically contributed to this new trend. It also put at risk the European integration itself, and its own statutes and political goals, which are increasingly fading, as is Justice and the Rule of Law. And this is an outcome that impacts us all.

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