

RELOCATION REVISITED

THE GREEK CASE



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Cover page photo: The little refugee (Hellenistic period statuette from Nyssa, Asia Minor, 1st c.BC, National Archaeological Museum, Athens).

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A. Introduction	4
B. Definition and legal basis of the relocation scheme.....	5
1. What was the Relocation Program?	5
2. Who did it concern/ Who could benefit?	5
3. What was the legal basis of the relocation scheme?	6
4. Timeline of decisions	6
C. Programme implementation according to the EU Commission.....	9
D. Statistical Data and Assessment.....	23
1. Background information to the 2015 migrant crisis	23
2. Relocation as a reality	26
3. 2015: the difficult start.	27
4. 2016: message in a bottle.	28
5. 2017: maturity and end of the programme	29
6. The numbers in total: success story and missed goals.....	30
7. Performance and commitments	36
E. Relocation and the Future.....	41
1. Why relocation is important for the future?.....	41
2. It's a long way to Dublin IV	41
3. Outstanding issues	45
F. Conclusion.....	49
Annex I - Timeline of relocation procedures.....	53

A. Introduction

Relocation emerged in 2015 as a temporary, emergency measure in the face of the so-called “refugee crisis”. Two years later, at the end of the programme on 26.9.2017, a number of issues remained to be addressed. Was relocation successful in achieving a fair distribution and at easing the burden of mass arrivals of asylum seekers in the south-eastern frontiers of the EU? Is what was originally designed as a temporary measure about to attain a permanent character in the future, as an important feature of EU migration policy to be included in the revision of Dublin III Regulation? Is the success of the programme to be measured with abstract numbers or with the sustainability of solutions given, in terms of preventing secondary movements? How can a measure be considered successful when it faces the absolute denial by some member-states? In the five months that passed since the end of the programme, the questions that were raised on the adequacy and the future of relocation as a whole seem to touch the heart of the EU migration and refugee policy and even beyond that, the cohesion of the EU structure itself.

The present report, focusing on data available on the relocation programme concerning Greece, aims to serve as a background paper for those who will undertake to draft the relevant policies and to give a perspective of those working in the field of refugee protection. The large numbers of people waiting for relocation are the ones spoken to and visited in temporary camps or other facilities all over Greece, when preparing the special report (April 2017) on the management of migration flows and refugee protection¹. The report included a small reference on the development of the relocation scheme, as part of the whole picture of managing the flows and safeguarding refugee rights.

¹ <https://www.synigoros.gr/?i=human-rights.en.recentinterventions.434107>

B. Definition and legal basis of the relocation programme

1. What was the Relocation Programme?

The Relocation Programme of the European Union concerned the transfer of persons who required international protection (asylum and subsidiary protection) from one member state of the European Union to another. It was a European mechanism for tackling the refugee crisis, the aim of which was the fairer distribution of asylum seekers among the member-states of the European Union. It was an expression of the principle of solidarity that lies at the heart of the European project. However, it was an emergency mechanism adopted in 2015 in the light of the refugee inflows at the Greek and Italian EU borders. It was a mechanism of provisional character with a fixed deadline (26.9.2017).

2. Who did it concern/ Who could benefit?

The Relocation Programme concerned citizens of countries for which the rate of granting international protection was over 75%, based on the European average recognition rates derived from the quarterly data published by Eurostat. The Programme concerned mainly nationals of Syria, Iraq, Eritrea, Yemen, Burundi and stateless persons whose former habitual residence were these countries. The list of nationalities was updated, and nationalities were added or removed from this list. For instance, Iraqi nationals fell under the 75% threshold, as early as 8.7.2016. Iraqis remained however, the second largest nationality seeking asylum in EU, after the Syrians². In the case of Greece, on the basis of numbers of arrivals, the large majority of beneficiaries were Syrians. Special categories of asylum seekers such as unaccompanied minors, persons with a medical history and health problems or persons who in the past have submitted asylum applications in Greece, had the right to be included in the Relocation Programme. It has to be noted, however, that after 3 months of the entry into force of the EU-Turkey Joint Statement of 18.3.2016, even vulnerable persons were excluded from relocation.

² http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report

3. What was the legal basis of the relocation scheme?

- **Provisional measures:** According to Article 78(3) of the Treaty on the Functioning of the European Union ('TFEU'), in the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State(s) concerned.

- **Solidarity:** According to Article 80 TFEU, the policies of the Union in the area of border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility between the Member States, and Union acts adopted in this area are to contain appropriate measures to give effect to this principle.

4. Timeline of decisions

- 20.4.2015: a 10-point plan was presented by the **Commission**, in response to the Mediterranean crisis, including a commitment **to consider options** for an emergency relocation **mechanism**.

- 23.4.2015: the **European Council decided** to consider options **on a voluntary basis**.

-13.5.2015 **European Agenda on Migration:** *In parallel to protecting the sea borders, the goal is a strong common asylum policy. The Commission provides for the beneficiaries of international protection a mechanism of temporary distribution within the EU of those in definite need of international protection, a system of relocation in urgent cases of sudden influx of migrants, and a European resettlement regime providing for 20.000 places distributed in all Member-states.*

- 25-26.6.2015, the **European Council decided**, inter alia, that **three key dimensions** should be advanced in parallel: **relocation/resettlement, return/readmission/reintegration and cooperation with countries of origin and transit**. The European Council agreed in particular, in the light of the current emergency situation and the commitment to reinforce solidarity and responsibility, on the temporary and exceptional relocation over 2 years, from Italy and from Greece to other

3 OJ L 239, 15.9.2015, p. 146.

Member States of 40 000 persons in clear need of international protection, in which all Member States would participate.

- 20.7.2015: **Resolution of the representatives of the Governments of the Member States** meeting within the Council on relocating 40,000 persons from Greece and Italy who are in clear need of international protection was adopted by consensus. Over a period of 2 years, 24 000 persons ~~to~~ were to be relocated from Italy and 16,000 persons from Greece.

- 14.9.2015: **Council Decision (EU) 2015/1523³** establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (a temporary and exceptional relocation mechanism).

- 22.9.2015 : **Council Decision (EU) 2015/1601⁴, in force until 26.9.2017⁵**: *as a provisional measure, with a view to implementing the principle of solidarity and fair sharing of responsibility, a total of 120 000 applicants in clear need of international protection (over 75% EU recognition⁶) should be relocated from Italy and Greece. This number corresponds to approximately 43% of the total number of third-country nationals in clear need of international protection who have entered Italy and Greece irregularly in July and August 2015. The relocation measure foreseen in this Decision constitutes fair burden sharing between Italy and Greece on the one hand and the other Member States on the other, given the overall available figures on irregular border crossings in 2015. Given the figures at stake, 13% of these applicants should be relocated from Italy, 42% from Greece and 45% should be relocated as provided for in this Decision.*

This decision also provides for EASO and AMIF support in the process. It also provides for a lump sum for each person, 500 Euros for Italy and Greece as transfer costs and 6,000 Euros for the Member-states of relocation.

120 000 applicants shall be relocated to the other Member States as follows:

⁴ OJ L 248, 24.9.2015, p. 80–94.

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015D1601>

⁶ See para. 25 of the Decision: “A choice had to be made in respect of the criteria to be applied when deciding which and how many applicants are to be relocated from Italy and from Greece, without prejudice to decisions at national level on asylum applications. A clear and workable system is envisaged based on a threshold of the average rate at Union level of decisions granting international protection in the procedures at first instance, as defined by Eurostat, out of the total number at Union level of decisions on applications for international protection taken at first instance, based on the latest available statistics. On the one hand, this threshold would have to ensure, to the maximum extent possible, that all applicants in clear need of international protection would be in a position to fully and swiftly enjoy their protection rights in the Member State of relocation. On the other hand, it would have to prevent, to the maximum extent possible, applicants who are likely to receive a negative decision on their application from being relocated to another Member State, and therefore from prolonging unduly their stay in the Union. A threshold of 75 %, based on the latest available updated Eurostat quarterly data for decisions at first instance, should be used in this Decision”.

- (a) *15 600 applicants shall be relocated from Italy to the territory of the other Member States in accordance with the table set out in Annex I;*
- (b) *50 400 applicants shall be relocated from Greece to the territory of the other Member States in accordance with the table set out in Annex II;*
- (c) *54 000 applicants shall be relocated to the territory of the other Member States, proportionally to the figures laid down in Annexes I and II, either in accordance with paragraph 2 of this Article or through an amendment of this Decision, as referred to in Article 1(2) and in paragraph 3 of this Article.*

It shall apply to persons arriving on the territory of Italy and Greece from 25 September 2015 until 26 September 2017, as well as to applicants having arrived on the territory of those Member States from 24 March 2015 onwards.

- 29.9.2016: **Council Decision (EU) 2016/1754 amending Decision (EU) 2015/1601** establishing provisional measures in the area of international protection for the benefit of Italy and Greece⁷.

This Decision offers the option for resettlement of Syrians from Turkey, admitted after 20.5.2016, to meet the relocation commitment of 54,000 applicants set by art.4.1.(c) of the Council Decision of 22.9.2015.

⁷ OJ L 268, 1.10.2016, p. 82–84. This Decision shall apply until 26 September 2017.

C. Programme implementation according to the EU Commission

The implementation of the relocation programme, according to the EU, is described in the periodical reports of the Commission to the European Parliament, the European Council and the Council of Ministers.

As stated above in chapter B, the Commission, starting in 2015, took decisive action to help address the refugee crisis that EU Member States and neighbouring countries were facing. For the first time in the history of European migration policy, the Commission proposed to relocate people in clear need of international protection from Member States under extreme pressure to other Member States of the European Union – showing concrete solidarity between EU Member States. The temporary emergency relocation scheme was established by two Council Decisions in September 2015, in which Member States committed to relocate persons in need of international protection from Italy and Greece. The relocation decisions concerned the commitment to relocate 98,255 people, after the Council adopted an amendment to the 2nd Council Decision on relocation on 29 September 2016 to make 54,000 places not yet allocated available for the purpose of legally admitting Syrians from Turkey to the EU. The Commission reported regularly on the implementation of the two Council Decisions through its regular relocation and resettlement reports. These reports include the challenges and recommendations issued by the Commission to improve the implementation of the scheme, and may be summarised as follows:

➤ 16 March 2016 (1st report): *EU Member States urgently need to deliver*

With 937 asylum applicants relocated from Greece and Italy as of 15 March, the pace of transfers is unsatisfactory, even when if there are now the first signs of a more positive trend. The experience in ~~of~~ the first weeks of March, when 287 people were relocated swiftly (including 241 from Greece), shows that relocation can work faster if Member States are truly committed. The lack of political will among Member States has been the most important factor in slowing down the process. This has translated into a limited number of relocation pledges or lengthy response time – jeopardising the ability of the programme to become an alternative to dangerous and irregular routes. Determined action by Member States for relocation is urgently needed to step up the pace. Currently, the total number of persons ready to be relocated exceeds the pledges made by Member States. In the ~~today's~~

report, the Commission makes several specific recommendations to the Member States of relocation, asking them to increase their pledges and shorten the time needed to process applications. The Commission also calls on Member States to limit additional security checks to justified cases only, to provide pre-departure information packs and to respond as soon as possible to the European Asylum Support Office's calls for experts. Member States should only indicate selection preferences to improve the matching process for better integration, not as grounds for rejecting relocation requests. Greece and Italy are called upon to step up efforts from their side to ensure a speedy and efficient functioning of the scheme, particularly in relation to systematic security checks and the quality of the information sent to Member States of relocation. The two countries should also improve their coordination capacity, enhance their reception capacity, avoid the risks of candidates absconding and adequately tailor and improve the procedures for relocation of unaccompanied minors.

➤ **12.5.2016** (2nd report): EU Member States urgently need to deliver

Little progress has been made since mid-March. Only 208 additional persons have been relocated during the reporting period, bringing the total number of relocated applicants from Greece and Italy to 1,145. Greater efforts on relocation, however, are increasingly urgent in view of the humanitarian situation in Greece. Relocation efforts were made by only a few Member States and associated States. In the report, the Commission calls on Member States to drastically increase their relocation efforts to alleviate the urgent humanitarian situation in Greece and prevent the deterioration of the situation in Italy, where migration flows are increasing. The Commission continues to believe that if all stakeholders, [and] particularly the Member States of relocation, deliver on their commitments, the targets can and will be met. The Commission will continue monitoring the implementation of the recommendations and targets included in the First Report on Relocation and Resettlement reserving the right to take action when ~~where~~ Member States are not complying with their obligations.

➤ **18.05.2016** (3rd report): EU Member States must act to sustain current management of flows

The progress remains unsatisfactory since the Commission's second report, despite signs of increased preparation for future action: few relocations (only 355 additional persons have been relocated during the latest reporting period, bringing the total number of relocated applicants from Greece and Italy to 1500) have taken place since mid-April, though the pipeline of future relocations has been strengthened. Greater efforts on relocation are increasingly urgent in view of the humanitarian situation in Greece and of the increase in arrivals in ~~to~~ Italy. Relocation efforts were again made by only a few Member States and associated Schengen States. Based on the latest information available, around 46,000 asylum seekers and migrants are in mainland Greece, awaiting processing. Greece is facing a humanitarian crisis that requires swift action to enable large numbers of relocations. Greece is preparing a major pre-registration exercise that will accelerate the identification and full registration of relocation applicants. After this exercise, a significant number of additional asylum seekers will be ready for relocation within the following months. In the report, the Commission urges Member States to put in place effective planning to increase their pledges and reduce the response time on relocation requests. The Commission calls on Member States with large allocations to engage more actively in relocation and pledge according to the size of their allocation. The Commission also calls for all actors to step up the relocation of unaccompanied minors.

➤ **15.06.2016 (4th report): Increased efforts on relocation must be sustained**

The number of relocations has increased to 2,280, with the rate having almost doubled since the Commission's third report on 18 May. Despite these positive signs, progress is still too slow. Action must be accelerated to avoid migrants returning to irregular routes. During the reporting period, 13 May to 14 June, the number of relocations increased, and 780 additional persons were relocated, almost double the rate compared to the previous period. This brings the total number of persons relocated by 14 June to 2,280 (1,503 from Greece and 777 from Italy). Member States are far from complying with their commitment under the Council Decisions on relocation. The current monthly average of relocations from Greece is around 260-300 people. Moreover, the increase in relocations is largely due to greater efforts on the part of the Member States which were already the most active in the relocation scheme. In Greece, around 49,000 asylum seekers and migrants are present in official temporary reception facilities on the mainland, waiting for registration and

processing. With the financial support of the Commission and the support on the ground from the European Asylum Support Office (EASO) and the United Nations High Commissioner for Refugees (UNHCR), the Greek asylum service launched a major pre-registration exercise on 8 June with the aim to pre-register 1,400 persons per day to accelerate the identification and full processing of relocation applicants. A significant number of additional asylum seekers will be ready for relocation within the following months – it is expected that between 60 and 65% of people pre-registered belong to one of the nationalities eligible for relocation. In the report, the Commission acknowledges the efforts made by some Member States and urges all to put in place effective planning to increase pledges and relocation transfers in the coming six months. Reducing the response time on relocation requests is also a key element to successfully implement the relocation scheme. The security checks continue to lead to a significant slowdown of the response time, sometimes going beyond the two-month time-limit set out in the Council decision. The Commission also calls for all actors to step up the relocation of vulnerable persons, in particular unaccompanied minors.

➤ **13.07.2016** (5th report): Positive trend continues, but more efforts needed

The positive trend observed in the last report has continued with Member States stepping up their efforts on relocation. Relocation has continued at the increased rate reached in the previous month with an additional 776 persons relocated since 14 June. The total number of relocations from Greece and Italy now stands at 3,056. As arrivals in Greece remain low due to the implementation of the EU-Turkey Statement and with seasonal arrivals having started in Italy, the Commission now calls on Member States to continue and strengthen their efforts, building on the encouraging results of the last months. During the reporting period from 14 June to 11 July, the number of relocations increased with an additional 776 persons being relocated, maintaining the increased rate seen in the previous reporting period. This brings the total number of persons relocated to 3,056 (2,213 from Greece and 843 from Italy), with Croatia participating in the scheme for the first time. Although this constitutes positive progress and shows that Member States are stepping up their efforts, it still falls far short of the Commission's proposed target of relocating 6,000 people per month. Member States are not yet meeting the commitments they made under the Council Decisions on relocation. The pace of relocation transfers from Greece increased during the

reporting period, notably due to an increased engagement from several Member States and the heightened capacity of the Greek asylum service to process relocation requests. The Commission calls on Member States to increase their efforts, in particular with regards to unaccompanied minors, and to fully comply with their commitments and obligations under the Council Decisions on relocation. It is crucial that all Member States relocate actively and on a regular basis from both Italy and Greece.

➤ **28.09.2016** (6th report): *Important progress on relocation*

One year after the entry into force of the relocation schemes, the groundwork needed for making relocation work has been laid and significant progress achieved. September recorded 1,202 relocations, the highest monthly number so far, twice as high as [during] the previous reporting period. In total, 5,651 persons have been relocated from Greece (4,455) and Italy (1,196). The efforts by Italy and Greece, the Member States of relocation, EU agencies and international organisations have resulted in close to 100% fingerprinting, strengthened security, a significant increase in the number of relocation applicants and a substantial acceleration of relocation transfers, particularly in the latest months from Greece. Member States should continue building on these encouraging results. With the increased capacity of the Greek Asylum Service, and if Member States step up their efforts, it should notably be possible to relocate the remaining relocation candidates present in Greece (around 30,000) within the next year.

➤ **09.11 2016** (7th report): *Member States need to sustain efforts to deliver on commitments*

After the record 1,372 transfers which took place in September, October proved to be a transitional month with a slower pace of relocation than during previous reporting periods. From 28 September until 8 November, 1212 people were relocated, with 921 from Greece and 291 from Italy. The lower number of transfers in October (779, of which 549 from Greece and 230 from Italy) reflects in particular the low number of pledges made during the month of August, which has had a knock-on effect on the lower transfer rates. Nevertheless, the number of relocations planned and carried out so far in November indicates that this downturn should be an exception – a dip rather than a long-term drop. However, this temporary setback in an otherwise positive trend confirms that further efforts are needed to

increase the number of transfers per month and to sustain a steady relocation pace. In addition, although the relocation of unaccompanied minors has begun to increase, more needs to be done to ensure that all unaccompanied minors eligible for relocation are swiftly transferred. There are currently around 24,000 people of nationalities eligible for relocation in Greece. If relocation efforts are stepped up, it should be possible to relocate all those eligible within the relocating period (until September 2017). With the ongoing ~~still~~ challenging humanitarian situation in Greece which currently hosts over 61,700 migrants, relocation remains crucial to alleviate the pressure in Greece. The Commission reiterates its call to Member States that have not made any pledges or have not relocated any asylum seeker to do so without delay. Furthermore, the Commission is calling on Member States that have already participated in the relocation scheme to continue pledging and relocating on a regular basis and in accordance with the size of their allocation, to accelerate response times to relocation requests, to share information regarding reasons for rejections via the secured channel offered by Europol and to increase their reception capacities to accommodate relocation applicants. The Commission is also inviting Greece and Italy to continue increasing their processing capacity. Specifically, the Commission is encouraging Greece to establish its remaining relocation centres.

➤ **08.12 2016 (8th report)**

*November saw **1,406** relocations, the highest monthly number so far, confirming a continuous positive trend, with relocation from Greece stabilising around 1,000 per month and relocation from Italy having increased significantly. In total, **8,162** persons have been relocated so far, of which **6,212** were from Greece and **1,950** were from Italy. The Commission believes that it should now be feasible to transfer all eligible relocation applicants in Greece and Italy to other Member States by September 2017. To achieve this goal, Member States should from now on carry out **at least 2,000 relocations per month from Greece and 1,000 from Italy.** As of April 2017, the monthly number of relocations from Greece should be at least 3,000 and 1,500 from Italy. In addition, the Commission decided to **close infringement procedures** against Italy and Greece for non-implementation of the Eurodac regulation because in both Member States, there is now a fingerprinting rate of close to 100% irregular migrants who should be fingerprinted.*

➤ **08.02.2017** (9th report): *Member States need to build on encouraging results*

The overall positive trend has also been maintained with an additional 3,813 relocations taking place during the reporting period, and December seeing the highest monthly number so far (1,926). The total number of relocations now stands at 11,966 (8,766 from Greece and 3,200 from Italy). However, further efforts are still needed from Member States to sustain the progress made and reach the monthly targets set by the Commission of 2,000 relocations from Greece. December marked a new record for relocations both from Italy and Greece, with 1,926 people relocated (764 from Italy and 1,162 from Greece). In January, 1,682 persons were relocated (551 from Italy and 1,131 from Greece). In December 2016, the Commission called on Member States individually to increase their efforts to meet the targets of 1,000 monthly relocations from Italy and 2,000 from Greece. Member States and Associated Countries which were already participating actively in the relocation scheme reacted positively to the Commission's call and communicated their planned monthly pledges. Finland, for example, is well on track to meet its obligation for relocations from Greece (560 out of 1,299 relocated so far) and Italy (359 out of 779). However, significantly increased commitment and delivery is still needed from other Member States, in particular those who still have not started to carry out relocations at all. The repeated calls for accelerated and steady relocation from Greece and Italy made by the Heads of State or Government of the EU's Member States must be matched with determined action by the competent national services. Member States should build further on the results achieved so far and ensure they pledge and transfer consistently on a monthly basis and according to the size of their allocation, thereby delivering on their legal obligations and applying solidarity in practice. The Commission will continue to closely monitor the situation and present its next report in March 2017.

➤ **02.03.2017** (10th report): *Renewed call on Member States to pick up the pace of relocation to alleviate pressure from Italy and Greece, with few having met their commitments in full*

Despite February setting a new monthly record with around 1,940 relocations, the current pace of relocation is still well below expectations and below the European Council endorsed target of at least 3,000 monthly relocations from Greece and the target set by the Commission of at least 1,500 monthly relocations from Italy. Overall, 13,546 relocations have been carried out so far (3,936 from Italy and 9,610 from Greece). Most importantly,

the current pace will not allow for the relocation of all eligible applicants currently present in Greece and Italy by September 2017 – despite this being perfectly feasible. So far, only two Member States (Malta and Finland) are on track to meet their obligations for both Italy and Greece, whereas some (Hungary, Austria and Poland) are still refusing to participate in the scheme at all and others are doing so on a very limited basis (Czech Republic, Bulgaria, Croatia and Slovakia). Italy, Greece, the EU agencies and international organisations have increased their capacities and are ready and are on stand-by to facilitate meeting the monthly targets. It is now up to the other Member States to equally deliver on their obligations. If Member States do not increase their relocations soon, the Commission will not hesitate to make use of its powers under the Treaties against those who have not complied with the obligations stemming from the Council decisions; noting that the legal obligation to relocate those eligible will not cease after September.

➤ **12.05.2017** (11th report): *Steady progress made but more efforts needed to meet targets*

Member States have made steady progress on relocation, setting a new monthly record with an additional 2,465 persons relocated. The total number of relocations now stands at 16,340. However, more efforts are needed from all Member States to ensure that all people eligible are relocated over the coming months. In order to help improve the relocation process, this report includes targeted recommendations for Member States. The pace of relocations has continued to increase, resulting in a 27% improvement on the record achieved in the previous month – with more than 1,600 from Greece and more than 800 from Italy. March saw a total of, 2,465 persons relocated. As of 10 April, 16,340 relocations have now been carried out in total; 5,001 from Italy and 11,339 from Greece. However, despite this positive progress, the current pace of relocation is still well below the targets set to ensure that all people eligible are relocated over the coming months. With around 14,000 relocation candidates remaining in Greece and around 3,500 registered for relocation so far in Italy, the total number of people eligible for relocation who are present in the two countries is well below what was foreseen in the Council Decisions. Given these figures, if the European Council endorsed target of at least 3,000 monthly relocations from Greece and the target set by the Commission of at least 1,500 monthly relocations from Italy are met, relocating all eligible applicants currently present in Greece and Italy by September 2017 is perfectly achievable. With the preconditions and operational infrastructure for relocation to

being fully in place in both countries, and with the EU agencies and international organisations having increased their capacities to meet the targets set, it is now up to the Member States to demonstrate political will and intensify and coordinate their efforts to deliver on their obligations.

With the aim of removing the remaining operational and logistical bottlenecks in the relocation procedure, this report includes targeted recommendations for specific Member States on how to improve the entire process, from making the pledge and until the transfer takes place.

To improve the relocation procedure, Member States should notably:

- Pledge on a monthly basis, increase the overall numbers pledged, increase their capacity to process relocation requests and reduce the response time;
- Avoid overly restrictive preferences and delays and limit requirements causing delays in the transfer procedure;
- Show more flexibility regarding the possibility, in the cases of Italy and of relocating Member States, the necessity to conduct additional security interviews;
- Give priority to applications concerning vulnerable people, in particular unaccompanied minors;
- In addition, in the case of Italy, the registration and identification of all eligible candidates should take place as soon as possible.

Whereas some Member States (Luxembourg and Portugal) are steadily progressing on their obligations for Greece and Italy, others (Bulgaria, Croatia and Slovakia) are relocating on a very limited basis. Whilst Austria has announced it will start relocating soon, others (Hungary and Poland) are still refusing to participate in the relocation scheme at all. So far, only two Member States (Malta and Finland) are on track to meet their obligations for both Italy and Greece in time. The Commission therefore urges Member States to follow up on its recommendations and targets to ensure an increased rate of relocations in a coordinated manner before the next report in May 2017. As stressed in the previous report, if Member States do not increase their relocations soon, the Commission will not hesitate to make use of its powers under the Treaties against those who have not complied with the Council decisions, noting that the legal obligation to relocate those eligible will not cease after

September. The Commission stands ready to assist Member States in making progress towards meeting these obligations.

➤ **16.5.2017** (12th report)

As a result of the increased efforts of Member States, the number of persons relocated so far in 2017 is almost as many as in the whole of 2016. The total number of relocations now stands at 18,418, proving that relocation works if there is the will to abide by what was agreed together in a spirit of sincere cooperation. However, whilst most Member States are active and relocate regularly, some have still not relocated at all, disregarding their legal obligation. The positive trend on relocation has continued with an additional 2,078 persons relocated since the last report (1,368 from Greece and 710 from Italy). As of 12 May, 18,418 relocations have been carried out in total (5,711 from Italy and 12,707 from Greece). However, despite the continuing positive progress, the current pace of relocation is still below what is needed to meet the targets set to ensure that all those eligible are relocated over the coming months.

With the total number of people eligible for relocation present in the two countries being well below what was foreseen in the Council Decisions and taking into account the progress registered so far, it is perfectly achievable to relocate all those eligible by September 2017 if Member States demonstrate the political will and deliver on what they have jointly agreed. In any case, the legal obligation to relocate those eligible in Greece and Italy will not cease after September.

*Although most Member States are now active and pledging and relocating regularly, **Hungary, Poland and Austria** remain the only Member States that have not relocated a single person. This is in breach of their legal obligations, the commitments taken towards Greece and Italy and the fair sharing of responsibility. **Austria** has however formally pledged to relocate 50 persons from Italy, a decision which the Commission welcomes. Moreover, the **Czech Republic** has not been active in the scheme for almost a year. In this respect, the recommendations in this report focus mainly on those Member States that have not yet implemented the Council Decisions, notably calling on **Hungary and Poland** to start pledging and relocating immediately, on the **Czech Republic** to restart relocation without delay and on **Austria**, which has now started pledging from Italy, to start pledging from Greece.*

Recommendations are also addressed to encourage a more effective implementation of the Council decisions in other Member States:

- **Bulgaria** and **Slovakia** should show more flexibility as regards to their preferences and should start relocating from Italy as soon as possible;
- **Ireland** and **Estonia**, in cooperation with **Italy**, should find mutually acceptable solutions on additional security interviews in order for relocations to start as soon as possible;
- A number of Member States should increase their monthly pledges (**Spain, Belgium** and **Croatia** for both **Italy** and **Greece**; **Germany, Romania** and **Slovakia** for **Greece** and **France** for Italy) while **Cyprus** should start pledging again for Italy and relocating as soon as possible;
- Relocating Member States as a whole should increase their capacity to process application requests, avoid overly restrictive preferences and delays, limit requirements causing delays in the transfer procedure and give priority to applications concerning vulnerable applicants, in particular unaccompanied minors;

The Commission calls on Member States to follow up on its recommendations and significantly accelerate their relocation efforts in the spirit of mutual cooperation and trust before the next report in June 2017. Moreover, the Commission urges those Member States that have not relocated anyone, or that have not pledged for Italy and Greece for almost a year, to start doing so immediately and within the next month. If no action is taken, the Commission will then specify in its next report in June its position on making use of its powers under the Treaties and in particular on the opening of infringement procedures. The Commission stands ready to assist Member States in making progress towards meeting their obligations.

- **14.07.2017** (13th report): The European Commission launched infringement procedures against the Czech Republic, Hungary and Poland for non-compliance with their obligations under the 2015 Council Decisions on relocation

Despite repeated calls, the **Czech Republic, Hungary** and **Poland**, in breach of their legal obligations stemming from the Council Decisions and their commitments to Greece, Italy and other Member States, have not yet taken the necessary action. The Commission has

decided to launch infringement procedures against these three Member States. **Hungary** has not taken any action at all since the relocation scheme started while **Poland** has not relocated anyone and has not pledged since December 2015. The **Czech Republic** has not relocated anyone since August 2016 and has not made any new pledges for over a year. The Commission had previously announced in the 12th Relocation and Resettlement report presented on 16 May that those Member States that have not relocated anyone, or have not pledged for almost a year, breaching their legal obligations, should start doing so immediately and within a month. As announced in the 13th report on relocation and resettlement, since no action has yet been taken by the Czech Republic, Hungary and Poland to meet their legal obligations, the Commission has decided to launch infringement procedures and address letters of formal notice to these three Member States. A **letter of formal notice** is a first official request for information and the first step in the infringement procedure. Given that the Council Decisions on relocation were adopted in response to an emergency situation and in view of the repeated calls to the three Member States, the authorities of the Czech Republic, Hungary and Poland now have one month to respond to the arguments put forward by the Commission, instead of the customary two-month deadline. If no reply to the letter of formal notice is received, or if the observations presented in reply to that notice cannot be considered satisfactory, the Commission may decide to move to the next stage of the infringement procedure and send a 'reasoned opinion' to the Member States. If necessary, the Commission may then refer the case to the Court of Justice of the EU.

The pace of relocation has significantly increased in 2017 with almost 10,300 persons relocated since January – a fivefold increase compared to the same period in 2016. As of 9 June, the total number of relocations stands at 20,283 (13,766 from Greece, 6,458 from Italy). With most of the Member States now relocating from Italy and Greece, it is feasible to relocate all those eligible by September 2017 if the pace of relocation is further stepped up. Whereas in Greece there are 11,350 persons currently registered for relocation, more efforts are needed in Italy to identify and rapidly register eligible asylum seekers.

➤ **26.07.2017** (14th report)

With relocations reaching record levels in June (with over 2,000 relocated from Greece and almost 1,000 from Italy) and almost all Member States pledging and transferring regularly,

relocating all those eligible remains feasible before September. However, more efforts are needed to accelerate transfers from Italy, especially in view of the current situation in the Central Mediterranean. The Commission is taking forward the infringement procedures against the Czech Republic, Hungary and Poland for failing to meet their legal obligations on relocation.

The pace of relocation has continued to increase over recent months, with transfers reaching more than 1,000 every month since November 2016. In June 2017, there was a new record monthly high with over 3,000 transfers. As of 24 July, the total number of relocations stands at **24,676** (16,803 from Greece; 7,873 from Italy).

Continuous efforts are needed with around 4,800 candidates currently awaiting relocation from Greece – with the number likely to increase to 6,800 – and continuous arrivals of eligible candidates to Italy. In this final phase, it is crucial that Member States accelerate relocations and provide enough pledges to relocate all eligible applicants, including those who are likely to arrive until 26 September. In any case, Member States' legal obligation to relocate will not cease after September: the Council Decisions on relocation apply to all persons arriving in Greece or Italy until 26 September 2017 and eligible applicants must be relocated within a reasonable timeframe thereafter.

A number of Member States are close to fully fulfilling their relocation obligations: Malta, Latvia and also Norway – a Schengen Associated State participating voluntarily in the scheme – have all relocated their full allocations for Greece. Sweden who only started relocation in June will have relocated almost 60% of its allocation. The Commission also welcomes the recently-announced increase in the monthly pledges by **Spain** and the announced acceleration in the pace of transfers by **Germany**.

➤ **06.09.2017** (15th report)

Two years after the launch of the emergency mechanism, relocation continues to show a positive trend confirming the significant acceleration of relocations observed in 2017, with an average of 2,300 transfers per month since February 2017, to almost all Member States. As of 4 September, over **27,695** persons (19,244 from Greece, 8,451 from Italy) have been relocated. However, with around 2,800 persons waiting to be relocated from Greece and new applicants arriving in Italy every day, continuous effort is needed on all sides. Member

*States must speed up the processing of relocation transfers and provide enough pledges for all candidates. A number of Member States (**Malta and Latvia**) have already fulfilled their allocations for Greece, whereas others (**Finland, Lithuania, Luxembourg, Sweden**) are close to doing so. The **Czech Republic, Hungary and Poland** remain in breach of their legal obligations and have not relocated a single person (Hungary and Poland) or have not pledged relocation places for more than a year (Czech Republic). This is why, on 26 July, the Commission moved its infringement procedures forward. The legal obligation ~~for~~ of Member States to relocate does not end in September. The Council Decisions on relocation apply to all eligible persons arriving in Greece or Italy until 26 September 2017. This means that eligible applicants should still be relocated thereafter. Therefore, it is crucial that all Member States, in particular Poland, Hungary and the Czech Republic as well as those that have not used up their allocation in full, to step-up their efforts to relocate all eligible applicants.*

➤ **15.11.2017** *Progress report on the European Agenda on Migration Brussels*⁸

The relocation of eligible applicants by Member States has continued to be a valuable way to help those in clear need of international protection and to alleviate pressure on the asylum systems of Italy and Greece.

As of 9 November, 21 238 people have been relocated from Greece.

Cyprus, Estonia, Croatia and Lithuania have continued showing support for relocation by pledging after the official end of the programme on 26 September. Member States should finalise the relocation of remaining eligible applicants as a matter of urgency.

In total, 758 applicants remain to be relocated from Greece (of which 369 to Ireland). Whereas for Greece current pledges are sufficient, Member States should finalise the relocation of remaining eligible applicants as a matter of urgency. In particular, Ireland should find accommodation and should transfer already notified cases from Greece while Germany and Switzerland should reply to relocation requests sent by Greece. All other Member States with cases already matched and notified should accelerate the transfers from Greece.

⁸ COM(2017) 669 final. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171114_progress_report_on_the_european_agenda_on_migration_en.pdf

D. Statistical Data and Assessment

The gathering of statistical information and explanation schematics, in our study, serve three levels of analysis: i) those that provide background information to the 2015 migrant crisis, ii) those that describe relocation as a reality, i.e. numbers and profiles of people actually relocated from Greece to other countries, as well as the performance of the relevant authorities and iii) those that address the gradual implementation of the relocation commitments by the Member-states.

Data have been collected primarily from the Greek Asylum Service, the EU Commission and Eurostat but also include pertinent work from research institutes and press releases.

1. Background information to the 2015 migrant crisis

Asylum applications from citizens of countries for which the rate of granting international protection was over 75%, accounted for only a fraction of the asylum applications handled by EU member states authorities. The bulk of low recognition applications originated from individuals from the non-EU Balkan and East European countries as well as from Maghreb, Central Asia and the Indian Subcontinent. The processing of these applications placed additional strains in the management of immigration and refugee flow by the competent authorities which was exacerbated by the temporary collapse of the systems in the so-called “eastern corridor” for migration into Europe, which took place in early 2015 [image 1].

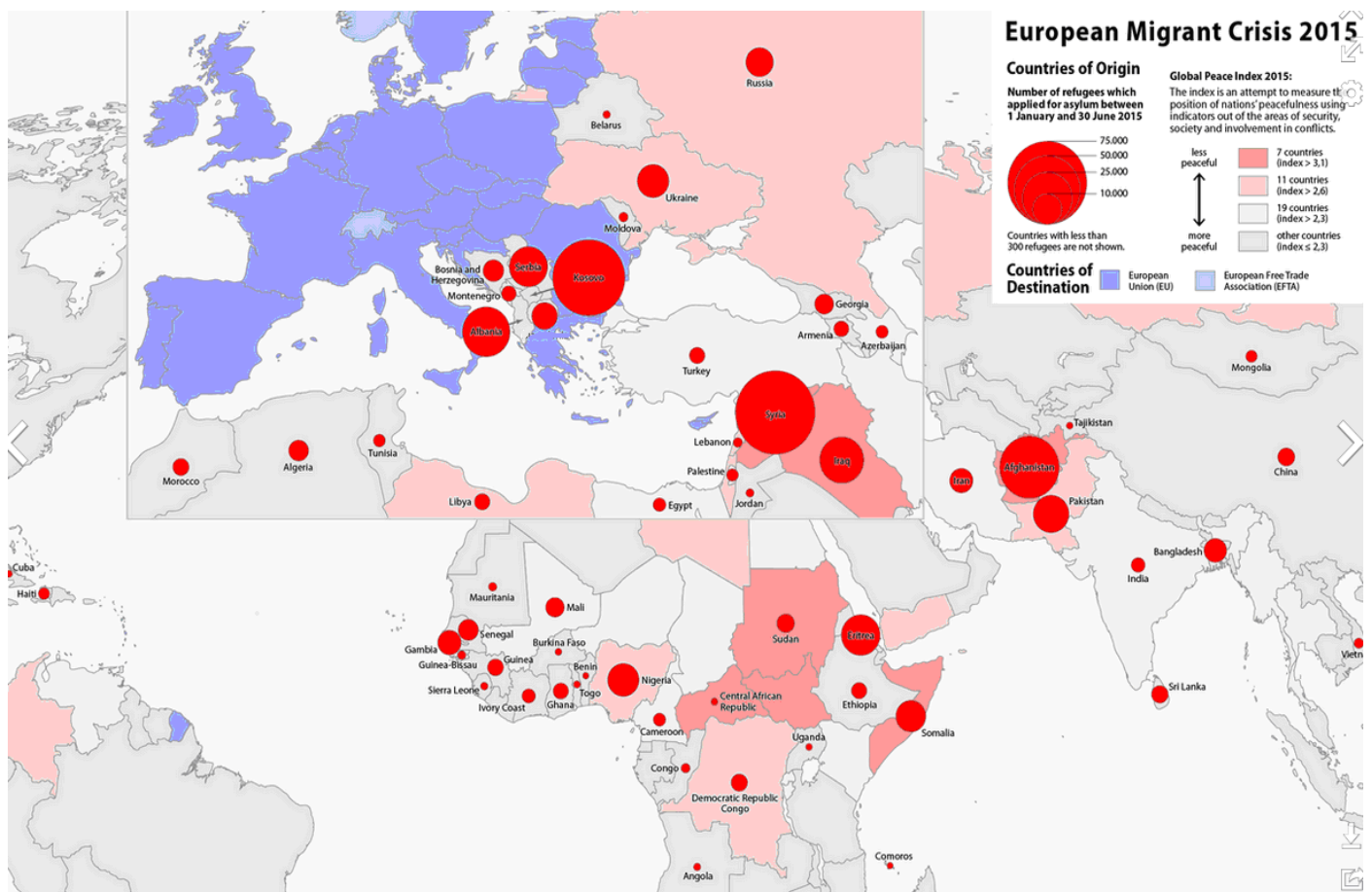


Image 1 – Countries of origin of asylum applicants in the EU and EFTA States between 1 January and 30 June 2015⁹

Nordic and West-Central European countries were the final destinations for the vast majority of the asylum seekers. Most of the asylum applications were either placed at the final destination state (with Germany, France and Sweden being the most preferred, both in terms of absolute numbers and as a share of the total amount of applications), or at the entry point of the geographically uninterrupted space of the Schengen area (Hungary, Austria, Italy) [image 2 & table 1]. As soon as the “corridor” was blocked, following temporary increased border controls being imposed by several states, the asylum applications gradually increased in the south-eastern confines of the EU, with a 5-fold increase in Greece between 2015-2016¹⁰ (as well as in Bulgaria).

9 Maximilian Dörrbecker (Chumwa) - Own work, using data and information from these web sites: Eurostat dataset, https://en.wikipedia.org/wiki/European_migrant_crisis#/media/File:Map_of_the_European_Migrant_Crisis_2015_-_Asylum_applicants%27_countries_of_origin.png

10 http://asylo.gov.gr/wp-content/uploads/2017/02/Greek-Asylum-Service-statistical-data_December2016_gr.pdf

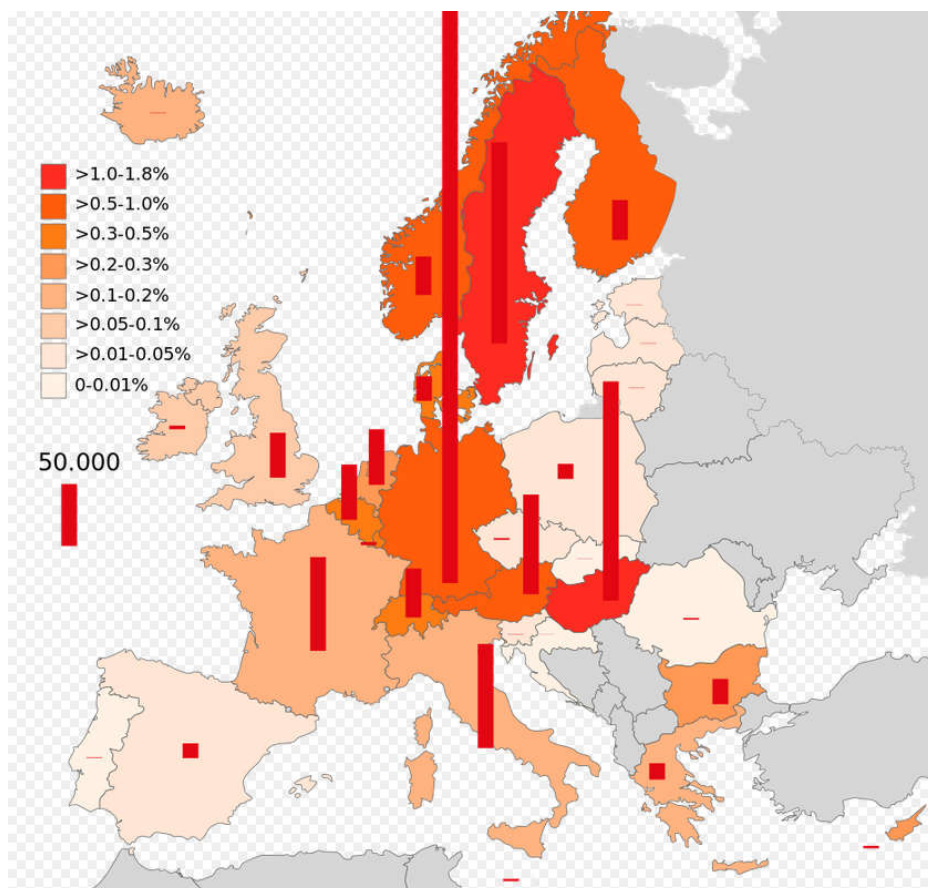


Image 2 – Asylum applicants in relation to the population size of the country. The height of the bars indicates the number of asylum applicants per country. Colours indicate the percentage of asylum applicants in relation to the population¹¹.

11 Source: refugee crisis in Europe Q1 and Q2 2015 http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report
https://en.wikipedia.org/wiki/European_migrant_crisis#/media/File:Refugee_crisis_in_Europe_Q1-Q4_2015.svg

TIME	2015M01	2015M02	2015M03	2015M04	2015M05	2015M06	2015M07	2015M08	2015M09	2015M10
GEO										
European Union (28 countries)	67,900	72,675	68,600	64,840	73,040	95,945	122,575	147,095	170,825	171,895
Belgium	1,715	1,640	1,745	1,620	2,095	2,880	3,590	5,585	6,830	6,020
Bulgaria	1,070	1,045	1,110	1,130	1,345	1,630	1,870	1,445	2,075	3,545
Czech Republic	125	115	195	130	110	105	100	105	125	130
Denmark	640	440	460	555	880	1,090	1,035	1,815	2,690	3,635
Germany (until 1990 former t	26,875	27,695	33,865	28,720	27,595	37,030	39,825	39,480	47,185	60,355
Estonia	5	15	30	30	10	25	20	10	45	20
Ireland	215	200	210	265	255	335	290	330	405	265
Greece	1,065	1,015	915	980	1,145	1,120	1,235	1,050	1,155	1,045
Spain	840	860	1,240	1,345	1,065	1,305	1,170	1,045	1,425	1,490
France	4,440	5,830	6,090	5,650	4,745	5,730	5,815	5,580	7,370	8,060
Croatia	25	25	15	15	10	10	10	10	25	25
Italy	4,570	4,935	5,490	4,580	5,170	5,320	8,600	8,805	11,195	10,420
Cyprus	165	140	165	165	135	150	165	125	350	240
Latvia	15	15	15	25	35	50	30	20	45	70
Lithuania	30	30	15	25	25	10	35	35	25	35
Luxembourg	90	95	105	80	95	105	115	190	380	385
Hungary	11,925	16,695	4,925	6,690	9,970	16,580	31,285	47,095	30,795	615
Malta	95	170	130	115	180	120	145	130	175	235
Netherlands	1,055	955	990	1,320	2,370	3,060	3,140	5,470	6,620	10,120
Austria	4,030	3,255	2,920	4,040	6,390	7,675	8,790	8,795	10,780	12,275
Poland	610	600	630	750	680	860	1,145	1,375	1,690	1,430
Portugal	50	90	85	80	80	90	70	75	70	70
Romania	105	80	165	210	90	85	90	110	80	90
Slovenia	15	15	25	15	15	15	10	20	40	25
Slovakia	15	10	35	10	25	10	10	10	10	15
Finland	305	325	355	340	515	770	1,480	2,890	10,815	7,005
Sweden	4,890	4,045	4,105	3,915	5,375	6,610	8,060	11,725	24,260	39,055
United Kingdom	2,915	2,340	2,565	2,040	2,645	3,170	4,445	3,770	4,170	5,220
Iceland	15	15	10	20	5	20	20	45	60	55
Liechtenstein	5	0	10	5	15	20	10	10	35	20
Norway	595	530	535	580	1,225	1,145	1,395	2,330	4,935	8,660
Switzerland	1,560	1,415	1,490	1,375	2,195	3,800	3,895	3,890	4,540	4,745
Total	70,070	74,635	70,640	66,820	76,480	100,925	127,900	153,370	180,395	185,375

Table 1 – Asylum applications per country, during the height of the “refugee crisis” Jan – Nov 2015¹².

2. Relocation as a reality

The pace of relocations from Greece was slow in the beginning and accelerated in 2017. The final data released from the Greek Asylum Service after the completion of the programme revealed the actual evolution of the relocation scheme, as follows:

¹² Source : Eurostat http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctzm

Relocation Procedures Overview			Relocation - Takecharge-Requests	Acceptances-Rejections	Closures Total(*)	Closures after Acceptance(**)	Transfers	Pending Decision	Pending Closure
2015	12/10/2015	31/12/2015	577	158	121	102	82	400	438
2016	1/1/2016	31/12/2016	12900	11432	8019	7693	7192	1542	4654
2017	1/1/2017	31/12/2017	11429	12517	15163	14730	14430	21	311
Week 117	1/1/2018	7/1/2018	0	0	0	0	0	21	311
Week 118	8/1/2018	14/1/2018	0	0	7	7	6	21	304
Total			24906	24107	23310	22532	21710	21	304

Table 2 – Relocation overview. Greek Asylum Service¹³

(*) Closures of the relocation case due to specific reasons (Implemented Transfer, Absconding, Opt for examination by GR, Missing Family Members, Medical Reasons, Death of the Applicant, Return to country of origin, Explicit Withdrawals, Other reasons)

(**) Closures of the relocation case after the issuance of an acceptance decision by the M-S (including implemented transfers)

3. 2015: the difficult start.

The final official data for 2015 (see Table 2) show that 577 applications for relocation were sent by the Greek Asylum Service to Member States, 400 of which were pending and 158 were accepted by the end of the year. Only 82 relocations were actually made within 2015. The relocation programme started to operate on 12.10.2015 and the Greek Asylum Service mentioned in 4.11.2015 that only 7 Member States had responded to the relocation scheme till that moment¹⁴.

The first relocation from Greece took place on 4.11.2015. Thirty (30) Syrians and Iraqis were relocated to Luxembourg and there were moving stories behind the successful event¹⁵. It was also a step of high symbolic value, because it happened during the Luxembourg Presidency of the EU¹⁶.

Funding: In the last days of 2015, the relevant section of the Greek Asylum Service and IOM were nominated de jure beneficiary and operator, respectively, for the relocation

13 http://asylo.gov.gr/en/wp-content/uploads/2018/01/Relocation-procedures-up-to-14-1-2018_en.pdf

14 press release of the Greek Asylum Service 4.11.2015 http://asylo.gov.gr/?page_id=467

15 Asad's family story, in the Greek Asylum's Office webpage http://asylo.gov.gr/?page_id=467

16 press release of the Greek Asylum Service 4.11.2015 http://asylo.gov.gr/?page_id=467

programme. Thus, a call for offers of relocation actions to be funded under AMIF was made possible in 12.01.2016.

4. 2016: message in a bottle.

Statistics show that in 2016 a **large gap was formed between “offer” of relocation positions by Member States and “demand” for relocation of individuals hosted in Greece**. This created a “bottleneck” situation in Greece, as asylum seekers were waiting for several months while their applications were processed by the Member States, which were expected to offer relocation places for them (relocation positions were also described as “pledges”, in a rather euphemistic choice of words).

In 2016 *“the main problem that emerged from reports to the Ombudsman was the inability of people living in temporary accommodation facilities of mainland Greece to access the asylum process for months (cases No. 214896, 215349, 215823/2016 et.al.). The pre-registration of the asylum applications was the first and most important step in personalising the needs of these people, and it was achieved with the substantial contribution of UNHCR and EASO in June and July 2016”*¹⁷. The **pre-registration** of 25,692 people, by mid-2016, resulted in the issuing of corresponding temporary residence permits to those awaiting for their **final registration** after which an asylum seeker’s card was issued. The latter procedure lasted until the first months of 2017. The waiting time between pre-registration and the conclusion of the final registration of a person as an asylum seeker was, by then, substantially reduced¹⁸.

As soon as an asylum seeker was ascertained and the petition finally registered by the Greek Asylum Service, a relocation request was created. The relocation request was not instigated by asylum seekers and it was not voluntary, meaning that the asylum seeker could not choose whether the application was to be processed in Greece or another EU country. The time needed to create relocation applications on the Greek side of the programme was heavily dependent on the pace of the final registration procedures of the asylum seekers. It

17 see more in the Greek Ombudsman’s special report Migration Flows and Refugee Protection, April 2017, p.33, <https://www.synigoros.gr/?i=human-rights.en.recentinterventions.434107>

18 the average waiting time was 102 days as a whole in 4 years, according to the statistics for the 4 years of operation of the Greek Asylum Service <http://asylo.gov.gr/?p=5306>

was helpful for the process that pre-registration had offered an initial mapping of this population by mid-2016 and it was also helpful in prioritising the most vulnerable persons¹⁹.

The **final official numbers for 2016** (see Table 2, above) were the following: Of the 12,900 relocation applications submitted by Greece, 1,542 had not been answered by the end of the year, 4,654 applications were pending and 7,192 relocations were actually made. These data, published by the Greek Asylum Service, did not include the number of pledges made by Member-States.

5. 2017: maturity and end of the programme

The final year of the relocation programme, which was scheduled to end on 26.9.2017, was characterised by a better response from most Member-States, full response by some and final abstention by three others, resulting in the initiation of infringement procedures by the EU Commission. Since January 2017, most Member-States were pledging on a monthly basis, even when the Council Decisions only required Member-States to pledge at least every three months. On the Greek side, there was a stable pace in applications sent, but the rise in response from other EU states resulted in the number of actual relocations doubling.

The **final official numbers for 2017** (see Table 2, above) showed that: Of the 11,429 relocation applications that were submitted by Greece to other EU states, only 21 had not been answered by the end of the year, 311 applications were pending²⁰ and 14,430 relocations were actually made²¹, which was a 100% increase from last year. These data did not include the number of pledges by Member-states for the year.

Overall, **it should be noted that the ratio between offer and demand was not always proportional nor was it a linear story of success.** Relevant data since the beginning of the relocation programme were included in sporadic press releases by the Greek Asylum Service²² and they are useful in forming a clearer picture of the performance of the authorities and the Member-States' response, as follows (Table 3):

19 press release of the Greek Asylum Service 3.11.2016 http://asylo.gov.gr/?page_id=467

20 304 still pending in 14.1.2018

21 Another 6 relocations were realised in the first two weeks of 2018.

22 http://asylo.gov.gr/?page_id=467

“As of 3.11.2016, in a press release giving data for the completion of 1 year after the first relocation took place, the Greek Asylum Service mentions a total of 15,384 applications for relocation, 5,511 relocations actually made, whereas 7,961 cases were awaiting for places to be opened by the Member-States.

As of 20.12.2016 the official statistics show a significant deviation (3:2) among applications submitted in Greece (20,827) and places opened by the Member States (13,384). Also, a significant number (approximately 3.000) of the 12.929 applications sent by Greece were not yet accepted by the Member States^{23,24}

As of 1.2.2017: Since the beginning of the relocation programme in 2015, 24,233 applications were submitted to the Greek Asylum Service as candidates for relocation, 15,164 pledges were made by Member-states, 17,701 applications were submitted by Greece, 2,118 were not yet answered, for 5,960 the procedure was pending and 9,998 relocations were actually made.

As of 12.6.2017, 23,189 applications were sent to other Member-States and 14,709 persons were relocated²⁵”.

6. The numbers in total: success story and missed goals

The relocation numbers, as of 14.1.2018²⁶, were as follows: of the 27,457 cases that were handled in Greece, 24,906 applications were sent by Greece, 22,815 were accepted by Member-States and 30,836 places were pledged by Member-states.

It should be noted that the ratio between the aforementioned numbers of applications sent from Greece and the places opened by other Member States is 5:6. The difference is noteworthy in favour of the pledges made by Member-States. It must be noted that about 1 in 10 cases handled by the Greek Asylum Service was not forwarded for relocation on the note of “doubts as to security or nationality issues” (0,92%, 2.551 applications out of 27.457). 1 out of 20 applications sent (1.292 out of 24.906 i.e. 5,2%) was rejected by Member-States.

23 Up to 20.12.2016, statistics by the Greek Asylum Service show 13,384 places opened (pledges) by Member States, 20,827 applications were submitted in Greece, 12,929 applications were sent by Greece, 10,061 were accepted, 7,062 were implemented by Greece (141 unaccompanied, source IOM) and 121 were scheduled between 23.12 – 15.1.2017 http://asylo.gov.gr/?page_id=467

24 See also statistics up to March 2017 http://asylo.gov.gr/wp-content/uploads/2017/03/Relocation-procedures-up-to-19-03-17_gr.pdf

25 statistics for the 4 years of operation of the Greek Asylum Service <http://asylo.gov.gr/?p=5306>

26 Greek Asylum Service’s statistics of 14.1.2018 http://asylo.gov.gr/en/wp-content/uploads/2018/01/Relocation-procedures-up-to-14-1-2018_en.pdf

For others, the procedure was terminated for a number of reasons (medical reasons, death of the applicant, resignation, repatriation etc). 21,710 relocations were made, there were 304 pending cases and in 21 cases the response is pending.

On the profile of the persons actually relocated, the following can be deduced from the numbers given by the Greek Asylum Service:

Nationalities: Approximately 5 out of 6 relocation applications sent out from Greece concerned Syrian citizens. Almost 1 out of 6 was Iraqi and the remaining 4.4% concern the rest of the eligible nationalities and a few stateless persons.

Gender: There was an approximate ratio of 4 (men) to 3 (women), amongst the 21,710 relocations made up to 14.1.2018.

Age groups: 45.2% of the relocated persons were minors. The persons relocated belong overwhelmingly to 2 age groups namely the children up to 13 years old (38.3%) and the young adult (38.1%) age groups.

Unaccompanied minors:²⁷ 596 unaccompanied minors were actually relocated. 478 of which are Syrians (3 out of 4), 71.8% of the total number male, 18.6% of the total number were minors already married.

Evaluation of the relocation programme by the Greek Authorities and AMIF:

Concerning the overall funding of the programme, Greece received €500 for the transport costs of every relocated asylum seeker. €35.3 million was allocated for the implementation of the Relocation & Resettlement mechanisms. €14 million has been paid as pre-financing since February 2016. These amounts were included in the Greece AMIF National Programme²⁸.

Consequently, relocation schemes were funded by AMIF 2014-2020, under the category of supporting the Greek Asylum Service (national programme goal 1.4). The National Programme was amended to include relocation schemes with a funding of €35.54 million, given Decisions EU 2015/1523 and 2015/1601 providing for the relocation of 60,000 persons from Greece to other Member-States.

²⁷ http://asylo.gov.gr/en/wp-content/uploads/2018/01/Relocation-Closing-Event_Presentation.pdf see p.7

²⁸ in Factsheet December 2017 EU financial support to Greece https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171222_eu_budget_financial_support_to_greece_en.pdf

The intermediate evaluation report of the national programme under AMIF for the period up to the 1st semester 2017, submitted in 31.12.2017, considering the number of 19,044 relocations from Greece concluded until 15.10.2017 and the total number for 2017 expected to be 21,632 persons in total, stated (pp. 4, 25) that the progress is not satisfactory comparing the number of relocations provided for and the number of transfers actually made.

In contrast, the Greek Government considered that the actual number of 21,710 relocations from Greece up to the closing of the programme was a success, given the 30,836 pledges opened by the Member-States and the 24.906 applications sent by applicants residing in Greece²⁹.

Problems identified were usually related to the procedures but national policies may not be excluded as the underlying factor to the bureaucratic impediments. The possibly selective attitude of the Member-States towards applications sent to them cannot be excluded in practice, either, where reasons of rejection are not specified and the word “pledges” gives a market insinuation to the procedure. The procedures in general lacked both precision and openness. The 2015 Council Decisions (see above chapter B) stipulated only a 2 month period for completing the relocation after a pledge was made. In July 2016 there was a non-public protocol to be followed. Pledges, not individual requests, initiated the relocation process. A matching tool by EASO was not accomplished, so matching pledges and asylum seekers preferences was made manually by the Asylum Service. If the pledges were made all at the same time, the relocation system would have been more successful in matching preferences of the asylum seekers with the states opening places.

Delays: The Greek Asylum Service announced in February 2017 that only 5% of the relocation applications that were submitted were answered within the stipulated 10-day period by the Member-States, which in practice could reach up to 40 days, and after that the average waiting time from relocation acceptance until its implementation was 58 days. The competent service noted: *These delays result in the slow decongestion of the accommodation facilities on mainland Greece, the diffuse disappointment among asylum seekers, and finally, the loss of the credibility of the relocation program.*³⁰

²⁹ http://asylo.gov.gr/wp-content/uploads/2018/01/Relocation-Closing-Event_Presentation.pdf

³⁰ <http://asylo.gov.gr/wp-content/uploads/2017/02/DT-Proodou.Metegkatastasis-.pdf>

The Greek Asylum Service expressed the view to the Ombudsman³¹ that timely preparations of accommodation facilities in the recipient states would have made it possible to reduce the delays in the transfer of asylum applicants.

A significant delay in -parallel to relocations- family reunification³² procedures, brought into the light in August 2017 an informal political deal for no more than 70 transfers per month between Greece and Germany in view of the German national elections³³. The informal deal was denied by the Greek Government but confirmed by the Commission that stated that according to the Dublin Regulation this matter was at the discretion of the member states.

Unfounded rejection of applications sent was a reason for concern, expressed on 3.11.2016 by the Greek Asylum Service. The press release did not clarify the reasons in question, but the Greek Ombudsman noted as a general comment that whenever specific reasons are not a binding requirement, there is margin for obscure or abusive practices eg. denying a large number of minors, unaccompanied or in family. *“Member States retain the right to refuse to relocate an applicant only where there are reasonable grounds for regarding him or her as a danger to their national security or public order or where there are serious reasons for applying the exclusion provisions set out in Articles 12 and 17 of Directive 2011/95/EU³⁴”*. However, public order or national security reasons were often invoked, without any specific justification, which created the dual problem,

- a) the asylum seekers in question became ineligible for relocation to any other state,
- b) they had to remain in Greece and have their asylum petition assessed in the national system, but the Asylum Service had no idea what was the reason of public order or national security invoked by another Member-State.

So, at the European level, security of the asylum system or the person was not safeguarded. Upon rejection of the relocation, there was no appeal; there was not even an admissibility decision.

³¹ Ref.No.2686/22-3-2018.

³² Relocation is a different and parallel process to family reunification, that is the transfer of asylum seekers to be reunited with family members already residing in another EU-member state, under the Dublin regulation.

³³ <http://tempo24.news/eidisi/138187/giannis-moyzalas-den-yparhei-atypi-symfonia-me-ti-germania-gia-tis-oikogeneiakes>

³⁴ Art. 5 para. 7 of both Council Decisions.

The Greek Asylum Service, in response to the present Ombudsman report³⁵, also mentioned instances of misinterpretation by some Member-States of the eligibility criteria under the Council Decisions. Namely, when Iraqi nationals fell under the 75% threshold, on 8.7.2016, according to the asylum quarterly statistics by Eurostat, member-states refused to relocate claimants with prior applications to that date, despite the expressed interpretation of the Council relocation Decisions by the Commission, stating (Ref. Ares (2016) 3278940—08/07/2016) that there was a clear distinction between a person expressing the need for international protection, i.e. making an asylum application, which made him/her eligible for relocation, and having obtained full registration as an applicant, which was a procedural requirement for sending a request for transfer.³⁶

Unaccompanied minors: Especially as in regards to unaccompanied minors, the low number of acceptances of applications for relocation,³⁷ in combination with the inadequacy of the country in suitable accommodation facilities, led to the public call by the European Network of Ombudspersons for Children (ENOC), addressed *inter alia* to the Presidents of the European Council, the European Commission and the European Parliament, asking for additional measures for the immediate relocation of a large number of unaccompanied minors to countries of Europe³⁸. 350 out of 523 unaccompanied minors were accepted as of 20.1.2017 (over 1/3 accepted by Finland, 119 out of 350).

Wed young girls among unaccompanied minors: They were often rejected not expressly because they might have children but on the basis of illegitimate marriage as a matter of law in all Member-States, *“a fact that does not per se constitute a legal ground for rejecting relocation, according to the relevant European Council decisions, and that does not necessarily serve the best interest of these minors”*, as the Asylum Service pointed out.

The Ombudsman addressed a letter to the competent Greek authorities, containing its findings and proposals on family reunification and relocation of accompanied and

35 see note 31 above.

36 see art.3 para.2 pf Council Decision of 22.9.2015 “Relocation pursuant to this Decision shall be applied only in respect of an applicant belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU of the European Parliament and of the Council (13) is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the country of former habitual residence shall be taken into account. Quarterly updates shall be taken into account only in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5(3) of this Decision.”

37 Verbatim Press Release of Asylum Service, November 2016 <http://asylo.gov.gr/wp-content/uploads/2016>

38 See in this regard <http://enoc.eu/wp-content/uploads/2016/04/ENOC-Letter-5-April-2016-Sofia.pdf>

unaccompanied minors. This initiative aimed to pinpoint the difficulties and highlight the need for improvements in order to enhance legal and safe routes of accepting children in the EU Member-States and to reduce threats to their fundamental rights. In particular, the Ombudsman pinpointed the need to secure the following:

- Full access of children to asylum, which is directly linked with identifying the determining their best interest and their further inclusion into the relocation programme
- Adequate information of the children, and especially the unaccompanied ones, about their rights and the progress of the examination of their cases
- The need to speed up processes, in order to mitigate the unpleasant consequences of the prolonged duration, to the final outcome of the asylum applications, but also to the physical and mental health of children
- The immediate issuing of the necessary travel documents for children and their transfer out of the country, on the basis of procedural protocols and safeguards

The presentation of the final statistics on unaccompanied minors, offered at the end of the relocation programme³⁹, included the observation made by the Greek Asylum Service, that the sub-categories of “separated minors” (56.3%) and unmarried minors (18.6% of the total), were the two biggest challenges of the relocation programme. It was also noted that relocation contributed into the opening of a dialogue at the EU level on a common definition of unaccompanied minors.

An additional problem may be identified in that the relocation measure was not available to asylum seekers arriving in Greece at the sea borders after the EU-Turkey Joint Statement, which entered into force on 20.3.2016. Thus, the pool of eligible persons for relocation was diminished, considering that the Council Decision (EU) 2015/1601 (22.9.2015) provided for relocation that *“it shall apply to persons arriving on the territory of Italy and Greece from 25 September 2015 until 26 September 2017, as well as to applicants having arrived on the territory of those Member States from 24 March 2015 onwards”*. **Despite the dubious legal basis of the EU-**

³⁹ http://asylo.gov.gr/en/wp-content/uploads/2018/01/Relocation-Closing-Event_Presentation.pdf see p.9.

Turkey Joint Statement, not being recognised to derive from an EU competent body⁴⁰, in practice it amended the Council Decisions on Relocation. On the policy side, this development enhanced the temporary character of the relocation scheme, as an emergency response to the peak of arrivals in 2015 and not as a response to the new situation of arrivals from 2015 onwards. On the asylum seekers side, it was a major difference in treatment. In 2 cases, the Greek Ombudsman received complaints from asylum seekers, who entered Greece prior to 20.3.2016, but had their Eurodac registration completed after that date, which resulted in the applicants not being eligible for relocation and in risk of readmission to Turkey.

7. Performance and commitments

It is noteworthy that the first relocation's press release by the Greek Asylum Service, on 3.11.2015, concluded considering as a negative development the fact that only seven countries had participated till that point in the relocation scheme. Those first 7 countries were Luxembourg, Belgium, France, Germany, Cyprus, Lithuania and Finland.

Coming to the end of the programme on 26.9.2017, according to the press release of 9.1.2018 by the Greek Asylum Service⁴¹, three among these countries (Luxembourg, Lithuania and Finland) respected in full their commitments under the European Council Decisions. In addition, Malta, Latvia, Sweden, Norway, Switzerland and Ireland managed to fulfill their commitments as well.

Finland (38%), the Netherlands, Germany, Spain and Ireland received the larger numbers of unaccompanied minors.

The larger numbers of relocated persons in general, were received by Germany (over 5,000 people), France, Netherlands, Sweden, Finland, Portugal and Spain⁴².

40 Especially after the relevant decision of 28.2.2017 by the General Court of the EU, see the Greek Ombudsman's remarks in pp 88-89 of the special report "Migration flows and refugee protection", <https://www.synigoros.gr/?i=human-rights.en.recentinterventions.434107>

41 http://asylo.gov.gr/en/wp-content/uploads/2018/01/Press_Releas-Conclusion-of-the-EU-Relocation-Scheme.pdf

42 By 14.11.2017: 21.238 from GR to Germany, France, Netherlands, Sweden, Finland, Portugal, Spain, (over 1000 persons), Belgium, Norway, Romania, Ireland, Switzerland, (over 500 persons). Finland almost to the number committed, Ireland exceeding it, Norway and Switzerland not being EU Member-States.

in ANNEX 6, Relocation, to the Progress report on the European Agenda on Migration, Brussels, 15.11.2017 COM(2017) 669 final, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171114_annex_6_relocation_en.pdf

It should be stressed that the relocation of asylum seekers within the EU was an innovative solidarity mechanism, never applied before, with much of the actions entailed being improvised by all parts (involved authorities) as the crisis unfolded. The initial EU Council commitments for 120,000 relocations was eventually downsized to 98,255 and these aspirations were met with limited actual relocation pledges by member states. Furthermore, the progress of this programme ran parallel to political, economic and social developments in recipient countries (most often related to security and integration concerns for new coming population), greatly affecting its implementation. Finally, when the process of relocations from Greece and Italy was deemed to proceed with a slow pace, emphasis was partly diverted to resettlement of refugees directly from Turkey.

The EU member states response to the relocation scheme as a whole, would have been entirely successful if the envisaged number of asylum seekers were timely and successfully relocated, well-received and integrated in their recipient country. This was not the case since only a fraction of the scheme was timely realised. By the beginning of 2018, the Greek Asylum Service records a relocation quota obligation of 63302 for all member states, which was met by 30,836 pledged hosting places (48.7% of the commitment) and only 21,818 people were actually relocated (see tables 3 & 4).

Analysis of Relocation procedures as of 25/2/2018															
	Pledges				TOTAL No of Rel Requests & Answers			CLOSED Rel Cases					IN PROGRESS (Net of Closed Rel Requests)		
Member State	Total Quota	Pledges MSRs have made to AS	Pledges still to be made	% Pledges/Quota	Relocation Requests	Approved by MS	Rejected by MS	Persons who absconded after registration for international protection	Explicit withdrawals of the application for international protection	Recalls due to absence of response	Relocation requests otherwise closed**	Relocated to MS	Approved relocation requests (Final Approvals)	Approved relocation requests (Initial Approvals)	Relocation requests pending approval of MS of relocation
Austria	1491	0	1491	0,0%	0	0	0	0	0	0	0	0	0	0	0
Belgium	2415	1055	1360	43,7%	746	720	4	18	0	10	14	700	0	0	0
Bulgaria	831	960	129	115,5%	271	187	47	27	45	0	102	50	0	0	0
Croatia	594	225	369	37,9%	62	62	0	1	0	0	1	60	0	0	0
Cyprus	181	160	21	88,4%	143	120	4	6	7	0	30	96	0	0	0
Czech Republic	1655	30	1625	1,8%	31	15	16	3	0	0	0	12	0	0	0
Estonia	204	382	178	187,3%	321	150	171	5	0	0	4	141	0	0	0
Finland	1299	1349	50	103,8%	1287	1237	38	32	0	0	15	1202	0	0	0
France	12599	5770	6829	45,8%	5174	4473	510	84	3	0	183	4394	0	0	0
Germany	17209	6740	10469	39,2%	5897	5435	100	38	0	236	112	5373	17	0	21
Hungary	988	0	988	0,0%	0	0	0	0	0	0	0	0	0	0	0
Ireland	240	1132	892	471,7%	1113	1034	68	5	5	0	16	859	160	0	0
Latvia	295	363	68	123,1%	342	318	24	7	3	0	14	294	0	0	0
Liechtenstein*	0	10	0		13	10	0	0	0	0	3	10	0	0	0
Lithuania	420	1070	650	254,8%	488	396	75	18	5	0	35	353	0	0	0
Luxembourg	309	298	11	96,4%	337	304	33	3	0	0	1	300	0	0	0
Malta	78	138	60	176,9%	120	106	14	3	0	0	2	101	0	0	0
Netherlands	3797	1950	1847	51,4%	1862	1787	65	19	7	0	16	1755	0	0	0
Norway*	0	685	0		718	706	9	13	0	0	3	693	0	0	0
Poland	4321	65	4256	1,5%	73	0	0	0	18	0	55	0	0	0	0
Portugal	1778	2030	252	114,2%	1275	1254	14	33	13	0	23	1192	0	0	0
Romania	2572	1172	1400	45,6%	924	903	12	72	40	0	117	683	0	0	0
Slovakia	652	50	602	7,7%	40	19	21	0	0	0	3	16	0	0	0
Slovenia	349	349	0	100,0%	179	172	0	0	0	0	7	172	0	0	0
Spain	6647	1875	4772	28,2%	1154	1149	2	12	3	0	13	1124	0	0	0
Sweden	2378	2378	0	100,0%	1682	1665	7	6	0	0	13	1656	0	0	0
Switzerland*	0	600	0		656	595	58	4	0	11	3	580	0	0	0
Total:	63302	30836	33761	48,7%	24908	22817	1292	409	149	257	785	21818	177	0	21

* Associated States

** Otherwise closed. Under this category falls: Submission revoked by Greece for administrative reasons, Negative security check by the Greek police before submission, Opt for examination by Greece, Missing family members, Medical reasons, Death of the applicant, Other reasons.

Table 3. Pledges vs Quota and relocation requests concluded by the end of the programme⁴³

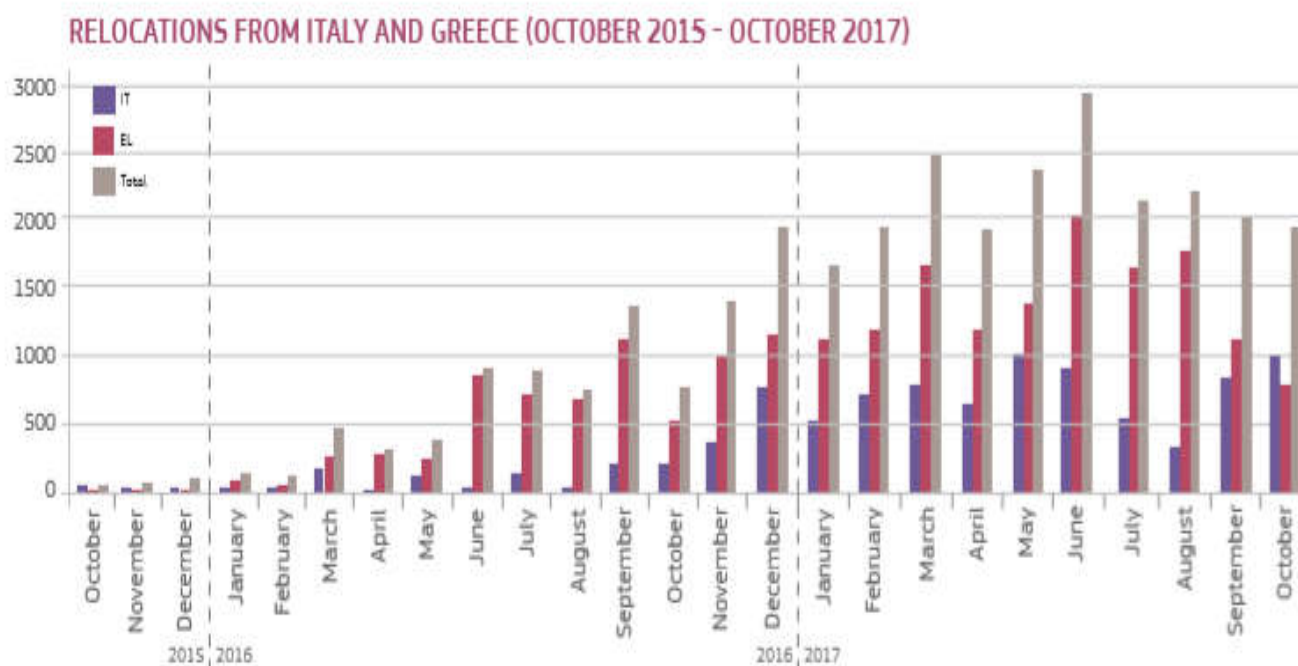


Table 4 - The system of relocation appears to become gradually functional after January 2016 in both Greece and Italy. Pace is rather slowing down after June 17⁴⁴

Other factors should be also appraised as regards to the reception countries' response. Significant indicators were the **cost of an asylum seeker's** relocation and hosting in various countries and the figures revealing failure to integrate refugees in host societies. An OECD research estimated an average € 10,000 as a cost for processing and accommodating asylum seekers per application for the first year. The cost is estimated to be significantly higher if integration support is provided during the asylum phase, but the annual costs decline considerably in the following years⁴⁵.

Data available seem to be inconclusive on the amount every relocated refugee costed to reception countries . Different methods of estimation seemed to be employed in each country. Press reports in the UK, for example (participating in refugee families reunification schemes), indicated that the state's commitment to the refugee integration was calculated at £85,000 for a 3 year period after the refugee's arrival, while Germany estimated €21,000, only

⁴⁴ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171114_relocation_eu_solidarity_between_member_states_en.pdf

⁴⁵ <https://www.oecd.org/els/mig/migration-policy-debates-13.pdf>

for the 1st year⁴⁶. The high cost of refugee integration has also allowed for the introduction of refugee assets seizing policies in Switzerland and Denmark⁴⁷.

Also, according to press reports, “**secondary relocation**” (refugees fleeing their assigned relocation country) was the effect of failed relocation processes. In particular:

In Portugal, of the 1,255 refugees taken in under the EU quota programme, 474 have left the institutions that accommodated them at the time the present report was drafted. Although 147 were located, some even arrested, in other countries such as Germany, France, Belgium, Sweden and Holland and sent back to Portugal, the remaining 327 were still unaccounted for. More than 40% of those who arrived in the country had left within 18 months, according to May 2017 figures cited in Portuguese media⁴⁸.

In Lithuania, 72 out of the 90 Syrians and Iraqis resettled to Lithuania from Greece have since left, according to official figures. Finally, in Latvia, more than half of the 63 refugees given asylum in this country under its EU relocation quota, have left, according to an estimate by the Latvian Red Cross⁴⁹.

46 <https://www.theguardian.com/world/shortcuts/2016/sep/13/why-does-resettling-a-refugee-cost-17000-in-the-us>

47 <https://www.theguardian.com/world/2016/jan/15/switzerland-joins-denmark-in-seizing-assets-from-refugees-to-cover-costs>

48 <https://www.newsdeeply.com/refugees/articles/2017/09/01/portugal-offers-refugees-a-warm-welcome-but-cant-get-them-to-stay>

49 <https://www.express.co.uk/news/world/737356/eu-migrant-relocation-refugees-refuse-live-eastern-europe-lithuania>

E. Relocation and the Future

1. Why relocation is important for the future?

Relocation is the only solidarity mechanism that the EU has to confront the large number of arrivals in Europe. The Commission came up with an objective pilot scheme that seemed small in comparison to the number of arrivals (half a million asylum applications from Syrians, Iraqis and Eritreans in 2015 compared to 120,000 places in the final decision). In the future, the Union may or may not sanction members who refuse to participate in this mechanism and this is part of the debate for the revision of the 'Dublin system,' which determines which EU Member-State is responsible to process an asylum-seeker's claim. The inclusion of a solidarity mechanism, like relocation, is the main point of contention between Member-States. If the Commission does not muster the political will to put forward proposals and sanctions, the political debate on solidarity may go nowhere.

2. It's a long way to Dublin IV

The Commission's proposal, presented in May 2016, for reform of the Dublin Regulation, which determines which Member-State is responsible for processing an asylum application, constitutes the key for the transformation of the relocation mechanism to a permanent measure of the EU Common Asylum System (CEAS). The EU asylum rules are currently under review following what was perceived as their weakness in the face of the 2015 massive arrivals of asylum seekers. The question was –and still is– whether to create a new Dublin system that works.

The Wikström Report⁵⁰ to the Civil Liberties (LIBE) Committee of the European Parliament (8.3.2017) is a decisive step forward, setting the agenda for the current debate on Dublin review. The aim of the report is to ensure that Member-States on the southern borders are no longer left to shoulder a disproportionate share of the EU's obligations to applicants for international protection. The rapporteur's key proposal⁵¹ consists in the following: if a country experiences an uncommonly high influx of asylum seekers, their transfer/relocation to other EU countries should be triggered automatically when the country has reached its

⁵⁰ prepared by Cecilia Wikström (ALDE, SE).

⁵¹ <http://www.europarl.europa.eu/news/en/news-room/20170306BKG65314/reform-of-the-eu-asylum-rules-creating-a-new-dublin-system-that-works>

allocated share, so as to ensure that no country has to host a bigger share than others due to its location, upon a “distribution key”, determining quotas for each member-state, under a transition period.

This is combined with faster family reunification procedures, better care of unaccompanied minors, taking country preferences and genuine links into consideration in order to reduce secondary movements, while maintaining the possibility to suspend the transfer of asylum seekers upon a member-State’s failure to guard its borders. The responsibility sharing is not to be obstructed by procedural delays and the report accepts no admissibility checks ahead of relocation: the Commission’s proposal to impose a requirement to establish whether an asylum application is admissible before determining the responsible member state for processing, was expected to create an insurmountable administrative burden for “frontline” member states. Relocation should take place swiftly and admissibility should be checked by the country responsible for processing the application,

The “distribution key”, was at the heart of the debates in the LIBE committee. According to the Rapporteur, at the start, this key should be based on how many asylum seekers the country has been dealing with hitherto. This historical key should then gradually be replaced by the key suggested by the European Commission based on GDP and population size (see table 5, below).

Country	A: Actual numbers in the Commission’s proposal	B: Commission’s proposal without corrective factors	C: Equal proportional sacrifice
Germany	31,443	32,439	37,229
France	24,031	24,984	27,340
Spain	14,931	14,713	13,570
Poland	9,287	9,137	5,296
Netherlands	7,214	7,082	8,402
Romania	4,646	4,362	1,923
Belgium	4,564	4,496	5,154
Sweden	4,469	4,413	5,514
Austria	3,640	3,567	4,216
Portugal	3,074	2,885	2,219
Czech Republic	2,978	2,788	1,986
Finland	2,398	2,242	2,616
Bulgaria	1,600	1,503	539
Slovak Republic	1,502	1,408	964
Croatia	1,064	1,000	553
Lithuania	780	733	466
Slovenia	631	591	478
Latvia	526	494	308
Luxembourg	440	384	581
Estonia	373	350	250
Cyprus	274	309	303
Malta	133	119	93

Table 5 - The proportional system is unfair for South and East European countries⁵²

52 Source: blogs.lse.ac.uk/euoppblog/2015/10/01/why-the-refugee-quota-system-is-unfair-on-poorer-eastern-and-

The Wikström Report was adopted as a whole by the EU Parliament⁵³ at the November 2017 plenary session, after it had been approved by the LIBE Committee by 43 votes to 16, on 17.10.2017⁵⁴. It constitutes Parliament's negotiating mandate for talks with Member-States in the Council and the question now is whether it will succeed in reforming EU policy and the current Dublin rules.

The explanation given for the three-year transition period⁵⁵, *"to give countries time to adapt and prepare to receive asylum seekers"*, sounded quite ironic to the border EU countries dealing with the influx. However, the Visegrad countries⁵⁶ were not prepared to accept quotas as a permanent corrective allocation mechanism even under the transitional clause, and three of them were unwilling to fulfil even the existing quotas under the commitments of the temporary relocation scheme, due to end on 26.9.2017. On 6.9.2017 the Court of Justice of EU (CJEU) dismissed in its entirety the challenges brought by Hungary and Slovakia to the provisional mechanism of mandatory relocation established in September 2015.

On 7.12.2017 the European Commission decided to refer the Czech Republic, Hungary and Poland to the Court of Justice of the EU for non-compliance with their legal obligations on relocation, noting that *"whereas all other Member States have relocated and pledged in the past months, Hungary has not taken any action at all since the relocation scheme started, Poland has not relocated anyone and not pledged since December 2015. The Czech Republic has not relocated anyone since August 2016 and not made any new pledges for over a year"*⁵⁷.

The principle of solidarity is reaffirmed ever since the end of the relocation programme: *"Europe is committed to remaining the continent of solidarity"*, as proclaimed in the Joint Statement of 3 EU Commissioners on the occasion of International Migrant Day 18.12.2017⁵⁸.

southern-eu-states/

53 The Parliament's Resolution adopting the Wikström Report, apart from the distribution key, contains also other rights-friendly amendments to the Commission's proposal for reviewing the Dublin rules, eg. Amendment 20 on detention: "Detention or confinement of children, whether unaccompanied or within families, is never in their best interests and always constitutes a child's rights violation. It should therefore be prohibited. In particular, the detention of applicants must be in accordance with Article 31 of the Geneva Convention and should fully respect the applicant's fundamental rights". <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FTEXT%2BREPORT%2BA8-2017-0345%2B0%2BDOC%2BXML%2BV0%2F%2FEN&language=EN>

54 More information to be found in the background note http://www.europarl.europa.eu/pdfs/news/expert/background/20171019BKG86403/20171019BKG86403_en.pdf

55 5 years in the initial report to LIBE

56 Poland, the Czech Republic, Hungary and Slovakia together formed the regional Visegrad Group (V4), opposing the review of relocation rules.

57 http://europa.eu/rapid/press-release_IP-17-5002_en.htm

58 https://ec.europa.eu/home-affairs/news/europe-%E2%80%93-continent-solidarity-joint-statement-occasion-international-migrant-day_en

It reflects a strong political will to overtake opposing views, which are, nevertheless, rather powerful:

On 23.12.2017, the newly elected Austrian Chancellor Mr. S. Kurtz, gave an interview stating that the mandatory quotas were a failure due to secondary immigrant movements and countries should be left alone to decide on a voluntary basis whether they will receive refugees or not.⁵⁹ This provoked the immediate response of the Commissioner for Migration Mr. D. Avramopoulos, ⁶⁰ stating that “*Solidarity cannot be à la carte, cannot be voluntary and cannot be negotiable*”. The reaction to the EU Commission and EU Parliament proposals for a refugee distribution mechanism to be included in Dublin IV, however, did not only come from certain Member-states.

On 12.12.2017, the President of the European Council Mr. R. Tusk, addressed a letter to the Member-States’ leaders, stating that only the Member-States may deal effectively with the migration crisis and that he would set a 6-month deadline for them to reach a unanimous decision on amending the European asylum system⁶¹. This triggered a direct and strong reaction by the Commissioner for Migration in a press conference in Strasbourg, where he characterised this proposal as unacceptable and anti-European, stating⁶² that the responsibility to manage the refugee crisis may not be undertaken by isolated Member-States as it is a European issue, and that the letter by Mr. Tusk undermined one of the basic EU cornerstones, that is solidarity.

It seems that the relevant political debate at the European level at the end of 2017, went back to the question of WHY distribute rather than HOW to distribute. Therefore, it appears that the solidarity policy brought into light the undermining problem of EU cohesion as a structural problem of perspective.

The Commissioner for Migration, while thanking the Bulgarian Presidency for prioritising migration, asylum and border issues on 25.1.2018, reaffirmed that “*we all want a new asylum system that better balances responsibility and solidarity between Member States*” and expressed his full support to the approach of the Bulgarian Presidency to prioritise and intensify the work

59 <http://www.tovima.gr/world/article/?aid=927848>

60 statement to the German paper Die Welt, <http://news.in.gr/greece/article/?aid=1500185480>

61 <http://www.cnn.gr/news/kosmos/story/109298/vomva-toysk-dixastiko-kai-anapotelesmatiko-to-sxedio-tis-ee-gia-to-prosfygiko>

62 <http://www.cnn.gr/news/kosmos/story/109370/avramopoylos-aporadekti-kai-antieyropaiki-i-protasi-toysk-gia-to-prosfygiko>

on the Dublin Regulation. *“I am confident that in parallel we can make significant progress on all elements of the asylum reform so that Leaders can reach an overall agreement by June”*⁶³.

Prior to that, on 29.11.2017 the Commissioner answering a question on the future of relocation to members of the EU Parliament,⁶⁴ excluded a new relocation scheme as ad hoc measure: *“The Commission does not consider it opportune to present a new relocation proposal. The first priority is to relocate all those eligible applicants who were present in Italy and Greece as of 26 September 2017 as soon as possible. Moreover, the Commission cannot continue to rely on ad-hoc measures. A reformed Dublin system is the only structural solution”*.

Structural and sustainable distribution measures therefore seem to be the key question for the future of relocation as part of the new European Asylum system.

3. Outstanding issues

Two related questions seem to remain open:

a.- Against what numbers should the success or failure of the relocation scheme be measured?

The Greek Government is not the only one that claims the success of the relocation scheme, measuring it up against the actual numbers of eligible persons for relocation at the end of 2017:

On 23.12.2017 the answer of the German Foreign Ministry to a parliamentary question by a Green MP, was all over the news⁶⁵. The official German view was that the numbers for relocation agreed in 2015 were not confirmed by reality, as only 500 asylum seekers were at the time of the end of the program awaiting for relocation. The German Foreign Ministry attributed this fact to the numbers of asylum seekers falling after the EU-Turkey Joint Statement of 18.3.2016 and also to the relocation mechanism itself which excluded the eligibility of persons from countries under the high EU recognition rate of 75%.

⁶³https://ec.europa.eu/commission/commissioners/2014-2019/avramopoulos/announcements/remarks-commissioner-avramopoulos-following-informal-justice-and-home-affairs-council-press_en

⁶⁴E-005767/2017, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bWQ%2bE-2017-005767%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

⁶⁵ <http://www.enikonomia.gr/timeliness/175750,to-verolino-den-tirei-desmefseis-tou-apenanti-stin-ellada-gia-tou.html>

The statistical analysis of the European recognition rate⁶⁶ lies outside the scope of the present report. However, the Greek Ombudsman would like to make two comments based on the official data available:

There seem to be a few noteworthy differences between the European recognition rate and the Greek recognition rate issued by the Greek Asylum Service, namely on the example of three nationalities, Syrians, Afghans and Iraqis. We refer to the table 6 below⁶⁷:

	EU rate	Greek rate	Margin
Syrians	94%	99.6%	+ 5.6%
Afghans	46%	69%	+23 %
Iraqis	56%	71.5%	+15.5%

Table 6: Recognition rate at first instance in 2017

These nationalities were selected because of the number of their applicants in the EU as a whole. *“In 2017 Syrians accounted for the largest number of applicants in 14 of the 28 EU Member States, including 49 thousand applicants in Germany (the highest number of applicants from a single country to one of the EU Member States in 2017) and 16 thousand in Greece. Some 22 thousand Iraqis applied for protection in Germany and 8 thousand in Greece, while 16 thousand Afghan applicants were recorded in Germany and around 7 thousand in Greece and in France”*⁶⁸.

That leads to our second observation, that the question of a relocation distribution key based on EU recognition rates is a question with a legal basis on the principle of solidarity and burden sharing of people in clear need of international protection, but it is also a political question as to the actual burden to be carried based on considerations and projections of the number of applicants of certain nationalities in Europe. The Eurostat data⁶⁹ reveal the following (see table 7 below).

66 Rate of recognition is the share of (first instance) positive decisions in the total number of decisions at first instance

67 Statistical data to be found in <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/overview> , http://asylo.gov.gr/?page_id=143

68 http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_statistics

69 Eurostat: In 2017 Recognition rates differs greatly between citizenships <http://ec.europa.eu/eurostat/documents/2995521/8817675/3-19042018-AP-EN.pdf/748e8fae-2cfb-4e75-a388-f06f6ce8ff58>
In 2016 <http://ec.europa.eu/eurostat/documents/2995521/8001715/3-26042017-AP-EN.pdf/05e315db-1fe3-49d1-94ff-06f7e995580e>

In 2015 <http://ec.europa.eu/eurostat/documents/2995521/7233417/3-20042016-AP-EN.pdf/34c4f5af-eb93-4ecd-984c-577a5271c8c5>

	2015	Top 3 nationalities	2016	Top 3 nationalities	2017	Top 3 nationalities
Applications in number	1.257.000		1.204.300		650.000	
Protection status granted	333.350	1.Syrians 2.Erythreans 3.Iraqis	710.400	1.Syrians 2.Iraqis 3.Afghanis	538.000	1.Syrians 2.Afghanis 3.Iraqis
Refugee status (protection sub-category)	74%		55%		50%	

Table 7: Protection status in EU

- i) The percentage of refugee status granted by EU as a whole has dropped from 74% to 50% in 2 years among those who received (international) protection status (protection status includes 3 different categories: refugee status, subsidiary protection and humanitarian status⁷⁰). At 1st instance, refugee status represented only 23% of the positive decisions⁷¹.
- ii) The absolute numbers of the recipients of protection status, however, have significantly increased, despite that drop.
- iii) Afghan nationals were the 4th largest national category of applicants to receive a protection status in 2015, the 3rd largest in 2016 and the 2nd largest in 2017. However, as their numbers grew, their European average recognition rate fell (see table 6) from 67% in 2015 to 46% in 2017 (42% in the quarterly Eurostat report of March 2018)⁷². This dramatic drop does not exclude underlying political considerations.

b.- The question of eligibility of current and new asylum seekers is, thus, brought into the centre of the present debate.

Until the structural reform of Dublin Regulation is reached, ECRE together with several NGOs argue that a sustainable system must consider lifting the EU-Turkey Joint Statement restriction of relocating eligible people arriving in Greece from 20.03.2016 until 26.9.2017, a restriction of a dubious legal basis⁷³ on the face of Council Relocation Decisions of 2015.

⁷⁰ Refugee and subsidiary protection status as defined by EU law (art.2(d) and 2(g) of Dir.2011/95/EC respectively) , humanitarian status is an authorisation to stay for humanitarian reasons granted on the basis of national legislation.

⁷¹ http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics

⁷² http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_quarterly_report

⁷³ Lift the «unlawful restrictions”, ECRE 6.09.2017, p. 4, <https://www.ecre.org/wp-content/uploads/2017/09/Policy-Note-07.pdf>

UNHCR also stated that *“until the Dublin reform is adopted and a more permanent model put in place, the need for such responsibility-sharing mechanisms remains acute”*. At the same time, UNHCR called for a review of the eligibility criterion based on nationalities with an average recognition rate of 75 per cent or higher at the EU level, to allow for more people likely to be in need of international protection to be included⁷⁴.

⁷⁴ <http://www.unhcr.org/news/press/2017/9/59ca64354/unhcr-calls-eu-relocation-scheme-continue.html>

F. Conclusion

1. The structure of the relocation scheme seemed to predetermine its results. By excluding a) asylum seekers crossing the Greek sea borders after the entry into force of the EU-Turkey Joint Statement on 20.3.2016, as well as b) all nationals from countries having a European recognition rate lower than 75%, the relocation scheme's failure to reach the numbers perceived in 2015 appears to be a self-fulfilled prophecy.

The lack of legal consistency of the scheme is obvious, given that the Council Decisions on Relocation were never legally amended by the EU-Turkey Joint Statement, a non-legal document and non-attributable to an EU institution according to the EU General Court, yet able to create powerful political effects. Therefore, one may conclude that by accepting the actual amendment of the relocation scheme in practice by the EU-Turkey Joint Statement, the EU Member-States and the Commission limited the scope of the relocation scheme to a small fragment of asylum seekers that had nothing to do with the initial number of predictions of 2015.

On the other hand, there are several independent studies criticising the reliability of state recognition rates especially on Afghan nationals⁷⁵. Although the variation of recognition rates among Member-States or within a state and its subsequent effect on EU average is not officially reported, latent national policies may not be excluded. There is a noteworthy difference between the European recognition rate and the Greek recognition rate on the example of three key nationalities, Syrians, Afghanis and Iraqis, as mentioned in the previous chapter. The 75% EU rate threshold was only met by Syrian nationals according to the latest statistics. The second rate is currently set at 42% in the EU for Afghan nationals⁷⁶. It is noted above that as their numbers were growing, their European average recognition rate was falling. Lowering the recognition threshold to include at least one more nationality in the relocation scheme would be a substantial relief for border EU countries but that might not be a desirable outcome for Member-States due to the number of applications; in the

75 There are, however, independent articles on the matter, eg <http://www.cesifo-group.info/DocDL/dice-report-2017-2-burmann-valeyatheepillay-june.pdf>, <http://statewatch.org/news/2016/mar/eu-refugees-afghanistan.htm>
<https://www.afghanistan-analysts.org/afghan-exodus-afghan-asylum-seekers-in-europe-2-the-north-south-divide/>
<http://fluechtlingsforschung.net/afghan-asylum-seekers-deficits-common-european-asylum-system/>
<https://www.ecre.org/wp-content/uploads/2017/11/Returns-Case-Study-on-Afghanistan.pdf>

76 http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report

fourth quarter of 2017, Syrians, Iraqis and Afghans were the top 3 citizenships of asylum seekers lodging 23,400, 12,900 and 9,700 applications respectively⁷⁷.

2. The performance of the Greek authorities was remarkable in accelerating the processing of petitions to relocate in 2016, which was however a year of low response by other member states. The full response of many member-states in 2017 resulted in doubling the relocations actually made and the know-how achieved in both sides reached its peak at the end of the program in 26.9.2017. In other words, the programme would have been successful if it did not come to an end on 26.9.2017.

Underlying national policies and a certain lack of preparedness marked the selective attitude in the procedures, whereas the secondary movements within EU is a phenomenon that should be studied. Matching preferences with pledges would help to prevent ~~however~~ secondary movements, and this should be one of the lessons learnt from the pledging experience in 2016-2017. If the pledges were made all at the same time, the relocation system would have been more successful in matching preferences of the asylum seekers with the States opening places.

3. For a distribution key to work in the future, precise and transparent procedures have to be established. The lack of a normative framework of the scheme's operation in the Council Decisions left too many options open to political negotiations, at the applicants' expense. Reasoned decisions and the availability of appeal against a rejection are essential procedural safeguards for the processing of asylum applications including the question of in which country this is going to be processed. The ideal view of the EU as a whole is that sharing refugee burdens is contradictory to the evasive attitude of some member states rejecting relocation requests on national security grounds, without any specification as the Council Decisions allowed, a fact that

a) gives rise to reasonable doubts as to the true motive for rejection and as to its legitimacy and,

⁷⁷ *ibid.*

b) leaves in obscurity the national security threat that the country of first entry should be aware of because it will eventually decide the application on its merits, assuming of course that, from an EU perspective, national security threats do not vary substantially within EU- and Schengen- borders.

The procedures also have to be functional in practice. Deadlines for accepting requests after pledging were often set aside and the experience of the relocation system makes it highly unrealistic that the processes would be speedier in the future (such as admissibility to be decided within a month etc.). The processing capacity of the Asylum/Dublin services of the member-states of first reception and final distribution has to be studied carefully before implementing a new distribution key.

4. The micro-management may have been apparent in the relocation practice, since this was a new scheme lacking pre-defined procedures, as aforementioned. This fact should not allow us to overlook the prevailing political dimension, mainly whether there is strong and consistent political will to honour this EU solidarity commitment by the Member-states. As discussed in the Ombudsman's special report on *Migration Flows and Refugee Protection*⁷⁸, "*the delays and the procedural obstacles in the realisation of the above commitments, but also the small number of countries that accepted in 2016 the relocation of people who asked for international protection in Greece as the first country of entry into the EU, constitute indications of the substantial refusal of certain Member States to comply with the program for the distribution of asylum seekers in the EU, as well as the inability of the EU institutional structure to ensure implementation of the commitments under the relocation scheme*".

At the end of the programme, the picture as to the overall response of the Member-States to honour their commitments was much more optimistic. The final abstention of three countries and the infringement procedures against them is a significant element of the ongoing battle on the future of relocation in the form of a distributive mechanism and its inclusion in Dublin IV. Structural solutions within the EU cannot be isolated from their consequences neither from the overall policies that they serve. The combination of relocation with the EU-Turkey Joint statement did not ease the burden from the south-eastern borders

⁷⁸ April 2017, p. 36, <https://www.synigoros.gr/?i=human-rights.en.recentinterventions.434107>

and resulted in a new bulk of asylum seekers under the Common European Asylum Sysytem that is running in at least two speeds, failing to form a conoslidated, fair and effective response to mixed migration flows.

And the question remains, whether the asylum seekers flows will continue to be addressed with measures of an ex post facto character rather than measures that form part of a cohesive and pre-emptive strategy.

Annex I - Timeline of relocation procedures

Date	EU	Greece
January –April 2015:	Developing crisis: About 2,000 people are believed to have been drowned in the Mediterranean, since the beginning of the year trying to cross to Italy and Greece. Hundredths of thousands have successfully crossed to European territories.	In April, 12 killed by a train in Veles of FYROM near the borders of FYRO, using the “Balkan route” to central Europe which has been recently established
20.4.2015	First EU response to the Mediterranean crisis: - A 10-point plan by the Commission, including a commitment to consider options for an emergency relocation mechanism - European Council had emergency meeting to discuss the migrant crisis. It agreed to triple funding for rescue operations aimed at migrant boats, and several EU member states promised more ships and other resources. It also agreed to look at ways to capture and destroy smugglers' boats before they can be launched, and to deploy immigration officers to non-EU countries.	
23.4.2015	the European Council decided to consider relocation options on a voluntary basis	
23.5.2015	European Agenda on Migration	
25-26.6.2015,	The European Council decided, inter alia, that three key dimensions should be advanced in parallel: - relocation/resettlement , return/readmission/reintegration and cooperation with countries of origin and transit. The European Council agreed in particular, in the light of the current emergency situation and the commitment to reinforce solidarity and responsibility, on the temporary and exceptional relocation over 2 years , from Italy and from Greece to other Member States of 40 000 persons in clear need of international protection, in which all Member States would participate.	
20.7.2015:	- Resolution of the representatives of the Governments of the Member States meeting within the Council on relocating from Greece and Italy 40 000 persons in clear need of international protection was adopted by consensus. - 1st Resettlement EU – Turkey scheme is also adopted.	Resolution stipulated that 16 000 persons would be relocated from Greece over a period of 2 years
20-22.8.2015		FYROM starts efforts to seal border with Greece
14.9.2015 :	Council Decision (EU) 2015/1523 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146). (a temporary and exceptional relocation mechanism)	
22.9.2015 :	Council Decision (EU) 2015/1601 (OJ L 248, 24.9.2015, p. 80–94) in force until 26.9.2017 ⁷⁹ <i>as provisional measure</i> With a view to implementing the principle of solidarity and fair sharing of responsibility, a total of 120 000 applicants in clear need of international protection (from states with over 75% EU recognition rate) should be relocated from Italy and Greece. This number corresponds to approximately 43 % of the total number of third-country nationals in clear need of international protection who have entered Italy and Greece irregularly in July and August 2015. The relocation measure foreseen in this Decision constitutes fair burden sharing	Resolution stipulated that 50 400 applicants shall be relocated from Greece to the territory of the other Member States in accordance with the table set out in Annex II;

⁷⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015D1601>

	between Italy and Greece on the one hand and the other Member States on the other, given the overall available figures on irregular border crossings in 2015. Given the figures at stake, 13 % of these applicants should be relocated from Italy, 42 % from Greece and 45 % should be relocated as provided for in this Decision. <i>art.4.1.</i> 120 000 applicants shall be relocated to the other Member States as follows: (a) 15 600 applicants shall be relocated from Italy to the territory of the other Member States in accordance with the table set out in Annex I; (b) 50 400 applicants shall be relocated from Greece to the territory of the other Member States in accordance with the table set out in Annex II; (c) 54 000 applicants shall be relocated to the territory of the other Member States, proportionally to the figures laid down in Annexes I and II, either in accordance with paragraph 2 of this Article or through an amendment of this Decision, as referred to in Article 1(2) and in paragraph 3 of this Article. It shall apply to persons arriving on the territory of Italy and Greece from 25 September 2015 until 26 September 2017, as well as to applicants having arrived on the territory of those Member States from 24 March 2015 onwards. 29.9.2016 Council Decision (EU) 2016/1754 amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, OJ L 268, 1.10.2016, p. 82–84. This Decision shall apply until 26 September 2017. <i>Option for resettlement of Syrians from Turkey, admitted after 20.5.2016, to meet the relocation commitment of 54.000 applicants.</i>	
25. 11.2015	Beginning of relocations	
11–12.11.15	Valletta Summit on Migration – a summit between European and African leaders was held in Valletta, Malta, to discuss the migrant crisis. On 12 November, the leaders signed an agreement to set up an Emergency Trust Fund to help development in African countries as well as to encourage those countries to take back some migrants who arrive in Europe	
28.11.2015		FYROM began building a barrier along part of its border with Greece
30.12.2015		The UN refugee agency reported that more than one million migrants and refugees had reached Europe by sea during 2015. More than 80% arrived in Greece from Turkey,
25.2.16	The EU's Migration Commissioner warned that the EU's migration system could "completely break down" within weeks.	Greece recalled its ambassador to Austria amid sharp divisions over the migrant crisis. Complete blocking of the Balkan route by central European states.
18.3.2016	The EU and Turkey reached a Joint Statement to tackle irregular migration. 2 nd resettlement scheme	From 20 March, irregular migrants arriving in Greece will be sent back to Turkey if they do not apply for asylum or their claim is rejected. Turkey is considered safe for Syrian

		asylum seekers. Each Syrian sent back will be replaced with a Syrian refugee who will be resettled in the EU.
6-10.4.2016		Clashes with migrant/refugees at Pireus port and Idomeni boarder crossing, when authorities tried to move people from makeshift camps to official hosting facilities where they should wait until the conclusion of their asylum or relocation request.
16.4.2016		Pope Francis took 12 Syrian refugees back with him to Vatican City after visiting a camp on the Greek island of Lesbos
29.9.2016	Decision 2016/1754 allows MS to implement their commitments as regards 54.000 places with selection of Syrians asylum seekers directly from Turkey instead of applicants from Greece and Italy. Pledges for Relocation and Resettlement schemes are intermingled not however .	
9.6.2017		13.973 relocated from Greece to EU countries ⁸⁰
6.9.2017	European Court of Justice judgment in joined Cases C-643/15 and C-647/15 Slovakia and Hungary vs Council, legally obliges EU Member States to relocate eligible asylum-seekers who arrive in Greece and Italy until the end of this month (26 September)	
26.9.2017	Conclusion of the relocations	
7.12.2017	reference of 3 states to the European Court of Justice	
7.1.2018		24.906 requests for relocation have been made from Greece (half of the numbers initially envisaged). 22.815 have been accepted