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Analysis

Eighth report on relocation and resettlement: Commission welcomes increase in relocations and ignores harmful systematic effects

Yasha Maccanico
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Introduction:
The report welcomes increase in relocations…but overlooks system's unsustainability

In the eighth report on relocation and resettlement published on 8 December 2016, the Commission continued to welcome developments which are degrading Europe to ensure that the "emergency" its policies and the dysfunctional Schengen/Dublin system have predictably caused persists, particularly in frontline Mediterranean states (Greece and Italy). Over a year after the start of implementation of the EU Agenda on Migration, the EU Action Plan on Migrations and in particular the roll-out of the hotspot approach in Italy and Greece, mounting evidence shows that far from assisting frontline states, they are being punished for shortcomings in implementing a dysfunctional model designed to penalise them.

In fact, at the same time as substantial progress is being made in terms of identifying, screening and fingerprinting people from third countries who arrive, the compensatory measures which were envisaged are not materialising. The first of these, relocations for the redistribution of refugees among member states, have gone from non-existent to very slow and the second, reform of the Schengen/Dublin system, maintains the approach adopted to date whose outlook leads directly to the conversion of Italy and Greece into permanent holding pens for so-called "illegals" or "irregular migrants". Relocations are meant to become a permanent measure to promote redistribution of the burden, only for very narrowly defined asylum seekers, yet member states refuse to comply even with very low compulsory relocation quotas to meet, sometimes vociferously, as in the case of the Hungarian government which called a referendum on this issue in October 2016. Referring to those who arrive as "people" - men, women and children - is a necessary adjustment in view of the way institutional documents use the terms "migrants" and "refugees" instrumentally to demolish the right to seek asylum through the dehumanisation of the former and the restrictive redefinition of the latter using the model adopted for hotspot procedures. This model was devised so that acknowledgement of the right to seek asylum of Syrian nationals and other nationalities whose

applications are accepted in over 75% of cases according to Eurostat data (at present Eritreans, Iraqis and Yemenites in Italy are also deemed eligible) entails the exclusion of all others, hurriedly classified as "economic migrants" with a view to deportation.

What is missing from this narrative is the large number of peope who are entering, many of whom may reasonably qualify for refugee status or international protection but are left in the streets knowing only that they have been ordered to leave by the authorities after registration and exclusion from access to the right to seek asylum on the basis of the nationality principle. The Commission's blueprint views it as a technical problem because they must be fenced in, detained and returned, exacerbating the crisis in frontline states in order to restore the credibility of the EU's returns policy. This approach seeks to perfect a system whose in-built crisis tendencies permanently place both countries in an unsustainable situation of emergency or crisis which is not justified, considering the numbers of people who are arriving and the scale of the EU. The relocation mechanism's sole saving grace is that the breakdown envisaged to enable the relocation of 160,000 people (a tiny proportion of arrivals) shows how easy it would be for the EU to absorb the number of people arriving if the burden was evenly shared. However, it is being used as a mere instrumental justification to enable the roll out and expansion of EU's immigration and security structures including Frontex, Europol and a wider use of databases and systematic checks involving law enforcement agencies and immigration authorities, disguised as an effort to assist frontline states which are placed in untenable situations.

The idea of burden-sharing is anathema to the policy's key objectives: 1) fingerprinting everyone who arrives to enter their data in the EURODAC database so that Italy and Greece may perpetually be responsible for any asylum claims they submit; 2) preventing secondary movements at any cost, including the reintroduction of internal border checks; and 3) ensuring the "emergency" continues.

At present, this means expanding the network of reception and detention facilities close to the landing region, creating exclusion zones (preferably on islands) and concentrating people within them in order to give the impression of an unsustustainable situation. In reality, such situations arise because people are not allowed to make any choices and "preventing secondary movements" has become the key priority, after a phase when fingerprinting was established as a prerequisite for people to enjoy basic human rights. This transpires clearly in the "recommended actions to limit secondary movements" regarding Italy, alongside a policy which normalises the pursuit of foreigners by the police to physically remove them from border areas, preferably to send them to detention or reception facilities:

"*As part of actions taken by the Italian authorities to limit secondary movements, the Italian police continue regularly transferring migrants, who moved irregularly from the South to the North of the country, back to the reception facilities in southern Italy*" (p. 12).

This mirrors previous calls from the Commission, including by its spokeswoman Natasha Bertaud on 20 September 2016 after a fire had burned down tents and part of the structure at the Moria hotspot on the island of Lesbos, which was already overcrowded before this incident:

"*To avoid secondary movement to the rest of Europe, that means keeping asylum seekers on the islands for the most part*".[1]

This obsession with containment inevitably leads tensions to grow, providing fuel for racists and rightwingers by saturating areas on the frontline with the long-term presence of migrants forced to live in destitution. Golden Dawn members have been prominent in protests against the presence of refugees on Lesbos.[2]

The scale of the institutional effort deployed to stifle human entreprise and agency is remarkable, as is the belief that it is normal to turn places which are important assets for both the EU and its member states into sites of coercion, violence, detention and intensified power relations. The Greek islands and Sicily alike are important sites of historical and cultural heritage, exceptional assets in terms of tourism due to their natural beauty, and they have always been borderlands without this meaning that they must become sites of intense human misery. This observation relates to the notion that the actual harm which is currently being caused for the sake of immigration policy enforcement to prevent every conceivable risk which may arise in the future (this is the nature of Frontex's risk analysis activities) is comparable to self-harm, at different levels. These include acts of self-harm migrants find themselves compelled to resort to in detention; the self-harm Italy and Greece are compelled to engage in to perfect a system which penalises them structurally; and the self-harm the EU is engages in by degrading territories which should be important assets to cherish, both for the EU as a whole and for the member states concerned. The way in which sustaining this "crisis" allows normative and legal frameworks to be undermined for the sake of immigration controls shows that their damaging effects stray well beyond the immigration policy field and the experience of third-country nationals, affecting both the rule of law and the role played by police forces.

The report exalts minimal achievements

- 1,406 relocations in record month as member states have relocated 8,162 of the 160,000 people which were promised (around 5%) in a over a year

- 11,278 people entered the two countries in the same month; more than 1.3m in 2015/2016

- France (2,091), the Netherlands (767), Finland (542), Romania (499), Portugal (459) and Germany (408) account for 4,766 out of 6212 relocations from Greece, over 75%

-Finland (359), the Netherlands (331), France (282), Portugal (261), Germany (207) and Switzerland (133) account for 1,573 out of 1,950 relocations from Italy, over 80%

- 1 child relocated from Italy (24,595 arrived in 2016 until 2 December); 171 from Greece (2,300 estimated to be present on 17 November 2016)

The report welcomes the recent increase in relocations, 1,406 in a single month, which brings the total number of relocations enacted to 8,162 (6,212 from Greece and 1,950 from Italy), figures

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[1] http://www.ekathimerini.com/212179/article/ekathimerini/news/eu-migrants-to-stay-on-greek-islands-despite-fire and http://www.keeptalkinggreece.com/2016/09/20/eu-commission-found-the-solution-migrants-will-remain-on-greek-islands-as-much-as-possible/
[2] http://www.keeptalkinggreece.com/2016/09/19/lesvos-in-migration-crisis-situation-at-risk-of-getting-out-of-control-with-protests-attacks-and-unwanted-ngos/

viewed as representing a "continuous positive trend". Defying reason to support a dysfunctional approach which seeks to ensure the emergency in frontline states never subsides to enable the continuation of serious human rights violations against men, women, children, victims of trafficking, pregnant women and torture survivors, it sets a target from December 2016 onwards whereby 3,000 people should be relocated per month. 2,000 people should be relocated per month from Greece, towards which the resumption of Dublin Regulation returns from other member states is being prepared in a clear example of bad faith, and 1,000 per month should be relocated from Italy. This is despite the fact that its own figures indicate that 11,278 people entered the two countries in the "reporting period" between 6 November and 6 December 2016 (1,883 in Greece and 9,395 in Italy), most of whom are not eligible for relocation. The goal appears to be to ensure that the emergency never subsides in order to continue the adoption and implementation of illegal procedures and even worse operative practices, and this transpires clearly in the "recommended actions to limit secondary movements" regarding Italy (see above).

After fingerprinting people, for which any amount of human rights violations have been committed (as documented, among many others by Amnesty International) [3], crimes instigated by the European Commission which has pushed forcefully for such human rights violations to be given legal cover, the new key goal of the hotspot approach is to prevent secondary movements.

The report's introduction notes the continuing need to "*further intensify efforts to accelerate relocation, in particular for unaccompanied minors, and existing resettlement schemes*". At the same time, as it notes an increase in the number of migrants present in Greece since the previous month to "*around 62,000 migrants, with around 16,200 on the islands and around 45,800 persons on mainland Greece*". The overall figure for Italy is not provided as it would prove embarrassing, but 9,395 people arrived during the reporting period (6 November to 6 December 2016), an 18% increase compared with figure for the same period in the previous year. Eritreans were the national group eligible for relocation for which the highest figure of arrivals was recorded (888 people). Building on the increased number of relocations in the previous month, a record 1,406 people were relocated with the figure almost doubling for Italy (401) and the one for Greece apparently stabilising at "*around 1,000 per month*", which the report welcomes as "*a continuous positive trend*". The new goal which is set on the basis of the gradual lifting of obstacles to relocation and the planned intensification of "*relocation pledges and transfers*" by members states, is for "*all persons eligible for relocation* [to be] *transferred by September 2017*". To do so, a target of 3,000 relocations per month (2,000 from Greece and 1,000 from Italy) has been set to be met as of December 2016. As for resettlement, implementation is deemed "*strong*" with "*13,887 people resettled so far, which is more than half the agreed number*". The point is that the agreed number is embarrassing considering that millions of refugees are present in these three countries - the figure for Turkey in a Danish Refugee Council report for mid-2016 is of 2,733,044 registered Syrian refugees and tops three million taking other countries (Afghanistan, Iran, Iraq, Somalia, etc.) into account. In March 2016, the same organisation produced a document detailing that UNHCR in Jordan had registered 637,638 Syrian refugees -the authorities claimed there were around 1.4 million in the country-; 1,048,275 were registered in Lebanon -government claimed there were 1.5 million-; and 2,715,789 had registered in Turkey.

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[3] Amnesty International, Hotspot Italy. How EU's Flagship Approach Leads to Violations of Refugee and Migrant Rights, November 2016, http://www.statewatch.org/news/2016/nov/ai-hotspot-Italy.pdf The report includes many testimonies of violence in the section "Ill-treated and arbitrarily detained for a fingerprint".

In this instance, the report highlights the "record monthly number of 2,035" people resettled since the start of the scheme, mainly from Turkey, Jordan and Lebanon, noting that it also serves to "*implement the 1:1 mechanism set up in the EU-Turkey Statement*", whereby 2,761 people were resettled from Turkey since 4 April 2016. As is also true for relocations, an increase in figures which cannot hope to have any significant effects on the situation on the ground other than for symbolic purposes, is presented as positive evidence that these two schemes are working.

Italy and Greece are being filled with hundreds of thousands of people who must be left no hope of leaving the countries or living there in dignified conditions without applying for asylum there or being deported as economic or illegal migrants, as the reintroduction of internal border controls by their neighbouring states at their northern borders indicate. This is the unacknowledged elephant in the room of the report, as procedures introduced for the functioning of hotspots rely on the large-scale exclusion of anyone for whom relocation is not applicable from the right to apply for asylum. In fact, the number of arrivals by sea across the Mediterranean reported by IOM topped a million for 2015 (1,011,712) and was 339,783 in early November 2016. The substantial report which is the subject of this article concerns the relocation of 8,162 people (6,212 from Greece and 1,950 from Italy), whereas a note stating that relocations are failing without accomplishing even the laughable numbers envisaged would have been sufficient, as the rate has only reached 5% of the 160,000 relocations on which the plans were based. Both with regards to relocation and resettlement, it is worth noting that the whole EU's population is well over 500 million people: 510,152,681 according to Eurostat estimates on 1 January 2016.[4] This means that the only way to sustain the idea that the current influx of third-country nationals is a crisis involves blocking them in the first countries they enter, preferably in the landing regiones, and preventing "secondary movements" to other member states.

Highlights from the reporting period for Greece include the asylum system's registration capacity for eligible nationalities, which "*stands at 175 per day or around 3,500 per month*", and the Commission hopes that 87% of pre-registered relocation applicants may be fully registered by the end of January 2017. The "*registration exercise*" should be complete by the "*end of April 2017*", after which the number of people entering the scheme should drop. The pace of relocations should thus increase, at least to 2,000 people per month as of December 2016, and to 3,000 per month as of April 2017, to avoid "*an unsustainable accumulation of cases*". These targets require all Member States to pledge and transfer people on "a stable monthly basis", whereas in November eight MSs (Germany, Estonia, France, Ireland, Latvia, the Netherlands, Portugal and Slovakia) and two Associated Countries (Norway and Switzerland) pledged around 1,560 places and over 1,000 relocation were carried out by 13 MSs and two Associated Countries. In spite of relatively low commitments for relocations foreseen by the Council Decisions, neither Austria (1,491 from Greece and 462 from Italy) nor Hungary (988 from Greece and 306 from Italy) have submitted any formal pledges or effectively relocated any people at all.

In the same vein, the relocation of 401 people in a month is exalted as showing "*that efforts by the Commission, the Italian authorities, Member States and Associated Countries, EU agencies and other partners on the ground are bearing fruits*". A further improvement is predicted for December, a "*trend which needs to be strengthened*", particularly as the number of relocation candidates is

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[4] Eurostat, "Population on 1 January",
http://ec.europa.eu/eurostat/tgm/table.do?tab=table&language=en&pcode=tps00001&tableSelection=1&footnotes=yes&labeling=labels&plugin=1

increasing, mainly Eritreans (between 5,300 and 5,800 Eritrean potential relocation candidates are in Italy according to the Italian interior ministry). Calculations based primarily on the Eritrean contingent - "*12% of the migratory flow and in average 1,800 per month*" - lead the Commission to deem that a rate of 1,000 relocations per month as of December 2016, to be increased to 1,500 per month by April 2017, would represent a "*sustainable relocation pace*".

Background: Greece and Italy are the "hotspots", and "hotspot" means an absence of rules

In the meantime, initial concern that the hotspot approach was simply a mechanism to enact policy while violating any rules, laws or regulatory frameworks which might get in the way, has been compounded by the fact that their nature is highly heterogeneous. In Greece, they have become long-term detention centres for people who the EU wishes to return to Turkey as soon as possible in application of the shameful EU-Turkey deal unveiled in March 2016 using a press statement. In Italy, they were originally meant as sorting centres whose main function was registration, fingerprinting, the identification of candidates for relocation and the illegalisation of everyone else through the systematic issuing of expulsion orders (at least until January 2016). Then, there was pressure from the Commission for hotspot procedures to be enacted in all ports where people disembark, interior minister Angelino Alfano suggested that "floating hotspots" be introduced to speed up registration procedures and the "Standard Operative Procedures" [SOP] produced for hotspots in February 2016, all showed that the whole country is being turned into a "hotspot". Page 6 of the SOP document notes that hotspot procedures should not be limited to formal hotspot facilities and may be applied:

"*in situations different from formally identified Hotspots, such as may be, for example, places of landing that are not operational Hotspots. Furthermore, it appears appropriate to consider these operational guidelines as being of potentially general application, indicative of a possible model for the management of any incoming mixed flow.*" (p. 6).[5]

This reading is reinforced by the relaxing of the rules for the reintroduction of internal borders between member states, as has happened above the Italian and Greek peninsulas, and this was certified by the eight report on the functioning of the Schengen area, which stated that:

«*Although in 2013 the legislators agreed that migratory flows cannot per se justify the reintroduction of checks at internal borders, the Commission takes the view that the uncontrolled influx of high numbers of undocumented or inadequately documented persons, not registered upon first entry to the EU, may constitute a serious threat to public policy and internal security and thus may justify the application of this extraordinary measure available under the SBC* [Schengen Borders Code]» (p. 6).[6]

This approach is further intensified because immigration and security measures introduced to implement the Schengen area of free movement are now serving to dismantle it, as recent proposals to reintroduce border checks for EU nationals confirm. In fact, points 1-4 of a proposal to reform "Regulation (EU) 2016/399 as regards the reinforcement of checks against relevant databases at external borders" from December 2016, argue that:

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[5] http://statewatch.org/news/2016/may/it-hotspots-standard-operating-procedures-en.pdf
[6] http://www.statewatch.org/news/2015/dec/eu-com-8-th-report-schengen-area-com-675-15.pdf

"(1) Control at external borders remains one of the main safeguards of the area without controls at internal borders and it significantly contributes to guaranteeing the long-term security of the Union and the citizens. It is carried out in the interest of all Member States. One of the purposes of such control is to prevent any threat to the Member States' internal security and public policy, irrespective of the origin of such threat, including where such a threat derives from Union citizens.

(2) Minimum checks based on a rapid and straightforward verification of the validity of the travel document for crossing the border, are currently the rule for persons enjoying the right of free movement under Union law. The phenomenon of foreign terrorist fighters, many of whom are Union citizens demonstrates the necessity to strengthen the checks at external borders with regard to [...] persons enjoying the right of free movement under Union law.

(3) The documents of persons enjoying the right of free movement under Union law should therefore be checked systematically on entry into and on exit from the territory of Member States against relevant databases related to stolen, misappropriated, lost and invalidated travel documents in order to avoid that persons hide their real identity.

(3a) Member States are obliged to check systematically third country nationals against all databases on entry. It should be ensured that such checks are also carried out systematically on exit.

(4) Border guards should for the same reason also systematically check persons enjoying the right of free movement under Union law against [...] the Schengen Information System and other relevant Union databases [...]. This is without prejudice to the consultation of national and Interpol databases." [7]

Returning to the report which is being analysed, the Commission fails to acknowledge that the underlying rationale it is following entails saturating Greece and Italy with people who are hurriedly excluded and dehumanised through their characterisation as economic migrants, closing their nothern borders and subsequently launching a hunt to deport them. This is deemed necessary to restore the "credibility" of the EU's "returns policy", whose inadequate implementation both the Commission and Frontex describe as "pull factor".

Relocations are a pretext for the degradation of two states

The Greek and Italian islands were deemed important assets for the EU in terms of their beauty as tourist locations with important cultural and historical heritage. If the EU decides to turn them into concentration camps with all the violence and coercion this entails, it is engaging in an act of serious self-harm. This self-harm is connected to the instances of actual self-harm which are being enacted in detention centres and hotspots alike and include hunger strikes, migrants sewing their lips together, the setting of fires and the degradation of fingertips to obstruct fingerprinting operations, and to the self-harm which is imposed on two countries whose territories are being degraded. This is the only reasonable perspective within which to interpret developments since the spring of 2015, which is why the Commission's positive take on the increase in relocation figures from laughable to slightly less laughable is insulting. Even if its optimistic predictions on future relocations were to materialise, this would clearly not help to lessen the pressure on Italy and Greece, but it would contribute to reinforcing institutional discrimination and, with help from the far

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[7] http://www.statewatch.org/news/2016/dec/eu-council-border-checks-annex-text.pdf

right for which it is providing highly visible and concentrated targets, hunting foreigners will become a standard practice.

Cleverly, the report does not mention that relocations are a drop in the ocean in comparison with the arrival of 1,101,712 people in 2015 and the 354,804 people who crossed the Mediterranean in 2016 (4,742 died).[8] Neither does it mention that almost all the people who arrive are systematically excluded from the right to seek asylum by the nature of the hotspot approach. Its only concern appears to be as a justification for the exponential development of the EU security state, including EU agencies, databases, systematic police checks and the creation of a permanent reserve of illegalised persons to be targeted by security and law enforcement agencies and serving to institutionalise discrimination and racism, violence and arbitrary detention.

The system is also serving to dismantle the area of freedom of movement which was used instrumentally to increase the power of state agencies to target population groups and to justify and develop supranational agencies. These are not just proving unfit for their purpose in terms of their stated goals, beyond the partial evaluation mechanisms which conceal this through slanted analysis, but also highly destructive, perhaps more so than elements which feature in their risk analysis activities which are used to expand their activities and strengthen their grip on this policy field.

Relocation plan could point to a way forward but it is just a pretext

The saddest thing about the "immigration policy coup" [article forthcoming] which has been underway since the spring of 2015 in the guise of the European Agenda on Migration, the Action Plan on Migration, the EU-Turkey deal and the Khartoum Process, among others, is that the relocation plan and the experience of frontline states could have served to resolve the crisis. But this is not the Commission's intention. Nor is it the intention of other member states which are operating within the political bounds that fight against illegal migration has turned into the new common sense, namely, that letting in the minimum number of migrants which is possible is the only viable solution, because they have been equated with significant security and other threats. Thus, they are in competition to receive as few people as possible and the inevitable outcome of such an approach, which is anathema to the creation of a European Union based on cooperation and mutual aid, is to sacrifice two member states, degrading human rights, the rule of law and constitutional guarantees within their territories. In the meantime they are being set up to fail, because it does not matter how much of an effort they make, they will not be able to receive the number of people who are arriving adequately and in a dignified manner in spite of deploying what Commissioner Avramopoulos described as "Herculean efforts in managing the refugee crisis" in December 2016.[9]

The Commission is unwilling to recognise that its blueprint for migration policy does not work in practice, which means that any shortcoming must be viewed as the result of its imperfect implementation. Thus, it does not matter if detention centres have been certified as establishments in which structural limits and operating regimes result in widespread human rights violations which are not a result of governance failure by national states or the acts of a few "bad apples" among people working in them. They happen by design, throughout the EU and in any country in which the EU has succeeded in externalising border controls, which appears to be the chosen solution.

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[8] https://www.iom.int/news/mediterranean-migrant-arrivals-reach-354804-deaths-sea-4742
[9] http://europa.eu/rapid/press-release_IP-16-4281_en.htm

Since the spring of 2015, the Commission has been pushing for the full implementation of a dysfunctional policy at full speed, giving rise to actual harm for member states and migrants alike. Both had to be punished for not following its instructions - migrants continued to come although they were forbidden from doing so; frontline states were not adequately applying norms they were meant to on the basis of the Schengen and Dublin Regulation frameworks because they realised that it amounted to self-harm. In fact, in 2014, the failure to implement practices including the systematic taking of fingerprints from migrants who arrived resulted in the problem of a refugee and migrant crisis at the EU's borders subsiding as people had a greater opportunity to relocate themselves and to engage in "secondary movements". These, and a relatively egalitarian distribution of the "burden" which may be based on the quotas calculated for relocations, appear to represent the only viable solution of the crisis in the short and medium term without an excessive pressure being placed on any member state. Yet, the Commission's intention is to keep the crisis going and exacerbate it, so it can be used to further develop the EU's security structures, agencies, surveillance and detention capabilities, whose maintenance and expansion have become economic interests in their own right.[10] This means that experience from member states about the structural limits and unsustainability of this approach cannot be allowed to influence policy. This includes the problems arising from the concentration and penning in of migrants in the regions where they first arrive, which Italy attempted until the Arab Spring upheavals in 2011, when it enacted redistribution across the national territory with backing from the Commission on human rights grounds, although these no longer concern it.

Sources:

European Commission, Brussels, 8.12.2016, COM(2016) 791 final, "Communication from the Commission to the European Parliament, the European Council and the Council", "Eighth report on relocation and resettlement":
http://www.statewatch.org/news/2016/dec/eu-com-791-eighth-report-relocation-and-resettlement.pdf

Annex 1: relocations from Greece
http://www.statewatch.org/news/2016/dec/eu-com-791-greece-relocation-annex-1.pdf

Annex 2: relocations from Italy
http://www.statewatch.org/news/2016/dec/eu-com-791-italy-relocation-annex-2.pdf

Annex 3: resettlement
http://www.statewatch.org/news/2016/dec/eu-com-791-resettlement-annex-3.pdf

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[10] http://multinationales.org/La-detention-des-migrants-un-business-en-pleine-expansion , http://www.migreurop.org/article2761.html?lang=fr , http://www.statewatch.org/analyses/neoconopticon-report.pdf