



## Analysis

# The EU's war against refugees: "Progress" report on Greece, January – December 2015

Tony Bunyan  
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## Introduction

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Over the past year EU institutions – the Council of the European Union (28 Member States) and the European Commission – have been quarrelling publicly, Heads of State have been attacking each other and national government Ministers openly expressing xenophobic and racist views. Plans for relocation within the EU are in tatters [<sup>1</sup>] as are the pledges of funding. [<sup>2</sup>]

In contrast in Greece and elsewhere it has been civil society and volunteers who have been giving a welcome and humanitarian help to refugees and migrants on the landing beaches. [<sup>3</sup>] The EU, cynically, was not prepared to give or organise much needed humanitarian aid and civil protection until it could bring in fingerprinting, registration, "channelling" and processing into so-called "hotspots" in Greece (and Italy) – by end of 2015 only two were in place out of 11 planned (1 partially operating in Greece and one in Italy).

It was not until September 2015 that the EU introduced a formal standard based on nationality for those to be considered as "refugees" and hence considered for international protection and "relocation within the EU. Refugees from Syria, Iraq and Eritrea were thus deemed to meet the "average EU-wide asylum recognition rate equal to or higher than 75%, on the basis of EUROSTAT data for the previous quarter"... the 75% threshold is now passed by **Syrians, Eritreans and Iraqis.**" The rationale is that the 75% recognition rate

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<sup>1</sup> Only 4,207 places offered out of 160,000 needed:

<http://www.statewatch.org/news/2016/jan/eu-com-refugee-crisis-sop-4-1-16-relocation.pdf>

<sup>2</sup> Short by 2.24 billion euro for months:

<http://www.statewatch.org/news/2016/jan/eu-com-refugee-crisis-sop-4-1-16-pledges.pdf>

<sup>3</sup> Throughout the term "refugee" is used to take into account the high percentage who have a clear need for international protection

threshold will “to prevent applicants who are unlikely to qualify for asylum from being relocated and unduly prolonging their stay in the EU.” [4]

This policy introduced the practice of “nationality screening” in so-called hotspots to “prevent, to the maximum extent possible” those likely to get a negative decision based on their nationality from being relocated in the EU.

This Decision meant that refugees arriving from Afghanistan, Pakistan, the whole of the rest of Africa and elsewhere were not to be considered in need of international protection and they are portrayed in the media and by the Commission as being “economic migrants”. [5] To define a refugee as an “economic migrant” simply on the basis of EU asylum current recognition rates is potentially dangerous where refugees could face mass refoulement.

Few questioned that the dividing of those to be relocated (ie: who are 75% likely to be given asylum) and those to be “returned” is based on nationality and this formula. Put another way how can it be presumed that all refugees not coming from Syria, Iraq and Eritrea are automatically “not entitled to international protection.” Put another way this policy denied the legal right of everyone to apply for asylum. [6]

### **The time lag between “policy-making” and “practice”**

In theory refugees cannot simply cross borders, but hundreds of thousands did. In late October 2015 officials from Slovenia reported that:

*“only 47 people introduced an asylum application out of the 70.000 who passed through the country before heading north.” [7]*

A picture replicated across Greece, Macedonia, Serbia and beyond.

In theory only those from Syria, Iraq and Eritrea were to be separated out for “relocation” in the EU. But in November Macedonia and Serbia decided to only let refugees from Syria, Iraq and Afghanistan – countries where there are ongoing conflicts – pass through their states. This led to thousands stranded at the borders. [8]

The EU has many policies and plans in place, a number are simply failing (eg: the planned relocation of 160,000 refugees in the EU) and others like setting up hotspots and taking control of the landing beaches are only now beginning to be put into practice.

The Commission provides statistics on Member States responses for relocations, returns, hotspots and financial pledges but no figures at all for the number of refugees held in detention waiting for return or those held in detention and considered ineligible for

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<sup>4</sup> <http://www.statewatch.org/news/2015/sep/eu-council-provisional-measures-IT-GR-12144-15.pdf>

<sup>5</sup> <http://www.statewatch.org/news/2015/dec/eu-com-No-registration-no-rights.pdf>

<sup>6</sup> On the role of the media see:  
<http://ethicaljournalismnetwork.org/assets/docs/127/166/e9f107f-311f4a6.pdf>

<sup>7</sup> <http://www.statewatch.org/news/2016/jan/eu-com-imm-and-asyl-cttee-ncpi-oct-15.pdf>

<sup>8</sup> “The practice of denying entry to refugees and migrants from countries other than Syria, Afghanistan and Iraq continued.”: <http://www.statewatch.org/news/2016/jan/unhcr-serbia-dec-jan.pdf>

international protection whose cases are being examined or the number being held in “open” camps awaiting relocation.<sup>[9]</sup>

By mid-January 2016 the policies outlined back in the early summer were starting to emerge on the ground. What will be the effect of “nationality” screening and “channelling refugee into two groups by:

**“concerted actions by the Agencies from the moment of disembarkation of irregular migrants at the borders to the channelling of these persons through the appropriate asylum or return procedures.”**: <sup>[10]</sup>

The policy of taking control of the landing places and then “channelling” people is in practice on the Greek islands. The need to create two “channels” was spelt out: “so as to quickly identify the persons” to be relocated and to “identify the migrants who do not qualify for international protection and should therefore be returned”. <sup>[11]</sup> The media widely reported this line:

*“The quarantine centres – also known as hotspots – will separate legitimate asylum seekers from others not entitled to international protection. People will be finger printed and registered. Rejected applicants will be returned back to their home countries.”* <sup>[12]</sup>

## The Commission Progress report on Greece

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Between 1 January – 31 December 2015 a total of **847,084** refugees arrived in Greece, with the largest number coming to the island of Lesbos.<sup>[13]</sup>

On 15 December 2015, the Commission’s “Progress report on the implementation of hotspots in Greece” was sent to the European Parliament and the Council calling for further progress to be made in the fields of hotspots, relocation, returns, border management and reception capacity. Lamenting the slow progress in implementing “European Union Law” to build on a “Common European Asylum System” the Commission called on Greece to:

*“implement the action plan for the roll-out of the remaining hotspots by the end of November 2015, improve the registration capacity within the EURODAC fingerprinting system, enhance the temporary accommodation capacity in the hotspots, and create a crisis management command structure to ensure the daily monitoring of the hotspots and the relocation exercise.”* <sup>[14]</sup>

No new hotspots were rolled out by the end of the year in Greece.

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<sup>9</sup> See: <http://www.statewatch.org/news/2015/nov/eu-med-crisis-com-stats.htm>

<sup>10</sup> Explanatory note on the “Hotspot” approach:  
<http://www.statewatch.org/news/2015/jul/eu-com-hotspots.pdf>

<sup>11</sup> <http://www.statewatch.org/news/2015/sep/eu-council-provisional-measures-IT-GR-12144-15.pdf>

<sup>12</sup> <https://euobserver.com/migration/130401>

<sup>13</sup> <http://www.iom.int/news/iom-counts-latest-mediterranean-arrivals-2016>

<sup>14</sup> <http://www.statewatch.org/news/2015/dec/eu-com-greece-hotspot-rep-com-678-15.pdf>

The report notes a decline in arrivals based on UNHCR data indicating that in although the new arrivals “has been decreasing” there had been 136,827 refugee arrivals in November compared to 211,000 in October – thus “current numbers remain very high”.

The five “priority actions” are set out as: functioning “hotspots”, relocation, returns, border management and “adequate reception capacity” (which has been absent since the beginning of 2015).

There are meant to be five hotspots in Greece in Lesbos, Chios, Samos, Leros and Kos. The report notes that:

*“there is currently only one not yet fully functioning hotspot in Moria (Lesvos).”*

None of the other hotspots planned for the end of November 2015 were in place. In Leros a camp may be completed by the end of January 2016 and while in Chios a site has been identified “works in Kos have not advanced and have not yet started in Samos” – a tactful way of saying that there has been local opposition.

Since October four relocation flights have taken place with 82 people going to five EU countries towards an allocated 66,400 from Greece. Overall there are meant to be a total of 160,000 places available for relocation in the EU but there are only 4,207 places are on offer from 17 Member States to Greece and Italy. The “bottlenecks” for relocation are the “low number of pledges” by other EU states and the reluctance of these states to process applications for relocation.

The Commission demands:

*“Returns of migrants (both voluntary and forced) need to be significantly enhanced.”*

The Commission says that a high powered Brussels team of 47 officials – “Structural Reform Support Service” (SRSS) – are in Greece. A cited example of the progress made in Greece by the SRSS is the implementation of the readmission agreement with Pakistan and:

*“a first return flight from Greece to Pakistan could be organised on 2 December with 19 refugees being successfully returned.”*

This did take place and it was widely reported on 3 December 2015 that of the 50 Pakistan people returned 19 were placed in custody and 39 were returned to the EU due to poor documentation.<sup>[15]</sup>

## **I. The detailed hotspots “state of play”**

The Commission’s report records that the only semi-operating hotspot in Moria (Lesvos) was carrying out: “screening” (nationality and security), document checks, fingerprinting and registrations. However there were only 22 EURODAC fingerprint devices when there should be 36 in Lesbos (expected at the end of January).

In the five hotspots, when they are finally in place, there needs to be 76 EURODAC fingerprint devices in Greece for the:

*“correct functioning of the system”*

However, on 13 January 90 new Eurodac finger-printing machines were ordered for Greece.<sup>[16]</sup>

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<sup>15</sup> [Pakistan sends deported migrants back to Greece](#) (Guardian, link)

<sup>16</sup> <http://www.statewatch.org/news/2016/jan/eu-com-review-refuge-crisis-eurodac.pdf>

Frontex, Europol and EASO (European Asylum Support Service) are in the hotspots and above them there is a panoply of bureaucracy being set up to try and establish control. In addition to the SRSS, EU-Lisa (which deals with EU-wide databases).<sup>[17]</sup> All come under the EU Regional Task Force in Pireaus (Greece's main port bordering Athens) and a working group of Greek authorities, the European Commission, EU agencies and UNHCR:

*“established to optimise the organisation of the hotspots and plan the necessary deployments in terms of assets and experts.”*

Though recognising that Greece has had a difficult job the Commission lays the blame on the Greek authorities for failing to fingerprint “migrants arriving irregularly”:

*“the Commission has issued a Letter of Formal Notice on 10 December requesting further information from the Greek authorities concerning the existing situation. The Commission has noticed discrepancies between the number of illegal border-crossings detected at the Greek external borders and the number of people fingerprinted. For the period from 20 July 2015 to 30 November 2015 Frontex data reports 492,744 irregular arrivals of third country nationals in Greece. Eurodac statistics for Greece indicate that only 121,325 third-country nationals were fingerprinted.”*

The Commission should not be surprised as by its own admission Greece did not have enough EURODAC fingerprinting machines. Equally, Greek authorities have for years not been fingerprinting all refugees and passing their details to EURODAC because to do so – and the same goes for Italy – would have meant, under the Dublin System, that hundreds of thousands of refugees could be returned to the first EU country they entered through. At the same time Frontex figures are inflated as they have admitted to “double-counting” <sup>[18]</sup>.

### **What does the Commission says still needs to be done?**

First, the construction of all five hotspots should be completed by the end of January – over local opposition “Construction works at Kos should commence immediately” and a “location” identified in Samos.

Second, Greece, the Commission, EU agencies and UNHCR should: “optimise the organisation of hotspots” and in this context:

*“a structured system for **disembarkation at official disembarkation points** as well as:*

*Appointed coordinators for the islands should be empowered by way of dedicated transportation to the hotspot areas should be established.”* [emphasis added]

And Terms of Reference put in place: **”to coordinate all relevant governmental and non-governmental players involved in the hotspot locations.”**

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<sup>17</sup> See for a summary of EU presence in Greece: pp 6-12 at Point 10:

<http://www.statewatch.org/news/2016/jan/eu-council-multilateral-ija-agencies-scorecard-14784-15.pdf>

<sup>18</sup> Frontex double counts migrants entering EU: <https://euobserver.com/migration/130661> Frontex “Clarification: Frontex provides monthly data on the number of people detected at the external borders of the European Union. Irregular border crossings may be attempted by the same person several times in different locations at the external border. This means that a large number of the people who were counted when they arrived in Greece were again counted when entering the EU for the second time through Hungary or Croatia.” This is why the Frontex figures always exceed those of IOM and UNHCR.

The EU state plans to take over the monumental work that civil society has undertaken since the beginning of the year (and before) to welcome refugees on the beaches, provide them with water, food and clothing and safe passage for their onward journey – when there was not an EU agency in sight for most of 2015. [<sup>19</sup>]

At the time of writing the uglier side of state power is beginning to emerge in Lesvos. On Thursday 14 January five lifesavers (from Spanish and Danish NGOs) were arrested and charged with the facilitation of illegal entry into the country of refugees and immigrants when they set out to rescue a refugee rubber dingy (which is their job). They were released from custody but bail was set at 5.000 euro each and 10, 000 euro for the Dane who owns the boat. They will appear in court, at a date to be set, to answer the charges. [<sup>20</sup>]

Equally disturbing is a new policy of requiring all NGOs and volunteers to register with the police:

*“Mr. Marios Andriotis, Senior Advisor of the Mayor, explained the role the Municipality has taken on to facilitate and enable organisations and volunteers to respond to the humanitarian crisis. He noted that the registration process for NGOs and volunteers, now under the authority of the Ministry of Migration Policy, would be completed by late February. The Municipality can guide and assist organisations and individuals with the required paperwork for registration.”* [<sup>21</sup>]

On the ground NGOs and volunteers are being told to leave the landing places and not to encourage refugees: “You will do what you are told to do”. [<sup>22</sup>]

For months hundreds of thousands of refugees arrived in the Greek islands to find a welcome from local and visiting volunteers from all over the EU and further afield. As the “crisis” developed over the year the EU political elite and institutions dithered and procrastinated, publicly fell out with each other and failed to respond both to a manifestly evident humanitarian crisis in the Med and inside and failed to confront openly xenophobic and racist governments. It was EU civil society and a host of volunteers which responded with humanity, compassion by raising money, sending parcels and most important of all going to the Greek islands to help. And as refugees made their way up the EU it was again civil society who met them at bus and train stations – while EU governments have built “walls of barbed wire”.

**Instead of working alongside volunteers and NGOs - who have put the EU to shame - the EU state seeks to place those prepared to “cooperate” under its control and to exclude those who do not.**

Third, the need for “cultural mediators/interpreters” in hotspots should be defined. There is **no mention at all of the crying need for refugees to be provided with legal aid** and an appeals system to stop the EU’s unlawful policy of mass “nationality screening” with a view to maximising “returns”/refoulement.

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<sup>19</sup> [Eric Kempson - Again](#) (link): It is alleged that employees of the International Rescue Committee are telling civil society volunteers - who have been working for months welcoming refugees as they arrive in the EU - to "get off the beach"

<sup>20</sup> <https://www.facebook.com/7solidarityplatanos/?fref=fb>

<sup>21</sup> UNHCR: Lesvos: Coordination Meeting: Minutes, 7.1.16

<sup>22</sup> And see: Another Abusive Letter 15/01/2016: Letter to NGOs: <https://www.youtube.com/watch?v=3OEguGmaX6c&feature=youtu.be>

The October Progress report on Italy says regarding the refusal to consider certain nationalities for relocation:

*“Italy should consider as a matter of priority possible ways to increase the overall efficiency of its asylum procedure in order to ensure swift treatment of people who are not eligible for relocation and to ensure consistency of decisions. **This could include also the appeal system** in order to streamline it and achieve faster decisions at second instance.”* [<sup>23</sup>] [emphasis added]

The report on Greece contains no such suggestion for the introduction of an appeals process against refusal of relocation.

Fourth, In addition to “security” screening by Europol in hotspots for “smugglers” and their routes:

*“IT systems should be updated to first deploy a fully - fledged Automated Fingerprinting Identification System (AFIS) and then to ensure that interconnections between national and EU/international databases are established, thereby allowing for a full check of arriving migrants against Schengen Information System (SIS) II/Interpol Stolen and Lost Travel Documents (STLD) databases.”*

## **II. Relocation – state of play**

The “relocation” process is in a total mess, primarily because as the Commission admits:

*“Member States should substantially increase their pledges under the relocation programme.”*

As at 18 January 2016 the Commission’s own figures show that only 17 EU Member States out of 28 are offering 4,237 places to meet a need of 160,000.

By 18 January 2016 only 82 asylum-seekers had been relocated by Greece and:

*“At present there are more relocation candidates than places for relocation. Only 9 Member States have made available 305 places for relocation candidates [to Greece].”*

Notwithstanding these damning facts the Commission tells Greece that:

*“The capacity to register and process asylum applications needs to be substantially increased.”*

UNHCR’s observations on the failure of the relocation scheme states that:

*“The lack of operational hotspots in Italy and Greece means the majority of arrivals are currently not going through the hotspots. The issue of what will happen to those arriving outside the hotspots needs to be addressed. In this context, the European Commission should seek assurances that all persons will be registered according to EU standards, including security checks upon arrival, and that a strategy is developed concerning people who refuse to give their fingerprints, which has been a major problem over the past two years”* [<sup>24</sup>]

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<sup>23</sup> October report on Italy: Annex:

<http://www.statewatch.org/news/2015/dec/eu-com-sop-italy-annex-3-com-510-15.pdf>

<sup>24</sup> See p3: <http://www.statewatch.org/news/2016/jan/unhcr-relocation-schemes-jan-16.pdf>

It view of EU Member States' responses is politely scathing:

*“Reportedly, some Member States have withdrawn places indicated as available to gain time to make reception arrangements, **and previously available places were reduced significantly just before the actual transfers were to take place.** This has caused frustration amongst asylum seekers whose departure has had to be delayed for an unspecified period....*

*The preference issue: The more preferences Member States attach to their indications that they are ready to relocate applicants, e.g. **nationality, composition of relocation groups, families, single persons, language skills, vulnerabilities, etc.**, the more complicated and slower the matching and relocation process is. **Some Member States appear to have attached to their indications a long list of preferences and additional limiting conditions related to language skills, vulnerabilities, etc., which significantly complicates and delays the matching process. Reportedly, other Member States have limited places to just one of the qualifying nationalities due to a lack of interpreters, or have explicitly excluded vulnerable cases.** It should be recalled in this context that, while preferences expressed by Member States are meant to inform the matching process, they are not binding on Italy and Greece” [25] [emphasis added]*

“Relocation” policy is an abject failure.

### III. Returns – State of Play

First, the Commission blandly demands that Greece:

*“return illegally staying third country nationals to their country of origin, Greece still lacks a structured and comprehensive return strategy, in particular regarding forced returns and the detention option where applicable.”*

To date this year there have been 16,131 forced returns by Greece, the vast majority being to Albania (which has been going on for years). In addition there have been 3,460 so-called Assisted Voluntary Returns and through EU Frontex Joint Operations 92 people have been forcible returned (to Georgia, Nigeria and Pakistan).<sup>[26]</sup>

5,400 detention places are available which is considered “sufficient” as there is a limited capacity to “perform forced returns”. But there are:

*“**Severe shortcomings related to conditions in detention – in particular in the provision of food supplies – have been identified. This needs to be improved immediately.**” [emphasis added]*

#### - What still needs to be done?

First, “Greece needs to step up forced and voluntary returns” which should focus:

*“more on the nationalities most relevant in the context of hotspots (Pakistanis, but also Afghans, Iranians and Bangladeshis), instead of the current focus on nationals of Albania and the former Yugoslav Republic of Macedonia.”*

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<sup>25</sup> Op.cit: pages 5-6

<sup>26</sup> See: ANNEX:

<http://www.statewatch.org/news/2015/dec/eu-com-greece-hotspot-rep-com-678-15-annex.pdf>



Second, the EU itself needs “further efforts” to ensure “readmission of third-country nationals by Turkey” – however under this agreement the readmission of third-country nationals does not apply for a couple of years. It is unlikely to agree if Turkey were to take in hundreds of thousands of “third-country nationals”. who have entered the EU via Greece. being sent back to them.

#### IV. Improving Border Management

A joint Frontex and Hellenic Police operation has been set up at the border with Macedonia in Idomeni. The EU expects that that JAP – the Joint Action Plan with Turkey – “should lead to a measureable reduction in refugees.”

Then the activation of the Rapid Border Intervention Teams (RABITs) as from 10 December 2015 will lead to an:

*“upgrade of the Poseidon Sea Joint Operation”* [<sup>27</sup>]

The express purpose of RABITs is to combat: *“large numbers of third-country nationals trying to enter illegally the territory of the Member State”* [<sup>28</sup>]

We have yet to see what effect either JAP or Poseidon will have: “pushbacks” by EU boats then Turkish pushbacks to the embarkation shores?

#### V. Reception

Belatedly – after months and months – the EU is getting around to providing reception centres. There will be 7,000 on the hotspot islands and 20,000 on the mainland. The “pre-removal” capacity stands currently at 5,400.

#### VI. Re-imposing the Dublin system

Finally, the sting in the tail is not mentioned in these “Progress reports”. On 23 September 2015 in its Communication on the immediate needs under the European Agenda for Migration the Commission says in the section on “the Implementation of EU law” that special attention needs to be paid to Greece:

“to prioritise the normalisation of the situation and a **return to the Dublin system within the next six months.**” [<sup>29</sup>] [emphasis in original]

“**Key Actions to deliver with six months**” on the Implementation of EU law include:

**“Restoring normalcy and taking all measures in Greece needed so that Dublin transfers to Greece can be reinstated within six months**” [emphasis added]

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<sup>27</sup> See: Targeted Update on Turkey:

<http://www.statewatch.org/news/2015/may/eu-council-migratory-pressures-turkey-8161-15.pdf>

24 April 2105 showing Poseidon already in operation. “Poseidon”, in mythology, is the Greek God of the Sea. This is not the first RABIT operation in Greece: “2 November 2010 through 2 March 2011. This was the first instance of an EU member state requesting RABIT deployments on its external borders to confront emergency conditions.”:

<http://www.mfa.gr/en/foreign-policy/greece-in-the-eu/area-of-justice-freedom-and-security.html?page=4>

In December: Poseidon Rapid Intervention replaces the Joint Operation Poseidon Sea:

<http://frontex.europa.eu/news/frontex-launches-rapid-operational-assistance-in-greece-u3rqPy>

<sup>28</sup> <http://www.statewatch.org/news/2015/dec/eu-com-factsheet-rabits.pdf>

and: <http://www.statewatch.org/news/2015/sep/eu-com-managing-refugee-crisis-com-490-annex-3.pdf>

<sup>29</sup> Managing the refugee crisis: immediate operational, budgetary and legal measures under the European Agenda on Migration: <http://www.statewatch.org/news/2015/sep/eu-com-managing-refugee-crisis-com-490.pdf>

The deadline of 31 March 2016 has been set for Dublin to become operative and allow the return of refugees who first entered the EU in Greece – however enforcing internal returns could be open to legal challenge. [30]

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<sup>30</sup> The European Council 17-18 December concluded that: "The Commission will rapidly present a review of the Dublin system" [EUCO 28-15, 18.12.15]. The Commission in COM-510-2015 says it is going to assess the situation whether to recommend reinstatement of Dublin transfers to Greece by March 2016.