Preface

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At the moment of writing this preface to the report of Giota Theodoropoulou on the Greek asylum procedure, a record number of 75,000 migrants is staying in Greece. The reception centres are overcrowded, thousands of families with minor children are living in the streets or in self-built tents. It is clear that Greece is not able to fulfill its obligations under the Common European Asylum System and the EU Charter, the Refugee Convention and the European Convention of Human Rights. Asylum seekers in Greece are staying there under inhuman and degrading circumstances. This leads to the question whether this is solely the responsibility of Greece or if an obligation rests on the other EU Member States as well.

The situation is at least partly caused by EU Member States that in March 2016 closed a deal with Turkey in order to end irregular migration from Turkey to North-West Europe via the so-called Balkan route. According to this deal Turkey would take back migrants that had entered Greece in an irregular manner. In exchange for that Turkey would receive financial support for the reception of refugees, the visa requirements for Turkish citizens would be abolished and the accession negotiations between Turkey and the EU would be speeded up. Furthermore, a so-called one to one exchange was agreed upon. For each Syrian that would be returned from the Greek Islands to Turkey, another Syrian would be brought to the EU by Turkey. The legal status of this deal is unclear. According to the Court of Justice of the EU it is not an EU-agreement but an agreement of the Member States with Turkey, meaning that EU law is not applicable.

Greece is according to EU-law, especially Directive 2013/32/EU (on Asylum Procedures), obliged to process every asylum request, also requests from asylum seekers who travelled to Greece via Turkey. The Turkey deal is however based on the presumption that Turkey is a safe third country. Article 33, par. 2c Directive 2013/32/EU allows Member States to return asylum seekers to a safe third country without dealing with their asylum claims on the content. This is also implemented in Greek law. Consequently many asylum applications from asylum seekers who travelled via Turkey were declared inadmissible.

However, is Turkey really a safe third country and does it fulfill the requirements of Article 38 Directive 2013/32/EU? It is known that Turkey has returned many Syrian asylum seekers to Syria, without offering them the possibility to lodge an asylum request. Since the failed coup d’état the human rights situation in Turkey has deteriorated. Freedom of speech has been restricted and torture, cruel, inhuman and degrading treatment and punishment on a large scale were reported.
Moreover, Turkey would insufficiently protect particular social group like Alevis and Christians against discrimination and violence. Finally, Turkey has made a reservation to the Refugee Convention. Only people of European origin can be recognized as refugees by Turkey, meaning that for example Syrians, Afghans and Iranians cannot be recognized as such. Although Turkey offers some alternative temporary protection for those groups, this cannot be seen as protection as required by the Refugee Convention.

This report is, however, not about the situation in Turkey but about the situation for asylum seekers in Greece. Giota Theodoropoulou has researched both Greek and EU law and whether the situation of asylum seekers in Greece is in compliance with these legal requirements. After that she has interviewed many actors involved, both on EU, Greek and NGO level.

Her research shows that the Greek asylum procedure and reception are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands Lesbos, Kos, Leros, Samos, Chios and Rhodes (for all not there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact there is not one Greek asylum procedure but there are two. A fast-track-border procedure on the islands are failing. In fact they are also disfavoured in comparison to asylum seekers who are examined under the regular procedure. This is the consequence of the fact that the Asylum Service with the help of EASO tends to apply the ‘safe third country’ concept described in the EU Asylum Procedures Directive only in the border procedures. As a result, asylum seekers examined on the six islands have to repute the presumption that Turkey is a safe third country for them. Otherwise, their asylum claim will be considered inadmissible and they can effectively be returned to Turkey.

The implementation of this concept is not only discriminatory against asylum seekers whose claims are examined on the islands according to the fast-track-borders procedures. The objection that asylum seekers can safely return to Turkey also only affects asylum seekers with specific nationalities. EASO tends to propose the safe return to Turkey of Syrians, Afghans and Iraqis whereas the Asylum Service tends to endorse the safe third country concept only with regards to Syrians. The Greek Council of State ruled that Turkey can be considered safe regardless of the fact that Turkey does not fully implement the 1951 Geneva Convention as it made a reservation by the New York Protocol of 1967 with the Convention, which in fact means that the Convention is only considered applicable for asylum seekers fleeing from Europe in order to avoid return to Turkey based on the safe third country concept, asylum seekers examined under the border procedures have had to prove themselves to be vulnerable. Vulnerable persons have access by law to special reception conditions. However, in the current state of affairs, vulnerability has acquired a new function. It has become the only available mechanism for asylum seekers to escape the border procedures and to be examined under the regular asylum procedures, thus avoiding return to Turkey. As a matter of fact, the majority of asylum seekers examined under the border procedures have managed to be recognised as being vulnerable. Therefore, vulnerability is no longer an exceptional measure; it has become the norm. Nevertheless, due to a serious lack of doctors to assess persons claiming to be vulnerable and lack in accommodation on the mainland, vulnerable people have to remain on the islands for a very long time, living under harsh conditions.