



EUROPEAN POLICY BRIEF



PROTECTION IN THE BORDERLANDS OF EUROPE

In this brief, the results of AdMiGov's work package 4 are summarized. Research in Greece, Turkey and Lebanon showed that there are huge gaps in the protection of displaced people.

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INTRODUCTION

There are *gaps* globally, nationally and locally in the provision of protection for displaced people. Some are 'systemic', i.e. endemic in the way protection is officially conceived as bound to migration status. Others are more directly 'political': they are the product of state policies that put state security over the well being of displaced people. A third category are 'conjunctural', i.e. relate to exceptional historical circumstances. During our research in Greece, Turkey and Lebanon we documented the existence of many gaps in all three categories. We particularly found that the lack of sustained and dignified protection for displaced people in the European Union (EU) and its neighbourhood *continues* within a global context lacking clear and enforceable humanitarian protections and *failures* to ensure that the legal right to asylum and refugee status are available and granted.

Recent transnational attempts to address these protection gaps include the Global Compact on Refugees (GCR) and the Global Compact for Safe, Orderly and Regular Migration (GCM).¹ Both the GCR and the GCM rightly foreground enhancing the self-reliance of refugees and empowering migrants to become full members of society. However, these Compacts remain *aspirational* and reliant on application on an issue-by-issue and state-by-state basis, resulting in an effective absence of clear, enforceable frameworks in practice. At other times these aspirations are drastically undermined by government policies that restrict the freedoms and fundamental rights of displaced people.

¹ Global Compact on Refugees (2018) https://www.unhcr.org/gcr/GCR_English.pdf and Global Compact for Safe, Orderly and Regular Migration (2018) https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf

The reliance on the *ad hoc application* of protection set out in the Global Compacts enables the *continued politicisation* of protection for displaced people. Local authorities, governments, and transnational organisations, in the three countries and the EU more generally, enact policies that fail to put the needs of displaced people first and, in certain instances, are actively harmful leading in the worst cases to the death of those seeking protection. In short, protection continues to rely, directly or indirectly, on political will that is often found to be severely lacking.

The lack of sustained and dignified protection negatively impacts those displaced who face the daily challenges of precarious living, including accessing healthcare and accommodation alongside continued challenges in accessing their fundamental legal rights to asylum and refugee status in all three countries. Challenges in accessing fundamental legal rights have serious consequences for protection more broadly. In Greece, Turkey and Lebanon *legal status and having access to the correct documentation govern access to wider protection mechanisms in practice*. Adverse challenges in accessing asylum as in Greece, and the lack of access to asylum as in Turkey and Lebanon — as non-signatories to the 1967 Protocol and 1951 Refugee Convention respectively — result in displaced people facing acute anxiety, (legal) insecurity and an overall inability to plan for the future. Alongside this, the absence of clear and enforceable frameworks, political resistance to the provision of assistance and socio-economic instability means that government institutions, humanitarian organisations and civil society actors face challenges in providing protection on-the-ground. An overall lack of political will, rising xenophobia, increasingly restrictive and exclusionary government policies, and socio-economic instability all negatively impact on the provision of adequate protection, and are directly responsible for the precarity and deaths of displaced people. The Covid-19 pandemic, besides necessitating a rapid change in protection priorities, had an overall negative impact on protection.

Our research has focused on protection at local, national, and transnational levels, giving special attention to discrepancies between protection in theory and in practice. We have researched on the ground protection practices in Lesvos and Athens in Greece; Istanbul, the Evros border region and other cities designated as official registration sites in Turkey; and Bar Elias and Saadnayel in the Bekaa Governate and Saida in Lebanon. While only Greece is a member state of the EU, EU policies, especially those that restrict the mobility of displaced people into the European Union and force them into using unsafe and irregular forms of transportation, alongside EU funding mechanisms and foreign policy aims *impact all three countries*. All three countries tie access to protection to legal status and documentation. This means we have researched both access to legal protections in all three countries alongside access to healthcare and accommodation. Realising that protection is multi-faceted and dependent on political will and wider socio-economic dynamics means that we have focused on not only how legal protections impact access to other protection mechanisms and basic needs.

EVIDENCE AND ANALYSIS

This section will present our key findings from Greece, Turkey and Lebanon which underpin our policy recommendations.

1. Access to legal status

In all three cases displaced people struggle to access legal status. Each country case has a unique legal architecture for registering and providing (or not) displaced people with a legal identity.

In Lebanon the lack of a formal and legal asylum framework means that registration, that is undertaken by the UNHCR, is temporally restricted to those who entered the country prior to 2015 and to those from Syria only. From 2015 onwards

access to temporary residency has been halted and the ability of the UNHCR to register refugees has been denied. This meant that Syrians entering Lebanon received an “entry card” from a General Security Office (GSO) post, which acted as a residency visa for 6-months, renewable for a further 6-months free-of-charge, and with a charge of 300 Lebanese Lira for additional renewals. Those who entered the country without registering at a GSO could apply for a “petition for mercy” to legalise their stay. Currently admission for Syrians is accessible only via specific visa categories that exclude seeking asylum as a valid reason for entry other than in ‘exceptional circumstances’ that must be approved by the Ministry of Social Affairs.

In Turkey access to legal status is determined by nationality with additional geographic restrictions. Syrians can access Temporary Protection Status (TPS) in a province of their choice. However, since 2018 newly arrived Syrians have been prevented from registering in Istanbul and Syrians registered in other provinces have been subject to forced returns to those provinces. Non-Syrians seeking protection are required to register with the authorities after arrival, however, they are not free to reside in a province of their choice. Instead, non-Syrians are assigned to a ‘satellite city’ where they are required to reside and to regularly present themselves to the authorities. Non-Syrians seeking protection may be granted one of two International Protection (IP) statuses: Conditional Refugee Status or Subsidiary Protection. From our research it was clear that the differences between these two statuses is vague in both policy and practice. However, from our research we were able to understand that access to conditional refugee status is based upon the ability to provide all necessary supporting documentation and, in some instances, whether the UNHCR has previously granted refugee status. Conditional Refugee Status is most often granted to Iraqis and Iranians. Subsidiary Protection meanwhile is granted to those who may be eligible for but do not meet the criteria for Conditional Refugee Status but have been determined, by the Turkish Directorate General of Migration Management (DGMM), to need protection.

In Greece displaced people are required to register physically at a Registration and Identification Centre (RIC), or at a border police station if detained and in certain locations before any claim for asylum status can take place. For those cases that have not registered at a RIC, registration is done via an overburdened Skype-based appointment system. Following this, from our research we learned that, in order to lodge an asylum claim an official proof of residency may be required in some, but not all, instances. For many people living outside official accommodation official proof of residency can be almost impossible to obtain due to the ad hoc and informal nature of their accommodation, if, for example, they are living with friends, family or in informal housing. Applying for asylum is not the end of the struggle for legal status however, as people can wait many months, even years, to receive a decision, while the ‘geographic restriction’ means they must wait on the Aegean Islands until their claim is decided. Additionally, in Greece displaced people, in certain instances, are prevented from accessing registration procedures and the subsequent right to claim asylum through illegal pushbacks. This is where Greek authorities forcibly return people across the land border, force boats into Turkish waters and, in some instances, force people back into boats and back into Turkish waters after their arrival on Greek territory. The lack of an independent monitoring mechanism that will effectively limit the politically arbitrary violation of the conventional obligations of member states by their governments allows this highly controversial phenomenon to become ‘normal’ practice.

2. Access to basic needs determined by legal status

In all three cases we found that access to basic needs, including healthcare and accommodation was determined by legal status which, as we have seen in the previous section, people struggle to obtain.

In Lebanon the lack of a formal and legal asylum framework was the most discussed issue in our research due to its impact on other areas of protection and, as a result, its profound effect on peoples’ lives and well-being. In our research the lack of

effective legal status for many displaced Syrians in Lebanon impacts people's ability to obtain and maintain secure housing, with those without legal status facing threats of eviction. Meanwhile the lack of legal status also limits peoples' access to secure employment with which to support their basic needs with the result that Syrians are reliant on communal, formal, or informal aid mechanisms. Our research also found links between the lack of legal status and an increasing risk of exploitation both in the housing sector and in the labour market with very few displaced Syrians able to access housing assistance from the UNHCR. In accessing healthcare, again legal status plays a role. The UN provides much-needed assistance for hospital fees, including for births and occasionally for therapy. However, displaced Syrians still struggle to afford the costs. We found that the high cost of healthcare has left 38% of our respondents either unable to afford medical treatment or being denied access to hospital in case of emergency. Importantly 20% of our respondents reported being denied access to hospitals without documentation of legal status. Furthermore, accessing healthcare is not one of the visa categories governing entry into Lebanon and accessing healthcare is not considered an 'exceptional circumstance'.

In Turkey our research showed that differential legal statuses impact access to basic needs. For example, access to primary healthcare is far more developed and institutionalised for Syrians with TPS than for non-Syrians who may have either Conditional Refugee Status, Subsidiary Protection or no status at all. Healthcare access is also limited geographically to provinces of registration, or assigned satellite city, meaning that those displaced people living elsewhere, or as discussed in the previous section those prevented from registering in Istanbul, struggle to access healthcare unless at great financial cost and at times reliant on systems of social capital. Legal status also determines access to the benefits of specific financial mechanisms for providing healthcare. For example, the EU funded SIHHAT Project, which aims to overcome linguistic and cultural barriers to healthcare and to integrate Syrian healthcare professionals into the healthcare system while relieving the existing system, is responsible for the provision of 977 health centres across 29 provinces. However, these 977 health centres are only accessible to Syrians with TPS. For those with IP access to healthcare without costs not only face geographical restrictions but temporal restrictions as well. Since 2019 the healthcare needs of non-Syrian adults are only covered by the Turkish state for one year following registration after which people are expected to pay for private health insurance.

In Greece access to both healthcare and accommodation is dependent on having first registered at a RIC and applying for asylum along with the subsequent ability to provide necessary documentation such as a social security number and card. Those without the necessary documentation are reliant on NGOs and other unofficial humanitarian actors for access to healthcare. Meanwhile, accessing specific healthcare needs, such as psychosocial support and accommodation, for example for those with health needs that make living in the RIC accommodation unsafe, are further determined by vulnerability assessments which act in practice as an additional legal status governing displaced people's ability to access basic needs. Accommodation in Greece falls into two main categories, camp accommodation and private accommodation access to which is governed by the ESTIA programme. Access to both is linked to being registered and having an active asylum claim. However, access to accommodation offered in both camps and through the ESTIA programme is conditional on being an asylum seeker. Therefore those with refugee status are no longer eligible for support. This has meant that, for instance, refugees have been evicted from camps and ESTIA supported accommodation without replacement accommodation in place and eventually were led to homelessness.

3. Restrictions on mobility leading to greater protection needs and precarity

In all three cases restrictions on the mobility of displaced people lead to greater protection needs and precarity.

In Lebanon our research highlighted how restrictions on entry have led to displaced people having to take dangerous journeys, either employing informal networks or facing harassment from Lebanese authorities. Half of our respondent reported being subjected to arrest upon entering the country following the ending of the Bilateral Agreement governing movement between Syria and Lebanon in 2014, while a third experienced detention ranging in most cases from a few hours to a few weeks, with one report of someone disappearing entirely since being arrested upon entry five years earlier. Following entry, routine, and frequent checks on people's legal status by the authorities at checkpoints place limits on the mobility of displaced people within the country as they fear harassment and arrest by the authorities. This in turn impacts on their ability to access basic needs including healthcare, to participate in the labour market free of harassment and to live free of insecurity.

In Turkey our research has shown how protection is based on restrictions on internal mobility and on keeping displaced people in the provinces of first registration, with some provinces e.g. Istanbul being off-limits entirely. In addition, we have observed how displaced people are increasingly pushed to register in provinces with weaker reception facilities, fewer work opportunities and insufficient humanitarian assistance to meet people's basic needs. The situation has the result of pushing displaced people to make choices between legal status and the protection that comes with it in less economically developed provinces and economic opportunities in big cities, e.g. Istanbul, where they can access the informal labour market and there are more established community networks both of which enable displaced people to meet their basic needs. Furthermore, the policy of removing access to or the legal status of IP from non-Syrians who fail to remain in their assigned province results in people being subjected to precarity both legal and material and increasing the possibilities for exploitation on the informal labour and housing markets.

In Greece mobility restrictions leading to greater protection needs and precarity occur in the first instance during entry at the border. EU visa policies and strict carrier's liability mean that displaced people without the necessary documentation e.g. those who are unable to acquire a Schengen visa and/or those without passports are put at risk by being denied access to safe and legal transportation. Here again we see how differentiated legal status fosters harm and in some instances deaths at sea or along the land border. Mobility restrictions in Greece are not restricted to the initial moment of entry. The *geographic restriction* that is in place following 2016's EU-Turkey Statement requires those seeking asylum to remain on the Aegean islands until the settlement of their claim, unless they fall under a specific category of vulnerability e.g. they require medical treatment only available on mainland Greece. During the time of our research, it was clear, that forcing people to remain on the islands, in contravention of their human right to mobility, generated further protection needs and greater precarity due to an overall lack of adequate facilities, including accommodation, water, sanitation and hygiene (WASH), access to healthcare and severe overcrowding. These poor conditions not only undermined the rights of people to live in dignity and free from harm but in some instances led to the deaths of displaced people e.g. from fires burned to keep warm in unwinterised tents in the RIC. In our research we were also able to observe increased restrictions on mobility during the *Covid-19 pandemic* that were specifically targeted at the displaced population. The imposition on March 21, 2020 of Common Ministerial Decision Δ1 α/ΓΠ.οικ. 20030/2020 resulted in displaced people being *confined* to RICs and all other camp-like facilities. This confinement continued long after the wider lockdown on the Greek population had been lifted, meaning that the displaced population were not treated equally under public health policy. Alongside these restrictions on mobility for displaced people, humanitarian workers were denied access to the RICs and other camp-like facilities housing displaced people. These restrictions were in part justified due to the extreme vulnerability of the RIC residents due to the poor conditions and overcrowding.

4. Protection gaps as the product of government policies and political decisions

Our research across all three countries has highlighted how protection gaps are not only the result of displacement itself but are the product of government policies and deliberate political decisions.

In Lebanon the ending of the Bilateral Agreement governing mobility between Syria and Lebanon underpins a general environment of insecurity for displaced people who have arrived since 2015. The inability to access legal status even through the UNHCR creates an overall situation of precarity has resulted in numerous protection gaps and UNHCR being able to register people.

In Turkey the restrictions on internal mobility and the provincial limits on residency that underpin people's access to protection both legal and material are generative of a number of protection gaps. Decisions to limit the rights of people to live in Istanbul have led to irregularisation and have placed people at risk of increased exploitation as they attempt to access basic needs such as accommodation and healthcare. In addition, the introduction of SIHHAT funding for healthcare has resulted in the closure of NGO run health clinics which has limited access to healthcare for those without legal status.

In Greece the geographic restrictions have led to overcrowding in reception facilities on the Aegean islands putting lives at risk as a result. This has been compounded by long-term failures to provide adequate reception facilities that provide winterised accommodation and adequate WASH facilities. Furthermore the 2019 International Protection Act (IPA) has reduced the vulnerability criteria and thus subjected greater numbers of people to the geographic restriction of forced immobility on the Aegean islands. The reduction in categories of vulnerability, e.g. those with PTSD, shipwreck survivors and postnatal women, deprives people of access to proper psychological and medical assessments, reduces their access to adequate accommodation and in some instances places them at greater risk of refoulement. In addition, the IPA mandates the creation of closed reception facilities that promise to place further mobility restrictions on the displaced population.

Alongside our three country cases our research has also considered the wider transnational policy arena in which protection needs and gaps arise. As a result, it is impossible for our research to ignore the role of the EU and its member states in the creation of protection gaps. This production begins with EU border controls that place displaced people at risk a priori as they are denied access to safe and legal transportation when entering the European Union based on their countries of origin that sees them subject to the Schengen Visa regime and/or an inability to access necessary travel documentation including the aforementioned visas and in certain instances passports e.g. Syrian resident UNRWA registered Palestinian refugees. The denial of access to safe and legal transportation is directly responsible for the deaths of thousands of displaced people at the EU's borders² as they are forced into financially exploitative and dangerous relations with organised criminal networks. Here we have seen repeatedly how EU border policies foster organised crime and generate serious insecurity and violence in third countries e.g. Libya. In addition to official policies that foster harm and death, there are the practices of pushbacks undertaken by member state security forces, including the Greek Coastguard. These pushbacks as well as denying people the right to claim asylum in the EU and putting the principle of non-refoulement into question they have also resulted in deaths.³

² For up-to-date figures as to the number of recorded deaths at the borders of the European Union see the Missing Migrant Project, <https://missingmigrants.iom.int/>

³ Lighthouse Reports (2022) Aegean Pushbacks Lead to Drowning, 17 February, <https://www.lighthousereports.nl/investigation/aegean-pushbacks-lead-to-drowning/>

Based on our research findings we detail the main policy implications and recommendations.

We start by reiterating two important policy points raised in our *Greek* report and of particular interest to the EU. The first concerns the poor *administration of data*. As accurate data is a fundamental component in the provision of protection we suggest the overall improvement in the collection, publication, and quality of data. We recommend:

- **Data relating to displaced peoples' access to services including legal protection, healthcare and accommodation must be standardized and published in a systematic and timely manner.**
- **Data facilitating accurate reporting and responses to protection needs in particular localities must be disaggregated.**

The second concerns the huge discrepancies between protection in theory and in actual practice and failures to adequately *monitor the provision of protection* in accordance with the existing EU legal framework. The long running controversy over 'pushbacks' in the Greek-Turkish maritime border leading to the resignation of the Director of Frontex is a good example.⁴ This is a failure in monitoring and accountability both at the EU and member state (Greek) level. Therefore, we recommend:

- **A robust monitoring system with the will and power to act on failures must be established in order effectively prevent the reproduction of state practices that put displaced people at risk.**

Further, our *comparative* findings can be clustered around three key implications.

First, displaced people struggle to access legal status because of denying legal status in the first instance or through restrictions on and delays in granting legal status. As a result:

- The rights of displaced people to claim and be granted asylum must remain a first order concern.
- Where frameworks for asylum do not exist, or grounds for asylum are not met displaced people must be given access to a legal status that enables them to exercise their fundamental rights.

However, it is also clear from our research that severe protection gaps emerge from making access to basic needs dependent on legal status. Therefore, legal status alone is not sufficient in ensuring the basic needs of displaced people are met. While we acknowledge the important role accurate recording and registration play in providing efficient relief in situations of displacement such recording need not equal legal status. In addition, limits in accessing legal status directly foster protection gaps. In all three cases it is the national governments that are responsible for fostering and maintaining the dependency between legal status and protection access. As a result, we have the following policy recommendations:

- **Access to protection must not be conditional on legal status and the provision of basic needs must be decoupled from legal status.**
- **The law and legal mechanisms must not put displaced people at risk or generate additional precarity for displaced people.**

⁴ <https://www.theguardian.com/world/2022/apr/29/head-of-eu-border-agency-frontex-resigns-amid-criticisms-fabrice-leggeri>.

Second, we were able to identify key areas in the provision of healthcare and accommodation where access was dependent on the mediation of humanitarian and civil society actors that decoupled protection from legal status. The work of humanitarian practitioners and civil society groups is important, particularly in exceptional circumstances, and commendable, yet it is complementary and cannot be treated as a substitute to the state's obligations to offer protection. While governments through their own policies tie access to basic needs to legal status they must also be prepared to provide such basic needs themselves. Therefore, we recommend:

- **Governments must not solely rely on humanitarian organisations or civil society to fill protection gaps.**
- **Governments must secure a safe environment for the free operation of humanitarian actors and civil society organizations offering protection.**

Third, it is also clear from our comparative data how restrictions on displaced people's freedom of movement generate precarity in both urban and camp settings. This undermines the aspirations of the GCM that aims to "save lives and keep migrants out of harm's way"⁵ and in addition undermines both Compacts' aims at enhancing self-reliance and empowering displaced people. Furthermore, it is clear from our research how EU border policies which deny access to safe and legal transportation to many displaced people undermine the aspirations of the GCR and GCM to both "save lives and keep migrants out of harm's way"⁶ and "ease pressure on host countries".⁷ Additionally our research clear shows how restrictions on movement are used to address existing and emerging protection gaps. As a result, we recommend:

- **Freedom of movement as a fundamental right must always apply to displaced people regardless of location or legal status.**
- **Protection needs must not be used to deny displaced people the right to freedom of movement.**
- **Public health crises must not be used to restrict the rights of displaced people.**
- **Detention in closed-camp facilities should not be used to address protection gaps.**

RESEARCH PARAMETERS

The ADMIGOV project's work package on protection in the borderlands of Europe took the GCR and the GCM as starting points for thinking about protection issues amongst people on the move and people stuck. This was in recognition of the apparent policy problem identified by key actors in migration governance, including the UNHCR, IOM, and the EU. At the same time the work package started from the position that *existing legal protection mechanisms*, the Refugee Convention of 1951 and the Protocol of 1967, are *inadequate* at addressing a complex set of protection needs that fall outside of these frameworks; occur where such legal protections are not in place; or where states and international organisations do not live up to their responsibilities. Furthermore, the work package acknowledged that refugees and migrants face differing protection needs in different contexts of instability and at different stages of their journeys

⁵ Global Compact for Safe, Orderly and Regular Migration (2018), p.3.

⁶ Ibid.

⁷ Global Compact for Refugees (2018), p.2.

As protection is multi-faceted, we utilised the Sphere Standards⁸ that set out ‘minimum’ standards for protection in humanitarian responses. The Sphere Standards, compiled by a consortium of humanitarian organisations offered us a comprehensive set of practical guidelines that could be utilised to analyse the protection provision in a broad range of contexts.

However, for us protection is not *only* an abstract formal principle with a rich legal superstructure focused on legal rights, or a technical problem to be fixed through the implementation of minimum standards for the provision of basic needs as suggested by the Sphere Standards. Instead, we analysed protection as a combination of informal and formal practices to be studied through a *bottom-up approach* focusing on *protection on-the-ground*. This approach enabled us to account for systemic issues, fluctuations in needs and assistance, local, national, and transnational dynamics as well as the intense politics of protection work.

The multi-faceted nature of protection led us to focus on three important areas of protection — legal, healthcare, and accommodation — that allowed us to highlight the links between legal protections and access to basic needs and to operationalise the protection principles of the Sphere Standards in a manageable manner. However, our focus on protection in practice enabled us to investigate protection needs beyond the minimum standards of the Sphere Standards, to move beyond legal understandings of protection and to consider protection more holistically and within situations of wider socio-economic precarity. A focus on legal protection, healthcare and accommodation were also chosen because they are cross-cutting concerns that impact all displaced people regardless of age, gender, race, family status and/or sexuality.

PROJECT IDENTITY

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⁸ Sphere (2018) *The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response*. <https://spherestandards.org/wp-content/uploads/Sphere-Handbook-2018-EN.pdf>

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FURTHER READING	<p>Polly Pallister-Wilkins and Evythimios Paptaxiarchis (2022) <i>Protection beyond legal-centrism and containment</i>. AdMiGov Deliverable 4.4, Amsterdam/Mytilini: University of Amsterdam/University of the AEGEAN.</p> <p>Polly Pallister-Wilkins, Anastasia Anastasiadou, Alexandra Zavos and Evythimios Papataxiarchis (2021) <i>Protection in a Hostile Environment: An on-the-ground study into protection practices in Lesvos and Athens</i>. AdMiGov Deliverable 4.1, Amsterdam: UvA.</p> <p>Sibil Karadağ and Aysen Üstübcü (2021) <i>Protection during pre-pandemic and COVID-19 periods in Turkey</i>. AdMiGov Deliverable 4.2, Istanbul: Koç University.</p> <p>Maria Gabriella Trovato, Nayla Al-Akl and Dana Ali (2021) <i>Displaced Syrians in Lebanon: Protection amidst Crises</i>. AdMiGov Deliverable 4.3, Beirut: American University of Beirut.</p>