



The Implementation of the Hotspot Approach in Italy

CONDISOBS Policy Paper No. 2

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Executive summary

The hotspot approach was introduced by European Agenda on Migration on the 13th May 2015 in order to identify, register and fingerprint migrants arriving by sea at the external borders of the European Union. It has then been implemented in Greece and in Italy.

The hotspot approach establishes a mechanism through which newly arrived migrants can be rapidly sorted into “legitimate asylum seekers” or “economic migrants”. In practice, this classification is based on the criteria of nationality although EU law requires states to assess asylum applications on an individual basis.

Italian authorities did not pass specific legislation to regulate the establishment and functioning of hotspot centres. The implementation of the hotspot approach in the Italian context has therefore taken place in a legal vacuum and has been characterised by a marked flexibility. Identification and screening procedures that are typical of the hotspot approach have also been deployed beyond formal hotspot facilities, for instance in ports and police stations.

The hotspot approach has paved the way for an extensive use of detention of newly arrived migrants for identification purposes as well as for the systematic exclusion of certain groups of migrants from the asylum procedure based on their nationality. Inadequate provision of information to migrants about their rights and the procedures applied to them have been permanent features of the operationalisation of the approach in Italy.

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The hotspot approach

On the 13th May 2015, the [European Agenda on Migration](#) introduced the [hotspot approach](#) in order to re-establish control over the unauthorised migratory movements to and within Europe, which were happening at a substantial scale at the time. These movements had called into question the ability of the European Union (EU) to control its internal and external borders and govern migration. The size of so-called “[secondary movements](#)” – unauthorised migration from the first country of entry to another European country – was particularly relevant. This created tensions between member states and between some of them and EU institutions.

By introducing the hotspot approach, the European Commission intended to reaffirm and enforce a key principle of the EU politics of migration management – the principle according to which migrants who arrive “irregularly” in the EU must be stopped at EU’s external borders and dealt with by the countries in which such borders are situated. From the perspective of the Commission, “irregular” arrivals at the external borders constitute so-called “mixed-migration flows”. This expression denotes the mixed composition of newly arrived migrants, meaning that some of them are deemed to be seeking protection (e.g. from war, persecution, indiscriminated violence, or severe human rights violation), whereas others are considered “economic migrants” looking for better living conditions.

Although this distinction is blurred in practice, as the reasons behind migratory choices are often complex and manifold, the hotspot approach establishes a mechanism through which newly arrived migrants can be rapidly sorted into “legitimate asylum seekers” or “economic migrants”. This classification is pretty much based on the criteria of nationality, even though this is against international human rights law, which provides for the right of everyone to claim asylum and to have their claim assessed on an individual basis, regardless of the country of origin.

The partition into “legitimate asylum seekers” and “economic migrants” takes place shortly after arrival, in designated hotspot areas, where migrants are identified and fingerprinted. After this phase, migrants are then channelled through the appropriate procedure. Those who are labelled as “economic migrants” are directed to the return procedure, even though returns have been traditionally difficult to implement as they require cooperation from the countries of origin. Conversely,

those who are deemed to be genuinely seeking protection begin the asylum procedure which will then establish whether they should be granted refugee status or subsidiary protection, or whether their asylum claim should be rejected. A third possibility was available between September 2015 and September 2017, when [relocation schemes](#) were operating. During that period, asylum seekers belonging to nationalities with particularly high likelihood of obtaining protection (i.e. recognition rate at 75% or above at EU level) were also eligible for relocation, meaning that they could be transferred to another EU member state and have their application processed there.

Hotspot centres and mobile hotspots

The hotspot approach has been hitherto implemented in [Greece](#) and in Italy, even though the Commission did not rule out the possibility of deploying it in other member states in case of need in the future. With respect to Italy, four ports were identified as hotspots by the [Commission](#): Lampedusa, Pozzallo, Porto Empedocle and Trapani. Two more hotspot facilities were supposed to be created in the ports of Augusta and Taranto by the end of 2015. The total capacity of the 6 hotspots, once fully operational, was expected to be 2,200 places: 300 places in Pozzallo; 300 places in Porto Empedocle; 400 places in Trapani; 500 places in Lampedusa; 300 places in Augusta; and 400 places in Taranto.

↳ the actual implementation on the ground was different from the initial design

The actual implementation on the ground was quite different from this initial design. No hotspot facilities were set up in [Porto Empedocle](#) and in Augusta, although the approach was nonetheless implemented during disembarkations in the port of [Augusta](#). Instead, a new hotspot was created in [Messina](#) in autumn 2017, near an emergency reception centre (CAS, *Centro di accoglienza straordinaria*) in the outskirts of the city. The hotspot in [Trapani](#) was operational between December 2015 and October 2018, then it was [reconverted](#) into a pre-removal centre (CPR, *Centro di permanenza per il rimpatrio*), due to low number of arrivals. Considering that the hotspot in Messina is [not currently used](#) anymore, there are

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currently three hotspots left in Italy: Lampedusa, Pozzallo and Taranto. Since the start of the pandemic, the latter two have been primarily used for quarantining migrants after their arrival in Italy.

Variations from the original plan show the flexibility characterising the implementation of the hotspot approach in the Italian context. This flexibility allowed its application beyond the formal hotspot facilities that were listed above. Identification and screening procedures that are typical of the hotspot approach have also been deployed in first reception facilities and in ports that were not identified as hotspots, as well as in police stations (*Questure*) near landing points (especially in Sicily).

These “[mobile hotspots](#)” have been described by Italian authorities as “a team working on the move to ensure the functioning of the Hotspot approach also for landings taking place in ports at a distance from operational Hotspots” (Ministero dell’Interno 2016, p. 7). The European Commission reiterated that “it is key that the hotspot approach is applied constantly as a working method, even when migrants do not physically pass through the hotspots” (2020, p. 40). Such a flexible and mobile actualisation shows how the hotspot approach consists of a set of “operational guidelines”, which have “potentially general application” and are “indicative of a possible model for the management of any incoming mixed flow” (Ministero dell’Interno 2016, p. 7).

Ambiguous legal basis

The flexibility described above is to some extent linked to the lack of legal clarity that surrounds the purpose and implementation of the hotspot approach in Italy. Unlike in Greece, Italian authorities did not pass specific legislation to regulate the establishment and functioning of hotspot centres. Two administrative, legally non-binding documents – the [Italian Roadmap](#) and the [Standard Operating Procedures](#) (SOPs) – were adopted by the Ministry of Interior in 2015 and 2016, providing operational guidelines on the implementation of the hotspot approach in the country. As a result, Italian hotspots have been operating in a legal vacuum for quite some time. Only in April 2017, that is more than one year and a half after the setting up of the first hotspot in Lampedusa in October 2015, the very notion of “hotspot” (*punto di crisi*) was introduced in the Italian legal system by law no. 46/2017.

However, law no. 46 of 13 April 2017 did not provide a full legal framework for the operations of hotspots. Most

importantly, it did not solve the fundamental ambiguity concerning the mandate of these facilities, let alone their mobile version. The hotspot approach thus remained split between the humanitarian activities of first aid and reception and the police operations of identification and fingerprinting. This tension between humanitarian and policing purposes is reflected in the unclear nature of hotspot facilities, because of which it is not always possible to ascertain unequivocally whether they are open or closed centres.

↳ the lack of a clear legal basis has allowed the de facto detention of newly arrived migrants

The lack of a clear legal basis has allowed the hotspot approach to pursue multiple objectives in the Italian context. First, it has allowed the unlawful, de facto detention of newly arrived migrants, including asylum seekers, who are not free to leave hotspot facilities while waiting to be identified and fingerprinted. Such a deprivation of liberty during registration procedures had no legal basis until the adoption of law no. 132 of 1 December 2018, which provides for the administrative detention of asylum seekers for identification purposes for up to 30 days.

Second, the lack of clarity over the scope of hotspot facilities enabled Italian authorities to use them for reasons beyond the objectives of registering newly arrived migrants near border areas. In this respect, a paradigmatic example is offered by the hotspot in Taranto, which has for long been part of the strategy of Italian authorities to fight secondary movements. Unlike other hotspots, the one in [Taranto](#) has often been used to hold temporarily and (re-)identify migrants who had been intercepted near border crossings in the north of Italy (e.g. Bardonecchia, Como, Ventimiglia). Therefore, its purpose has not been that of identifying and fingerprinting newly arrived migrants, but it rather contributed to hindering migrants’ mobility by moving them far away from the border which they presumably wanted to cross. This is evident if one considers that the distance between Ventimiglia and Taranto is almost 1,200 kilometres and that transfers concerned migrants with extremely diverse

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legal statuses, including asylum seekers and migrants holding a regular residence permit, thus people who had already been identified and fingerprinted. This use of the facility in Taranto reveals how the hotspot approach in Italy does not only constitute an identification tool and sorting mechanism, but it also serves the fight against secondary movements.

Sorting newly arrived migrants

Despite the peculiarity of the centre in Taranto, the key objective of the hotspot approach remains the rapid classification of newly arrived migrants into “legitimate asylum seekers” and “economic migrants”. However, the extent to which such classification can be implemented rapidly as *well as* in compliance with international and EU law is questionable. Determining the legal status of newly arrived migrants requires time and work as it involves the consideration of the following pivotal components:

- Everyone has the right to claim asylum and states have a duty to assess applications on an individual basis.
- Efforts to understand the complexity of personal stories and individual reasons behind expatriation should be made.
- Specific tools should be adopted to detect vulnerable cases.
- Adequate information about rights and procedures should be provided to everyone to make sure that everyone is aware of the possibility of claiming asylum.

All these activities are significantly condensed in the implementation of the hotspot approach in Italy, for the sake of rapidity in the identification of newly arrived migrants and in their resulting allocation to the relevant procedure. As many [advocacy groups](#) and [scholars](#) have highlighted, the classification of migrants into “legitimate asylum seekers” and “economic migrants” ends up being based on the criteria of nationality, although this calls into question the very meaning of the right of asylum. People coming from countries that are deemed to be “safe” (e.g. Tunisia) are immediately labelled as “economic migrants”, without even taking into consideration possible individual reasons justifying the flight, whereas people coming from other countries are channelled through the asylum procedure. In this respect, the hotspot approach constitutes a filtering mechanism through which migrants belonging to certain nationalities are excluded from the

asylum process upon arrival in Europe and made deportable.

Restricting access to the asylum procedure

The key instrument for sorting newly arrived migrants into “legitimate asylum seekers” and “economic migrants” is the so-called *foglio notizie* (information sheet), which is a form that is filled in during the pre-identification phase, just before fingerprinting. Through this form, migrants’ personal data are collected: name, nationality, place and date of birth. Migrants are also required to declare the place of departure and especially the reasons for their travel to Italy, for which they can choose between different options: “Occupation”, “To join relatives”, “Escaping from poverty”, “Other reasons” and “Asylum”. The answer to this section of the *foglio notizie* is particularly important as in most cases it determines the way in which migrants will be classified. It is through this section of the *foglio notizie* that the sorting of newly arrived migrants is practically implemented. Here, migrants have to state that they are in Italy to claim asylum. Other answers, such as “Occupation” or “Escaping from poverty”, would be used by police officers as a reason to label them as “economic migrants”.

↳ opacity of the screening procedures characterising the hotspot approach

However, the choice between the different options offered by *foglio notizie* has not always proved so straightforward. In late 2015, during the first stages of the implementation of the hotspot approach in the country, [several cases](#) were reported in which the option “Asylum” was missing from *foglio notizie*. Many newly arrived migrants, totally unaware of their rights and the procedures that were applied to them, declared they wanted to find a job, only to find out later that this answer had turned them into “irregular” deportable migrants. This example reveals the opacity of the screening procedures characterising the hotspot approach and the significant discretion that is left to authorities in this phase, to the detriment of migrants’ rights.

Luckily, things have changed ever since, and the option “Asylum” is now included in the *foglio notizie*. Yet, there seems to be other ways through which national

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authorities literally deceive migrants from specific countries of origin in order to prevent them from applying for asylum. For example, people from certain countries, most notably Tunisia, are automatically labelled as “economic migrants” and their intention to claim asylum, even if stated, is not always [registered](#) by police officers. In other cases, the strategy adopted by national authorities to exclude some nationalities from the asylum procedure is more subtle, as it is carried out through the deliberate [concealment of information](#) or the provision of limited, if not even misleading, information. In this respect, some migrants have been encouraged to sign a [document](#), in Italian and untranslated, in which they declared they did not want to claim asylum, as well as another [pre-filled form](#) where all the boxes excluding possible impediments to return were already ticked.

↳ inadequate provision of information enables authorities to exclude migrants from the asylum procedure

These unlawful practices highlight the importance of migrants’ access to information and legal advice for the successful implementation of the hotspot approach. As the latter aims to channel newcomers through different procedures, it is crucial that all of them are correctly informed about their rights and what each procedure will entail. Instead, this key dimension of the hotspot approach is often frustrated on the ground. Inadequate provision of information, if not downright concealment or even misinformation, enable authorities to exclude migrants from the asylum procedure by [influencing their choices](#) and prompting them to take a decision that is disadvantageous for themselves. Hence, police officers in charge of identification procedures play a key role in the classification of migrants that is produced by the hotspot approach, although they technically have no power to define migrants’ legal status. By leaving such discretionary power to those who should register migrants’ will to claim asylum, the hotspot approach paves the way for a systematic exclusion of certain groups of migrants from the asylum procedure on the basis of their nationality.

“Illegalising” migrants

The overall architecture of the hotspot approach is based on assumptions that do not correspond to reality. In theory, the rapid classification of migrants into “legitimate asylum seekers” and “economic migrants” should be followed by the allocation of migrants to the appropriate procedure: the former should begin the asylum process, whereas the latter should be returned to their country of origin. However, not all those who are excluded from the asylum procedure are actually returned. The reasons for this are manifold. Returns presuppose that countries of origin recognise migrants as their citizens and are willing to take them back. An agreement between Italy and the country of origin is thus necessary. Moreover, returns are expensive as they involve flights and officers escorting migrants back to their country. Also, facilities are needed to detain deportable migrants whilst waiting for return, otherwise they might escape. This is also costly.

For all these reasons, categorising someone as “economic migrant” in the identification stage and issuing an expulsion order does not necessarily translate to the return of this individual to the country of origin. In some cases, migrants who are not believed to be seeking asylum are indeed returned shortly after identification, or they are transferred to pre-removal centres and then returned afterwards. In other cases, however, they receive a so-called [“deferred refoulement decree”](#) (*provvedimento di respingimento differito*), that is an order to leave Italy within 7 days, from the airport of Rome Fiumicino. However, the expulsion order is not followed by any kind of enforcement, or not even by measures to assist migrants in reaching Fiumicino, which is hundreds of kilometres away from the hotspots and the southern coast of Sicily.

Those receiving these expulsion orders are thus “illegalised” and abandoned outside hotspot facilities or the places where hotspot procedures are carried out. Through this practice, the hotspot approach does not only exclude some groups of migrants from the asylum procedure, but it actively “illegalise” them, thus forcing them to invisibility, marginality and exploitation. This also has negative consequences on local contexts where hotspots are situated because “illegalised” migrants are likely to sleep rough in train stations or squares, thus fuelling stigmatisation and criminalisation processes that, in turn, tend to increase the hostility of the local population.

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Recommendations

The hotspot approach has provided Italian authorities with a tool for excluding specific groups of migrants from the asylum procedure on the basis of their nationality. The case of Tunisians and Egyptians is telling in this respect. In 2021, these two nationalities constituted the largest groups among [arrivals by sea](#) in Italy, amounting to 35% of all newly arrived migrants (15,671 Tunisians and 8,352 Egyptians). However, the number of asylum applications presented by these nationalities was significantly lower than the number of arrivals. Out of 15,671 Tunisians and 8,352 Egyptians who arrived, only [7,102 asylum applications](#) were registered by the former and [2,988 applications](#) by the latter. This gap reveals the difficulties that migrants from these countries face in accessing the asylum procedure in Italy.

Unlawful and deplorable practices aimed at restricting access to the asylum procedure, such as those reported in Italy, are unacceptable. They should be immediately stopped and actively prosecuted. Nationality should not be used as a criterion for preventing people from filing an asylum claim. A ***case-by-case assessment of individual circumstances should be guaranteed***, as it is required by international obligations. It is key to remember that even migrants who have limited chances to obtain international protection can nonetheless have the right to stay in the country for other reasons, such as health or humanitarian reasons. The hasty sorting of newly arrived migrants that is implemented through the hotspot approach obliterates this possibility. Arbitrary classifications of migrants based on nationality should thus be avoided. All newly arrived migrants should be appropriately informed about their rights upon arrival and have their individual application adequately assessed.

↳ arbitrary classifications of migrants based on nationality should be avoided

The hotspot approach exemplifies a border and asylum regime which identifies EU's external borders as key sites of migration management. It is at the external borders where migrants have to be stopped and where they need to be classified into "legitimate asylum seekers" and "economic migrants". Such an emphasis on external

borders should be abandoned by ***decoupling registration and determination of the legal status*** of newly arrived migrants. The registration of those who arrive at EU's external borders should merely concern their identification through the collection of personal data as well as the provision of information about their rights and the following procedures. This should be conducted in appropriate, dedicated places, as opposed to quays or police stations.

Registration should not serve the purpose of arbitrarily sorting migrants into distinct categories and, in turn, excluding some from the asylum procedure. The legal procedures for the determination of the status of newly arrived migrants should be implemented by responsible authorities at a later stage, in appropriate venues and in conformity with international and national procedural standards. Independent monitoring bodies should be established in order to control authorities' conduct during registration procedures.

It is necessary to ***move beyond the principle according to which newly arrived migrants have to be immediately categorised upon arrival***. This is based on the flawed assumption that classification procedures are fast and that migrants who are rejected as "economic migrants" can be effectively returned shortly after arrival, whereas the reality on the ground has shown that this is not the case. The adequate determination of individual legal statuses requires thorough analysis of applicants' personal situation. This cannot be implemented in a rushed way, shortly after disembarkations, when migrants are likely to be traumatised and exhausted by the perilous journeys that they had to undertake to reach the EU. Upon arrival, migrants should be hosted in adequate first reception facilities and be given the chance to recover from their journeys. Medical checks and vulnerability assessments need to be systematically conducted by specialised professionals in order to identify special needs at an early stage. Newly arrived migrants should then be duly informed about their rights and given access to legal advice if they need so.

The hotspot approach has paved the way to an extensive use of detention for identification purposes of newly arrived migrants, often beyond the limits prescribed by national law. Detention is commonly justified by the need for impeding migrants from escaping during registration procedures. This potentially translates to the arbitrary detention of most newly arrived migrants, including people in need of protection, women, unaccompanied

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minors and people with special needs. Such an approach needs to be reversed if ***a more humane system for managing newly arrived migrants has to be created***. Detention should not be the response to migrants' attempts to elude registration.


On the contrary, a forward-looking policy should tackle the reasons that prompt migrants to escape registration in the first place. If newly arrived migrants seek to avoid registration, it is because the current policy framework (and most notably the Dublin regulation) forces them to stay in the country through which they enter the EU. Registration currently implies a duty for newly arrived migrants to stay in the member state where registration is carried out. ***Such a tie between migrants and the first country of entry should be removed*** and the former should be allowed to move and settle freely within the Schengen area. This will significantly encourage migrant compliance and reduce attempts to elude registration.

Instead of being used as detention facilities, hotspots should thus function as transit centres where registration procedures are conducted and first aid is provided to migrants after disembarkation. Migrants should then be transferred to other facilities across the country that are suitable for longer stays and better integrated into local communities and local welfare services, so that health, social, administrative and legal needs can be adequately cared of.

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