



# The Hotspot Approach

**CONDISOBS Policy Paper No. 1**

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## Executive summary

The hotspot approach is a flexible working method that was introduced by the European Commission in May 2015 in order to swiftly identify, register and fingerprint migrants arriving at the external borders of the European Union.

Since its introduction, the hotspot approach has been implemented in Greece and Italy, although in different ways. In Italy, it has been primarily a tool for registering and sorting migrants upon arrival, and for quickly transferring them away from designated hotspot facilities. In Greece, especially after the EU-Turkey statement, hotspots have served the purpose of containing newly arrived migrants throughout the entire asylum procedure.

Although it was presented as a support to member states like Greece and Italy in dealing with the migrants arriving at their external borders, the objective of the hotspot approach has rather been to make sure that these states fulfilled their obligations under EU law by fingerprinting all newcomers.

Alongside the objective of disciplining member states at EU's external borders, the hotspot approach has been driven by the will to re-establish control over migrant mobility. This has been pursued by containing migrants near external borders and by restricting access to the asylum procedure.

The hotspot approach was initially conceived as a temporary measure, tackling a situation that was characterised by disproportionate migratory pressure at EU's external borders. Yet, this measure has been consolidated and has remained in place ever since, even though migratory pressure on Greece and Italy is now far from being "disproportionate".

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## What is the hotspot approach?

It is an “approach where the European Asylum Support Office (EASO), the European Border and Coast Guard Agency (Frontex), Europol and Eurojust work on the ground with the authorities of frontline [sic] EU Member States which are facing disproportionate migratory pressure at the EU’s external borders to help to fulfil their obligations under EU law and swiftly identify, register and fingerprint incoming migrants” ([Glossary of the European Migration Network](#)).

## Tackling the crisis of EU border policies

The hotspot approach was one of the first measures to be introduced by the European Commission to respond to the increase in the number of migrants arriving in Europe between 2014 and [2015](#). These arrivals led to what is commonly described as the “refugee crisis”, albeit it would be more accurate to refer to the crisis of the European Union’s (EU) asylum and border policies. The crisis exposed a fundamental weakness of the EU border regime, concerning the inability to register and identify all newly arrived migrants and to contain them in the country through which they first enter the EU. This is required by the [Dublin regulation](#) – the cornerstone of EU asylum policy. The Dublin regulation designates the so-called “first country of entry” as the one that is responsible for the processing of an asylum claim and the reception of asylum seekers during the asylum process.

Especially in 2015, the Dublin regulation showed all its shortcomings. Member states at the southern external borders of the EU, like Greece and Italy, struggled to register all newly arrived migrants, so many of them could continue their flight towards western, central and northern Europe. To some extent, Greece and Italy did not even have an interest in registering and stopping all those disembarking on their shores, as this would have placed their already precarious asylum systems under an unbearable strain. It is in this context that on the 13<sup>th</sup> May 2015 the [European Agenda on Migration](#) introduced the hotspot approach. Its objective was to support “frontline [sic] Member states to **swiftly identify, register and fingerprint** incoming migrants” (European Commission 2015a, p. 6), and consequently allocate them through the appropriate procedure (asylum, return or relocation) depending on the presumed legitimacy of their asylum claim.

## Controlling member states at the external borders

The hotspot approach constitutes a response to the failure of EU asylum and border policies – first and foremost the failure of the Dublin regulation. It is a response to a situation in which some member states at the EU’s external borders failed to systematically register and fingerprint all newly arrived migrants, thereby jeopardising the implementation of the Dublin regulation. Although it was presented as a support to these member states in dealing with the increase in the number of migrants arriving at their external borders, the objective of the hotspot approach has rather been to make sure that these states **fulfilled their obligations** under EU law. Far from being informed by compassionate and solidarity concerns, the hotspot approach is above all a mechanism through which EU institutions exert a greater control on countries like Greece and Italy, with a view to safeguarding the functioning of the Dublin regulation.

## ↳ the hotspot approach constitutes a response to the failure of EU asylum and border policies

Such a control has been exerted through the direct deployment of EU agencies on the ground. In this respect, the hotspot approach provides “**a platform for the agencies to intervene**, rapidly and in an integrated manner” (European Commission 2015b, p. 2), in situations characterised by disproportionate migratory pressure. The EU agencies involved in the hotspot approach are the European Asylum Support Office (EASO), the European Border and Coast Guard Agency (Frontex), the EU’s Law Enforcement Agency (Europol), and the EU Agency for Criminal Justice Cooperation (Eurojust). EASO supports national authorities in the registration and processing of asylum claims as well as in the implementation of [relocation](#). Frontex assists national authorities with the screening of migrants and the determination of identity and nationality. It also supports member states in returning “irregular” migrants. Europol and Eurojust carry out investigations on smuggling and trafficking networks.

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The International Organisation for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) also contribute to the implementation of the hotspot approach. IOM collaborates in the activities related to return (especially assisted-voluntary return) as well as in the implementation of resettlement and relocation programmes. UNHCR provides information on asylum procedures.

## Sorting migrants into legitimate and illegitimate asylum seekers

Alongside the objective of disciplining member states at the EU's external borders, the hotspot approach has been crucially driven by the will to re-establish control over migrant mobility following the events of 2014/2015. These events laid bare the contradictions upon which current EU border and asylum policies are based. First of all, the limited availability of legal ways to reach the EU obliges migrants to arrive through "irregular" ways, after embarking on extremely dangerous and costly trips. Upon arrival in an EU member state, the single option left to migrants is to apply for asylum as this is normally the only way to get a temporary residence permit in the country of arrival.

Due to restrictive visa policies, the asylum procedure has pretty much become the sole entry point to the EU, even for those who would have other reasons to move to the EU (e.g. family, health, education, poverty, climate change). This configuration of EU entry policies has traditionally overburdened the asylum systems of EU member states at the southern external borders. Not only these countries are most affected by "irregular" arrivals, as they are located on important migration routes, but they are also the ones that have to take care of newly arrived migrants in compliance with the Dublin regulation.

Hence, the combination of the principle of the first country of entry that underpins the Dublin regulation and the lack of legal entry channels has two detrimental effects in the EU context. First, it overburdens asylum systems by forcing newly arrived migrants to apply for asylum. Second, it puts disproportionate pressure on external member states by requiring that asylum claims are registered in the first country of entry. In a context where legal ways to access the EU are missing and most arrivals have thus to occur through "irregular" channels, it is inevitable that the first country of entry is likely to be one at EU's external borders.

Far from seeking a solution to these issues, the hotspot approach has rather attempted to bypass them by filtering between those migrants whose asylum claim is considered admissible, legitimate, and those who are deemed to be "economic migrants", thus not in need of protection.

## ↳ the hotspot approach seeks to limit access to the asylum procedure for some categories of migrants

In other words, the hotspot approach seeks to limit access to the asylum procedure for some categories of migrants, particularly those who come from countries of origin that are considered safe and those who have passed through so-called "safe third countries". In this respect, the definitions of safe country of origin and safe third country have been particularly contested. This is demonstrated by the case of Turkey, which Greek authorities have declared a "safe third country" for Afghans, Bangladeshis, Pakistanis, Somalis, and Syrians, despite [widespread criticisms](#) from human rights organisations. The case of Turkey exemplifies well how the identification of a country as safe for asylum seekers responds to political concerns and to the imperatives of migrant management, as opposed to assessing the actual protection and conditions of asylum seekers in such country.

## Normalising emergency

Through the systematic registration of newly arrived migrants at the border and the sorting into "legitimate asylum seekers" and "illegitimate economic migrants", the hotspot approach has tackled a specific transitory situation, which was described in terms of disproportionate migratory pressure at EU's external borders. According to the European Commission, designated border areas should function as hotspots ***"for the limited period of time during which the emergency or crisis situation subsists and during which the support of the 'Hotspot' approach is necessary"*** (2015b, p. 3). This quote shows how the hotspot approach was initially conceived as a temporary exceptional measure. It was therefore far from constituting a long-term solution to the problems that had

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caused the crisis of EU asylum and border policies in the first place (i.e. the lack of legal entry channels and the unsustainability of the principle of the first country of entry).

Yet, the hotspot approach has remained in place ever since, even though migrant arrivals have significantly decreased [in recent years](#) and the migratory pressure on Greece and Italy is far from being disproportionate. Most importantly, the consolidation of this exceptional measure has taken place without a prior attempt to rectify the problems that have characterised its implementation since the early emergency phase. Just to name a few, these problems have concerned the terrible reception conditions in hotspot facilities, the violations of human rights and the overall lack of information about rights and procedures, the detention of asylum seekers, the lack of effective access to the asylum procedure and to legal remedies, the coercive fingerprinting, and the ambiguous legal basis of the approach.

## A flexible tool for registering, filtering and containing migrants

The conservation of the hotspot approach beyond the emergency phase that paved the way to its introduction reveals the flexibility informing this mechanism. This flexibility was claimed by the European Commission itself, which described the approach as a “*flexible tool*” that can be applied in a *tailored manner*” (2015b, p. 2). This is indeed what has happened after the first hotspot centres were set up in Lesbos (Greece) and in Lampedusa (Italy) in October 2015. Other hotspot facilities were established in both countries,<sup>1</sup> but the ways in which the approach has been implemented in these two member states seems to respond to different objectives. In [Italy](#), it has been primarily a tool for registering and sorting migrants upon arrival, and for quickly transferring them away from designated hotspot facilities, which have thus primarily functioned as transit centres. In [Greece](#), especially after the EU-Turkey statement, hotspots serve the purpose of containing migrants throughout the entire asylum procedure.

The flexibility characterising the implementation of the hotspot approach in Greece and in Italy shows that the hotspot is not just a facility or a designated border area

where migrants arrive – it is first and foremost a procedure that can be implemented in, and adapted to, multiple contexts in order to filter newly arrived migrants.

## ↳ the hotspot is not just a facility, but a flexible procedure for filtering newly arrived migrants

This has been confirmed by the European Commission, which stated that: “in order to ensure high levels of registration, fingerprinting and access to procedures, it is key that the hotspot approach is applied consistently as a working method, even when migrants do not physically pass through the hotspots” (European Commission 2020, p. 40). This can be observed in the [Italian context](#), where the hotspot approach has been implemented beyond actual hotspots facilities (e.g. in the ports of Catania and Palermo) and beyond border points in their strictest sense (e.g. police stations). Flexibility also means that the future implementation of the hotspot approach is not necessarily limited to the countries where it has been deployed so far. In fact, the [European Commission](#) did not rule out the possibility that the approach could be used in other member states if needed.

## Recommendations

The hotspot approach has responded to the challenges posed by migrant arrivals at EU’s external borders in two ways. On the one hand, it introduced a mechanism for systematically registering and fingerprinting all migrants upon arrival in Greece and Italy. On the other hand, it offered these member states a tool for preventing an increasing number of migrants from accessing the asylum procedure. Such a response has been extremely detrimental for newly arrived migrants, as it has led to widespread detention, extensive containment near border areas, awful reception conditions, limited access to information and legal advice, and substantial violations of the right to seek asylum.

<sup>1</sup> Greek hotspots are currently in Chios, Kos, Lesbos, Leros and Samos. In Italy, hotspot facilities are in Lampedusa, Pozzallo and Taranto.



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The hotspot approach constitutes a quick fix and, as such, it does not address two key aspects at stake when the management of migrant arrivals is concerned. The first is the lack of legal ways to reach the EU, which forces migrants to arrive “illegally” at EU’s external borders, where the only option available to them is to apply for asylum. The second is the principle of the first country of entry underpinning the Dublin regulation, which obliges migrants to apply for asylum and therefore stay in the country through which they enter the EU (that is likely to be one at the external borders).

Both these aspects result in an emphasis on external borders and the countries in which they are located as the crucial sites where the management of newly arrived migrants should take place. In recent years, this emphasis on external borders has showed all its weaknesses, as the conditions of migrants in places like Lampedusa, Lesbos, Samos have proved. Hence, a comprehensive and forward-looking approach is urgently needed in order to shift the focus away from external borders and deal with the management of newly arrived migrants as a common EU issue. Two key principles should inform such an approach.

## ↳ a comprehensive and forward-looking approach is needed to shift the focus away from external borders

First, the challenges posed by the arrival of migrants at EU’s external borders should not be tackled by restricting access to the asylum procedure, as the hotspot approach does instead. The filtering mechanism between legitimate and illegitimate asylum claims that has been put in place by the hotspot approach calls into question the very right to claim asylum and have one’s own claim assessed individually. Instead of restricting access to the asylum procedure, EU policies should give migrants the possibility to reach safely and legally the EU, without having to embark on long, expensive and hazardous journeys. This implies the **creation of legal ways to access EU territory**, which should take into account the multiple and complex reasons that force people to escape from their countries of origin. Legal ways should therefore be established for those migrating due to conflict,

persecution, severe human rights violations, family reunification, socio-environmental reasons and extreme poverty. The scope of international protection should be extended in order to include migration due to the abovementioned reasons or dedicated procedures should be created in order to account for these migratory causes.

Alongside new legal ways, **resettlement programmes should be expanded** and made more effective, whereas **humanitarian corridors and visas** for the abovementioned migratory reasons **should be established** and systematised. All these measures would allow people in need of protection to avoid deadly and expensive trips, while also relieving pressure from external borders by distributing arrivals across the EU. They would also enable EU and national authorities to have more information on the identity of newly arrived migrants.

Second, **the sacredness of the principle of the first country of entry** informing the Dublin regulation **should be abandoned once and for all**. Many institutional, non-governmental and academic analyses have emphasised the inefficiency of the Dublin system and the detrimental effects it produces on people. The unequal pressure it places on member states depending on their geographical location has also been stressed. The current architecture of EU asylum and border policies needs to be radically transformed. Newly arrived migrants should be given the opportunity to **move freely within the Schengen area** and to decide where to settle. Family reunification should be facilitated and supported for those who wish so. **The asylum procedure should not be the only regularisation option upon arrival**. Further regularisation routes should be established, allowing newly arrived migrants to apply for residence permits for humanitarian reasons, environmental reasons, family reunification, health reasons, work or education.

Such a new system based on migrants’ freedom to choose where to settle in the Schengen area requires the **creation of mechanisms allowing for procedures to be transferred from one member state to another**. This should allow newly arrived migrants to be registered upon arrival at EU’s external borders and have their legal status determined in another member state. Entitling newly arrived migrants to benefit from freedom of movement and settlement within the Schengen area would significantly increase their compliance to the system, thus reducing considerably secondary movements and

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attempts to refuse registration upon arrival. It will also boost their chances of integration in the host society as they would likely be in a place of their choice, where they might know the language, have family links, and even have had previous work or education experiences.


Clearly, such a system based on the will of its key actors, that is migrants, requires compensatory measures to appeal the other key actors of the system, that is member states. In this respect, a **compensation system needs to be created in order to grant member states financial contributions depending on their efforts** in terms of reception, first aid, search and rescue, disembarkations, medical screenings (including vulnerability assessments), administrative procedures and so on. This would encourage states' compliance as responsibilities for the management of newly arrived migrants will be duly rewarded and distributed more effectively between member states than they currently are.

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