Legality of the Hotspot Approach in Greece: A Case Study from Lesvos

1. What is a “hotspot”?  
- The hotspot approach was introduced by the Commission’s European Agenda on Migration in May 2015, as part of the response to the refugee crisis. It is a ‘hybrid EU/Member States tool’ allowing the deployment of EU agencies – such as Frontex, the European Asylum Support Office (EASO), Eurojust and Europol – to support Member States at the EU’s external borders facing significant migratory pressure.  
- Hotspots were initially designed as an emergency response that intended to (i) assist Member States’ authorities with registration, identification, and first assistance of new arrivals directly after disembarkation; and (ii) enable the transfer of asylum seekers to other Member States under the Emergency Relocation Mechanism.  
- However, the hotspots – as implemented today – have become a more permanent filtering mechanism for irregular arrivals and a containment approach limiting access to mainland Europe.

2. Policies and practices at the Moria hotspot on Lesvos  
- Currently, more than 8,000 asylum seekers are stranded on Lesvos, from the overall 59,700 currently residing in Greece. The Moria hotspot is overcrowded, with approximately 6,500 persons currently living at the site, which has a capacity of 2,700.  
- After the EU-Turkey Joint Statement of March 2016, the Greek authorities implemented a ‘containment policy’ which restricts asylum seekers to the island until the determination of their asylum application.  
- In addition, nationalities with an EU average recognition rate below 25 per cent are channeled into a fast-track border procedure that does not provide adequate procedural safeguards and is undermining the quality of the asylum process. Only vulnerable applicants and Dublin family reunification cases are currently exempted from the fast-track border procedure in the Greek hotspots.  
- Detention is applied as a standard practice in Moria. All new arrivals, including children, are de facto detained at Moria for 25 days. In addition, a “pilot project” (often referred to as the “low profile project”) places individuals of “low asylum recognition” nationalities in closed detention, while they undergo an accelerated asylum procedure without effective access to legal assistance.  
- The role and competences of EU Agencies, particularly of EASO, raise concerns in terms of accountability, liability, and compliance with the national legislative framework and human rights law. All EASO officials rest with the Greek authorities. EASO has de facto decision-making powers (beyond its mandate) in the Greek hotspots, as it conducts admissibility interviews and vulnerability assessments which are zealously followed by the Greek Asylum Service. According to NGOs and lawyers active in Lesvos, EASO officials often do not have the relevant experience and expertise to safeguard quality and efficiency in asylum procedures.

3. Restricted access to asylum  
- Many asylum seekers in Moria lack timely and accurate information on asylum procedures. Despite the establishment of an information kiosk inside the hotspot, information on asylum procedures and individual advice remains limited and requires the assistance of lawyers. There is also a lack of interpreters and mediation services for less common languages.  
- There is a significant gap in legal assistance to asylum seekers. Although EU law requires that Member States provide legal aid to asylum seekers at the appeals stage, the number of asylum lawyers on the island (currently 19) remains insufficient to address the needs of more than 8,000 asylum seekers in Lesvos. NGOs providing legal aid reduced their presence during 2017 due to a shift in EU funding from NGOs to the Greek Government.  
- Following a policy change in May 2017, vulnerable people – which according to Greek law are exempted from the border procedure and should have their asylum applications examined in the mainland – must remain on the island to complete their asylum interview before having the geographical restriction lifted and being able to move to the mainland—a process that can take months.

4. Inadequate reception conditions  
- Massive overcrowding resulting from the containment policy, the lack of alternative accommodation on the island, and the continuing arrivals, in combination with a reduction in the capacity of operating NGOs, has led to substandard conditions for the asylum seekers residing in the hotspot.  
- Vulnerable asylum seekers, such as unaccompanied minors, stay in Moria for prolonged periods – often for several months – because the places in specialised shelters remain limited.  
- Access to primary healthcare is limited and hygiene conditions place asylum seekers at risk and contribute to the deterioration of their mental health too. There are also significant delays in vulnerability assessments, particularly for survivors of gender-based violence.

5. The role of hotspots in fortressing Europe  
- In Greece, hotspots serve as reception & detention centres where people stay for prolonged periods of time to be filtered between those that can access asylum and the Dublin procedure and those that will be returned. The EU-Turkey Joint Statement has shifted the Greek hotspots’ work from identification and registration to admissibility – under the safe third country/ first country of asylum concepts – and returns to Turkey.  
- Containment at the border creates zones of exception where human rights violations are more likely to occur. In fact, several practices and standards at Moria hotspot do not comply with EU asylum law and violate asylum seekers’ fundamental rights.  
- Although hotspots were established as emergency mechanisms in 2015, the proposed reform of the Common European Asylum Framework (CEAS) establishes the hotspot model as a long-term element of the EU’s border policy.  
- Hotspots pave the way for more restrictive asylum policies, towards an externalisation of responsibility for international protection to third states outside European territory (see, e.g., the EU’s cooperation agreements with North African countries or Afghanistan, and the recently introduced concept of regional disembarkation platforms).

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