



# ‘Controlled centers’ and ‘disembarkation agreements’

Overview of current EU plans for the reception of migrants saved at sea

18 September 2018

After all-night discussions at the last EU summit in June, EU leaders declared their intention to set up centers for “rapid and secure processing” of migrants to distinguish refugees and others in need of protection from other migrants, who would be returned to their countries of origin. The European Commission has translated this into two separate proposals: one for ‘controlled centers’ to be created in EU member states, and one for ‘disembarkation agreements’ outside the EU, probably in North Africa.

While the idea for ‘disembarkation agreements’, also referred to as ‘disembarkation platforms’, remains vague, the proposal for ‘controlled centers’ is more concrete – and according to Oxfam’s analysis, it means more people rescued at sea will be forced to live in de-facto detention centers. These plans, to be discussed at an informal EU summit in Salzburg this week, will not help the EU to better manage migration, and will create needless suffering for people arriving in Europe.

## 1 EU ‘hotspots’ – flaws & deficiencies

The plans for new ‘controlled centers’ and ‘disembarkation platforms’ are very similar to the EU’s current ‘hotspot’ approach, in place since 2015. ‘Hotspots’, introduced in the 2015 ‘European Agenda on Migration’, were presented as short-term “[operational support](#)” by EU agencies to Italy and Greece. There are currently five ‘hotspots’ on Greek islands and another five in Italy.

Like the ‘controlled centers’, ‘hotspots’ were initially created to allow for faster identification of migrants arriving by sea and to help determine their status – that is to verify whether they are entitled to seek asylum or another form of protection in the EU (e.g. as victims of torture). The idea was to ease the pressure at Europe’s southern borders by bringing the European Border and Coast Guard Agency (Frontex) and the European Asylum Support Office (EASO) into the ‘hotspots’ to assist national authorities.

However, the ‘hotspot’ approach has not alleviated the pressure on Italy and Greece. In Greece, where the ‘hotspot’ model has been implemented in order to support the March 2016 ‘EU-Turkey deal’, the situation has deteriorated even more. The envisaged relocation and returns schemes, designed to support the ‘hotspot’ process, have been implemented very slowly and only partly, leaving a large number of people stranded in the ‘hotspot’ centers for ever longer periods of time. In addition, only a fraction of the requested officers from EU agencies have been seconded to the ‘hotspots’ to assist the national authorities. As a result, people seeking asylum have been forced to live in increasingly abominable conditions, for increasing lengths of time of up to two years and more.

The ‘hotspots’ in Greece provide woefully sub-standard with people living in squalid, increasingly dangerous, and overcrowded conditions, with inadequate access to basic services, such as showers and toilets. As of mid-September, there has been a record number of [20,000 migrants](#) present on the Greek islands.

Interviews with people living in ‘hotspots’ in both [Greece](#) and [Italy](#) reveal that most do not feel safe. Overcrowding leads to frequent violent clashes, and the situation is particularly alarming for women and children who are at heightened risk of sexual violence and abuse. Violations of basic rights have been reported by NGOs on numerous occasions, as well as by the [European Court of Auditors](#) and the [Council of Europe Commissioner for Human Rights](#).

Oxfam International – EU Advocacy Office

Media contact: **Florian Oel** | [florian.oel@oxfam.org](mailto:florian.oel@oxfam.org) | mobile +32-473-56 22 60

The situation in the Greek and Italian 'hotspots' clearly shows that this approach is not working: not for people seeking asylum, not for the countries at Europe's southern borders, and ultimately not for Europe. This flawed and failing plan should not be the blueprint for new 'controlled centers'.

## 2 Possible scenarios

EU member states and the European Commission are exploring different options for allocating the responsibility for migrants rescued at sea. In parallel, the European Parliament has come up with an option to reform the EU's reception system. An overview and analysis of these proposals, based on the limited information available, follows.

### 2.1 'Controlled centers'

At their [June EU summit](#), European leaders agreed to set up – on a voluntary basis – 'controlled centers' for "rapid and secure processing..., with full EU support, to distinguish between irregular migrants, who will be returned, and those in need of international protection, for whom the principle of solidarity would apply." The European Commission explored the idea further in [its non-paper](#) of 24 July.

This option seems to be the most likely scenario for future agreements, as it is, so far, the most developed one.

According to the European Commission's proposal, people who are rescued in the Mediterranean and arrive in Europe will be transferred to 'controlled centers': ad-hoc or permanent facilities in any EU member state that would be willing to participate in the initiative.

The proposal is largely based on the existing 'hotspots' model, with the use of expedited asylum procedures and detention-like conditions that effectively restrict the rights and movement of people seeking asylum.

#### How would it work?

In a model similar to the 'hotspots approach', the two EU Agencies Frontex and EASO would work with national authorities to fingerprint, identify, categorize and assess people's asylum applications. Each person would be directed to one of four paths:

- a. Identification of another EU member state responsible for deciding on the asylum application under the standard 'Dublin' procedure (for example, if the person has a close family member already living in another EU member state);
- b. Relocation to another EU member state;
- c. Expedited assessment of the asylum claim followed by either relocation to another EU member state in case of a positive assessment, or a (quick) return procedure in case of rejection; or
- d. Regular examination by the national asylum services.

The Commission would like to see asylum requests receiving an initial answer within 4-8 weeks.

#### Assessment and concerns

**Unrealistic expectations on time and capacity:** The Commission suggests that processing migrants will take no longer than 4 to 8 weeks. However, the experience from existing 'hotspots' suggests this is highly unlikely and the duration of the process will increase sharply – leading to overcrowding and unsafe conditions for residents. In the 'hotspots' in Greece, significant delays occur with regard to the processing of asylum claims. In a number of cases, interviews were set approximately one year after the registration of the application, including in the case of vulnerable applicants. Attempts to speed up the process have often resulted in the violation of individuals' fundamental rights, by preventing asylum seekers from seeking legal advice and reducing legal safeguards. Based on current experiences, the expectations on quick returns are also unrealistic, as is the commitment to deploy large numbers of EU agencies' staff.

**Protection concerns:** It is unclear who would be responsible for promoting and protecting the rights of people seeking asylum in 'controlled centers'. There is no information on who would conduct necessary medical screenings, how people who have just been rescued at sea would be informed of their rights and the legal process in a language they understand, and what access they will have to health services, legal assistance and mental health support.

**Unclear legal standards:** It is unclear what procedures EASO officers would apply in the asylum process. As legislation differs between EU member states and standard operating procedures for 'hotspots' are only implemented in part, the 'controlled centers' are likely to operate very differently depending on their location. This will undermine the EU's efforts to harmonize asylum standards between member states and will create a high degree of uncertainty for asylum seekers.

## 2.2 Regional disembarkation agreements with North-African governments

In the June EU Summit, European leaders agreed to "explore the concept of regional disembarkation platforms, in close cooperation with relevant third countries as well as UNHCR and IOM". The subsequent Commission ['non-paper'](#), that speaks of 'disembarkation arrangements', lacks much detail. It is, however, clear that UNHCR and IOM would play strong roles in this process and that the 'arrangements' would be made with North-African governments, with the aim of identifying which people qualify for refugee status, and which do not. These arrangements are expected to run in parallel to the 'controlled centers' in the EU.

### How would it work?

The role of the EU and its member states in supporting disembarkation arrangements in North Africa is not explicitly explained, but the emphasis is on financial and technical support to North African governments and, potentially, UN agencies. There are no concrete commitments to resettle refugees to Europe, but the Commission suggests that a limited number of refugees would be resettled under existing member states' commitments. It is unclear which legal framework the platform procedures would be based on, whether European agencies would take an active role, or if North African countries would be expected to integrate the refugees that are not resettled in Europe.

The Commission proposes that people rescued at sea, who are not in need of international protection, should be returned to their home countries. The Commission also suggests that "measures could be developed to prevent persons who have been returned from re-entering the [North African] third country", but these measures are not specified.

### Assessment and concerns

**Insufficient protection for refugees:** All North African countries (except for Libya) are signatories to the 1951 Refugee Convention, but none of them have fully implemented the Convention in national legislation. This means that there are limited guarantees that people rescued at sea would be protected from being sent back to unsafe countries ('non-refoulement') or will be able to enjoy the rights they are entitled to under the Convention if recognized as a refugee. According to UNHCR, the deteriorating security situation in Libya means that rescued people should not be returned there under any circumstances.

**Refugees from North African countries:** It is unclear how disembarkation agreements would guarantee that refugees from North African countries are not be returned to the countries from which they have fled due to persecution or severe human rights violations.

**Unrealistic expectations on capacity:** In the absence of national reception standards or a structural asylum system, it is unclear where and in what conditions people would be hosted after being rescued at sea, or who would be accountable for their wellbeing and protection. There is also no clarity on the legal framework for the reception, and whether it would be in the hands of national authorities or UNHCR. Furthermore, resettlement is a very slow process and there is no clarity on what would happen once

reception centers reach their capacity. There is a risk that, if reception centers begin to become too crowded, the countries involved will simply refuse to accept more people through the disembarkation scheme. This could also lead to more pressure to return people to their home countries, regardless of their potential refugee status.

**The situation of vulnerable people in need of special protection:** There is no clarity about the fate of people who are not recognized as refugees, but who do require special support, e.g. because they suffered serious abuse, such as rape and torture, in Libya or elsewhere. There is also no mention in the Commission proposal on the support that should be given to unaccompanied children which, currently, make up a significant percentage of the people crossing the Mediterranean.

**The “measures... to prevent persons who have been returned from re-entering”:** It is unclear how rescued people could be prevented from re-entering North African countries and the impact this may have on intra-African economic and political relationship between sub-Saharan and North African countries.

## 2.3 Reform of the European Asylum System

Heads of states and government are currently unable to reach agreements on the reform of the Dublin Regulation, the EU law that establishes which EU member state is responsible for examining an asylum application. However, the European Parliament has agreed on [a proposal](#) for its reform. In contrast to 'controlled centers' or 'disembarkation platforms', this option would offer concrete rules, instead of ad-hoc arrangements.

### How would it work?

According to the European Parliament's proposal to reform the 'Dublin' regulation, all member states are required to participate in responsibility sharing. Asylum seekers with a “genuine link” to a member state – e.g. family members present, prior residence or studies – would be transferred to that state. Asylum seekers without such a link would automatically be assigned to a member state according to an agreed distribution key, while also considering the preferences of the asylum seeker. Countries of first arrival would only be responsible for registration, fingerprinting and assessing the likelihood of eligibility.

### Assessment and concerns

The deep division between EU leaders on the type of mechanism that would determine the responsibility of each member state is preventing progress on this proposal. However, the proposal voted on by the European Parliament is the most thorough and well-considered option on the table. It is also the only option which takes into account the expectations of member states and balances them with the needs of people seeking asylum. It recognizes existing language and family links with one of the member states and gives room for personal preference, thus likely reducing friction between the system and the applicant, and – in the case of recognized refugees – easing the process of integration.

While the European Parliament's proposal is not likely to be adopted in full by heads of states and government when they negotiate their position in Council meetings, it offers some solutions for the most pertinent questions of responsibility sharing. It is a solution that was adopted with the support of Members of the EP from across the political spectrum and from different geographical areas.

Rather than investing time and money in solutions that will only increase injustice and suffering, Oxfam believes it is time for EU heads of state or government to adopt solutions that are based on careful consideration of the interests of all member states and the people involved, rather than what is politically expedient.

### 3 Summary table

	<b>Controlled Centers (most likely scenario)</b> (EC non-paper on <a href="#">'controlled centres'</a> )	<b>Regional disembarkation agreements</b> (EC non-paper on <a href="#">'disembarkation arrangements'</a> )	<b>Reform of the European Asylum System</b> (European Parliament <a href="#">mandate on 'Dublin' reform</a> )
<b>Overview:</b>	<ul style="list-style-type: none"> <li>People rescued at sea are immediately transferred to facilities, likely to be similar to existing EU 'hotspots'.</li> <li>People are kept in detention-like conditions while authorities differentiate 'irregular' migrants from persons in need of international protection.</li> <li>Participation of EU member states is on a voluntary basis only and is open to all countries.</li> </ul>	<ul style="list-style-type: none"> <li>'Disembarkation arrangements' set up between the EU and North African governments distinguish people who qualify for refugee status from those who do not.</li> <li>UNHCR and IOM play key roles in the process, which would run parallel to the 'controlled centres'.</li> </ul>	<ul style="list-style-type: none"> <li>The Dublin regulation is an EU law that establishes which EU member state is responsible for examining an asylum application.</li> <li>The European Parliament has agreed on a proposal to reform this regulation, in a way that all EU member states would share responsibility for processing asylum requests.</li> </ul>
<b>How would it work?</b>	<ul style="list-style-type: none"> <li>Frontex and EASO work with national authorities to assess asylum applications.</li> <li>Procedures include fingerprinting, rapid procedures and returns, and security screening.</li> <li>People may be relocated to another member state, or returned in case of rejection of their asylum application.</li> <li>Asylum requests should receive an initial answer within 4-8 weeks.</li> </ul>	<ul style="list-style-type: none"> <li>Operations running under the authority and oversight of the national government, with financial and technical support from the EU.</li> <li>People are disembarked and transported to reception facilities where they are registered and screened. UNHCR and IOM expected to provide assistance with asylum procedures and returns.</li> <li>Only a limited number of refugees will be resettled under existing EU member states' commitments. Those found to be not in need of protection are returned to their home country.</li> </ul>	<ul style="list-style-type: none"> <li>Frontline member states are responsible only for identification and screening.</li> <li>Asylum-seekers with a "genuine link" to a member state (e.g. family members, prior studies) are transferred there.</li> <li>Asylum-seekers without such a link are automatically assigned to a member state according to a distribution key.</li> <li>Processing of asylum application happens in the determined EU member state.</li> </ul>
<b>Assessment and concerns:</b>	<ul style="list-style-type: none"> <li>Processing time given by the Commission is unrealistic, and attempts to speed up the process often violate individuals' fundamental rights.</li> <li>Centers are likely to quickly become overcrowded, leading to unsafe conditions (like current EU 'hotspots').</li> <li>Unclear how people's rights would be protected. No mention of access to health services, legal assistance or mental health support.</li> <li>Unclear how differing asylum standards would be harmonized across member states.</li> </ul>	<ul style="list-style-type: none"> <li>Not enough guarantees that refugees would not be sent back to unsafe countries ('non-refoulement'). North African countries do not have strong refugee laws.</li> <li>Unclear what would happen to all the refugees who are not resettled in Europe, and to migrants who cannot be returned.</li> <li>Unclear what conditions people would be hosted in and who would be responsible for people's wellbeing and protection.</li> <li>No mention of how the proposal will deal with vulnerable people in need of special protection (e.g. unaccompanied children, victims of torture).</li> <li>Potential negative political and economic impacts of suggestion to stop people from re-entering the country where they were disembarked.</li> </ul>	<ul style="list-style-type: none"> <li>Best option currently available, as it balances expectations of member states with needs of asylum-seekers.</li> <li>Taking family and personal preference into account would ease integration process.</li> <li>Current deep division of EU heads of state and government positions is preventing progress on this proposal.</li> <li>Slow transfers could mean long waiting periods in frontline member states.</li> </ul>