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Best practices on the implementation of the hotspot approach

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BEST PRACTICES ON THE IMPLEMENTATION OF THE HOTSPOT APPROACH

The hotspot approach is a cornerstone of the broad range of measures set out by the Commission more than two years ago in the European Agenda on Migration of 13 May 2015[1] in response to the unprecedented migration challenges in the Mediterranean. The Commission's Communication on the Delivery of the European Agenda on Migration[2] of 27 September 2017, underlined that the hotspot approach is a tangible operational achievement and a concrete example of the principles of solidarity and responsibility in responding to the pressure faced by Greece and Italy. Moreover, the hotspot approach has been constantly adapted to the evolving migration situation and policy contexts in Greece and Italy and also incorporated in the new European Border and Coast Guard Regulation[3].

In its Communication of 27 September 2017, the Commission announced that it will develop technical guidance, including a template for standard operating procedures, on the implementation of the hotspot approach in case of disproportionate migratory pressure at the external border of any Member State. Based on the lessons learned and best practices gained in the implementation of hotspots in Greece and Italy as well as various reports, most notably the European Court of Auditor's Special Report of 28 April 2017 which contains a number of recommendations how to improve the functioning of hotspots, the Commission has identified the best practices set out below. These aim at facilitating, in future cases of Member States facing extraordinary migratory pressure, the effective and sustainable preparation and operation of hotspots and the distribution of responsibilities among stakeholders.

The purpose of these best practices is to set out the key principles for ensuring that, in future cases, hotspots are functioning effectively and that Member States hosting hotspots have clear guidance on what they should do, once the hotspot approach has been activated in accordance with Article 18 of the EBCG Regulation[4] which contains provisions on the EU operational cooperation in hotspot areas.

These best practices should be applied to the extent possible also to locations at the land or sea border where temporary so-called mobile hotspots (established on an exceptional basis due to a specific need/geographical location) or sites functioning like hotspots are being established.

1. Swift adoption of a Roadmap and Hotspot Standard Operating Procedures

Without prejudice to the procedure set out in Article 18 of the EBCG Regulation[5], once the setting up of hotspots has been agreed, the following preparatory actions should be undertaken without delay to enable a swift launch of operations:

✓ The host Member State should submit to the Commission a **roadmap** including the sites identified to accommodate hotspots as well as clear information on the resources that this host Member State will allocate.

✓ Based on the template elaborated by the Commission[6], the host Member State should draft, together and in agreement with the Commission, relevant EU Agencies and International

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[1] COM(2015) 240 final.
[2] COM(2017) 558 final.
[3] Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).
[4] OJ L 251/1 of 16.9.2016.
[5] OJ L 251/1 of 16.9.2016.
[6] See Annex 1.

Organisations (to the extent of the requested involvement), **Hotspot Standard Operating Procedures (H-SOPs)** specifying the workflows to be applied in the hotspots. They should be adopted by the host Member State as early as possible prior to the start of hotspot operations and take the form of a legal act, governmental or ministerial decision or circular, depending on the host Member State's constitutional requirements.

2. A clear attribution of tasks among all stakeholders

Due to its integrated character, the efficiency of the hotspot approach depends on a clear distribution of tasks and responsibilities among stakeholders. At central level, the host Member State should appoint one single body with the powers to overlook all aspects of hotspots operations. At local level, a person responsible for overlooking the concrete hotspot area and of the operations therein should be appointed at the latest when the roadmap is submitted. The Commission, EU agencies, and relevant International Organisations should equally appoint each a contact person.

The host Member State should grant the Commission and the relevant EU agencies staff permanent access to the hotspots, including to planned sites during the establishment phase. Moreover, as security and safety of staff and migrants in the hotspot areas fall under the sole responsibility of the host Member State, the latter should take the necessary preventive measures to guarantee safety, security and public order in the hotspots, including the control of entries/exits, evacuation and security plans. Police forces present in the hotspots should be closely involved in local coordination.

- Single body overlooking the management and operations of hotspots (central level);
- Single person responsible for the coordination of operations in each hotspot (local level);
- Permanent access of Commission and relevant EU agencies' staff to the hotspots;
- Preventive measures to guarantee safety, security and public order in the hotspots;
- Security and evacuation plans in all hotspots.

3. Efficient coordination

According to Article 18(3) of the EBCG Regulation[7],"the Commission shall, in cooperation with the host Member State and the relevant agencies, establish the terms of cooperation at the hotspot area and be responsible for the coordination of the activities of the migration management support teams".

To ensure the necessary operational coordination between the different stakeholders and relevant EU Agencies at central/regional level, a coordination structure, similar to the existing EU Regional Task Forces (EURTF) in Greece (Piraeus) and Italy (Catania), should be established in any Member State where hotspot areas are to be established. Based on its mandate, such coordination structure should adopt its own rules of procedure.

Regular and systematic coordination is also essential at local hotspot level. The host Member State should, together with the Commission, draw up a multiannual financial contingency planning if needed.

- Coordination task force with a clear mandate;
- Multiannual financial and contingency planning.

4. Up to standards hotspot infrastructures

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[7] Regulation (EU) 2016/16247 of 14 September 2016.

The EU legal framework provides for specific reception standards based on the legal status of the migrant, especially as regards asylum seekers (Reception Conditions Directive). Equally important is the full respect of fundamental rights, principles and standards with regard to the operations and performance of tasks in the hotspots. Infrastructures should also be adapted to the specific needs of vulnerable persons by containing safe and separated areas, in particular for families and (unaccompanied) minors.

> - Sufficient and up to EU standards reception capacity, in particular for families and minors;
> - Reception facilities adapted to the specific need of vulnerable migrants;
> - Clear set of rules on access of migrants to the hotspot.

5. Sufficient deployment of experts from other Member States

Member States' experts should be deployed in sufficient numbers, with the adequate profiles and for sufficiently long periods to ensure their efficient use in hotspot operations. A minimum gender balance, among the deployed experts should also be foreseen, in particular to deal with certain vulnerable groups, such as victims of gender-based violence. Prior to their deployment, experts should be trained to the specificities of the work in hotspots, including the inter-agencies dimension.

Cultural mediators and interpreters are instrumental for Member States' experts to perform their migration management and law enforcement tasks. To limit the negative impact of possible shortages, their pooling and cross-use by the different stakeholders operating in the hotspots should be considered to optimise the ability to meet needs; the pool could be managed by the single hotspot coordinator. This is particularly important for the first and second line security checks which may be negatively impacted by a strict separation between interpreters used as part of the asylum process and the law enforcement interpreters' pool.

> - Member States' experts to be trained, to have the necessary profiles and to be deployed for sufficiently long periods;
> - Common pool of interpreters and cultural mediators for all actors operating in the hotspots, as far as possible.

6. Comprehensive and effective processing of incoming migrants

The processing of incoming migrants should take place at the earliest stage possible. The **first medical assessment and reception** should be possible on a 24/7 basis. Hotspots should be fully integrated into national health systems to facilitate referrals. An IT-based migrant health record, based on the Personal Health Record (developed by the Commission) should be filled in already in the hotspot. Initial physical **security through body and luggage checks, including personal belongings** should be one of the first measures taken in the hotspot area, unless already performed following rescue operations. Moreover, an effective software and network capacity for large scale registration activity and a sufficient number of **fingerprinting** devices and staff to operate them are essential to ensure a swift registration process, at the end of which migrants should be identified and registered as well as provided with a document specifying their presumed or confirmed identity, status and possible vulnerabilities. **Screening** activities as well as **age and vulnerability assessment** should be done by trained personnel on the basis of standard procedures and templates. Unaccompanied minors should be appointed a **guardian** and adequately accommodated without delay.

Considering the foreseen capacity of the hotspots to be created, the expected processing capacity and the national capacity to be deployed, the Host Member State should identify the support needed by EU Agencies in terms of human resources and technical equipment. In particular, the sufficient

number of fingerprinting devices should also include the need to have access to relevant EU systems (and Interpol) for searching and identifying and a sufficiently stable IT-backbone in order to enable fast and stable checks in the databases.

Hotspots should have adequate structures for confidential interviews for screening and **debriefing** activities which are key to gather information on migratory routes, smuggling networks or/and security aspects. Europol and EBCGA deployed Member States' experts should be closely involved in the **first- and second-line security checks** performed by national authorities. Local judicial authorities should be reinforced to cope with increased cooperation needs from hotspots.

The channelling of migrants has to take place after migrants have been informed about their rights and duties in accordance with the EU migration *acquis*. Additional **provision of information** techniques, such as repeated audio messages, videos, testimonies, information kiosks or posters in strategic locations, small group sessions or social media, should be used.

- Use of the relevant elements of the Personal Health Record;
- Comprehensive capacity to fully identify and register the arrived migrants;
- Standard procedures and templates for the follow up of vulnerable cases;
- Immediate availability of Child protection officers and guardians for unaccompanied minors;
- Adequate structures for confidential interviews for screening and **debriefing** activities;
- Close involvement of Member State experts in first and second-line security checks, including databases;
- Targeted and timely provision of information;
- Systematic transmission of information from hotspots to follow up structures.

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7. A closer nexus between the initial steps of the hotspots approach and the asylum/return procedures

In order to increase the effectiveness and efficiency of the asylum and return procedures, it is advisable to establish, within the existing national legislative framework, **a closer nexus between the initial steps of the hotspots approach and the asylum and return procedures** which should follow these initial steps in order to expedite processes and ensure efficiency gains. In this way, the asylum and return procedures which should follow the initial identification, registration and fingerprinting of the persons concerned can be carried out in the most effective manner. The experience with the implementation of the hotspots approach in Greece has also showed the added value of initiating the asylum and return procedures and, when appropriate, finalising them, in the hotspots. In this framework, the role of EU Agencies should be scaled up in the preparation and implementation of asylum and return decisions. In particular, the support of EASO experts to the asylum procedures should be envisaged at all stages.

As concerns **applications for international protection**, the host Member State should use all possibilities within the existing national legal framework and the EU acquis to expedite procedures and to quickly decide on applications, notably by prioritising e.g. inadmissible or manifestly unfounded cases.

With regard to duly informed migrants who did not apply for international protection or whose application was rejected, **return procedures** could be initiated directly from the hotspots. Local particularities as well as legal and logistical aspects specific to each Member State should be taken into account. Wherever possible, the return decision should be taken already in the hotspots and enforced with the support of the European Border and Coast Guard Agency. To this end, the overall detention capacity of the host Member State should be sufficient to adequately support removal operations. The presence of third-countries Liaison Officers has also proven to be an effective tool to help formally identifying migrants and carrying swiftly the necessary consular work in view of

issuing the necessary travel documents. Assisted Voluntary Return and Reintegration opportunities (AVRR) should also be part of this procedure.

> - Establish a close nexus between the initial steps of the hotspots approach and the asylum and return procedures which should follow these initial steps, in order to expedite processes and ensure efficiency gains, within the existing national legislative framework;
> - Scale up the use of EU Agencies and experts at all stages of asylum and return procedures.

ANNEX 1:

TEMPLATE FOR HOTSPOT STANDARD OPERATING PROCEDURES (H-SOPS) [8]

I. Introduction

1. Purpose of the Hotspot Standard Operating Procedures (H-SOPs)
2. Introduction to the Hotspot Approach
3. Actors
- National Authorities
- EU Institutions/Agencies
- International Stakeholders
- Other Actors

II. Structure of Hotspot SOPs[9][10]

1. **Border control/**Search and rescue / interception of migrants *[11]

2. AT DISEMBARKATION SITE (note: might be extremely close to hotspot premises, having the effect that some actions listed under 4 are carried out here (i.e. 4.2., 4.8.)*

3. TRANSFER TO HOTSPOTS*

4. ENTERING THE HOTSPOT PREMISES AND INITIAL PROCESSING

    4.1 Initial reception of arriving migrants*
    4.2 Personal security checks and checks of personal belongings*
    4.3 First identification/screening*
    4.4 Check against national and European databases, including travel document checks*
    4.5 Photographs and fingerprinting*
    4.6 Debriefing procedures*
    4.7 Information provision on current legislation on migration and international protection procedures as well as on assisted voluntary return and reintegration*
    4.8 Medical assessment / first medical assistance, including psychosocial assistance*
    4.9 Vulnerability identification and assurance of appropriate follow-up via a uniform referral system*
    a) identification of UAMs
    ` b) identification of victims in trafficking of human beings
    c) identification of other categories (shipwreck victims, single women, victims of violence etc.)
    4.10 Completion of registration and reception and identification procedures and referrals*
    4.11 Launch of the appropriate follow-up procedure [12]
    a) for those migrants not expressing any intention to apply for international protection, individuals with a criminal background known to the authorities, persons with entry bans, etc: return procedure
    b) for those migrants expressing the intention to apply for international protection: formalise asylum request
    c) launch of voluntary relocation procedure (when applicable)

5. STAYING AT THE HOTSPOT

    5.1 Residency status*
    5.2 Assignation to dormitories – matters of residency – accommodation - catering

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[8] The H-SOP template is intended for the functioning and organisation of future hotspots in Member States.
[9] Each of the 5 sections and subsections under part II should be further broken down into "overview", "actors involved" and "procedural steps to follow".
[10] A workflow chart providing a summary overview on the different stages of the processing of incoming migrants under the H-SOPs should be annexed.
[11] Due to the existence of different modules in the hotspot approach, phases marked with an * should be considered mandatory.
[12] Only applicable in cases when it is foreseen by the relevant national legislation