

Counter Terrorism and External Border Management in Italy



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IN-DEPTH ANALYSIS

Abstract

This in-depth analysis was produced by the Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Special Committee on Terrorism (TERR) for the purpose of a TERR mission to Rome and Catania from 6 to 8 June 2018. The paper examines Italy's external border management, through the lens of counter terrorism. Hotspots and Standard Operating Procedures are given specific attention, alongside the Italian and European legislative framework. By exploring the role and interaction of different organisations with national authorities, this paper provides a comprehensive overview of their different mandates and contribution to Italy's external border management.

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LIST OF ABBREVIATIONS

CSF	Comitato di Sicurezza Finanziaria (Committee of Financial Security)
EASO	European Asylum Support Office
EUNAVFOR	EU Naval Force
EURTF	EU Regional Task Force
GO	Guest Officers
IMO	International Migration Organisation
SAR	Search and Rescue
SOP	Standard Operating Procedures
SWAT	Special Weapons and Tactics
TERR	Special Committee on Terrorism
UNHCR	United Nations High Commissioner for Refugees
UNSC	United Nations Security Council

EXECUTIVE SUMMARY

This in-depth analysis was produced by the Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Special Committee on Terrorism (TERR) for the purpose of a TERR mission to Rome and Catania from 6-8 June 2018, specifically examining external border management in Italy, through the lens of counter terrorism operations. In recent years, terror attacks in Europe have placed increasing importance of tackling security issues and registering/screening individuals at their point of entry into Europe.

Due to the geographical position of Italy being directly on the Mediterranean Sea, the country has experienced an unprecedented influx of migration which has required action both at national and EU level. In May 2015, the European Agenda on Migration announced the introduction of the 'hotspot approach' which was aimed to save lives, and assist countries who were dealing with "disproportionate migratory challenges at particular hotspot areas of its external borders."¹ Currently in Italy there are 5 hotspots, where a number of actors are on the ground, tackling different aspects of Italy's external border management and security while working interdependently.

This approach has been crucial in the identification and relocation of individuals coming to Europe, with operational support concentrated on registration, identification, fingerprinting and debriefing of asylum seekers, as well as return operations. Security checks in hotspots come in different forms, including physical and on various national and international databases. These checks have gained particular importance since the November 2015 Paris attacks. Thus, by focusing on specific areas, and with multiple European actors cooperating can external border management be more efficient and precise.

The EU Regional Task Force (EURTF) is composed of representatives from Frontex, European Asylum Support Office (EASO), Europol and the EU Naval Force (EUNAVFOR) and national authorities. By serving as a platform the EURTF coordinates the support teams, and ensures close cooperation with national authorities. The current EURTF base in Italy is in Catania, Sicily. The specific actors each place different roles, however they can be seen as cooperative and complementary to each other. Moreover, EU Member States have a shared responsibility for information exchange primarily taking place through databases. Second line security checks ensure the proper safeguards are in place in case of suspicion of terrorism.

In sum, this paper addresses issues surrounding cooperation and information exchange between national law enforcement authorities, as well as the interoperability of European information sharing databases. This is of the utmost importance for both ensuring the good functioning of the Schengen Area and for the protection of EU's external borders.

¹ [http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583136/IPOL_IDA\(2017\)583136_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583136/IPOL_IDA(2017)583136_EN.pdf).

1. GENERAL INFORMATION ON ITALY

Political Landscape

Italy is the fourth most populous EU Member State located in the south of Europe, sharing its borders with France, Switzerland, Austria, Slovenia, San Marino, and Vatican City. Italy (official name *Repubblica Italiana* (Italian Republic) is based on a unitary parliamentary system. The President of Italy's term lasts for seven years, and unlike many other democracies the Italian Constitution of 1948 does not have a term limit. In actuality, the President has a largely ceremonial role. The current President is Sergio Mattarella, who has served since 3 February 2015.

Italy has a bicameral legislature with 945 elected members and a small number of *parlamentari* who are unelected members. The two houses respectively are the Senate of the Republic and the Chamber of Deputies. The Senate of the Republic is governed by Article 57-59 of the Constitution and consists of 315 *senatori* elected on a regional basis, plus a small number (currently 6) of senators for life (*senatori a vita*), either appointed or *ex officio*. The Chamber of Deputies is covered under Article 56 of the Constitution and consists of 630 deputati. The President of the Senate is Maria Elisabetta Alberti Casellati and the President of the Chamber of Deputies is Roberto Fico. The two houses have perfect bicameralism in the sense they have the exact same powers.

The main political parties are:

- Partito Democratico (*Democratic Party*)
- Movimento Cinque Stelle (*Five Star Movement*)
- Forza Italia (*Forward Italy*)
- Lega (*League*)
- Liberi e Uguali (*Free and Equal*)
- Fratelli d'Italia (*Brothers of Italy*)

Since the February 2018 elections, there has been a hung parliament with no absolute majority. The Ministry of the Interior is responsible for internal security and the protection of the constitutional order, for civil protection against disasters and terrorism.

Institutional Setup in the Fight against Terrorism

Italy has a long standing, historical relationship with terrorism within its borders. As a result, specific national anti-terrorist legislation in Italy is extensive.

Figure 1: Overview of Italy anti-terrorism legislation.²

Italy Terrorism Legislation
<p>a) Urgent measures against international terrorism:</p> <ul style="list-style-type: none"> • Executive Decree n. 374 of 18 October 2001, subsequently passed as Law n. 438 on 15 December 2001, “Disposizioni urgenti per contrastare il terrorismo internazionale” (urgent measures against international terrorism); • Executive Decree n. 144 of 27 July 2005, subsequently passed as Law n. 155 on 31 July 2005, “Misure urgenti per il contrasto del terrorismo internazionale” (urgent measures against international terrorism); • Executive Decree n. 249 of 29 December 2007, “Misure urgenti in materia di espulsioni e di allontanamenti per terrorismo e per motivi imperativi di pubblica sicurezza” (urgent measures regarding expulsion and deportation); • Law n. 85 of 30 June 2009, “Adesione della Repubblica italiana al Trattato concluso il 27 maggio 2005 tra il Regno del Belgio, la Repubblica federale di Germania, il Regno di Spagna, la Repubblica francese, il Granducato di Lussemburgo, il Regno dei Paesi Bassi e la Repubblica d’Austria, relativo all’approfondimento della cooperazione transfrontaliera, in particolare allo scopo di contrastare il terrorismo, la criminalità transfrontaliera e la migrazione illegale (Trattato di Prüm). Istituzione della banca dati nazionale del DNA e del laboratorio centrale per la banca dati nazionale del DNA. Delega al Governo per l’istituzione dei ruoli tecnici del Corpo di polizia penitenziaria. Modifiche al codice di procedura penale in materia di accertamenti tecnici idonei ad incidere sulla libertà personale” (signatory of the Prüm Treaty - creation of the National DNA database); • Executive Decree n. 7 of 18 February 2015, subsequently passed as Law n. 43 on 17 April 2015, “Misure urgenti per il contrasto del terrorismo, anche di matrice internazionale, nonché proroga delle missioni internazionali delle Forze armate e di polizia, iniziative di cooperazione allo sviluppo e sostegno ai processi di ricostruzione e partecipazione alle iniziative delle Organizzazioni internazionali per il consolidamento dei processi di pace e di stabilizzazione” (urgent measures against international terrorism - extension of the powers of the Direzione Nazionale Antimafia to the terror-related crimes); • Law n. 153 of 28 July 2016, “Norme per il contrasto al terrorismo, nonché ratifica ed esecuzione: a) della Convenzione del Consiglio d’Europa per la prevenzione del terrorismo, fatta a Varsavia il 16 maggio 2005; b) della Convenzione internazionale per la soppressione di atti di terrorismo nucleare, fatta a New York il 14 settembre 2005; c) del Protocollo di Emendamento alla Convenzione europea per la repressione del terrorismo, fatto a Strasburgo il 15 maggio 2003; d) della Convenzione del Consiglio d’Europa sul riciclaggio, la ricerca, il sequestro e la confisca dei proventi di reato e sul finanziamento del terrorismo, fatta a Varsavia il 16 maggio 2005; e) del Protocollo addizionale alla Convenzione del Consiglio d’Europa per la prevenzione del terrorismo, fatto a Riga il 22 ottobre 2015” (provisions against terrorism - signatory of some international Conventions on the prevention of terrorism); • Legislative Decree n. 108 of 21 June 2017, “Norme di attuazione della direttiva 2014/41/UE del Parlamento europeo e del Consiglio, del 3 aprile 2014, relativa all’ordine europeo di indagine penale” (implementation of the Directive 2014/41/EU regarding the European Investigation Order in criminal matters);

² [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/596832/IPOL_STU\(2017\)596832_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/596832/IPOL_STU(2017)596832_EN.pdf)

Italy Terrorism Legislation

b) Anti-terrorist financing measures:

- Executive Decree n. 369 of 12 October 2001, subsequently passed as Law n. 431 on 14 December 2001, "Misure urgenti per reprimere e contrastare il finanziamento del terrorismo internazionale" (urgent measures for the suppression of financing terrorism);
- Legislative Decree n. 109 of 22 June 2007, "Misure per prevenire, contrastare e reprimere il finanziamento del terrorismo e l'attività dei Paesi che minacciano la pace e la sicurezza internazionale, in attuazione della direttiva 2005/60/CE" (implementation of the Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing);
- Legislative Decree n. 231 of 21 November 2007, "Attuazione della direttiva 2005/60/CE concernente la prevenzione dell'utilizzo del sistema finanziario a scopo di riciclaggio dei proventi di attività criminose e di finanziamento del terrorismo nonché della direttiva 2006/70/CE che ne reca misure di esecuzione" (implementation of the Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing - implementation of the Directive 2006/70/EC laying down implementing measures for Directive 2005/60/EC);
- Legislative Decree n. 54 of 11 May 2009, Modifiche ed integrazioni al decreto legislativo 22 giugno 2007, n. 109, recante attuazione della direttiva 2005/60/CE, concernente misure per prevenire, contrastare e reprimere il finanziamento al terrorismo e l'attività di Paesi che minacciano la pace e la sicurezza internazionale (amendments to the Legislative Decree n. 109 of 22 June 2007);
- Legislative Decree n. 151 of 25 September 2009, "Disposizioni integrative e correttive del decreto legislativo 21 novembre 2007, n. 231, recante attuazione della direttiva 2005/60/CE concernente la prevenzione dell'utilizzo del sistema finanziario a scopo di riciclaggio dei proventi di attività criminose e di finanziamento del terrorismo, nonché della direttiva 2006/70/CE che reca misure di esecuzione" (amendments to the Legislative Decree n. 231 of 21 November 2007);
- Legislative Decree n. 159 of 6 September 2011 "Codice delle leggi antimafia e delle misure di prevenzione, nonché nuove disposizioni in materia di documentazione antimafia, a norma degli articoli 1 e 2 della legge 13 agosto 2010, n. 136", (prevention measures);
- Legislative Decree n. 35 of 15 February 2016, "Attuazione della decisione quadro 2003/577/GAI del Consiglio, del 22 luglio 2003, relativa all'esecuzione nell'Unione europea dei provvedimenti di blocco dei beni o di sequestro probatorio" (implementation of the Framework Decision 2003/577/JHA on the execution in the European Union of orders freezing property or evidence);
- Legislative Decree n. 202 of 29 October 2016, "Attuazione della direttiva 2014/42/UE relativa al congelamento e alla confisca dei beni strumentali e dei proventi da reato nell'Unione europea" (implementation of the Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime in European Union);
- Legislative Decree n. 90 of 25 May 2017, "Attuazione della direttiva (UE) 2015/849 relativa alla prevenzione dell'uso del sistema finanziario a scopo di riciclaggio dei proventi di attività criminose e di finanziamento del terrorismo e recante modifica delle direttive 2005/60/CE e 2006/70/CE e attuazione del regolamento (UE) n. 2015/847 riguardante i dati informativi che

Italy Terrorism Legislation

accompagnano i trasferimenti di fondi e che abroga il regolamento (CE) n. 1781/2006" (implementation of the Directive 2015/849/EU on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing);

c) Rights, support and protection of victims of terrorism:

- Executive Decree n. 13 of 4 February 2003, subsequently passed as Law n. 56 of 2 April 2003, "Disposizioni urgenti in favore delle vittime del terrorismo e della criminalità organizzata" (urgent measures for victims of terrorism);
- Law n. 206 of 3 August 2004, "Nuove norme in favore delle vittime del terrorismo e delle stragi di tale matrice" (measures for victims of terrorism);
- Decree of the President of the Republic n. 181 of 30 October 2009, "Regolamento recante i criteri medico-legali per l'accertamento e la determinazione dell'invalidità e del danno biologico e morale a carico delle vittime del terrorismo e delle stragi di tale matrice, a norma dell'articolo 6 della legge 3 agosto 2004, n. 206" (measures for victims of terrorism).

Generally, the European and international response to terrorism after September 2001 was swift and harmonious with the international framework established by the United Nations and other regulatory instruments adopted by the EU. A number of measures and laws came into force focusing on different areas of international terrorism.

Expanding on Italy specifically, measures were taken to prevent terrorist organisations from using the Italian financial system through the establishment of the *Comitato di Sicurezza Finanziaria* (CSF) - or the Committee of Financial Security - by the Ministry of Economic and Financial Affairs under Law No.431/2001, highlighting the holistic response adopted by Italy. The CSF identified the vulnerability in Italy of organised crime syndicates laundering money and particularly, terrorist financing.³ The general aim of the CFS is to stop any financial assistance to terrorism going through the Italian system, accordingly, they are able to sanction individuals and businesses and also freeze assets if they are associated with terrorism. By monitoring the implementation of EU regulations, and the application of measures provided by the UNSC organisations and individuals pass through the system and can be added to the sanction list. According to the Ministry of Foreign Affairs and International Cooperation "the value of the financial assets frozen by the Italian administrative authorities amounted, as of December 2004, to approximately 500,000 euro; in addition, assets and property worth approximately 4 million euro were seized at the request of the judicial authorities."⁴

Different sections of Italian authorities are dedicated to preventing and dealing with terrorism. The Nucleo Operativo Centrale di Sicurezza (Central Security Operations Service) is a SWAT division of the Italian police, equipped to deal with terrorist threats. Moreover, the Gruppo di Intervento Speciale (Special Intervention Group) are similarly prepared to respond to terror threats, but are airborne. The Antiterrorismo Pronto Impiego (Counter-terrorism Rapid Response) was established in 1983 specifically dedicated to counter-terrorism operations, including the supervision of ports. As will be explored, the Italian authorities cooperate with international and EU organisations in the fight against terrorism in Italy.

³ http://www.dt.tesoro.it/attivita_istituzionali/prevenzione_reati_finanziari/comitato_sicurezza_finanziaria/.

⁴ https://www.esteri.it/mae/en/politica_estera/temi_globali/lotta_terrorismo.

Migration Statistics

Migration flows to Italy have long been high, with significant numbers of migrants and applicants for international protection reaching its shores through the so-called “central Mediterranean route”. According to Frontex [data](#), in 2016 181.126 persons arrived to Italy through this route, more than in 2015 (153.946) and 2014 (170.760). The top three nationalities in 2016 were Nigerians (over 37.000), Eritreans (over 20.000) and Guineans (over 13.000); most arrivals came from [Libya](#). In 2017, however, the numbers decreased. According to national [data](#), in 2017, 119.369 migrants disembarked on Italian coasts - a 34% reduction compared to 2016. The top nationalities in 2017 were Nigerians (over 18.000 arrivals), followed by Guineans and Ivoirians (over 9.000 each), and Bangladeshi (over 8.000). [Newspapers](#) however also report an unexpected inflow of persons coming from Tunisia; according to media reports, not all of them are intercepted and officially registered. As of 15 May 2018, the number of migrants disembarked on the Italian coast in 2018 is 10.660.

The journey across the Mediterranean, bringing migrants and asylum seekers from North African shores to Italian ones, is particularly dangerous, as it often involves the use of old, unseaworthy fishing boats, or even small rubber dinghies. Search and Rescue (SAR) operations are very often necessary to avoid loss of lives: according to the Italian coastguard, 1.424 SAR activities took place in 2016.⁵ Yet, the International Organisation for Migration (IMO) reports that the Central Mediterranean route remains [deadlier than ever](#): in 2016, [4,581](#) persons died while attempting to cross the sea through this route, in 2017, [2,853](#) deaths were already recorded and in 2018 up until 15 May, there have been 383 deaths.⁶ Moreover, the death rate (proportion of deaths over arrivals) increased in 2017 to [1.6%](#) (compared to 1.4% in 2016) which has remained consistent so far for 2018.

Italy is, together with Greece, one of the countries directly affected by the Council decisions on relocation (Council Decisions [2015/1523](#) and [2015/1601](#) of September 2015); in this context, the hotspot approach has been implemented on the ground.⁷ Until [December 2016](#), the number of persons relocated from Italy was 2.451 adults and 203 children; from 15 May 2018, a total of 12.716 persons have been relocated (including 265 unaccompanied minors).

Italy's External Border Management

In recent years, Italy's external border management has becoming exceptionally important to the EU and its Member States, while presenting challenges for Europe's law enforcement, which has been tackled at EU level and subsequently national level. The geographical positioning of Italy being on the Mediterranean Sea means a number of land and marine actors are involved.

EU legislation governing external borders is found in both hard and soft law. Under Article 77(1), of the TFEU, EU legislature expresses that border management should be both efficient and striving towards systematic organisations. Italy, pursuant to [Regulation 2016/1624](#) on the European Border and Cross Guard, 'provide[s] adequate information covering all aspects relevant to European integrated border management, especially border control, return, irregular secondary movements of third-country nationals within the Union, prevention of cross-border crime including facilitation of unauthorised border crossings, trafficking in human beings, terrorism.'⁸ Cooperation on the EU and Italian national level is essential for the most effective and accurate systems in tackling terrorism.

⁵ See Italian Coastguard, [Search and Rescue \(S.A.R.\) activity in the central Mediterranean Sea](#) from January 1st to December 31st, 2016.

⁶ IOM, [Missing migrants project](#).

⁷ See Commission Communication on the Delivery of the European Agenda on Migration, 27 September 2017, [COM\(2017\) 558, at p. 12](#).

⁸ [Regulation 2016/1624](#)

In 2015, the EU released a 10 point action plan on migration to address the insufficient structural problems caused by the sudden influx of migrants. High Representative/Vice-President **Federica Mogherini** and Commissioner **Dimitris Avramopoulos** jointly stated *"we need to show that same collective European sense of urgency we have consistently shown in reacting in times of crisis. The dire situation in the Mediterranean is not a new nor a passing reality."* Included in the capacity building ten points was the fingerprinting of all migrants, while an important first step this action plan was insufficient and followed up by other measures.

Importantly, the principles of solidarity and fair sharing of responsibilities between Member States is set out in Article 80 of the Lisbon Treaty. Furthermore, pursuant to the Common European Asylum System the importance of responsibility sharing was reiterated.⁹

⁹ https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration_en.

2. IMPLEMENTATION OF THE EUROPEAN AGENDA ON MIGRATION: THE HOTSPOT APPROACH AND THE EU REGIONAL TASK FORCE

Background

Map 1 : Hotspots in Italy (FRA 2018)¹⁰



The [European Agenda on Migration](#), adopted in May 2015, first announced that the Commission would set up a new 'Hotspot' approach, "where the European Asylum Support Office, Frontex and Europol will work on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants." The Agenda also announced the intention of the Commission, in the face of the unprecedented pressure that Member States' asylum systems were facing, to trigger the emergency response system envisaged under Article 78(3) TFEU¹¹ by proposing a relocation scheme for the temporary distribution of persons in clear need of international protection, in order to ensure a fair and balanced participation of all Member States.

The 25-26 June 2015 [European Council](#) endorsed the idea of the "hotspots", as a way to determine "those who need international protection and those who do not"; at the same meeting, it further endorsed the idea of a relocation scheme to alleviate the migratory pressure on frontline Member States.

The "hotspots" and the EU Regional Task Force

The general concept of the "hotspots" was first clarified in an "[explanatory note](#)" sent by Commissioner Avramopoulos to Justice and Home Affairs Ministers on 15 July 2015, then further restated in an [annex](#) to the 23 September 2015 Commission Communication on managing the refugee crisis. Both documents also mentioned the need to create an EU Regional Task Force (EURTF) to coordinate the work of the different teams of experts involved in the "Hotspot" approach and the information exchange among these teams.

A definition of a 'hotspot area' has been included in the EU Border and Coast Guard Regulation ([2016/1624](#)), in Article 2(10).¹² The Regulation clarifies that the "hotspot approach" is triggered by a request by a Member State facing disproportionate migratory challenges at particular hotspot areas of its external borders; the request is subsequently assessed and can lead to the deployment of a 'migration management support team' composed of experts deployed from Member States by Frontex and EASO, and experts from Frontex, Europol or other relevant Union agencies.¹³ There are currently 5

¹⁰ <http://fra.europa.eu/en/theme/asylum-migration-borders/fra-work-hotspots>.

¹¹ Article 78(3): In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

¹² 'Hotspot area' means an area in which the host Member State, the Commission, relevant Union agencies and participating Member States cooperate, with the aim of managing an existing or potential disproportionate migratory challenge characterised by a significant increase in the number of migrants arriving at the external borders.

¹³ The [proposal](#) for a new EASO Regulation - on which an agreement between Parliament and Council is under discussion - may also include in the latter reference to the hotspots and to the role of the future asylum agency within them.

hotspots in Italy and 5 in Greece; the Italian hotspots are located in Sicily (on the island of Lampedusa,¹⁴ in Pozzallo, in Trapani, and since 30 September 2017 in Messina) and in Apulia (Taranto). Since the implementation of the hotspots in Italy, fingerprinting rates for incoming migrants and applicants for international protection have substantially increased - from around 58% in 2015 to almost 100% now.¹⁵ According to recent Commission data, the total reception capacity of the Italian hotspots is around 1.600 persons. Currently, 48 experts have been deployed there by the European Border and Coast Guard (with the exception of Messina where only EASO experts are present), in addition to 21 EASO experts (including Member State experts and cultural mediators).¹⁶ As regards Europol personnel, as will be examined below more in detail (see Section 4), in May 2016 the agency [announced](#) that it had approved the recruitment of up to 200 counter-terrorist and other investigators for deployment to migration hotspots in Greece and other countries (including in particular Italy).

Table 1 : Hotspot State of Play¹⁷

Hotspot State of Play					
HOTSPOTS IN ITALY ¹					
	LAMPEDUSA	POZZALLO	TARANTO	TRAPANI	MESSINA
Total Reception Capacity	500	300	400	400	
EU Presence	European Border and Coast Guard: 13 experts	European Border and Coast Guard: 13 experts	European Border and Coast Guard: 6 experts	European Border and Coast Guard: 12 experts	
	EASO: 1 Member State Expert	EASO: 1 Member State Expert	EASO: 1 Member State Expert	EASO: 1 Member State Expert	
	EASO: 2 cultural mediators	EASO: 3 cultural mediators	EASO: 2 cultural mediators	EASO: 6 cultural mediators	EASO: 2 cultural mediators

*Last updated on 18 December 2017

The EU Regional Task Force (EURTF) is defined in general terms in the [annex](#) to the 23 September 2015 Commission Communication on managing the refugee crisis: accordingly, in each Member State hosting the hotspots there is a joint operational headquarters, the EURTF, with representatives of the three agencies most closely involved in the hotspots (Frontex, EASO and Europol). The task of the EURTF is to coordinate the work of the Support Teams at the 'hotspots' and ensure close cooperation with the national authorities of the host Member State. The EURTF in Italy has been set up in Catania, in Sicily, and is active there since 26 June 2015. It is composed of representatives of Frontex, EASO,

¹⁴ As of March 2018, Lampedusa is temporarily closed due to an arson incident and reports of degrading conditions

¹⁵ See Commission Communication on the Delivery of the European Agenda on Migration, 27 September 2017, [COM\(2017\) 558, at p. 12](#).

¹⁶ Commission Hotspot state of play, last updated 20 November 2017, at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_hotspots_en.pdf.

¹⁷ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_hotspots_en.pdf.

Europol, EUNAVFORMED and national authorities.¹⁸ The office of the EURTF has been inaugurated on 27 April 2016, when it moved to its new premises in Catania in via Transito, 74.¹⁹ A EURTF also exists in Greece, in Piraeus, Athens.

National regulations on the hotspots are quite detailed. Indeed, there exist specific “[standard operating procedures](#)” (SOPs), drafted by the Ministry for Home Affairs, which clarify the applicable procedures in the hotspots; however, until February 2017, the SOPs did not have a clear legal basis. Numerous institutional actors had called for the adoption of legislation on the hotspots;²⁰ a legal basis was deemed essential since the SOPs envisage that migrants cannot leave the hotspot until after having been fingerprinted (p. 8), and Article 13 of the Italian [Constitution](#) provides that restrictions of personal liberty may only be applied by reasoned order of the judiciary, in such cases and manner as provided *by law*.²¹ The issue was partly clarified by the inclusion of a short mention of the hotspots (as “*punti di crisi*”) in [law decree 13/2017](#) (Art. 17).²²

The [standard operating procedures](#) clarify the steps that must be taken from the moment when migrants disembark on Italian soil until the moment when they exit the hotspot. In particular, these steps include:

- Search and rescue and disembarkation operations;
- Initial medical screening (on board of the ship that rescued the migrants, or upon disembarkation): to identify persons who require specific medical care or are already obviously vulnerable, as well as contagious diseases;
- Arrival in the hotspots: migrants undergo a security check and receive information sheets on the national laws on migration and asylum and on how to seek asylum;
- Pre-identification: with photo and identity bracelets (with an identification number), followed by the filling up of an information sheet (so-called *foglio notizie*). The SOPs state clearly that pre-identification, including as regards nationality, does not imply the definition of the legal status of the persons, as they may file an asylum application even at a later stage;
- International organisations (UNHCR and IOM) provide third-country nationals with information on the laws applicable to them;
- Identification, fingerprinting of migrants who are at least 14 years old,²³ followed by checks of the data in the existing databases;
- Reception: accommodation within the hotspot and medical examination;
- In-depth information on the procedures for relocation and to apply for asylum is provided by EASO, international organisations, and national authorities;
- Frontex debriefing.

¹⁸ See the [annex](#) to the 23 September 2015 Commission Communication on managing the refugee crisis. Also see the video on the EURTF, [Refugee crisis: the hot spot approach JHA Preview](#).

¹⁹ See the Italian Ministry for Home Affairs [press release](#).

²⁰ See e.g. the Reports adopted by the Parliamentary Inquiry Committee on the System for the reception, identification and return of migrants ([Inquiry Committee Report](#) and [Hotspot inquiry report](#)) and by the [Senate extraordinary committee](#) on human rights; the report of the National [Ombudsman](#) for the rights of persons deprived of their liberty; the hearings at the Inquiry Committee of the former [Chief of Police](#) and of the former [Minister for Home Affairs](#); and the Report of the fact-finding mission to Italy by the CoE’s [Special Representative on migration and refugees](#).

²¹ The importance of a legal basis has also been stressed by the December 2016 judgment of the Grand Chamber of the ECtHR in the [Khalifa](#) case: according to the Strasbourg Court, retention of migrants in first reception centres (such as Lampedusa) violates Art. 5 ECHR, and is to be considered arbitrary due to the lack of a legal basis. The issue of a possible violation of Art. 5 ECHR due to the lack of a legal basis for *de facto* detention in the hotspots has also been raised by the CoE’s [Special Representative on migration and refugees](#).

²² The decree was adopted by the Government on 17 February 2017 and converted into law by Parliament on 13 April 2017 (law n. 46/17). However, according to the recent [Opinion](#) of the Council for the Judiciary (CSM), the new provision of Art. 17 is not sufficiently precise to satisfy the requirements of Art. 5 ECHR as regards retention in the hotspots.

²³ Age assessment by medical examinations are arranged in case of reasonable doubt about the actual age being less than 14 or the possible age over 18.

Exit from the hotspots can then follow several different procedures, depending on the individual circumstances of the case: if the person has applied for international protection, he/she will either be eligible for relocation (see below) and thus accommodated in a relocation hub or other reception center while awaiting relocation, or - if not eligible for relocation - he/she will be entitled to accommodation in a reception center while the Italian authorities examine his/her application for international protection. If, on the other hand, they did not apply for international protection, and are not entitled to stay in Italy for other reasons (e.g. trafficking victims can obtain a special residence permit to protect them), they will have to be returned, either voluntarily or forcibly, and might be detained in a detention center.

One peculiarity of the Italian situation is that most disembarkations do not take place in a hotspot. The place of disembarkation is normally determined by the Italian Coast Guard, which manages the Italian Maritime Rescue Coordination Center (MRCC) and thus coordinates all search and rescue activities in the Italian search and rescue area: it thus also indicates to ships approaching Italy with rescued persons on board where to land, based on a variety of factors (including the dimension of the ship). In 2016, out of a total of around 180.000 migrants who arrived to Italy irregularly by sea, less than one third (52.337) disembarked in one of the four existing hotspots (Lampedusa, Pozzallo, Trapani and Taranto).²⁴ Data for 2017 confirm this trend, with Augusta and Catania ports making for over 32.000 disembarkations.²⁵ However, the Standard Operating Procedures are also applied in some of the harbours which are not officially considered as hotspots, and in February 2017 the Commission reported that the Ministry for Home Affairs had decided to designate 15 ports of disembarkation as ports applying the SOPs.²⁶ Thus, even persons who are not disembarked in a hotspots undergo the same identification and screening procedures applicable there.

A problem remains as regards migrants who are not intercepted at sea, and who therefore reach the Italian shores autonomously: during summer 2017, the media reported an increase in the number of persons who arrive to Italy directly on their own boat, without being recorded (so called "sbarchi fantasma" or "ghost disembarkations").²⁷ Such disembarkations (recently, mostly from Tunisia) allow persons to arrive in Italy without being stopped and registered. The Agrigento Prosecutor, in an interview with newspaper La Stampa, has warned about the risk that some migrants might be trying to avoid registration in Italy because they have already been expelled from there, or because they are recently released detainees.²⁸

More detailed information on the application of the SOPs in practice is available elsewhere.²⁹

Relocation

In May and September 2015, following the unprecedented number of arrivals in several EU Member States, the European Commission proposed an emergency mechanism (to be adopted based on Article 78(3) TFEU) to relocate applicants for international protection from Italy and Greece³⁰ - while the second proposal also included Hungary among its beneficiaries, the Hungarian Government did not agree to this inclusion. The two decisions were adopted by Council respectively on 14 and on 22 September 2015, and provided for the relocation of a total of 160.000 applicants for international

²⁴ See European Commission, [Ninth report](#) on relocation and resettlement, February 2017, at p. 9.

²⁵ See data from the Italian Home Affairs Ministry, available from <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/documentazione/statistica/cruscotto-statistico-giornaliero>

²⁶ [Ninth report on relocation and resettlement](#), p. 9-10.

²⁷ See e.g. the news reports by [Ansa](#); [Il Corriere](#); [La Stampa](#).

²⁸ See at <http://www.lastampa.it/2017/09/18/italia/cronache/quella-delle-barche-fantasma-una-migrazione-pericolosa-iL3rKc7cHceBZWxGTMR5TO/pagina.html>.

²⁹ See in particular Policy Department C, [Background information for the LIBE Delegation on Migration and Asylum in Italy](#), March 2017; and Policy Department C, [Implementation of the 2015 Council Decisions Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and of Greece](#), March 2017.

³⁰ See the two Commission proposals: [COM\(2015\) 286](#), of 27 May 2015, and [COM\(2015\) 451](#), of 9 September 2015.

protection from Italy and Greece.³¹ Not all applicants for international protection are however entitled to relocation: this only concerns persons who have arrived to Italy or Greece after a certain date (August 2015 for the purpose of the first relocation decision, and March 2015 according to the second) but September 2017 (in both cases), if they have submitted an application for international protection, provided that they belong to a nationality for which the recognition rate across Europe, according to the latest EUROSTAT quarterly statistics on asylum, is 75% or over. In practice, this means that only persons who, based on their nationality, have a high chance of obtaining international protection (in the form of either refugee status or subsidiary protection) are entitled to relocation; moreover, affected nationalities can change - and have indeed changed - over time, depending on the latest statistics.

In general terms, the decisions envisage an obligation for other Member States to relocate eligible applicants for international protection from Italy and Greece, based on a complex mechanism by which other Member States are to pledge, periodically, the number of applicants that they are ready to relocate, while Italy and Greece must identify eligible applicants and make them available for relocation. The whole relocation procedure should take, as a general rule, no longer than 2 months. While the decisions have ceased to apply in September 2017, the Commission has clarified that the legal obligation for Member States to relocate did not end then: indeed, the Decisions apply to all eligible persons arriving in Greece or Italy until September 2017, and thus relocations have continued even after that date.³²

The adoption of the decisions was quite controversial - so much so that their legality has been contested in front of the Court of Justice. In September 2017, however, the Court issued a decision upholding their legality.³³ Implementation of the decisions has also proven difficult, with several Member States refusing to comply - in June 2017, the Commission announced the launching of infringement proceedings against three Member States (Hungary, Poland and the Czech Republic) for that reason.³⁴

Much has already been written on the relocation decisions and their implementation.³⁵ What seems particularly relevant for the present purposes is the fact that, according to the Decisions, Member States retain the right to refuse to relocate an applicant only where there are reasonable grounds for regarding him or her as a danger to their national security or public order, or when the person would not be entitled to obtain international protection under the Qualification Directive (for instance, for reasons of crimes previously committed). However, refusals based on unspecified security concerns, or even grounds not foreseen in the relocation decisions, have been frequently reported. Experts stress that, while in some cases national security was invoked spuriously, many receiving States considered security screenings in Italy and Greece to be flawed and insufficient.³⁶ This led to some States of relocation wanting to send their officers to Italy or Greece to conduct additional screening interviews - a practice that was met with resistance on the part of the Italian authorities, who felt that additional security interviews were leading to "cherry-picking" on the part of receiving Member States, which would use such interviews to select the applicants more likely to easily integrate, leaving the more "difficult" ones in Italy.³⁷ The European Commission also regularly reported on the problems arising from such security concerns and on the role of Europol in providing possible solutions - as will be examined below.

³¹ See Council Decision (EU) [2015/1523](#) of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece and Council Decision (EU) [2015/1601](#) of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

³² See Commission Communication on the Delivery of the European Agenda on Migration, 27 September 2017, [COM\(2017\) 558](#).

³³ CJEU, Judgment in Joined Cases C-643/15 and C-647/15, *Slovakia and Hungary v Council*, [ECLI:EU:C:2017:631](#).

³⁴ Commission [Press release](#), 14 June 2017.

³⁵ See in particular Policy Department C, [Implementation of the 2015 Council Decisions Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and of Greece](#), March 2017.

³⁶ See Policy Department C, [Implementation of the 2015 Council Decisions](#), cited above, at 34-35.

³⁷ See the [Report](#) of the fact-finding mission to Italy by Ambassador Tomáš Boček, Special Representative of the Council of Europe's Secretary General on migration and refugees, 16-21 October 2016, published in March 2017.

3. SECURITY CHECKS IN THE HOTSPOTS AND IN THE RELOCATION PROCEDURE

Background information

In its 20 April 2016 [Communication](#) "Delivering on the European Agenda on Security to fight against terrorism and pave the way towards an effective and genuine Security Union," the Commission pointed out that, in the context of hotspots and relocation, there are three different types of security checks: 1) physical and belongings checks, 2) checks in various national and international databases (in particular the Schengen Information System (SIS) and Interpol Stolen and Lost Travel Documents (SLTD)), and 3) where there are indications that grounds for exclusion, or threat to security and public order exist, secondary checks of asylum applicants can be conducted in databases, through interviews and internet and social media.

The issue of security checks to be carried out in the hotspots gained particular prominence after the November 2015 Paris attacks; in the 20 November 2015 [Conclusions of the Council of the EU and of the Member States meeting within the Council on Counter-Terrorism](#), Member States undertook - in the context of the migration crisis - to carry out a systematic registration, including fingerprinting, of third country nationals illegally entering the Schengen area, whether migrants or applicants for international protection, and perform systematic security checks by using relevant databases, in particular SIS II, Interpol databases, VIS (Visa Information System) and national police databases, with the support of Frontex and Europol, and ensure that hotspots are equipped with the relevant technology. Moreover, the Council conclusions announced that Europol would deploy guest officers to the hotspots in support of the screening process, in particular by reinforcing secondary security controls. Such controls have been defined (by Europol itself) as "Europol's activities in the context of strengthening controls at the external borders of the EU, in particular at the hotspots in support of the screening process," in accordance with the Council conclusions.³⁸

As regards the state of implementation of the guest officers deployment scheme, on 5 July 2016, in an [answer](#) to a written parliamentary question given by Commissioner Avramopoulos, the Commission reported that, since March 2016, nine Europol guest officers were deployed in Greece, and that once the deployment scheme of guest officers would be fully functional, it could also be used to boost Europol presence at the hotspots in Italy. It further clarified that the aim of the scheme is to build a pool of seconded police officers from Member States, who will take over the tasks that at the time were ensured by Europol in the Greek hotspots, and could be deployed elsewhere, depending on the needs and the evolution of the migration flows. Subsequently, in June 2017, Commissioner King [clarified](#) that, by then, Europol had set up a pool of 116 Guest Officers (GO) — experts seconded by national authorities — to support Member States wherever needed. As of 31 January 2017, Europol had started operations in two Italian hotspots, Trapani and Pozzallo, while on 1 April 2017, additional GOs were deployed to the hotspots in Taranto and Agrigento.³⁹ Europol's European Counter Terrorism Centre (ECTC) has also been involved in the implementation of the guest officers' project.⁴⁰

More recently, in the 8 June 2017 [Council conclusions recommending security checks in case of irregular migration](#), the Council again recommended that Member States, when faced with irregular migrants, carry out checks against several databases. Recommended checks include in particular: national databases (such as investigation databases fed and used by competent authorities and national Automatic Fingerprint Identification System, or AFIS); European and international databases

³⁸ See the 12 May 2016 [Decision of the Management Board of Europol](#) laying down rules on the secondment of national experts to Europol.

³⁹ See the 12 June 2017 [answer to a written question](#) by MEP Lorenzo Fontana.

⁴⁰ See 30 January 2017 Europol [Press release](#) One year of the European Counter Terrorism Centre (ECTC) at Europol.

(including SIS, Europol data, VIS, and EURODAC); and checks through Interpol (specifically, Nominal Data, SLTD, Foreign Terrorist Fighters, AFIS, and Travel Documents Associated With Notices).

Security checks and the role of Europol in the Italian hotspots in practice

According to the Italian [SOPs](#), the police subjects all persons entering the hotspots to a (*initial*) security check, in full respect with human dignity; the judicial police can also point to specific priority investigation needs and can always carry out investigations as necessary. Such checks, which also aim at supporting nationality identification activities, are to be carried out by the national police (with one female officer always present); Frontex and Europol officers can act as observers, in particular in order to examine documents and objects that the migrants possess and to evaluate whether they could be relevant.⁴¹ Moreover, Frontex carries out debriefing activities (including personal interviews and the collection of relevant objects and evidence) through its Joint Debriefing Teams (JDTs).⁴²

According to the [SOPs](#), Europol and Eurojust assist Italy with investigations to dismantle the smuggling and trafficking networks, but also to combat other serious criminal activities, organised crime and terrorism. The procedures also clarify how cooperation with Europol is to take place, and which other actors are involved in such cooperation. Accordingly, Italian investigative bodies (such as the national police, the *Carabinieri* - who form part of the army but also carry out police tasks - and the *Guardia di Finanza* - the financial police) can call on cooperation with Europol personnel and exchange information with them in order to allow the hotspot staff to cross-check all the relevant data in the Europol Information System (EIS, Europol's central criminal information and intelligence database⁴³) and in the Organised Crime, Serious Crime and Anti-terrorism databases. The Europol official in the hotspot is to cross-check all relevant data in the EIS and other databases. The data collected on site by Europol personnel as part of the hotspot activities is to be contained in a SIENA (Secure Information Exchange Network Application) message. The Central Operational Service and the competent Command of the *Guardia di Finanza* or *Carabinieri* will send the information to the Europol National Unit (ENU) as well as to the National Anti-Mafia and Anti-Terrorism Directorate (which can use such information in the exercise of its powers of coordination and impulse of the national Anti-Mafia and Anti-Terrorism Prosecutor, and which is also the national counterpart for Eurojust). The exchange of information among the national authorities, the European agencies and EUNAVFORMED is to take place at the EURTF headquarters in Catania.⁴⁴

Europol itself has reported on its role in the hotspots, as well as on possible security threats posed by persons arriving as applicants for international protection. In November 2016, in its Report on [Changes in Modus Operandi of Islamic State \(IS\) revisited](#), Europol clarified that there is no firm evidence that terrorist travellers systematically use the flow of refugees to enter Europe unnoticed, but it is indisputable that some have entered the EU posing as refugees. The report stresses that jihadists using the migration flows may only be 'expendable' footmen, as illegal travel options carry the risk of detention and/or of being taken to another country rather than the intended destination. According to the same report,⁴⁵ facial recognition techniques used in the comparison of persons in refugee camps with photographs retrieved from the conflict areas have produced hits, identifying individuals who are

⁴¹ See the [SOPs](#), at p. 10.

⁴² See the [SOPs](#), at p. 18 - 19, according to which, debriefing interviews serve to gather information on the push factors of irregular migration, travel routes, modus operandi, criminal activities, as well as secondary movements, with the aim of contributing to investigations related to the network of traffickers. Such information is shared with Europol.

⁴³ For more details on EIS, see Europol's [webpage](#), which explains that EIS covers all of Europol's mandated crime areas, including terrorism. It contains information on serious international crimes, suspected and convicted persons, criminal structures, and offences and the means used to commit them. It is a reference system that can be used to check whether information on a certain person or an object of interest (such as a car, a telephone or an e-mail message) is available beyond national or organisational jurisdictions.

⁴⁴ See the [SOPs](#), at p. 14.

⁴⁵ Europol's November 2016 [Changes in Modus Operandi of Islamic State \(IS\) revisited](#).

suspected to have been involved in hostile activities (either coerced or of their own consent).⁴⁶ In its 2017 [European Union Terrorism Situation and Trend Report](#), Europol again concluded that “there is no concrete evidence that terrorist travellers systematically use those flows of refugees to enter Europe unnoticed”; it noted that however some terrorists have entered the EU posing as refugees, as was seen in the Paris attacks of 13 November 2015.⁴⁷

The role of security checks in the relocation procedure - practical issues

As mentioned above, security concerns have long played an important role in relocation efforts, and particularly so when it comes to relocations from Italy. Given the practical problems arising from a lack of trust between Member States (the receiving ones not trusting security checks in sending States, and the latter reluctant to accept additional security interviews for fear that they would be used as a tool to select among eligible applicants, in violation of the Decisions), several solutions were suggested by EU actors.

Since the beginning of the relocation process, the Commission [reported](#) that Member States of relocation systematically wanted to conduct additional security interviews, thus slowing down the process, even though Italy and Greece are - with the support of Frontex and Europol - responsible for carrying out security checks and for not sending relocation requests for applicants that raise security concerns. Relocation files submitted by Italy and Greece include dedicated fiches including elements identified in the process (for instance, through searches in national, European and international databases) potentially pointing at exclusion grounds; according to the Commission, this should make systematic security checks not necessary. Obstacles also arose from difficulties in exchanging fingerprints for the purpose of running security checks - which, as the Commission pointed out, can be done using the appropriate police cooperation channels, not however via Dublinet.⁴⁸

Problems also arose from unjustified rejections, based on grounds not provided in the Decisions or lacking sufficient justification and specificity. Here, again, the Commission pointed out that, for the security of the whole of the EU, rejections based on security concerns should be fully justified, including by sharing relevant information. Several Member States reported concerns as regards sharing security-related information; therefore, Europol offered a dedicated secured communication channel for Member States to safely provide reasons for rejections of relocation requests. This channel became operational on 1 December 2016 and seems to have been used by the Member States to exchange information.⁴⁹

An additional step forward was the conclusion of an arrangement between the Italian Ministry of the Interior and Europol, with the support of the Commission, for Europol's facilitating role in the relocation procedure. This allowed Member States to request additional, exceptional security checks in the framework of relocation.⁵⁰ Such arrangements were put in practice for the first time in January 2017, upon request by Norway, with a view to having a joint security interview by Europol, Norwegian and Italian officers. However, the problem was not solved, as in subsequent reports the Commission

⁴⁶ Moreover, Europol argued that, given that it is in the interests of IS to inflame the migration crisis to polarise the EU population and turn sections of it against those seeking asylum, there is a risk of some infiltration of refugee camps and other groups; however, the extent of the risk of this happening is unknown, making the subject susceptible to exaggeration and exploitation.

⁴⁷ The report also includes information on the guest officers deployment scheme: up to 50 of the 200 “guest officers” to be recruited by Europol are to be deployed on rotation at key points on the external borders of the EU to strengthen security checks on the inward flows of migrants, in order to identify suspected terrorists and criminals, establishing a second line of defence. Europol, 2017 [European Union Terrorism Situation and Trend Report](#), Annex VII, p. 61; also see the Europol 12 May 2016 [press release](#).

⁴⁸ See e.g. the Commission's first report on relocation and resettlement, 16 March 2016, [COM\(2016\) 165](#); and its fourth report on relocation and resettlement, 15 June 2016, [COM\(2016\) 416](#).

⁴⁹ See Commission, Eighth report on relocation and resettlement, 8 December 2016, [COM\(2016\) 791](#). In the ninth report, the Commission reported that it had not been used yet; however, in the Eleventh report on relocation and resettlement, 12 April 2017, [COM\(2017\) 212](#), Commission reported wide use of the Europol communication channel.

⁵⁰ See Commission, Seventh report on relocation and resettlement, 9 November 2016, [COM\(2016\) 720](#).

continued recommending more flexibility on the part of Italy in allowing additional security interviews, including, if necessary, through bilateral arrangements, and more flexibility on the part of the Member States of relocation regarding the need for additional security interviews;⁵¹ as well as insisting - as late as June 2017 - on the need to find a solution on organising additional security interviews by Member States of relocation.⁵² In July 2017, however, the Commission welcomed the bilateral arrangements reached between Italy and Austria and Lithuania concerning additional security interviews, and expressed the hope that, following the invitation made by Italy, similar bilateral arrangements could be concluded with Estonia, Ireland and any other Member State concerned.⁵³

In its [Communication](#) on the Delivery of the European Agenda on Migration, issued on 27 September 2017, the Commission reported that hotspots have facilitated “an increased number of secondary security checks by Europol and national authorities that have contributed to identifying risk profiles and fighting smugglers networks.” A similar conclusion is included in the 15 November 2017 [Progress report](#) on the European Agenda on Migration, which is furthermore accompanied by a Commission Staff Working Document entitled “[Best practices on the implementation of the hotspot approach.](#)” The SWD addresses more specific issues, such as the availability of interpreters and cultural mediators for security checks - accordingly, they should be pooled and not strictly separated into an asylum team and a law enforcement team, so as to always be available for first and second line security checks.

Further Procedures on Suspicion of Terrorism

When a suspected terrorist has been uncovered, Italian criminal law takes over. Information will be forwarded to the Europol National Unit, and the National Anti-Mafia and Anti-Terrorism Prosecutor, which was established on 20 January 1992, located in Rome. The current chief prosecutor is Federico Cafiero De Raho.

Moreover on the European level, Directive [2017/541](#) was passed on the 15 March 2017, establishing minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, as well as measures of protection of, and support and assistance to, victims of terrorism. This directive encompasses a variety of terrorist activities and shall be transposed into Italian law by 8 September 2018, specifically Article 19(3)(d) covers jurisdiction and prosecution, whereby jurisdiction can be given if an offender is found on the territory on that Member State.

⁵¹ See e.g. Commission, Eleventh report on relocation and resettlement, 12 April 2017, [COM\(2017\) 212](#).

⁵² See Commission Thirteenth report on relocation and resettlement, 13 June 2017, [COM\(2017\) 330](#).

⁵³ See Commission Fourteenth report on relocation and resettlement, 26 July 2017, [COM\(2017\) 405](#).

4. SPECIFIC ROLES OF OTHER ORGANISATIONS IN ITALY'S EXTERNAL BORDER MANAGEMENT

As mentioned, throughout this paper, there are a number of organisations who work together in the hotspots alongside Italian authorities. Alongside Europol, Frontex, EASO and EUNAVFOR Med have a vital role worth exploring. These organisations interact and complement one another through a variety of ways, such as information sharing.⁵⁴

Frontex

Frontex (now officially, The European Border and Coast Guard Agency) was established by [Regulation 2016/1624](#) and previously operated as the "European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union." Frontex works in cooperation with EU Member States regulating the EU's external borders, and also is involved in the fight against terrorism and other cross-border crimes. To effectively reach their targets, the organisation employs hundreds of specialised border guard officers. These officers are in charge of screening, registration, document checks and intelligence gathering at the borders. The importance of these actions is support Member States in identifying potential travelling terrorists or persons of interest. By effectively managing the EU's external borders, Frontex contributes to the ongoing stability and security within the EU.

Recognising the importance of fraudulent documents being used by people involved in terrorist attacks, document checking is the priority in first and second line checks, in the first stage Frontex supports Italian authorities in detecting forged documents. In early 2018 a Centre of Excellence for Combating Document Fraud was established to fulfil Frontex's expanded role in this area.⁵⁵ Whenever authorities successfully identify that a person has documents, they are analysed (with technical equipment). Upon clarification of the documents integrity, a cross-check takes place through Italian, European and Interpol databases.⁵⁶ Given the importance of ID procedures and document systems, it is clear why document fraud and fake documents is a priority for Frontex. By tackling the root problem, terrorists can be most easily identified and systems like the EIS can serve their purpose. Thus, of particular interest to Frontex in prioritising combatting organised crime groups who produce fraudulent and fake documents Frontex can more effectively manage external borders mainly at the hotspots.⁵⁷

A feature of Frontex is that it does not have its own border guards or equipment, and instead relies on EU countries to provide. In this sense Frontex acts as a coordinator, reimbursing the deployment costs of border guards and the cost of transportation, fuel and the basic maintenance of the equipment during deployment.⁵⁸

Operation Themis was launched on 1 February 2018, replacing Operation Triton which had been in effect since 2015, enhancing the law enforcement focus.⁵⁹ Among other things, "[t]he security component of *Operation Themis* will include collection of intelligence and other steps aimed at detecting foreign fighters and other terrorist threats at the external borders."⁶⁰

⁵⁴ <https://frontex.europa.eu/media-centre/focus/frontex-analysis-role-of-border-guards-in-counterterrorism-P6kYwC>.

⁵⁵ <https://frontex.europa.eu/media-centre/focus/document-fraud-is-a-key-challenge-in-border-control-frontex-is-on-the-case-acJ0cG>.

⁵⁶ http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/hotspots_sops_-_english_version.pdf.

⁵⁷ <https://frontex.europa.eu/media-centre/focus/frontex-analysis-role-of-border-guards-in-counterterrorism-P6kYwC>.

⁵⁸ https://europa.eu/european-union/about-eu/agencies/frontex_en.

⁵⁹ <https://frontex.europa.eu/media-centre/news-release/frontex-launching-new-operation-in-central-med-yKqSc7>.

⁶⁰ <https://migrantsatsea.org/2018/02/01/frontex-to-launch-new-mission-in-central-mediterranean-increased-efforts-to-identify-terrorists-on-migrant-boats-operation-themis-to-replace-triton/>.

European Asylum Support Office

The European Asylum Support Office (EASO) which is based in Valletta, Malta aids Italian authorities by providing specialist asylum know-how, and among other tasks, analyses asylum applications. An [EASO operation plan](#), agreed by Italy is in effect until 31st December 2018, to continue to provide assistance to Italy.

Importantly, EASO acts as an independent centre of expertise on asylum, deriving its power from several legal basis including the Geneva Convention Relating to the Status of Refugees, the ECHR and Convention on the Rights of a Child, as well as several other working arrangements and EU asylum legislation and policy.

EASO provides cultural mediators and interpreters in all of the Italian hotspots, which is extremely important for security related issues. Many migrants have misconceptions about the fingerprinting process, without which relocation cannot take place. By explaining the need for fingerprinting in an understandable language, misconceptions can be more easily overcome, and authorities may focus on individuals with other reasons to withhold identification.

It has been noted that the framework in Italy came under fire, especially in regards to the identification and fingerprinting procedures- vital for external border management.⁶¹ In 2015, the Commission adopted infringement proceedings against Italy to correctly implement the Eurodac Regulation (603/2013, its recast currently under [negotiations](#))⁶² while simultaneously asking for a better national legislative response “to allow the use of force for fingerprinting and to include provisions on longer term retention for those migrants that resist fingerprinting” so as to quickly achieve “the target of a 100% fingerprinting rate.” The analysis noted however that after one year these proceedings were closed due to significant improvements.⁶³ The use of fingerprint machines by the Italian government also has contributed to this improvement.⁶⁴

European Union Naval Force Mediterranean

Primarily engaged in search and rescue missions the European Union Naval Force Mediterranean (EUNAVFOR Med), also known as Operation Sophia, perform an important role in the security of Europe fighting criminal networks. EUNAVFOR Med was established after the increasing frequency of deaths in the Mediterranean to prevent further loss of lives at sea.

Their [mandate](#) has been extended until 31 December 2018 and now trains the Libyan Coastguard,⁶⁵ and contributes to the strict implementation of the arms embargo on the high seas off the coast of Libya⁶⁶ contributing to maintenance of international peace and security. In doing so, EUNAVFOR Med aims to limit arms flows from Libya to terrorist groups. Since the operation has been launched on 22 June 2015, 87 suspected terrorists have been arrested and transferred to the Italian authorities, and more than 255 vessels have been neutralised. In addition to this, more than 22,000 lives have been saved.⁶⁷ On the 14 May 2018, the European Council adopted [Decision 2018/717](#) which allowed for the creation of a crime information cell for EUNAVFOR Med Operation Sophia, which will comprise of 10

⁶¹ See Background Information for the LIBE Delegation on Migration and Asylum in Italy - April 2017 [http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583136/IPOL_IDA\(2017\)583136_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583136/IPOL_IDA(2017)583136_EN.pdf).

⁶² Ibid.

⁶³ Ibid.

⁶⁴ See Communication from the Commission to the European Parliament and the Council <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0679>.

⁶⁵ UNSCR 2292 (2016).

⁶⁶ UNSCR 2357 (2017).

⁶⁷ <http://www.consilium.europa.eu/en/press/press-releases/2016/08/30/eunavfor-med-sophia-op-add-supporting-tasks/>.

staff members from relevant law enforcement authorities of member states and from the EU agencies FRONTEX and EUROPOL in order to enhance information sharing between them.⁶⁸

The Italian authorities and EUNAVFOR Med considered their relationship so far in the field of external border management to be successful, and in a meeting in April 2018 included the Operation Commander and Italian National anti-mafia and counterterrorism Prosecutor it was heralded as a model for future initiatives.⁶⁹

⁶⁸ See European Council Press Release <http://www.consilium.europa.eu/nl/press/press-releases/2018/05/14/eunavfor-med-operation-sophia-operation-to-contribute-to-better-information-sharing-on-crime-in-the-mediterranean/>.

⁶⁹ <https://www.operation sophia.eu/operation-sophia-and-italian-national-antimafia-and-counterterrorism-prosecutor-meeting/>.

5. CONCLUSION

As noted throughout this paper, the plethora of actors involved in the hotspot approach is indicative to the immense challenge these unprecedented migrations flows have brought to Europe. Security and counter-terrorism measures are a priority for Europe and the European Agenda on Migration, introducing the hotspot approach, has allowed for efforts to be focused in a more effective and cooperative manner. The prevalence of terror attacks in Europe in recent years simply highlights the need for such an approach. Despite extensive Italian anti-terrorist legislation, and strong institutional set up, the involvement of other organisations has been welcomed, and strives for the continuing development of a strong common framework equipped to deal with new terror threats.

The EURTF has been instrumental in ensuring Italian national authorities are supported in their duties, and Europol have been particularly active in assisting in investigations; information sharing amongst EU Member States in this respect has proven to be particularly vital. Europol's EIS, central criminal information and intelligence databases allow checks on a person of interest beyond national or organisation jurisdictions in real-time, having obvious importance.

By being able to target different aspects of the whole process, from disembarkment, registration to relocation, a more holistic security approach is adopted which has a two-fold effect. First, it allows to better protection of rights as there are observers and experts on hand, such as EASO, who can use their know-how to ensure protection of rights for individuals. Second, security procedures and checks become much more rigorous. As observed in the roles of other organisations in Italy's border management, different actors tackle different security stages. EUNAVFOR Med has proven invaluable for the cracking down on smuggling of illicit arms and on crime in the high seas, therefore preventing crime before it reaches European shores, whereas Frontex operations, by prioritising combatting organised crime groups who produce fraudulent and fake documents, can complement the work of Europol.

In sum, the development of hotspots have proven to be essential for the proper management of Italy's external borders, and thus far effective in areas such as registration and security checks. The reliance of Italy on other Member States for information sharing and shared databases signals the EU attempt towards a Common European Asylum System. While it is a feature of Italy that most disembarkations do not take place in the allocated hotspots, however it seems the Coastguard are well equipped to deal with the varied disembarkation points. A noticeable improvement has been recorded in fingerprinting (from 58% in 2015 to almost 100% in 2017) signalling the continuing development in the Standard Operating Procedures in the hotspot approach, and the stricter application taking place. However, it is still a concern that 'ghost disembarkations' continue to take place despite these measures.

Cumulatively, the detection of terrorist threats and external border management in Italy is working towards a more European and collective approach, whereby all Member States have a role to play, especially in information sharing and aiding the disproportionate migratory challenges through acceptance of relocation. Prevention and detection of terrorists and terrorist operations at European shores is at the heart of external border management in Italy, and paramount for a peaceful and secure Europe.

This in-depth analysis was produced by the Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Special Committee on Terrorism (TERR) for the purpose of a TERR mission to Rome and Catania from 6 to 8 June 2018. The paper examines Italy's external border management, through the lens of counter terrorism. Hotspots and Standard Operating Procedures are given specific attention, alongside the Italian and European legislative framework. By exploring the role and interaction of different organisations with national authorities, this paper provides a comprehensive overview of their different mandates and contribution to Italy's external border management.

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