# The grey areas of migration control: quick asylum decisions risk denying individuals their right to protection

*One of the key problems being faced on Europe's southern borders is the difficulty in processing asylum decisions at a pace that can keep up with the numbers of new arrivals. As* **Simon McMahon** *writes, the establishment of so called 'hot spot' reception centres in areas hit by the current crisis has been proposed as a mechanism for quickly identifying valid asylum claims. However he argues that while this approach may have its merits, grey areas exist, with many individuals having their status determined by arbitrary judgements that risk denying them their right to protection.*

For over a decade now, Sicily has been the first port of call for survivors of one of the most perilous sea crossings in the world. So far this year, nearly 95,000 migrants have arrived on the island. It is estimated that at least another 2,800 people have died in the sea trying to get there.

In response, a complex array of control measures and reception facilities has been established to manage migration from across the Mediterranean Sea. Sicily has also become a frontline in the EU's efforts to manage migration and fight smuggling, with a Frontex team based in Catania and a refugee Hot Spot due to open in the port town of Pozzallo.

At first glance, this seems to be an orderly, managed process aiming to separate 'economic migrants' from 'genuine refugees'. However, in practice grey areas exist where arbitrary judgements and obscure decision-making can determine the fate of those seeking protection and a better, safer life in Europe.

**Managed migration?**

Over recent months I have been in Sicily as part of a new research project examining the dynamics of the migration crisis in the Mediterranean. I've been talking to people who have left behind persecution, conflict and poverty. They've also lived through situations of horrific violence and lawlessness in Libya before even embarking on the sea crossing to Italy.

The response from Italian and European leaders to their arrival has been to establish a complex system for managing migration. The rickety boats leaving North Africa are intercepted at sea, their human cargo transferred to larger ships.

They then disembark at ports with restricted access, behind security gates before being put in private buses and moved on to 'first reception' centres. From here, they should then be transferred to asylum or deportation centres around the country within a matter of days. The latest development in the EU's efforts to



Young migrants on Lesbos, Greece. Credit: Thomas Andre Syvertsen / IFRC (CC BY-NC-ND 2.0)

address the migration crisis seems to build on this with the establishment of Hot Spots, where people from countries

[with a 75% acceptance rate](#) of asylum claims are separated out and fast tracked to be transferred to other Member States.

## Pieces of paper

Both the Italian and EU approaches are reliant on quickly and correctly identifying migrants, distinguishing those with a claim to asylum from those without one, as well as correctly identifying children to be protected. Yet for many newly arrived migrants, it seems that these things are not implemented consistently.

It is not easy to separate economic migrants from refugees with a claim to international protection. Most of those arriving want to find a job and get on with their lives, yet they have also experienced persecution, violence and trauma along the way. The lines between their economic concerns and personal safety are hazy and blurred.

At the point of arrival, there is pressure for quick judgements to be made on their status. Discretionary assumptions and the lack of detailed information about their journey can influence such judgements, as is exemplified by the migrants I met who had been handed what they called simply a "piece of paper". The paper was an expulsion order saying they had to leave Italy within 7 days. For a few weeks in October, these were increasingly liberally distributed, as [reported by](#) local lawyers and activists. [Over 100 cases](#) were reported in Syracuse. More were given out [in Pozzallo](#).

I met a group which was given expulsion orders at a reception centre just a few days after being rescued at sea. They said they were told to sign it without being told what it meant. People under 18, who have greater legal support than adults under Italian law, were not distinguished from adults and had the wrong date of birth recorded. Under the terms of the expulsion order, they were not only told to leave Italy by their own means within 7 days, but also to leave the reception centre at that moment.

What followed was a 35km walk to the nearest town and a night sleeping in a car park until they could find a place to stay and a lawyer could see their case. Many have now had their expulsion orders overturned. They are instead having claims for international protection processed and have been readmitted to the formal migrant reception system (although it is not uncommon for applications of this type to take years to settle).

These particular people were lucky because they found legal support. Some claimed they didn't even know what asylum was, let alone how to apply for it. And without the necessary resources to leave Italian territory, they would have stayed but become undocumented. Furthermore, the orders seemed to have been handed out according to nationality and did not record the personal motivations for each migrant's decision to leave their home. This has [been described](#) as contrary to EU law.

## Protection, not just control

The expulsion orders that I saw were most likely intended to demonstrate to Italy's European partners that the Mediterranean border is strongly guarded, with only those with a claim for international protection allowed in. In practice they were counter-productive. Not only did they not uphold the migrants' right to international protection, but they were also likely to create a population of homeless and undocumented people unable to work and integrate or to move away.

The drowning of hundreds at Europe's southern border and the image of Alan Kurdi's lifeless body face down in the sand this Spring brought strongly worded calls for cohesive action at the EU's southern border. Much talk in Europe recently has [focused](#) on strengthening controls and speeding up the repatriation of migrants. But this must be accompanied by efforts to uphold the right to international protection in practice. Otherwise, arbitrary judgements can continue and they will create further problems down the line.

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