

Capacity to manage: the EU hotspot-approach in the 2015 migration crisis



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Abstract

In 2015, the grand influx of refugees into Europe was officially framed as a crisis. To manage this crisis, the EU implemented the hotspot approach. Looking at the continuous human rights violations, it can be argued that this policy has failed. This thesis examines the EU's state capacity to successfully implement the hotspot approach on the Greek islands. Through examining the three elements of state capacity – revenues, human capital and information -, it is concluded that the EU as a governing body does not have the capacity to successfully implement the hotspot approach and manage this migration crisis. This lack of capacity is further undermined by the principle of subsidiarity.

Abbreviations

AMIF	Asylum, Migration and Integration Fund
CEAS	Common European Asylum System
COM	European Commission
DG ECHO	European Commission's Directorate-General for European Civil Protection and Humanitarian Aid Operations
DG HOME	European Commission's Directorate-General for migration and home affairs
EASO	European Asylum Support Office
EP	European Parliament
ESF	European Social Fund
EU	European Union
EUAS	European Union Asylum Support
EUR28	28 Member States of European Union
IOM	International Organization for Migration
ISF	Internal Security Fund
MFF	Multiannual Financial Framework
MLG	Multi-level Governance
MSF	Medicins Sans Frontieres.
MSs	Member States of the European Union
NGO	Non-Governmental Organization
SB	Stichting Bootvluchteling
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

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1. Introduction

“You have to understand,
no one puts their children in a boat
unless the water is safer than the land.”

(Warsan Shire, 2015. Poem: *Home*. London)

Since 2015 the influx of migrants at the southern-European borders have posed a serious challenge for the European Union (EU). Over three million immigrants have come to seek asylum in Europe, and the migration flow has not yet stopped (Council of the European Union, 2018). According to the Lisbon Treaty¹ “the Union is founded on values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” (Lisbon Treaty, 2007). However, contrary to these values, over 17,000 refugees are currently living on the Greek islands, in make-shift camps which often vastly exceed their capacity. Multiple Non-Governmental Organizations (NGOs) have reported in the past years about the unethical circumstances these refugees have to live in, which are often well below European humanitarian standards (e.g.: Amnesty International, 2016; Oxfam, 2018).

One of the ways chosen to manage this crisis is the ‘hotspot approach’ – a policy in which the migrants arriving at the borders of Europe are gathered in a ‘hotspot’: a make-shift camp at the first place they arrive (Horii, 2018; Papadopoulo et al., 2016). The EU agencies Frontex, European Asylum Support Office (EASO), Europol and Eurojust work on the ground with the national authorities. The idea of the hotspot approach was that as all migrants arrive in the same place, the registration, identification and fingerprinting process would be much simpler and faster. This would then also have significant advantages for the pace of the asylum and

¹ Which is by some scholars considered to be the equivalent of or almost equal to the European Constitution (e.g., Verdun, 2016).

relocation process; would avoid irregular secondary movement; and would make for a more effective implementation of returns policy (Statewatch, 2015:2-3). In this way, the EU thought that the protection of human rights would be ensured.

However, despite good intentions of all actors involved, it becomes clear that human rights are not being safeguarded at these hotspots. For example, restriction of freedom is applied in the hotspots and the conditions at the hotspots are often well below human rights standards (Papadopoulo et al., 2016:13-14). The continuous violations of human rights are puzzling for a couple of reasons. First, the EU as an institution is relatively active when it comes to promoting human rights. The EU puts a major amount of revenues into promoting human rights worldwide, for example through different NGOs, such as United Nations High Commissioner for Refugees (UNHCR) and International Organisation for Migration (IOM) (Howden and Fotiadis, 2017; Lavenex, 2018). It would thus be expected that the EU would also uphold these rights within its own territory.

Second, the situation in the hotspots remains ambiguous when taking state-capacity theory into consideration. State-capacity in this paper will be defined as “the strength of the causal relationship between the policies that governments adopt and the outcomes that they intend to achieve” (Lindvall and Teorell, 2016:1), and will be measured through the elements of revenues, human capital and information (Lindvall and Teorell, 2016). As Englehart (2009), Lavenex (2018) and Geiger and Pecoud (2010) point out, responsibility for human rights has a normative and an empirical side. Although the EU and its Member States (MSs) all acknowledge that human rights must be protected within its territory (normative), the EU must still be able to protect them (empirical). States with stronger capacity are less involved in human rights violations and are better able to protect them. It would be expected that the EU is on the latter end of the spectrum, as the entity is relatively rich and has launched the most expensive humanitarian programme *ever* to manage this migration crisis (Howden and Fotiadis, 2017).

Cole (2015) argues in line with this that especially the bureaucratic efficacy has major impact on the ability of a state to implement and protect human rights.

This paper seeks to research the EU's *ability* to uphold its own constitutional values of respect for human rights, taking the hotspots in Greece as a case-study. Drawing on a collection of reports from EU institutions, reports from different NGOs and secondary literature on the topic, I argue that the EU does not have the state-capacity to successfully implement and coordinate the hotspot approach. This state capacity, which is already insufficient, is further undermined by the principle of subsidiarity (see chapter 2). Thus, the main research question is **to what extent have the lack of state capacity and the principle of subsidiarity of the EU impacted the way the hotspots in Greece are managed?** It is argued that because of the lack of state capacity and coercive power of the EU in relation to the implementation of the hotspot approach, the violation of human rights is still at the order of the day within the hotspots at the border of Europe.

The thesis is organised as follows. Chapter two comprises literature on the failure of the implementation of the hotspot approach, as well as on the implications the principle subsidiarity has on the EU's policy-making processes. Chapter three outlines the theoretical framework and the operationalization of the variables. Chapter four, five and six present the empirical research, followed by an analysis in chapter seven. And last, chapter eight concludes with the main findings, contributions, limitations and ideas for further research.

2. Literature review

Ever since the beginning of the migration crisis, scholars have harshly criticized the way the EU has managed the influx of migrants (e.g. Papadopoulo et al., 2016; Parkes, 2017; Niemann and Zaun, 2018). The EU had the chance to show to the rest of the world that 'Fortress Europe' was just a myth. However, the EU missed this opportunity, falling back on securitization, externalization and burden-shifting (Parkes, 2017:9). Instead of focusing on

innovating and ameliorating the Common European Asylum System (CEAS) determined in the Dublin Regulation², Europe chose to protect the system it already had in place, which does not have the capacity to process the current flow of migrants asking for asylum in Europe (Parkes, 2017:10; Lavenex, 2018). These choices resulted in the following. (1) The lack of specific legal frameworks leads to the undermining of fundamental human rights. (2) The approach fails to relieve Greece and Italy from the pressure of receiving the migrants. (3) The situations in the hotspots are very chaotic, with a lack of food, water, and accommodation. (4) Especially since the EU-Turkey deal, unfair and repressive measures have been taken towards asylum seekers in the hotspots (Niemann and Zaun, 2018).

The existing literature on the hotspot approach has offered four main arguments as to why there has been such a poor internal response to the migration crisis. First, the literature points towards the failing of the CEAS and the extra layers that have been added to this system to protect Europe from the influx of migrants. Through different case-studies, it is argued that the EU should have focussed on ameliorating and innovating the system instead of adding these extra ‘protection’ layers (Trauner, 2016; Kasparek, 2016; Parkes, 2017).

Second, there is a role for externalization of responsibility (Parkes, 2017; Bonnici-Bennet, 2018). The EU has adopted different agreements and policies in which it holds other countries responsible for taking in refugees, for example the EU-Turkey deal. These scholars conclude that by externalizing the responsibility to other countries and putting so much effort into keeping the refugees out of the EU, the situations in the neighbouring countries such as Libya and Turkey deteriorate, and the situation within the EU border does not receive enough attention to ameliorate. This results in a lose-lose situation.

Third, deflection of responsibility and burden-sharing also happens within Europe between the MSs, which is of great influence on the hotspot approach (Horii, 2018; Niemann and Zaun,

² The Dublin Regulation is the European agreement which establishes the Member State responsible for the examination of the asylum application, which is usually the first Member State a migrant/refugee enters. This should ensure a quick access to the asylum procedure.

2018; Thielemann, 2017). Due to these dynamics, relocation of the refugees has become very difficult, as there are not enough spots offered within Europe.

Last, scholars have looked into the legal frameworks within the hotspots (Guild, Costello, Garlick and Lax, 2015; Papadopoulo et al., 2016; Niemann and Zaun, 2018). The lack of legal and operational frameworks leads to difficulties in the cooperation of different organizations at the hotspots and the management of the influx of refugees. These incompatible frameworks lead to uncertainty both for the professionals working there and for the refugees, which often results in human rights violations.

As this research focusses on EU-policy, it is important to understand the limitations the EU's political structure has when it comes to dealing with this crisis. More specifically, this thesis investigates the lack of state capacity (which is discussed in chapter 3.2) and the influence of the principle of subsidiarity: therefore, literature on the influence of subsidiarity on the EU policy-making processes is discussed shortly. First it is important that the reader understands there is a difference between multilevel governance (MLG) and subsidiarity. As this study focusses on subsidiarity, MLG is only very shortly discussed.

MLG is the interaction between different levels of governance (Pazos-Vidal, 2019:27). It can be divided into two different types of governance, of which the first one can be characterized as formal and contractual. This type of MLG gives more certainty for the parties involved, but is not as common as the second type, namely the informal MLG. The informal, generic or 'looser' type of MLG has, inherent to its character, a varying permanence and solidity. Policy-networks and advocacy communities belong to this type of MLG (Pazos-Vidal, 2019:31).

Whereas MLG is the interaction between different levels of government (Pazos-Vidal, 2019:27), subsidiarity is more concrete, and refers to the legislative side of the EU. It means that decision-making processes are delegated, and solutions must be found 'as close to the people as possible'. *However*, it also means that the MSs never retain their right of taking back

their sovereignty in the process (van Kersbergen and Verbeek, 2004:145; Pazos-Vidal, 2019:24). As subsidiarity has both a constitutional and normative nature, the actual and perceived meaning of subsidiarity within the EU can differ depending on the situation that has to be discussed (Pazos-Vidal, 2019:24). This interpretative nature of subsidiarity also brings about implications for the migration crisis, which will be discussed hereunder.

Building on these insights, this thesis contributes to the literature in two ways. First, it provides an overarching explanation as to why the hotspot approach has had unforeseen negative side-effects. While previous scholars have mostly pointed out the flaws in the approach, this thesis seeks to answer the question *why* these flaws emerged when assessing the role the EU has played in the implementation of the hotspot approach. Second, it assesses the failure of the implementation of the hotspot-approach from a new angle. By measuring the EU's state capacity to uphold its own constitutional values, the study gives insight into the complexity of managing this migration-crisis.

3. **Research design**

This chapter outlines the approach used to research the deficiencies in state-capacity of the EU to implement the hotspot approach, as well as the justification for the case-selection, research method, operationalization strategy and data collection method.

3.1 Case selection and method

In this thesis the period in which the EU migration crisis unfolded at the Greek hotspots at the borders of Europe until now (2015-2019) is used as a heuristic case study.³ The heuristic case method was deemed most suitable for this study, as it searches to find cause-and-effect relationship for the studied subject and explores an unexpected outcome (George and Bennet,

³ Although it is debatable whether the crisis started earlier than 2015, this is the year that is appointed by most scholars as the beginning of the influx of migrants now known as the migration crisis (e.g.: Guild, Costello, Garlick and Lax, 2015; Parkes, 2017).

2004:75). This study shows a large number of intervening variables which influence the causal mechanism of the lack of the EU's state capacity and the principle of subsidiarity on the EU's inability to successfully implement the hotspot approach. Following George and Bennet (2004:21), this theory also means that these causal mechanisms only operate under certain specific conditions.

The hotspots in Greece make an interesting case as they have received most of the refugees coming through the Mediterranean route towards the EU. Due to a number of circumstances, the burden on Greece became very heavy. The Dublin regulation determines that the first country of arrival is the country that has to handle the asylum procedures (Council of the European Union, 2013). Moreover, due to Greece's geographical position and to the fact that the Balkan-route was closed off, Greece was thus the designated country for the refugees fleeing from the Middle-East to apply for asylum. The combination of the implementation of the hotspot-approach and the EU-Turkey deal resulted in the fact that detaining the refugees, until they either get their asylum application approved or not, also became Greece's responsibility. And last, the country simultaneously had to deal with an internal financial and institutional crisis. Due to all these circumstances, Greece relied even more on the aid of the EU in relation to the hotspot approach. Therefore, it would be expected that the EU would have a bigger influence on the situation at the hotspots.

To find evidence, I use 'process-tracing explaining-outcome', as described by Beach and Pedersen (2013). There are three ways of process tracing: theory-testing; theory-building; and explaining-outcome. The explaining-outcome is the best fit for this case, since it focusses on a specific case-study (in this case, the hotspots at the border of Greece) with a particular, non-foreseen outcome. The policies the EU implemented to ameliorate the CEAS failed to do so. Both theory-testing and theory-building would not be appropriate research methods: the former requires an existing model how to manage a migration-crisis, which does not exist; the latter would require an examination of more than one case, which falls outside the scope of this

paper. The outcome in this case is the failure of successfully implementing the policy of the hotspot approach, due to the constant violations of human rights at the hotspots (e.g. Papadopoulo et al., 2016; Horii, 2018).

3.2 Operationalization strategy

The operationalization of the dependent variable in this research is the failure of the EU to successfully implement a coherent policy, namely the hotspot approach. It is unsuccessful due to the constant violations of human rights over the past five years. To give some examples of the human rights violations ongoing at the hotspots: restriction of freedom is applied in the hotspots; and the conditions – health and hygiene, security and safety – at the hotspots are often well below human rights standards (Papadopoulo et al., 2016:13-14).

3.2.1 The EU as a state

Independent variables are identified through the theory of state-capacity. However, the theory of state-capacity can only be applied to states or state-like entities. Although the EU is not a state per definition, there are sufficient arguments as to why the EU in this case can be assessed as such, and why it would be expected that the Union would operate in terms of state-capacity and coercion on the topic of the migration crisis.

3.2.1.a The EU as a federation

Multiple scholars have elaborated on the idea of the EU as federal state (Burgess, 2000; Gagnon, 2010; Verdun, 2016). Within the different types of federations identified by Gagnon (2010), the EU fits best into the concept of a multinational federation. This definition entails the recognition of different groups within the federation and the need to accommodate these different groups (Gagnon, 2010:5). Built upon the principle of subsidiarity, the EU tries to

achieve that. Although, as Verdun (2016:100-101) points out, the EU is mostly not viewed as a fully-fledged federation, there are multiple features in which it shows strong similarities.

Although the EU did not adopt the official proposal for a Constitution, the Lisbon Treaty *was* adopted, which is in many ways similar to the original proposal for the Constitution of Europe (Verdun, 2016:104). In this treaty some basic values were established, such as the protection of human rights. It would thus be expected that the EU as an institution upholds these rights.

Furthermore, the European Commission (COM), the body which is mostly engaged in managing the migration crisis, resembles a supra-national or ‘federal’ government in a number of ways (Verdun, 2016:106). It is the only politically independent organ within the EU and its directorate-generals resemble ministries. In the case of the migration crisis, it regulates the hotspot approach to manage the crisis.

3.2.1.b EU legislation

Burgess (2000) points out that the EU fits into the concept of federalism, as it is a union based on the idea of ‘territorial and functional dispersion of power with limited centralization’, which is a central principle to federal states (Burgess, 2000).

According to the Maastricht Treaty,

“The community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed actions cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of proposed action, be better achieved by community.” (European Union, 1992)

So far, the MSs have not achieved an efficient cooperation on the crisis. Moreover, when taking into account the scale and duration of the migration crisis, this migration crisis would be expected to be understood to ‘be better achieved by community’. Therefore, the EU as an institution should be able to enforce certain policies with the aim of protecting the basic constitutional values it is built upon.

The EU as an institution is also bound to certain agreements it has made. In relation to the migration crisis, the Treaty on the Functioning of the European Union (TFEU) is important. Herein, the EU obliged itself to confront the refugee crisis when it took over competences in asylum and migration matters under Title V, art. 78. By doing so, the Union took the responsibility to make sure the MSs would comply with the Geneva Convention (Bačić Selanec, 2015:106-107). It would thus be expected that the EU would create a system with efficient frameworks for the MSs to respond to the current exceptional migratory pressures.

3.2.1.c EU as global human rights defender

The EU is globally known as a prominent human rights promotor. It is thus unexpected that the Union seems unable to prevent large scale human rights violations within its own borders. However, as pointed out earlier, responsibility for human rights has a normative and empirical side. Although the EU has acknowledged the absolute necessity of protecting human rights, actually protecting them might be more difficult to execute. States or entities with high state capacity are often less involved in human rights violations and are expected to be able to protect these values to a great extent. Therefore, it is interesting to research the capacity the EU has to live up to its own constitutional values.

3.2.2 Theoretical Framework

State capacity, ‘the strength of the causal relationship between policy instruments and the intended outcomes of public policies (Lindvall and Teorell, 2017:13), is a much-discussed theoretical framework (Skocpol, 1979; Rotberg, 2003; Rothstein and Stolle, 2008; Fukuyama, 2013). The performance of a political system depends on it. High capacity states have the ability to provide goods and services for their people, such as human security, health care, medical care and social services (Rotberg 2003:2-4). Low capacity states on the other hand lack this ability, which might lead to low levels of social trust (Rothstein and Stolle, 2008) and low levels

of development, which can eventually lead to state failure (Skocpol, 1979). The relationship between policy instruments and the intended outcomes of public policies is conditioned by the resources of the government (Lindvall and Teorell, 2017:13). The most important resources are revenue (governments income), human capital (the quality of the government's workforce) and information (to determine how policy instrument can be used most effectively) (Lindvall and Teorell, 2017:14-15).

3.2.2.a Revenue

As the first element of state capacity, revenue is important for a government in order to be able to pay its officials and provide enough resources for its people (Lindvall and Teorell, 2017). The assessment of the revenue is determined on different levels: the amount of money available for the refugee crisis in Greece; the bureaucratic processes that surround the allocation of the EU funds; and the situation in the hotspots in terms of what could be provided for by EU funds. Both the amount of money made available and the situation in terms of revenues at the hotspots are assessed. The evidence for this independent variable was mainly collected by reviewing research done by scholars commissioned by the EP, reports on the allocation of EU funds by the COM, and UNHCR reports.

3.2.2.b Human capital

Human capital, the second element of state-capacity, is imperative to have the bureaucratic process of the implementation of the hotspot approach run as smooth as possible (Cole, 2015; Lindvall and Teorell, 2017). In case of the hotspot-approach, human resources are necessary at EU level, to coordinate the funding and policy-making related to the migration crisis. These have been assessed through interviews with the employees of the COM – the EU body mainly involved in these processes – and reports from different NGOs working at the hotspots.

Moreover, the EU aims to support the EU MSs through deploying experts from EU agencies at the hotspots, to better “coordinate European aid in areas with high migratory pressure” (Mentzelopoulou and Luyten, 2018:2). Therefore, the human capital provided by the EU at the hotspots is also assessed. This evaluation is based on research of other scholars and reports from different NGOs working at the hotspots.

3.2.2.c Information

The information, ‘to determine how policy instruments can be used effectively’ (Lindvall and Teorell, 2017:15), is necessary for a state as it needs to know how to effectively and efficiently employ its human capital and revenues. Without information on the hotspots, the number of refugees and the expected influx, the hotspot approach cannot successfully be implemented. Therefore, information-gathering activities and institutions are of big importance (Lindvall and Teorell, 2017:15-16). I measure the ability of the EU to gather sufficient information by reading different reports of different organizations on the situation in the hotspots.

4. Revenue available for the hotspot approach

The following three chapters elaborate on and analyse the aforementioned elements of state capacity of the EU in relation to the implementation of the hotspot approach, starting with revenue. Financial revenue is inherent to an effective government, which in its turn is inherent to successfully implementing a policy and the protection of human rights. Without revenue, the professionals working at implementing and maintaining the hotspot-approach cannot be paid, and the materials for the refugees living in the hotspots cannot be bought. The EU has a budget available for these provisions, which are given partly to the Greek government, and partly to big NGOs, such as UNHCR and IOM. The EU funds are meant as an addition to the national revenues spent on the hotspot approach. However, as Greece has had to deal with a major

financial crisis in the past years, the country mostly relies on these EU funds to maintain their hotspots and asylum system.

In this chapter, the total allocation of EU funds for Greece will be discussed. Subsequently, the bureaucratic process around the allocation of funds destined for the hotspots in Greece is researched on the three aforementioned levels. At the end of this paragraph, the situation in the camps will be analysed through reports from NGOs working on the ground.

4.1 Total allocation of EU funds to Greece

The EU has five major funding channels for the refugee crisis: EU funds destined for the migration crisis; EU agencies working at the hotspots; other relevant budgets (such as Emergency Support within the Union); flexibility mechanism funds; other funding sources outside the Multiannual Financial Framework (MFF) or EU budget (Darvas et al., 2018). These provide for the funding process around all migration issues, and thus also for the hotspot approach.

In this paper, due to its scope, the focus in this research lies on the Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), as they are the biggest and, in this case, also most influential (Darvas et al., 2018). The Greek government and international organizations (IO's: mainly UNHCR and IOM) in Greece got allocated 11.3% (AMIF) and 14.6% (ISF) of the total budget of these funds. In numbers, as of February 2019 this came down to a total of 722.9 million euros from the AMIF and ISF, and an additional 548.9 million euros from the AMIF and ISF emergency funds (European Commission, 2019). To put it in perspective, the in 2014 confirmed amount to be spent on migration between 2014 and 2020 from the AMIF for *all* of the EU MSs was 480 million. Moreover, the EU has made the proposal to increase the total budget for the AMIF from a total of 3.14 billion (2014-2020) to 10.4 billion euros for the period of 2021-2027. It seems to be a rather large part, considering the budget has

to be split over the EUR28, and the fact that Greece's share in terms of non-EU immigrants and first-time asylum-seekers does not seem that big (see Table 1).

However, the following issues need to be taken into account. First, the budget destined for the migration crisis is based on migration data from the years around 2010 (Darvas et al., 2018:6). These numbers are severely outdated: for example, in 2015 almost four times as many people came to Europe compared to 2012 (European Commission, 2019). The budget is thus not tailored for the current situation (Darvas et al., 2018; UNHCR reports 2016-2019). This shortage of the primary budget is visible through the many revisions of the EU budget and the emergency funds that have been made available for the crisis. For example, for the period 2017-2020, the COM has increased the budget by 2.55 billion euro to “address migration, enhance security and strengthen external border control” (Council of the European Union, 2017). Second, it needs to be taken into account that Greece has to deal with a large part of the people arriving, even if these people apply for asylum in another European country. Especially since the Balkan-route has been closed, the EU-Turkey deal has been activated, and the Dublin regulation has been sharpened, the burden on Greece has become much heavier.

4.2 Process of the allocation of EU funds

The allocation of the revenues is a complicated process. Professionals at the EU level have to decide which funds will be allocated for which causes. After that has been established, the money has to be disbursed to the right institution on the lower level, according to the EU's principle of subsidiarity. In this case, the Greek government then has to decide on how properly to implement the received funds. However, to measure the implementation of EU revenues to the hotspots is problematic, as there is no proper or specific data available (Darvas et al., 2018). There are two main reasons for this.

The destination definitions of the funds are vague and open for interpretation. The reports of the COM on the AMIF and European Social Fund (ESF) state that “the [AMIF]

supports Greek national efforts to improve reception capacities, ensure that asylum procedures are in line with Union standards, integrate migrants at local and regional levels and increase the effectiveness of return programmes” (European Commission, 2019). This description does not encompass any measurable standard. In line with this, the specifications on actions the funds are destined for remain unspecific. Example given, more than 1255 million euro has been allocated for “Immediate enhancement of the response to the refugee crisis by providing shelter and accommodation, catering, health care, transportation at hotspots, ensuring this way healthy and safe living conditions for the target group” or similar definitions (European Commission, 2019).

Another reason can be found in the responsibility of the Greek government for redistributing the EU funds at national level, as the EU is built upon the principles of subsidiarity. As a consequence thereof, this means that even if there are specific destinations for the money, the EU does not have the power to coerce Greece into actually spending it on these particular causes as well. Due to the unavailability of the data, it is impossible to check what exactly happens to the money. Some NGOs working at the hotspots report that they have the feeling the money allocated to go to the hotspots are not used for that cause, but instead just benefit the government (Darvas et al., 2018).

4.3 The situation at the hotspots in terms of revenues

To assess the EU financial revenue available and the results of this revenue, it is also important to assess the situation in the camps. Revenues should lead to provision of food, water, sanitary provisions and clothes. Under the EU human rights regulations, all humans within the EU have a right to these primary needs and are thus inherent to a successful hotspot approach.

Since 2016, multiple NGOs (such as: United Nations High Commission on Refugees (UNHCR), Médecins Sans Frontières (MSF), Stichting Bootvluchteling (SB)) have worked in the hotspots and have written blogs, reports, and other news articles about the situations in the

camps. Over time, all of these written reports are more or less in line with each other: there is a severe lack of revenues in the camps. A shortage of and inadequate shelters, challenges concerning electricity and water, food that has gone bad (UNHCR 2016-2019; Nye, 2018; NOS, 2018). Hygiene and health are major concerns in the hotspots. In August 2018 in Moria (Lesvos) there was only one toilet per seventy people, and one shower per eighty people. All these circumstances lead to high tensions between different nationalities in the camp, which also brings about a lot of fighting, sexual harassment and other dangerous situations (NOS, 2018; Nye, 2018).

As multiple reports and interviews have pointed out, the EU revenue that is now available is insufficient, even though the EU has significantly increased its funding for the cause (Darvas et al., 2018; UNHCR reports 2016-2019). The situations in the camp have not ameliorated, even though a couple of years have passed.

5. Human capital available for the hotspot approach

The second element of state-capacity is human capital. Officials ought to be selected on the basis of their abilities, education and training. Moreover, they should be sufficiently rewarded for their work (Lindvall and Teorell, 2017). Human capital is imperative to make the bureaucratic process of the implementation of the hotspot approach as smooth as possible. Cole (2015) even argues that human capital is the most important aspect of state capacity, since it has strong correlation with the levels of compliance with human rights treaties. Strong bureaucracy namely has the ability to increase transparency and enhance the accountability of the administrative system (Cole, 2015:414).

In the case of the hotspots, the EU can provide for human capital at two different levels: at the EU level, where the revenues have to be divided and the implementation methods have to be designed, in the form of EU officials; and at the hotspots, in the form of camp-management, doctors and lawyers.

5.1 Human capital at EU level

The EU migration crisis presented an emergency situation, for which the EU was not prepared well enough. Although some scholars argue that the EU could have known (Horii, 2018), the size of the current crisis was considered to be unexpected. This situation led to an increased pressure upon the bureaucratic system of the EU.

Due to the increased pressure on the employees of the COM and the inflexibility of the EU legal frameworks, the needs on the ground in the hotspots cannot be met. As Lindley (2014:2) points out, the word ‘crisis’ entails the necessity of a fast response. However, for an institution like the EU, this is complicated. The bureaucratic processes within the EU take time and agreements are often long-term. This is also true for the EU frameworks concerning funding. For example, when the MFF was established, it was established for the years 2014-2020. Accordingly, when the migration crisis started in 2015, the budget for the coming five years had already been established. Although changes in the budgets can be made, these take time to be considered. This complexity and length of the process leads to discrepancies between the EU legal frameworks on the reallocation of the funds and the necessities on the ground: the disbursement of the funds cannot be done quick enough. For example, EU data shows that approximately only 40% of the allocated funds is actually disbursed (Darvas et al., 2018:23). This fact raises doubt about the efficiency of the EU bureaucratic system. Moreover, due to the complicated bureaucratic processes which have to be dealt with and the inflexibility of the EU as an organization, human capital is used for this purpose whereas these people might be of better use elsewhere (Darvas et al., 2018:25).

Furthermore, it appears that coordination between activities at EU level institutions and national authorities is insufficient. This is problematic, as the European Parliament (EP) describes the aim of the hotspot approach as follows: “[...] to better coordinate EU agencies' and national authorities' efforts at the external borders of the EU, on initial reception,

identification, registration and fingerprinting of asylum-seekers and migrants” (Mentzelopoulou and Luyten, 2018:1). Stakeholders feel that the coordination between the EU and national authorities is inadequate on different aspects. For example, the disbursement of the funds of both the Directorate-General for migration and home affairs (DG HOME) and the Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) simultaneously brought about a lot of confusion. Moreover, one of the bigger concerns of the stakeholders was the imperfect integration of several policy levers of both national authorities and the EU institutions (Darvas et al., 2018:25). This imperfect coordination takes up more time and human resources, and also causes doubt about the quality of cooperation between officials at EU and national level.

5.2 Human capital at the hotspots

At the hotspots human capital provided for by the EU comes in different forms: EU agencies; national staff sponsored by the EU; and staff from NGOs sponsored by the EU. Although they come from different organizations, they have overlapping responsibilities.

5.2.1 EU agencies at the hotspots

The EU agencies working at the hotspots have received criticism related to the importance of their roles at the hotspots (Horii, 2018). The actions which are criticized, partly come forth out of the lack of legal frameworks operated at the hotspots, and are partly due to the agency’s dependency on the MSs – which are both the result of the principle of subsidiarity.

To start with, the principle of subsidiarity resulted into very vague legal and operational frameworks for the hotspots (Papadopoulo et al., 2016; Horii, 2018). As the EU has to provide frameworks for all different minorities in its territory, the frameworks have to be more indeterminate. However, that also means that it is easier to interpret them in different, suitable-for-the-moment ways. Consequently, it becomes difficult for agencies to account for their

specific actions; it also becomes difficult to judge the quality and efficiency of the work of the agencies. Moreover, these frameworks prevent the agencies from being involved in major decision-making processes around the hotspot approach, as MSs do not want to retain their power over the decision-making. This situation has shown to be problematic, as the major EU agencies are increasingly involved, especially since they are the ones operating on the ground (Horii, 2018).

Next, the EU agencies have trouble managing because of the issue of dependency upon the MSs. Due to the subsidiarity principle, MSs can autonomously decide whether they want to send their experts to help or not. This has resulted in a big difference between demand and supply, which has led into severe underemployment for the EU agencies (Horii, 2018:227). The lack of professionals at the hotspots hinders the hotspot approach from achieving one of its aims: instead of making the asylum processes faster, people who arrive at the camps now get their first appointments in 2022 (Samos Volunteers, 2019).

5.2.2 Camp-management, doctors and legal aid

Although it remains unclear how many officers from different organizations are working at the hotspots, comments have been made by different stakeholders that the contributions of the EU are insufficient.⁴ For example, Rozakou (2017) sketches the situation in Moria in 2015. At the time, the camp (which had a capacity of 750) was full and there were approximately 3500 people waiting outside the camp for registration. The registration, surveillance and general management of the camp had to be done by eight policemen – there were no interpreters present at that time. Moreover, there were different catering companies who provided three meals for the refugees a day, but they were not paid for over eight months (Rozakou, 2017:40; Amnesty International, 2016:20).

⁴ Although from time to time the COM has published documents on the ‘Hotspot State of Play’ (COM, 2016; COM, 2017), the last report one online available is from December 2017 (COM, 2017). Although there has been an update on this document in 2018 (EPRS, 2018), this document does not state how many EU officials are working in the hotspots at the time of the update.

Several stakeholders have expressed their concern about the way the police – who are in charge of protecting the people in the camp and maintaining ‘order’ and are receiving money from EU funds – treats the migrants. Questions have been asked about their treatment of the refugees, as even videos of police violence against the refugees have surfaced (Amnesty, 2016; HRW, 2016; Are You Syrious, 2017).

Last, the EU barely provides for physical, mental or legal help. Most of the assistance on the ground is being provided for by (independent) NGOs or the Greek army, but there is a severe shortage (HRW, 2018; Amnesty International, 2016). For example, at the hotspot in Samos there is only one doctor for approximately 3,400 people (Samosvolunteers.org, 2019).

6. Information

The last element of state-capacity is the governments’ ability to collect information about what happens in society (Lindvall and Teorell, 2018:14). Without the information, agents of the government cannot determine how to distribute the resources effectively. In the case of the hotspots in Greece, information on the amount of people, their necessities and the asylum procedures are thus needed. Moreover, it is important to gain a good oversight of what happens with the disbursed funds.

6.1 Information from the hotspots

The EU is able to obtain a good insight into what is happening in the hotspots, as they have EU officials working at the hotspots and are able to view the public documents and reports on the situation in the hotspots from different NGOs. However, the process of information gathering is complex: conflicts of interest sometimes disturb honest communication.

The EU has officials working for the EU agencies FRONTEX, Europol and EASO. As these are direct employees of the EU, it would be expected that sufficient information about the hotspots would be provided. However, due to the lack of frameworks at the hotspots on how

they should work and cooperate, it is sometimes difficult for them to give the needed information to the COM. Moreover, due to a lack in human capital at these agencies, there might not be enough time and resources to examine the different effects and circumstances at the hotspots.

Furthermore, both UNHCR and IOM are primarily funded by the EU. They are also two of the biggest NGOs working at the hotspots. Consequently, their work is mostly commissioned by the EU (Lavenex, 2018:564). As a result, these organizations are put in a difficult position when it comes to giving information and/or criticism on the policy the EU chose to manage the migration crisis (Howden and Fotiadis, 2017). However, the UNHCR especially has made very firm statements on their stance against the EU-Turkey deal, which transformed the hotspots into ‘detention-centres’. In UNHCR’s reaction against this deal, they refrained from certain activities in and around the camps but did maintain its presence for monitoring purposes and ‘ensuring that refugee and human rights standards are upheld’ (Euractiv.com, 2016). Moreover, UNHCR frequently publishes updates on the situation in the Mediterranean, which are publicly available.

6.2 Information on what happens at national level

As seen in the chapter on revenue, once the EU has allocated the funds to Greece, it remains very difficult to track which funds are allocated to which causes. This is problematic, as it means that there is no certainty whether the EU money is spent efficiently and effectively on the hotspots. Moreover, it gives uncertainty about whether the budgets are too small or too big.

Furthermore, Rozakou (2017) shows that the asylum processes are a ‘system without system’. By seemingly random appointments for conversation and random dates of getting the result, a lot of uncertainty is created. These uncertainties are also highly problematic for the EU management of the hotspots. First, because of the ‘system without system’, the refugees often have to wait for a very long time in the hotspots. This situation costs a lot of money and

resources for the EU. Second, because it is not clear whether or when the refugees will receive asylum and if there are places for relocation in the MSs (who can choose to provide for this or not due to subsidiarity), it is difficult to make an estimation of situation in the near future. This situation leads to uncertainty on the necessity of different resources, which leads to inadequate preparation/adaption. Third, due to the instability of the main home-countries the refugees come from, it is also very difficult for the EU to make an estimation how long the refugee-crisis will go on and in which magnitude.

7. Discussion

The EU as an entity has been built upon certain values and norms, among which are human rights for all people within its borders. Not only does the EU take responsibility to protect these basic values in Europe, globally it is also known as one of the leading human right promoters. Certain expectations stem from these establishments, in combination with the agreements made in the TFEU, which state that the EU as a governmental body shall take actions when the aim of these actions cannot be sufficiently achieved by the MSs: human rights shall not be violated in Europe, especially not on big scale or over an extended period of time. However, as we have seen, the EU has not been able to keep these promises during the management of this migration crisis.

Although the hotspot approach did achieve some of its goals (Niemann and Zaun, 2018:6), like the registration and fingerprinting of all refugees arriving, the EU was not prepared for the continuous and large influx of refugees. The EU took over competences in asylum and migration from the MSs under Title V and harmonized the CEAS, and thus took over responsibility from the MSs to form an efficient framework to respond to the migration crisis. Therefore, this paper argues that the EU as an entity is responsible for forming an efficient approach to the migration crisis. However, instead of applying specific crisis regulations for crisis circumstances, the Union kept the existing systems in place. These systems have proven

to be insufficient for managing the continuous influx of migrants coming towards Europe. I argue that this is because of the lack of state capacity of the EU, which is further undermined by the principle of subsidiarity.

First, as the budget for the years 2014-2020 had been based upon migration data from the year 2010, a lot of changes were necessary when the influx of migrants started in 2015. These changes need to be made through often complex and lengthy bureaucratic processes in the EU. However, as the EU was not prepared for the sudden crisis, human capital at the EU-level fell short in processing the suddenly increased working pressure. The working pressure upon the experts became too high, which resulted in slower processes of changing policies and allocating emergency funds. At the hotspots, it resulted into uncertainty about legal and operational frameworks and a lack of basic necessities due to the lack of revenues. This situation shows the lack of state capacity of the EU when it comes to both revenues and human capital.

Second, the EU only has the power to allocate revenues and legal and operational frameworks to the national level as a result of the principle of subsidiarity. Subsequently, the national government and NGOs are responsible for the implementation of the received resources. In Greece's case, this arrangement appeared to be problematic, as the country already had to deal with two internal crises: financial and institutional. Greece was thus not very stable to begin with. As seen, it is difficult – if not impossible – to determine to what extent the money was in fact allocated by the Greek government to specific elements of the crisis management. Moreover, the very general specifications (and thus the lack of earmarking) on what the money should be spent on (for both the government as for NGOs), generates confusion and is problematic when it comes to verifying actions for the actors involved.

Third, coordination between different institutions is deemed insufficient due to the lack of state capacity and the principle of subsidiarity. The implementation of the hotspot approach relied for a big part on the cooperation between the MSs, the national government and different NGOs working at the hotspots. Without sufficient human capital and information from the

different actors involved, coordinating the policies has proved very difficult. Because the EU could not coerce the MSs into cooperating due to subsidiarity, for example the relocation of the refugees became a big problem. This issue caused problems for the coordination of other elements of the hotspot approach, as Greece now had to accommodate more refugees than anticipated. Change was thus needed in the way the hotspots were operated, but, as seen before, that consumes a lot of time and resources, which the EU could not provide for in time. This all resulted in a lack of clarity on the tasks of different actors at the hotspots, which created an unsafe environment at the hotspots, which caused unwillingness of the MSs to send their experts.

All these issues have resulted into overcrowded camps. There is a lack of coordination, basic necessities and human capital to manage the hotspots in a humane way. As we have seen, the EU cannot ameliorate the situation without gaining more state capacity and coercive power. However, this research does not claim the EU is the only actor to blame for the failure of implementing this policy. The MSs have shown a severe lack in interest in solving this problem as a community, by closing the borders and refusing to send help. European disintegration and the upcoming movements of nationalism through the EU might be one explanation for this attitude. Moreover, the financial crisis of 2008 and its aftermath also did not add to the stability of the political and financial situations in many MSs.

8. Conclusion

This research has analysed the extent to which the lack of state capacity and coercive power the EU has have impacted the way the hotspots in Greece are operated. The three elements of state capacity have been assessed on EU-level and on hotspot-level, the national level taken into consideration as a factor of influence. From the analysis, it appears that especially the principle of subsidiarity, on which the EU as an institution has been built, hinders the ability of the EU to properly operate the hotspot approach. As the MSs are able to invoke upon this

aforementioned principle, which is moreover rather undefined and thus mouldable to the specific actor's necessity at that moment, the EU is not able to coerce them into cooperating. This fact in combination with the lack of capacity of the EU to create a stable situation, leads to a variety of difficulties, which affects the way the hotspots in Greece are managed. This thesis argues that these aforementioned aspects have impacted the management of these hotspots negatively, resulting into human rights violations on a daily basis within the borders of Europe.

By assessing the EU as a state-like entity, this research sheds light upon the migration crisis from a new angle. Instead of focusing on the problems that have arisen during the hotspot approach, this study shows one of the issues concerning the managing of the migration crisis. It becomes clear that there were three major problems: a lack of state capacity when it comes to the revenues available for the crisis; a lack of coercive power due to the principle of subsidiarity; and a lack of ability to coordinate due to a combination of a lack of state capacity and subsidiarity. Because of these problems, there is no certainty who is in charge at which point of the operationalization of the hotspots, and moreover what is expected of those in charge. Uncertainty and a lack of resources leave the EU with difficulties.

In measuring the EU's capacity to uphold its own constitutional values, the research shows that there are discrepancies between the normative and empirical upholding of human rights. In line with the thinking of Englehart (2009), Lavenex (2018) and Geiger and Pecoud (2010), this thesis shows that in spite of the EU's vow to protect these rights within its own borders, the migration crisis has shown that that is not always possible. The question is whether it would have been possible, had there been more state capacity.

This question draws me to the first limitation of this research. State capacity in itself is a relative concept, and it would be debatable whether it should be applied to the EU. There are scholars who argue that the EU is an institution instead of a federation, which would make it impossible to test its state-capacity. However, as shown in the beginning of this paper, there are

sufficient reasons why the EU can be assessed as a federal state in this specific case. The research in this paper has shown the complexity of the elements of state-capacity and interactions between these elements in managing a crisis of this extent. The correlation between the lack of state capacity of the EU and the consequential inability to establish a coherent and well-functioning management approach is clear. By assessing the hotspot approach in this way, light has been shed on the difficulties of the way the EU and its MSs have chosen to handle this humanitarian crisis.

The second limitation to this study is the lack of direct contact with the professionals involved. As the contact was not possible, the study relies heavily on primary and secondary reports on the refugee crisis. This meant that it was impossible to get a deeper and more total understanding of some of the processes within the EU, which might have given the research a different outcome. Therefore, it would be very interesting to hear opinions and hold interviews with the people that actually work on this specific topic within the EU. What are their considerations, their questions, and what do they find frustrating or incomprehensive?

As the scope of this research was limited, it would be interesting to further research the state-capacities of the EU, and to see whether the experts working in the EU would deem it positive if the EU as a governing body would gain more power to manage this kind of supra-national problems. Glancing at the future, we might have to deal with many more similar, international, transboundary problems. Proposals for frameworks under which could be operated would thus be necessary. For example, a new migration crisis is unfolding at this moment in Spain. Interesting would be to see what the EU as an institute has learned from the approach they have taken previously, and whether it is capable of making amends in terms of management of the hotspots or agreements on relocation within the EU.

Therefore, I want to conclude that at the beginning of an era of international problems – such as global warming and the biggest amount of displaced people ever measured – it is

important to keep assessing what lies within the powers of the EU to manage this crisis as a supra-national government, as everyone will be affected.

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Epilogue

In April 2018, before starting the Master of Political Science at Leiden University, I was working as a volunteer in the refugee camp in Vathy, Samos. Although I had read quite a bit about how the situation in the refugee camps was, it was much worse than I expected. I guess that it is difficult to understand what something is like if you have not been there (and then it is still impossible for me to really understand what it is like to have to live in a place like that). When I first came to the camp I was shocked about its hostile appearance: a camp surrounded by barbed-wired fences, like a prison. Families with babies have to live in small tents in the middle of rats, dirt and, if it rains, mud-streams. The desperation these people live in, not knowing when they even get a chance to explain why they fled their countries due to a system without rules, is excruciating. I could and cannot understand how it is possible that within the European Union people have to live in such inhumane circumstances, often for a couple of years.

In the meanwhile, there is very little attention for the refugee crisis in Greece. In the Netherlands sometimes something will be written in a newspaper, but mainly it seems like ‘the people are tired of hearing about it’. I saw a lot of anger, frustration and uncertainty among the refugees and the people that worked there, which makes sense considering the total lack of hope and perspective that is given.

The combination of these factors moved me to write my master’s thesis about this topic. Although I am not arguing that I have a solution for the problem, I think the process of the managing of this migration crisis has shown that the EU cannot continue to operate the way it does. One of the main issues in my opinion is that it has been framed as being a problem for the EU, instead of for the refugees that have come towards Europe in search of asylum. A little more compassion for one another might solve a big part of the problem. Moreover, I think it is important to realise that this ‘crisis’ is only the at the beginning of an era of many global crises:

it is of utmost importance to change the EU institutions and the way we think about them now. Instead of deflecting responsibilities, cooperation is the way forward.

It is important that we, as a community, think about how we want to act towards other human beings. It is important that we understand that, if it were us in that little boat on the Mediterranean, we too would expect other people and countries to help us out. We should not forget that these people are also human beings, who hope to give to their children a better future.

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Appendix

Table 1. Allocation keys of AMIF and ISF across member states in comparison with alternative benchmarks.

Country	AMIF basic allocation	ISF Visa and Borders basic allocation	AMIF emergency allocation	ISF emergency allocation	2015 share in non-EU immigration	2015-17 share in first time asylum seekers	December 2015 share in non-EU citizens in resident population	2017 share in GDP	2017 share in population
Austria	2.7%	0.8%	4.7%	--	3.6%	4.6%	3.0%	2.4%	1.7%
Belgium	3.8%	1.1%	1.1%	0.6%	2.7%	2.1%	2.2%	2.9%	2.2%
Bulgaria	0.2%	3.2%	8.8%	43.4%	0.5%	1.3%	0.3%	0.3%	1.4%
Croatia	0.5%	2.8%	2.8%	1.3%	0.1%	0.1%	0.1%	0.3%	0.8%
Cyprus	1.0%	1.8%	0.2%	--	0.2%	0.3%	0.1%	0.1%	0.2%
Czech Republic	0.9%	0.8%	--	--	0.4%	0.1%	1.4%	1.3%	2.1%
Denmark	--	0.5%	--	--	1.3%	0.9%	1.3%	1.9%	1.1%
Estonia	0.2%	1.5%	--	--	0.2%	0.0%	0.9%	0.2%	0.3%
Finland	0.8%	2.9%	1.8%	--	0.5%	1.3%	0.6%	1.5%	1.1%
France	11.6%	7.2%	2.0%	0.9%	6.1%	7.4%	13.8%	14.9%	13.1%
Germany	9.1%	4.2%	10.3%	--	40.0%	42.1%	23.3%	21.3%	16.2%
Greece	11.3%	14.6%	31.7%	18.6%	0.7%	3.7%	2.8%	1.2%	2.1%
Hungary	0.8%	3.2%	1.2%	0.5%	0.6%	6.4%	0.3%	0.8%	1.9%
Ireland	0.7%	--	--	--	1.3%	0.3%	1.0%	1.9%	0.9%
Italy	13.6%	13.7%	20.3%	33.1%	7.7%	10.2%	16.9%	11.2%	11.8%
Latvia	0.4%	1.0%	--	--	0.2%	0.0%	1.4%	0.2%	0.4%
Lithuania	0.2%	1.8%	--	--	0.1%	0.0%	0.1%	0.3%	0.6%
Luxembourg	0.1%	0.0%	--	--	0.3%	0.2%	0.2%	0.4%	0.1%
Malta	0.3%	3.4%	--	--	0.2%	0.2%	0.1%	0.1%	0.1%
Netherlands	4.0%	2.3%	1.3%	--	2.5%	2.4%	1.8%	4.8%	3.3%
Poland	2.6%	4.0%	--	--	4.3%	0.7%	0.6%	3.0%	7.4%
Portugal	1.2%	1.3%	--	--	0.4%	0.1%	1.4%	1.3%	2.0%
Romania	0.8%	5.1%	--	--	0.4%	0.2%	0.3%	1.2%	3.8%
Slovakia	0.3%	0.5%	--	--	0.0%	0.0%	0.1%	0.6%	1.1%
Slovenia	0.4%	2.3%	1.2%	1.6%	0.4%	0.1%	0.4%	0.3%	0.4%
Spain	11.2%	17.2%	--	--	7.6%	1.9%	11.9%	7.6%	9.1%
Sweden	5.1%	0.6%	12.5%	--	3.2%	6.2%	2.2%	3.2%	2.0%
United Kingdom	16.3%	--	--	--	11.5%	3.5%	11.7%	15.1%	12.9%
Iceland	--	0.0%			0.0%	0.1%			
Liechtenstein	--	0.0%			0.0%	0.0%			
Norway	--	0.8%			1.1%	1.1%			

Source: Darvas, Z., Wolff, G., Chiacchio, F., Efstathiou, K., & Gonçalves Raposo, I. (2018).

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