

Migrimage presents: Massive Open Online Courses.

Capsule number 2: **INSULARISATION: CONSTRUCTION OF SPACE-BORDERS "HOTSPOTS"**
BORDERS AT SEA

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In 2022 places where personal freedom is arbitrarily stolen from foreign citizens continue to exist in Italy.

In 2016 the European Court of Human Rights condemned Italy after the Khlaifia case for the arbitrary detention of foreign citizens in the Rescue and First Reception Center in Lampedusa and on board the Vincent and Audacia ships. Without a clear legal basis, without a written document by the competent authority and validated by a judge, without a maximum term of detention and without providing adequate information on the reasons for detention, in violation of art. 13 of the Constitution and the guarantees provided for by art. 5 of the European Convention for Human Rights.

Informal detention is systematically applied during identification procedures in order to classify foreign citizens between applicants for international protection and non-applicants for international protection. In some circumstances, informal detention is also applied in the subsequent stages before transfer to other places intended for reception or administrative detention.

Law 132/2018 and Law Decree 130/2020 established that asylum seekers can be detained in hotspots for a maximum period of 30 days, in order to verify or determine their identity. But this not solved the problem of the absence of a legal basis for deprivation of freedom within hotspots. The Italian law still does not provide for the possibility of an effective appeal to the judicial authority in order to challenge the conditions of detention and any failure to respect rights and deprivation of personal freedom. The same complaint procedure to the National Guarantor of the rights of persons deprived of personal liberty introduced by Law Decree 130/2020, is not foreseen for people detained in hotspots.

Wissem Abdel's death on November 28, 2021 is a tragic example. The Tunisian citizen was first detained in solitary confinement within the Lampedusa hotspot and then transferred to a "quarantine" ship awaiting deportation and without the possibility of applying for international protection. Wissem died in a state of restraint, after more than a month of illegitimate detention,

just as the Magistrate's court annulled the refoulement decree issued against him due to lack of access to exercise the right of asylum.

Five years after the ruling of the European Court of Human Rights and following the reports of ASGI, A Buon Diritto Onlus and CILD, the Khlaifia case was further examined in December 2021. Surprisingly, the Council of Europe closed the case, endorsing the application of the Italian approach to hotspots characterized by the arbitrary deprivation of personal freedom, often functional to preventing access to the request for international protection.

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