
BETWIXT AND BETWEEN: TURIN'S CIE

*A HUMAN RIGHTS INVESTIGATION INTO TURIN'S IMMIGRATION
DETENTION CENTRE*

EDITED BY ULRICH STEGE, MAURIZIO VEGLIO, EMANUELA ROMAN AND
ABIGAELE OGADA-OSIR

RESEARCHED AND WRITTEN BY SHALINI IYENGAR, CARLA LANDRI,
MARGHERITA MINI, ABIGAELE OGADA-OSIR, EMANUELA ROMAN,
TATIANA SKALON, ULRICH STEGE AND MAURIZIO VEGLIO

International University College of Turin

As part of the Human Rights and Migration Law Clinic
A clinical legal education project in cooperation with

*Associazione Studi Giuridici sull'Immigrazione (ASGI) and the Faculties of Law of the University
of Turin and the Eastern Piedmont University in Alessandria*

Turin, Italy
September 2012



Reproduction is authorised, provided the source is acknowledged

Front cover design and artwork by Abigael Ogada-Osir

EXECUTIVE SUMMARY

This report investigates the extent to which Italian, European and international human rights and migration law is applied in Turin's *centro di identificazione ed espulsione* (Turin's CIE); an immigration detention centre in northern Italy. This study was motivated by the fact that a number of institutions and organisations at local, national and international level have expressed concern about the current praxis of administrative detention of irregular migrants in Italy. The inconsistency between the explicit and implicit aims of immigration detention centers is of particular concern because it gives rise to a situation that is a fertile ground for abuse, inefficiencies and shocking human rights violations. In order to evaluate the application of human rights law in Turin's CIE, the CIE Research Project considers both individual and systemic problems faced by detainees, their families and people who have direct contact with the centre in a professional or voluntary capacity. These problems are analysed in terms of the conditions of detention as well as the judicial and legal processes that surround immigration detention.

Throughout the research a concerted attempt was made to give voice to the lived experience of interviewed migrants; an element which is unfortunately all too often missing from research on immigration in Italy. The research was limited to experiences of detention in Turin's CIE in the period January 2011 - June 2012 inclusive. As part of this research project, twenty-nine recorded interviews of between forty and ninety minutes were conducted with current and former immigration detainees and experienced lawyers, NGO workers, religious volunteers and a journalist. The interviews were semi structured and different but comparable interview forms were used with different categories of interviewees. These forms were designed in a manner that aimed to reveal information necessary to evaluate the application of civil and political rights, as well as economic, cultural and social rights. Moreover, in order to try to access a broad cross-section of people with experience inside Turin's CIE, researchers were available to conduct interviews fluently with foreign citizens in their choice of seven languages. The report also draws on a range of secondary sources both in terms of background research and methodological modelling.

This report begins by assessing the conditions of detention inside Turin's CIE in terms of: family relationships, children and CIE; a comparison between CIE and prison; practical day-to-day issues; health and medical issues; relationships with CIE staff; and relationships between detainees. Each of these issues are diverse and yet to an extent interrelated, since they all impact detainees' everyday lives in detention, their vulnerability and their relative experiences of the conditions within which they live. The study attempts to paint a balanced picture of what it can mean to be detained inside Turin's CIE; a centre that geographically a bus ride away from the parks, *piazze* and coffee shops of Turin, and yet still seems a world away.

The report then examines the judicial and legal processes concerning Turin's CIE by considering: the extent to which detainees understand what CIE is; the Italian legal and procedural framework; relationships between detainees and lawyers; the role of embassies and consulates in the identification procedure; and political asylum and humanitarian protection. This investigation draws on the interviewees' experiences in order to examine both the positive and negative ways in which the judicial and legal processes surrounding Turin's CIE can serve to enhance or detract from our ability to give life to the text and intention of human rights law. Judicial and legal processes are two vital mechanisms through which the written word of human rights can be realised and made accessible to all. However, the research found that for CIE detainees judicial and legal processes can also be a great barrier to accessing rights because there is an absence of clear procedures and effective remedy, questionable training in some

areas of the public administration and inadequate legal and linguistic assistance for vulnerable individuals.

Around the world, political policies about immigration detention are controversial topics which are often linked to the political and economic environment of the day. Consequently, the study also summarises additional miscellaneous matters about Turin's CIE, which assist to contextualise the centre in terms of its wider economic, social and political context.

This report then concludes by presenting a list of seventeen specific problems that were identified as obstructing the full, practical and accessible implementation of human rights law and EU law both inside Turin's CIE and in terms of the related Italian judicial and administrative procedures. The problems found relate to: family life and the effect that detaining parents has on children; insufficient health care; unsatisfactory protection for asylum seekers and humanitarian entrants; a lack of training and institutional support for people from culturally and linguistically diverse communities; the stressful and degrading nature of living in the CIE; controversies in the Italian administrative law system for deciding on and validating immigration detention; and the discrepancy between the level of rights protection that is afforded in immigration matters where liberty is at stake when compared with the criminal justice system.

The CIE Research Project was conducted from January 2012 to August 2012 by the International University College of Turin as part of the Human Rights and Migration Law Clinic; a clinical legal training program for undergraduate law students and LLM masters students. The Human Rights and Migration Law Clinic is run by the International University College of Turin in cooperation with the Faculties of Law of the University of Turin and the Eastern Piedmont University in Alessandria and in partnership with the *Associazione Studi Giuridici sull'Immigrazione*. This report has been produced in a joint effort by an international research group comprised of two supervising lawyers and six clinical legal program students. The eight researches come from six different countries (Argentina, Australia, Germany, India, Italy and Russia) and they have interdisciplinary academic backgrounds.

“I would like that centre to disappear. That’s it.”

- **Interview 17**

TABLE OF CONTENTS

Executive Summary	3
Part A. Introduction	
Introduction	9
Methodology	10
Part B. Conditions of Detention	
I. The Decision to Detain	16
II. Family Relationships, Children and CIE	18
1. Legal Framework: The Right to Family and Private Life	18
2. CIE Detainees with Strong Family and Private Lives in Italy.....	19
3. The Best Interests of the Child?	21
A.'s Story (Interview 11)	24
4. Communication with the Outside World.....	25
5. Telephones and Telephone Credit.....	27
6. Visits	27
B.'s Story (Interview 20)	29
III. Prison and CIE	31
1. Identification Procedures for Prisoners and Access to Legal Information	31
2. Conditions of Detention: A Comparison Between Prison and CIE.....	32
D.'s Story (Interview 14)	34
IV. Day-to-day Issues	35
1. Legal Framework: Respecting Human Dignity	35
2. Contextualising Day-to-day Issues.....	36
3. Space.....	36
4. Hygiene and Cleanliness	38
5. Food	39
6. Activities	39
7. Rules	40
8. Drinking Water and Laundry	41
9. Purchasing Goods Inside the CIE.....	41
10. Inhumane and Degrading Treatment?	41
V. Health and Medical Issues	42
1. Legal Framework: The Right to Health.....	42

2.	Experiences of Medical Care Inside CIE.....	43
3.	Relationships with Medical Staff	46
4.	Self-harm, Self-mutilation and Hunger Strikes.....	47
5.	Detainees with Drug Dependency Issues.....	48
6.	Use, Misuse and Abuse of Psychotropic Medication.....	49
VI.	Relationships with CIE Staff	50
1.	Perspectives on a Complex Relationship	50
2.	Violence.....	53
VII.	Relationships between Detainees.....	56
1.	Inappropriate Mix - Grouping People Coming from Jail and Asylum Seekers, Young and Vulnerable People	56
2.	Ethnic or Cultural Issues and Tensions.....	56
Part C. Judicial and Legal Processes		
VIII.	Understanding what CIE Is	58
1.	Legal Framework: The Right to a Fair Trial, the Right to an Effective Remedy and Procedural Safeguards for People Facing Expulsion	58
2.	Detainees' Experiences of Understanding what CIE Is.....	60
IX.	An Overview of the Italian Legal and Procedural Framework.....	63
1.	Legal Framework on Fair Hearings.....	63
2.	Experiences of Validation and Extension Hearings	65
3.	<i>Giudice di Pace</i>	66
X.	Relationships with Lawyers.....	68
1.	Legal Framework: Legal Aid and Pre-Trial Case Preparation and Legal Advice	68
2.	Legal Aid	69
3.	Visits.....	70
4.	Communication.....	70
5.	Lack of Trust	71
XI.	The Role of Embassies and Consulates in the Identification Procedure.....	72
1.	Legal Framework: Identification Procedures and The Right to Consular Representation	72
2.	Relying on One's Own Embassy	72
XII.	CIE, Political Asylum and International Humanitarian Protection	75
1.	Legal Framework: The Right to Asylum	75
2.	The Situation Inside Turin's CIE	80
	E.'s Story (Interview 22)	83

Part D. Other Matters

XIII. Figures and Costs	85
1. Capacity, Duration of Detention and Repatriation	85
2. Costs	86
XIV. Classifying Identity	87
G.'s Story (Interview 21)	89

Part E. Conclusion

XV. Betwixed and Between	91
Appendixes.....	94
Appendix 1: Glossary of Italian Terminology Used	94
Appendix 2: Abbreviations	96
Appendix 3: The Interview Forms.....	97
Interview Form 1: For Detainees and Former Detainees	97
Interview Form 2: For NGOs, Lawyers, Religious Personnel who Enter CIE*	101
Interview Form 3: For CIE Staff*	104
Appendix 4: The Consent Form	107
Consent From	107
Bibliography and Sources	108
Contact Details.....	116

PART A. INTRODUCTION AND METHODOLOGY

INTRODUCTION

If there is one lesson that should be ingrained in every person living in today's day and age with memories of senseless brutality occurring not so long ago and indeed on-going even today, it is that every person no matter where they are born and no matter what the circumstances of their life is entitled to rights, freedoms and dignity- the quintessence of humanity. No matter where we walk or live, the right to be treated as a person forms the core of human rights law and is a fact that should not be relegated to the realms of idealism and utopia.

Detainees in immigration detention centres, known in Italy as centres for identification and expulsion (CIEs), are amongst society's most vulnerable. The CIE Research Project was motivated by the fact that a number of institutions and organisations at local, national and international level had expressed concern about the current praxis of administrative detention of irregular migrants both in Italy and in Europe generally. The inconsistency between the explicit and implicit aims of CIEs is of particular worry because it gives rise to a situation that is a fertile ground for abuse, inefficiencies and shocking human rights violations.

This research project focused on experiences of detention inside Turin's CIE that occurred between January 2011 and June 2012. The objective was to investigate and analyse whether the treatment of immigration detainees in Turin's CIE met Italian, European and international human rights standards. The project also aimed to inquire into systemic and individual problems faced by detainees and people who work at the CIE or who have direct contact with the centre in a professional or voluntary capacity. This report represents the final outcome of the CIE Research Project.

The opinions in this report are based on evidence gathered via first-hand recorded interviews with former detainees, current detainees and professionals who have had contact with Turin's immigration detention centre. The views expressed in this report do not necessarily represent the opinions of either the International University College of Turin (IUC) or the institutions that support the Human Rights and Migration Law Clinical Program; namely *Associazione Studi Giuridici sull'Immigrazione* (ASGI), the University of Turin or the Eastern Piedmont University.

Structure of the Report

Part A of this report comprises the introduction and a description of the methodology followed by the research group. Part B makes a detailed consideration of the actual conditions inside Turin's immigration detention centre, exploring the preliminary issue of (I) the decision to detain and subsequent issues concerning life in detention as well as: (II) family relationships, children and CIE; (III) prison and CIE; (IV) day-to-day issues; (V) health and medical issues; (VI) relationships with CIE staff; and (VII) relationships between detainees.

Part C of this report evaluates the judicial and legal processes surrounding administrative detention of migrants, in particular in Turin, in terms of the following sub-topics: (VIII) detainees' experiences of understanding what CIE is; (IX) an overview of the Italian legal and procedural framework; (X) relationships with lawyers; (XI) the role of embassies and consulates in the identification procedure; and (XII) CIE, political asylum and international humanitarian protection. Part D documents additional miscellaneous matters about Turin's CIE, which assist

to contextualise our understanding of the centre in terms of its wider economic, social and political context.

Finally, Part E offers a conclusion to this research project, highlighting the key problems that were revealed during the study. The appendixes include a glossary of Italian terms, the interview forms and the consent form that were used for the interviews, a list of abbreviations and a bibliography of sources.

With the aim of giving voice to detainees, the research group decided to include five top stories in the report. These are personal life stories collected during the interviews with some of the current detainees. Such accounts may be seen as highly representative of one or more of the issues highlighted in the report, and they can be found under the paragraphs which concern the topics that they are closely connected to. In order to preserve confidentiality, detainees' names have been replaced with a random letter and any identifying information has been deleted.

Importantly, we would like to thank all of the interviewees who generously offered to participate in the CIE Research Project. We are very grateful that they took the time to share this important and often personal and stressful information with us.

METHODOLOGY

The Research Group

The CIE Research Project, as part of a clinical legal training program, has been entirely managed and conducted by a group of six diverse students, under the supervision of the clinical staff: Mr. Ulrich Stege (IUC Clinical Program Coordinator, lawyer) and Avv. Maurizio Veglio (ASGI member, lawyer).

The student research group was composed of an Italian law student from the University of Turin, an Italian-Argentinian law student from the Eastern Piedmont University in Alessandria and four post-graduate students from Australia, India, Italy and Russia attending the IUC 2011/2012 LLM program (*Master in Comparative Law, Economics and Finance*). The research group as a whole possessed wide-ranging language skills that enabled it to access a broad section of the foreign population in Italy. The student-researchers are mother tongue or can speak an advanced level of English, Italian, Russian, Spanish, French, Hindi and Bengali.

The Preliminary Stages

The first preparatory stage of the CIE Research Project involved a study of the legal framework that governs immigration detention centres in terms of Italian, European and international law. Not only was Italian and European Union migration law analysed in depth¹ but the study also carefully considered the relevant conventions under international human rights law², as well as

¹ For the purposes of this research, the most relevant Italian and European laws in the field of migration are: Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, L 348/98 *Official Journal of the European Union*, 24.12.2008; *Decreto Legislativo 25 luglio 1998, n. 286 "Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero"* (GU n. 191 del 18-8-1998 - Supplemento Ordinario n. 139) ("Testo Unico Immigrazione"). Legislative Decree 25 July 1998, n. 286 "Unified text on provisions concerning immigration and norms on the condition of foreign citizens" (GU n. 191 of 18-8-1998 – Ordinary Supplement n. 139) ("Unified Text on Immigration").

² *Convention Against Torture and Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 U.N.T.S. 85 (entered into force 26 June 1987); *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 U.N.T.S. 3 (entered into force 2 September 1990); *Convention*

the crucial *European Convention for the Protection of Human Rights and Fundamental Freedoms*³ (ECHR). This initial legal analysis aimed to build a more complete picture of the fundamental questions that needed to be asked of interviewees in order to determine whether the human rights legal framework was being comprehensively applied both “on the ground” inside Turin’s CIE and during the judicial and administrative processes that influence CIE detention.

The second preparatory stage of the study included an analysis of previous research, striving to include all of the most recent and relevant reports, papers and articles specifically dedicated to the administrative detention of migrants in Italy, with particular attention being paid to research on detention conditions inside Italian CIEs. The investigations and surveys that have previously been conducted inside Italian CIEs by governmental bodies, commissions, non-governmental organisations, independent research institutions and civil society members represented crucial benchmarks for this study, not only for their useful content but also (and mainly) as models to build our own methodology on⁴.

The Investigation

The core aspect of this research is that its main source of evidence was first-hand information that the research group gathered using a qualitative survey based on twenty-nine structured in-depth interviews to different categories of subjects. More precisely, what probably

Relating to the Status of Refugees, opened for signature 28 July 1951, 189 U.N.T.S.150 (entered into force 22 April 1954); *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 U.N.T.S. 171 (entered into force 23 March 1976); *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 U.N.T.S. 3 (entered into force 3 January 1976); *International Convention on the Elimination of all Forms of Racial Discrimination*, opened for signature 21 December 2005, 660 UNTS 195 (entered into force 4 January 1969); *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

³ *European Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 4 November 1950, ETS 5 (entered into force 3 September 1953 and ratified by Italy 26 October 1955).

⁴ Among the others: Commissione De Mistura, Senato della Repubblica, *Rapporto della Commissione De Mistura per le verifiche e le strategie dei Centri per gli immigrati*, 31 January 2007 <<http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/1/2007131181826.pdf>>; Commissione straordinaria per la tutela e la promozione dei diritti umani, Senato della Repubblica, *Rapporto sullo stato dei diritti umani negli istituti penitenziari e nei centri di accoglienza e trattenimento per migranti in Italia*, 6 March 2012

<http://www.cestim.it/argomenti/25cpt/2012_commissione_straordinaria_senato_rapporto_diritti_umani_carceri_centri_accoglienza.pdf>; Raffaella Cosentino and Alessio Genovese, “CIE, le galere fuorilegge”, *La Repubblica* (online), 9 June 2012 <http://inchieste.repubblica.it/it/repubblica/rep-2012/06/09/news/cie_le_galere_fuorilegge-36862905/>; European Migration Network (ed.), *Practical responses to irregular migration: the Italian case*, 2012 <<http://www.emnitaly.it/download/rs-27-02.pdf>>; Fabrizio Gatti, “Io clandestino a Lampedusa”, *L'Espresso* (online), 7 October 2005 <<http://espresso.repubblica.it/dettaglio/io-clandestino-a-lampedusa/2104770/0/>>, English translation available at <http://www.jrseurope.org/news_releases/OctLampedusaLifestory.pdf>; Luigi Manconi and Stefano Anastasia (eds.), “Lampedusa non è un’isola. Profughi e migranti alle porte dell’Italia”, *Associazione A Buon Diritto Onlus*, June 2012 <<http://www.abuondiritto.it/upload/files/Lampedusa.pdf>>; Medici per i Diritti Umani (MEDU), *Rapporto Centro di Permanenza Temporanea ed Assistenza Brunelleschi di Torino*, June 2006 <<http://www.mediciperidirittiumani.org/rapporto2.htm>>; Medici per i Diritti Umani (MEDU), *Le Sbarre Più Alte. Rapporto sul centro di identificazione ed espulsione di Ponte Galeria a Roma*, May 2012 <http://www.mediciperidirittiumani.org/pdf/LE_SBARRE_PIU_ALTE.pdf>; Medici per i Diritti Umani (MEDU), *L’iniquo ingranaggio dei CIE. Breve analisi dei dati nazionali completi del 2011 sui centri di identificazione ed espulsione*, July 2012 <http://www.mediciperidirittiumani.org/pdf/LINIQUO_INGRANAGGIO.pdf>; Parliamentary Assembly, *The Detention of Asylum Seekers and Irregular Migrants in Europe*, Report by the Committee on Migration, Refugees and Population, Doc.12105, 11 January 2012 <<http://assembly.coe.int/Documents/WorkingDocs/Doc10/EDOC12105.pdf>>.

distinguishes this investigation from others is the fact that it heavily drew upon detainees' first-hand experiences, with about 60% of interviewees being former or current detainees.

The spatial and temporal boundaries of the study were precisely defined. The survey was limited to experiences of detention which occurred between January 2011 and June 2012 inclusive inside only one of the fourteen Italian CIEs: the Centre for Identification and Expulsion "Brunelleschi" of Turin.

The sample population was constituted of different categories of interviewees and consequently three different interview forms were prepared⁵. However, in order to ensure a high comparability between the answers given by different subjects on the same topic, each form was divided into the same thematic sections. The research group drafted the interview forms together with the clinical supervisors using as a model the questionnaires produced by a similar albeit much broader survey that was conducted by Jesuit Refugee Service-Europe in twenty-one EU Member States in the period 2008-2010 as part of the "Research Project on the Detention of Vulnerable Asylum Seekers in the European Union" (DEVAS Project)⁶.

Our three interview forms were prepared both in English and Italian. A leaflet explaining what our research project consists of was produced in various languages (English, Italian, Russian, Arabic, Chinese, French, Spanish and Bengali). Interviews were mainly conducted in Italian, although some of them were carried out in English, Spanish and Russian. Interviews were held in person or via telephone and they were recorded with the prior consent of the interviewee. All interviews conducted in Italian were translated to English and the translations were double-checked by a native Italian-speaker with an advanced level of English in cooperation with a native English-speaker with an advanced level of Italian.

The research group drafted an informed consent form in both English and Italian that the interviewees were asked to read and sign when the interview was held in person. The interviewers read the consent form aloud to the interviewees when the interview was conducted via telephone⁷. Interviewees were granted the utmost confidentiality and their participation in the research project is anonymous. Therefore, their names, personal details and any specific identifying information have been deleted from this report. Given the emotional sensitivity of the interview topics, interviewees were free to refuse to answer questions that they did not feel like answering. Each interview took from forty to ninety minutes to complete, depending on the interviewee's desire to elaborate their answers.

Accessing the Sample Population

The method used to access the sample population was mainly based on informal networks. To contact lawyers, journalists, NGO workers and volunteers, the research group used personal and professional networks with the assistance of ASGI and the Clinical Program partner institutions. To contact former and current detainees, the cooperation of professionals and volunteers was at first extremely helpful. However, after the first handful of detainee interviews it became much easier to access migrants willing to participate in the survey. After being interviewed a number of migrants explained the project to other people who are or were in their CIE detention quarters and then provided the researchers with the new contacts. Using this method, the

⁵ See *Appendix 3: The Interview Forms*.

⁶ Jesuit Refugee Service-Europe, *Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants*, June 2010. For further information on the DEVAS Project, the aforementioned final report and all of the methodological documents used to implement the project, see: http://detention-in-europe.org/index.php?option=com_content&view=article&id=220&Itemid=242.

⁷ See *Appendix 4: The Consent Form*.

research group was able to interview a range of detainees from four of the five detention areas currently used inside CIE⁸, as well as from the seclusion area (the so-called *Ospedaletto*).

The Sample Population

Current and former detainees constituted the first group of interviewees (Interview Form n. 1). All current detainees were interviewed via telephone, and former detainees who had left Turin after being released were also interviewed via telephone. The total number of current and former detainees interviewed was seventeen, with fifteen of them being inside CIE at the time when they undertook the interview. Three detainee interviewees were women and fourteen were men. The researchers' decision not only to include but also to focus on interviews with detainees is based on the fact that it is extremely difficult to access information that encapsulates the lived experience of an Italian CIE. Feelings are individual and it is therefore impossible to paint a truly complete picture of how different detainees inside Turin's CIE feel. Nevertheless, this report does strive to give voice to detainees and therefore it has involved substantially more first-hand detainee interviews than previous research studies on Italian CIEs.

Whilst the most novel aspect of this report is the level of detainee participation, in order to make a balanced evaluation of Turin's CIE it was also crucial to conduct long interviews with as many different parties as possible who have first-hand experience of the CIE. Consequently, Interview Form n. 2 was targeted to lawyers, religious personnel and NGO staff who enter Turin's CIE on a regular basis or who used to enter CIE in the recent past. A similar albeit modified version of this form was used for journalists researching on the issue of immigration detention who had the chance to enter Turin's CIE during the research timeframe. In total, twelve interviewees were part of this second group.

According to the original research plan, a third group of subjects should have been included in the survey. This group would have been constituted by the CIE personnel, meaning people who manage or work inside the centre, namely the CIE director, Red Cross staff, military personnel, medical staff (doctors, nurses, psychologists) and social workers. Interview form n. 3 was drafted to conduct this last part of interviews and a formal request for authorisation to enter Turin's CIE, interview its director/staff and access some figures was forwarded to the local authorities in May 2012 asking for a formal response by July 2012. Unfortunately we were not able to receive a formal response by July and we hope that this will be possible for our next investigation.

Disclaimer

As noted above, this report reflects the opinions of the individual researchers involved and it does not necessarily represent the opinions of either the International University College of Turin or the partner institutions: *Associazione Studi Giuridici sull'Immigrazione*, the University of Turin and the Eastern Piedmont University.

This study involves a group of twenty-nine interviewees. Given the small sample group, there are naturally limits on the extent to which this research can draw wider systemic conclusions about the number or percentage of people who have similar experiences to our interviewees. However, this report has sought to overcome this barrier by conducting long interviews that give space for individual stories to be enunciated. Individual testimonies provide a poignant

⁸ One of the six areas (the White Area) was closed in 2011 after a number of detainees escaped from this area. The detainees who were interviewed in this research project were detained in the Red, the Blue, the Green and the Violet areas. The only area the researchers were not able to access was the Yellow Area.

window into barriers to accessing rights and human rights breaches on both procedural and legal levels. Therefore, whilst the sample size in this investigation is small, where the interviews revealed one or more alleged breaches to a human right then the seriousness of that allegation should not be dismissed due to the size of this study.

As noted above, professional interpreters were not used in this project. All of the interviews were conducted by native or near-native language speakers, and the interviews were recorded so that they could be transcribed and interpretation issues could be given detailed consideration. Moreover, most of the English translations were done by students in their final term of a post-graduate degree that is taught and assessed entirely in English, so we have confidence that the translators possess a high level of English language skills when translating from their mother tongue to English. The work was then checked and discussed with a native English speaker. In order to conduct two of the interviews with detainees it was necessary to ask another detainee who spoke excellent Italian to translate from Arabic⁹. Whilst the researchers specified the importance of not changing words during interpretation, there is clearly a risk to the quality of these two interviews that comes with another detainee conducting the translation. This said, the research group decided to conduct these interviews via a detainee translator because this allowed the researchers to access Arabic speaking detainees who had not been in Italy for a long period of time.

The detainee interviews include seventeen current or recently released detainees from Ivory Coast, Kenya, Ukraine, Peru, Tunisia, Morocco, Libya, Algeria and Egypt. Unfortunately, not all nationalities and geographic areas are represented. For example, despite our efforts we were not able to make contact with any Nigerian detainees, who represent a significant ethnic group inside CIE. The difficulty in contacting detainees from certain ethnic groups was despite the fact that research could be conducted in seven interviewing languages. Rather, it is part of a wider problem in accessing detained migrants and information about immigration detention more generally. As a matter of fact, since the now revoked *Circolare Prot. n. 1305* signed the 1 April 2011 by the former Minister of the Interior Roberto Maroni, it has remained very difficult for researchers or journalists to enter CIE¹⁰.

As mentioned above, the research group could not complete the full scope of the intended research project due to the lack of an official authorisation to enter CIE and carry out interviews to the last group of subjects. Consequently, the researchers were not able to gather information, experiences and opinions from people who work inside CIE and manage it. Of course the lack of this “third voice” will not pass unnoticed to the reader. Throughout this report there are allegations, accusations and questions coming from different subjects that would deserve (and sometimes would need) a reply. We hope that in future investigations we will be able to interview the authorities involved in Turin’s CIE.

Immigration detention centres are an extremely controversial and complex subject and amongst the individual researchers there were varying opinions on the issue. These diverse perspectives enriched the report, helping the authors in their efforts to be as objective as possible. Throughout the report, strong evidential weight was given to first-hand information

⁹ In the first case both the interviewed detainee and the interpreter were current detainees, while in the second case both people were former detainees.

¹⁰ *Ministero dell’Interno, Circolare Prot. n. 1305 del 1 April 2011 (11050/110(4))*. Ministry of the Interior, Circular Protocol n. 1305 of 1 April 2011 (11050/110(4)), prevented journalists from entering CIE for eight months in 2011. It was revoked by the current Minister of the Interior, Anna Maria Cancellieri in December 2011. However, on a practical level the previous ministerial policy has still deeply affected the chance to get information from inside of CIE. For further information, see the Italian *LaciateCIEentrare* campaign for journalists, researchers and civil society to have greater access to Italian CIEs, see: <<http://www.openaccessnow.eu/it/>>.

collected during the interviews. As with any interview-based research, it was not possible to ensure that all of the interviewees were completely accurate or honest. However, clear systemic trends did emerge, which were corroborated by either different groups of subjects or detainees living in separate areas of the CIE.

The Researchers: Introducing the Human Rights and Migration Law Clinic

The CIE Research Project was conducted as part of the Human Rights & Migration Law Clinic (HRMLC) in Turin. The HRMLC is a joint program initiated and coordinated by the IUC in cooperation with the Faculties of Law of the University of Turin and the Eastern Piedmont University in Alessandria and in partnership with ASGI.

The HRMLC strives to establish a new style of legal education in the Piedmont region by encouraging students through experiential learning – learning by doing – for academic credit to emphasise the sensitisation of students as future professionals to the problems of social justice and to foster a sense of social responsibility. Furthermore, the HRMLC program strives to offer research and legal assistance to under-represented individuals within Turin, complementing the already existing support provided by local organisations working for the benefit of migrants.

The HRMLC plans to continue conducting periodic and independent monitoring of the human rights conditions inside Turin's CIE, by providing a yearly research report on the actual practice that is occurring inside the centre.

PART B. CONDITIONS OF DETENTION

This section assesses the conditions of detention inside Turin's CIE by examining: family relationships, children and CIE; CIE and prison; practical day-to-day issues in CIE; health and medical issues; relationships with CIE staff; and relationships between detainees. Each of these issues are diverse and yet to an extent interrelated, since they all impact detainees' everyday lives in detention, their vulnerability and their relative experiences of the conditions within which they live. Throughout Part B we will paint a picture of what it can mean to be detained inside Turin's CIE: a centre that geographically a bus ride away from the parks, piazzas and coffee shops of Turin, and yet still seems a world away.

I. THE DECISION TO DETAIN

Prior to considering the conditions of detention it is first crucial to remember that in order for a person to be inside Turin's CIE, an initial administrative decision must be made by the Italian authorities to detain that particular migrant. Whilst legal and administrative procedures pertaining to CIE detention will be discussed in detail in Part C, to an extent the conditions of detention and the decision to detain are interrelated due to the arbitrariness test under Article 5 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR)¹¹ concerning the right to liberty and security of person. The right to liberty and security of person is also well founded in international law, as per Article 9 of the *International Covenant on Civil and Political Rights* (ICCPR)¹², and Article 3 and Article 9 of the *Universal Declaration of Human Rights* (UDHR)¹³.

In particular, Article 5 ECHR limits the circumstances in which the deprivation of liberty is justifiable, noting that deprivation of liberty must not be arbitrary. The European Court of Human Rights (ECtHR) expressly forbade any detention which violated the prohibitions on arbitrariness, was unnecessary and disproportionate. In light of the proportionality test, factors discussed throughout Part B, such as family life, health issues and the nature of detention, will be relevant to determining if an individual's detention meets the following Article 5 ECHR non-arbitrariness test¹⁴, which provides that immigration detention must:

- i. Be carried out in good faith and not involve deception on the part of the authorities;
- ii. Be closely connected to the purpose of preventing unauthorised entry of the person to the country or deportation;
- iii. The place and conditions of detention must be appropriate, bearing in mind that the measure is applicable not to those who have committed criminal offences but to people who have fled from their own country, often in fear for their lives;

¹¹ *European Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 4 November 1950, ETS 5 (entered into force 3 September 1953 and ratified by Italy 26 October 1955).

¹² *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 U.N.T.S. 171 (entered into force 23 March 1976).

¹³ *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

¹⁴ *Saadi v. United Kingdom*, 13229/03, Council of Europe: European Court of Human Rights, 29 January 2008, para.74.

- iv. The length of the detention must not exceed that reasonably required for the purpose pursued.

International human rights law contains strong standards for the conditions of detention-standards which, *inter alia*, prescribe the place of detention, social and medical facilities and the protection of detainees from violence while detained. One of the strongest protections is the fundamental international principle on the prohibition of cruel, inhuman and degrading treatment, a prohibition enunciated in a catena of international instruments, including Article 7 ICCPR¹⁵. Furthermore, Article 10(1) ICCPR emphasises:

“10(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

As noted by the Human Rights Committee, Article 10(1) is a further protection for detainees, which remains relevant regardless of whether the treatment in question also breaches the Article 7 ICCPR prohibition on cruel, inhuman and degrading treatment¹⁶. Moreover, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment’s *CPT Standards*¹⁷, the *UN Standard Minimum Rules on the Treatment of Prisoners*, the *UNHCR Revised Guidelines on Detention of Asylum Seekers*, the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* and the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* are all relevant and controlling instruments governing the standards of detention conditions.

¹⁵ Relevant provisions of international human rights law prohibiting inhumane or degrading treatment include: *International Convention of Civil and Political Rights*, Article 7; *Convention Against Torture and Inhuman or Degrading Treatment or Punishment*, Article 16; *European Convention for the Protection of Human Rights and Fundamental Freedoms*, Article 3. For additional human rights instruments on inhumane or degrading treatment, which are not applicable law in Italy, see: Organisation of American States, *American Convention on Human Rights*, opened for signature 22 November 1969, OASTS 36, 9 ILM 673 (1970) (entered into force 18 July 1978), Article 5; Organisation of African Unity, *African [Banjul] Charter on Human and Peoples’ Rights*, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) (entered into force 21 October 1986), Article 5; and League of Arab States, *Arab Charter on Human Rights*, opened for signature 22 May 2004, reprinted in 12 Int’l Hum. Rts. Rep. 893 (2005) (entered into force 15 March 2008), Article 8.

¹⁶ Manfred Nowak, *UN Covenant on Civil and Political Rights Commentary*, 2005, N.P. Engel Publisher, 2nd revised ed., 245-250.

¹⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *CPT Standards*, CPT/Inf/E (2002) 1 – Rev. 2011. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was established pursuant to Article 1 of the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, opened for signature 26 November 1987, ETS 126 (entered into force 1 February 1989). The CPT’s role in the Council of Europe system is to protect human rights, as a proactive but non-judicial mechanism that works alongside the reactive mechanism of the European Court of Human Rights.

II. FAMILY RELATIONSHIPS, CHILDREN AND CIE

1. LEGAL FRAMEWORK: THE RIGHT TO FAMILY AND PRIVATE LIFE

A significant portion of CIE detainees have family members such as children, a husband, a wife or a long-term partner who live in Italy. Some detainees have also resided in Italy for many years and consequently they have established their lives here. A long-term immigrant can end up in CIE for a number of reasons. The most common of these are: residence permits expiring without renewal, residence permits being terminated due to either loss of employment or criminal conduct, or never having had an Italian visa in the first place.

Council of Europe

The right to respect everyone's private and family life is protected by human rights laws at European Union, Council of Europe and international levels. Article 8 of the ECHR states:

“8(1) Every-one has the right to respect for his private and family life, his home and his correspondence.

8(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Article 8 ECHR is both a positive and negative right. Whilst a fundamental aim of Article 8 ECHR is to “protect the individual against arbitrary action by the public authorities”, there may also be positive obligations inherent in effective “respect” for family life¹⁸. The implementation of Article 8 ECHR is complex and the article does not specify conditions under which an irregular immigrant can be detained or deported. However, some of the findings in this chapter do call into question whether Italian authorities are consistently and proportionately balancing the right to family and private life with infringements that are necessary to pursue a legitimate aim that is necessary in a democratic society¹⁹.

European Union Law

The importance of the right to respect family and private life is echoed in EU Directive 2003/86/EC of 22 September 2003²⁰ on the right to family reunification. Furthermore, EU Directive 2008/115/EC of 16 December 2008²¹ (“Return Directive”) establishes common standards and procedures for EU Member States in cases in which third-country nationals may be removed from their territories. The Return Directive specifically states that Member States

¹⁸ *Kroon and Others v. The Netherlands*, 18535/91, 27 October 1994, para. 31. See also, *Gül v. Switzerland*, 53/1995/559/645, Council of Europe: European Court of Human Rights, 22 January 1996, para. 38.

¹⁹ On the proportionality test, see for example: *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 13178/03, Council of Europe: European Court of Human Rights, 12 October 2006; *A.W. Khan v. United Kingdom*, 47486/06, Council of Europe: European Court of Human Rights, 12 January 2010; *Tuquabo-Tekle and Others v. the Netherlands*, 60665/00, Council of Europe: European Court of Human Rights, 19 October 2004.

²⁰ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, L 251/12 *Official Journal of the European Union*, 3.10.2003.

²¹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, L 348/98 *Official Journal of the European Union*, 24.12.2008.

must take into consideration the best interests of the child, family life and health of the people concerned²².

2. CIE DETAINEES WITH STRONG FAMILY AND PRIVATE LIVES IN ITALY

In the course of this research, we interviewed some detainees who had been married to or had children with Italian or EU citizens. A person without documents has the right to marry in Italy²³. Moreover, the Article 8 ECHR right to family and private life can include unmarried couples²⁴. During this research it was often unclear whether the detainees who were married to Italian or other EU citizens had been married via official legal means, or whether they had been married in religious or community ceremonies without an accompanying Italian legal marriage registration process.

One detainee moved to Italy in 2006 with her Italian ex-husband, to whom she was legally married at the time of her arrival. She seemed to be very integrated in Italy, having worked in Milan's fashion industry as well as in hospitality. Her current partner is also Italian, although they are not married. She had a valid identity card and she was confused about how it was possible to have a valid identity card without a permit to stay. In fact, the detainee had hosted a house party and she herself had called the police because an unwelcome guest was too drunk and refused to leave her house. The police then checked everyone's documents and found that the host's own permit to stay had in fact expired and she was transported to CIE.

Another detainee explained that he had been living in Italy on a long-term basis with an Italian wife:

"When I arrived in Italy I was without documents, then I married an Italian girl and I had a permit to stay. I returned to my country and then I returned to Italy without problems. I also worked here with my wife, we had a bar. The police however came to the bar and caused a racket. I fought with them and I gave a slap to the officer. They sent me to prison where I did some months [two months] and then house arrest. After prison [in 2007] I still had my permit to stay. However they'd had it with me and they made me close the bar. I made a request for a permit to stay the last time in 2010. However, they refused to give me the permit to stay and with my lawyer we appealed. Now in 2012 I am waiting for a response. Then two months ago the police stopped me on the street, but I had left my wallet at home. I told them to accompany me home to take the documents but they took me to the barracks and from there to Questura²⁵ and from there to CIE" (Interview 27).

Sometimes both a husband and wife are detained in CIE:

"There has been one case of a Tunisian couple who spent more than six months inside CIE. They were detained in separate areas but in the evening CIE staff let them meet and talk a little bit and then brought them back to their areas. After six months they were both repatriated to Tunisia" (Interview 2).

²² Directive 2008/115/EC, Article 5 and Introductory Principle 22.

²³ *Corte Costituzionale, sentenza del 20 luglio 2011, n. 245*. Italian Constitutional Court, judgment of 20 July 2011, n. 245.

²⁴ *X v. Switzerland*, 8257/1978/13 DR 248, Council of Europe: European Court of Human Rights, 10 July 1978.

²⁵ The *Questura* is an office of the *Polizia di Stato* that is under the authority of the Ministry of the Interior and is competent in the territory of the province (*Provincia*) where it is located. *Questura*'s main function consists in maintaining order and ensuring public security within the territory of the province.

A twenty-six-year-old detainee had moved to Italy from Ivory Coast with a valid permit to stay when he was fifteen years old on the basis of family reunification. In *A.W. Kahn v the United Kingdom* the ECtHR held that the relationship between settling migrants and their environment also constitutes an element of private life as protected by Article 8 ECHR. The length of a person's stay in Italy must be considered when balancing whether deportation satisfies the Article 8 ECHR proportionality test; that is, whether deportation is justified because it would pursue a legitimate aim that is necessary in a democratic society²⁶. This twenty-six-year-old detainee had lived his whole adult life in Italy, and he was distressed at the prospect of being deported to a country that he has not been to since he was a child: "I don't want to go back to Ivory Coast. I have nobody there, I would be completely alone. I have all my family here, all my friends, all my life is here. It's more than ten years that I am in Italy. I cannot go back. The day they put me on a plane for Ivory Coast, it will only happen because I will be dead" (Interview 18). In this case, the young man had committed crimes in Italy. Therefore, deportation would not necessarily breach Article 8 ECHR so long as the decision makers have balanced the individual's rights against the community's interests. However, there have been several cases where an individual's family life ties and rehabilitative behaviour have been so strong that the ECtHR has ruled that despite having committed serious crimes it would be a breach of Article 8 ECHR to deport that person²⁷.

In addition, a number of detainees were financially supporting dependant family members either in Italy or in their countries of origin at the time that they were detained. For example, one young man in his twenties expressed his stress because he felt that he could not tell his mother in his country of origin about his detention in CIE. This young man was scared that his mother would not understand the meaning of CIE, which he said did not exist as a concept in his country of origin. He feared that his mother might assume that if he was in detention it was a criminal jail. Prior to being detained in CIE he was working and regularly sending money to his home country to support his family. He spoke with sadness about how he felt forced into a position where he needed to lie to his family, telling them that he was not working much in Italy and that this was why he stopped being able to send money home. In reality, he had stopped sending home money because he was detained in CIE.

²⁶ In cases where a long-term migrant is facing deportation due to criminal acts, the ECtHR will decide whether or not Article 8 ECHR has been breached by using a proportionality test of whether there was a proportionately legitimate aim that was necessary for a democratic society. This proportionality test takes into consideration factors such as: the length of the applicant's stay in the country; the nature and seriousness of the offence committed by the applicant; the time elapsed since the offence and the applicant's conduct in the interim; whether the spouse knew about the offence; children of the marriage; seriousness of the issues that the spouse is likely to face in the country if the applicant is expelled; and difficulties any children of the applicant are likely to face in the country. These criteria were originally established in *Boultif v. Switzerland*, 54273/00, Council of Europe: European Court of Human Rights, 2 August 2001. These criteria were then revisited in *Üner v. the Netherlands*, 46410/99, Council of Europe: European Court of Human Rights, 18 October 2006 where the Grand Chamber of the ECtHR added that there were two extra proportionality test criteria that may already be implicit in *Boultif*: the best interests and well-being of the children, in particular the seriousness of the difficulties which any children of the applicant are likely to encounter in the country to which the applicant is expelled; and, the solidity of social, cultural and family ties with the host country and with the country of destination: *Üner v. the Netherlands*, para. 58.

²⁷ *Onur v. United Kingdom*, 27319/07, Council of Europe: European Court of Human Rights, 17 February 2009; *Omojudi v. United Kingdom*, 1820/08, Council of Europe: European Court of Human Rights, 24 November 2009; *A.W. Khan v. United Kingdom*.

3. THE BEST INTERESTS OF THE CHILD?

International Law

Italy has ratified the *Convention on the Rights of the Child* (CRC)²⁸. Article 3(1) CRC can be understood as a right for a child to have his or her best interests recognised and considered. Article 3(1) CRC provides:

“3(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

In addition, Article 12 CRC establishes the right for children to be heard and to have their opinions taken into account:

“12(1) States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

12(2) For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”

The Forgotten Children

In Italy, children are not subject to immigration detention²⁹. However, the decision to detain a parent in CIE is a State action that can have the unintended consequence of separating a child from their parent. In order to protect children, the CRC and Article 8 ECHR limit the circumstances and the manner in which such a separation can be imposed by the State. The ECtHR has ruled that when a State Party wishes to expel a migrant due to criminal conduct then one of the proportionality test criteria that the State Party must consider is: “[T]he best interests and well-being of the children, in particular the seriousness of the difficulties which any children of the applicant are likely to encounter in the country to which the applicant is expelled³⁰”.

Children can still suffer immensely due to the long periods of separation from their parents that can result from their parents’ detention in CIE:

“Children stay outside. For example, there was a woman [...] who was detained in CIE here in Turin for six months and she had four children living in Reggio Calabria and she wrote a letter saying that it is inhumane to separate a mother from her children. I still have the letter. So, basically parents are separated from their children and nowadays this happens very often because inside CIE you find people who have been living in Italy for a long time, with a family here and children who were born here” (Interview 2)³¹.

²⁸ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 U.N.T.S. 3 (entered into force 2 September 1990), signed by Italy 26 January 1990 and ratified on 5 September 1991.

²⁹ *Decreto Legislativo 286/1998*, article 19.2.a).

³⁰ *Üner v. the Netherlands*, para. 58.

³¹ Reggio Calabria is approximately 1,345 km away from Turin.

If a CIE detainee has children, then that detainees' validation or extension hearing will nearly always be subject to the "best interests of the child" test under Article 3(1) CRC³². Validation and extension hearings are administrative decisions "concerning children" because when a parent is detained their child suffers a long separation from that parent, for what is often months of CIE detention or even years of separation after a forced deportation. Similarly, if *Prefetto*³³ or the Ministry of the Interior (*Ministro dell'Interno*) issues a return decision³⁴ (deportation order) then they are also obliged to give primary consideration to the best interests of the irregular migrant's children when they decide whether or not it would be more appropriate to issue a decree for voluntary departure³⁵ instead of detaining that migrant in an Italian CIE. It is worthwhile to recall that under EU Directive 2008/115/EC, State Parties should only use immigration detention as a last resort. States should promote voluntary departure by establishing a general rule that "[a] return decision shall provide for an appropriate period for voluntary departure of between seven and thirty days"³⁶ where there is no reason to believe that this would undermine the purpose of the return procedure.

There is strong evidence to suggest that some administrative decision makers are not adhering to their legal obligation to consider the best interests of the child as the primary consideration. Firstly, there are situations that strongly suggest that the administrative decision maker did not make a considered decision about whether detention of the parent is justifiable. Secondly, there are questions as to whether administrative decision makers could be considering the best interests of a child as a primary consideration in cases where they have detained a parent in a CIE that is a long way from the region in Italy where the child lives. For instance, we interviewed one lady whose nine-year-old daughter lives in Rome. The girl had not been able to visit her mother because of the distance between Rome and Turin (670 km). The daughter was born in Italy, attends school in Rome and resides with the grandmother who has a valid permit to live in Italy: *"The problem is that I am stressed because I cannot see my daughter [...] I want to die, because I miss my family too much"* (Interview 11).

One of the two detainees who had actually seen their family since being detained spoke of the difficult financial burden that now stopped his wife and daughter from being able to visit him: *"Also, she [my wife] cannot come to visit me anymore. Previously, I could see my daughter and now I cannot see her anymore. They came to visit me three or four times [in the past]. My ex and my son also came to visit. I have a good relationship with them"* (Interview 20). This detainee had lived in Italy for twenty years and he was one of the few detainees with family in the Piedmont region. He was in his third month of CIE detention and separation from his two children.

Families are also broken up across the European Union. One detainee without EU citizenship had been in CIE for five months despite the fact that his EU citizen wife and his child both currently live together in Poland after leaving Italy and they would like him to come to Poland to

³² An exception might exist in rare cases where the detainee is parent to a child for whom they have no prior contact. However, the administrative decision maker will still need to consider, as the primary consideration, what the best interests of that child would be.

³³ The *Prefetto* is the head of the Italian *Prefettura* (see glossary).

³⁴ Article 3(4) of Directive 2008/115/EC defines a "return decision" as "an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return".

³⁵ Article 3(8) of Directive 2008/115/EC defines "voluntary departure" as "compliance with the obligation to return within the time-limit fixed for that purpose in the return decision".

³⁶ Directive 2008/115/EC, Article 7(1).

join them³⁷. We also received anecdotes of EU citizen parents being separated from their children:

“This is a problem. Many of them have children and their family members have to take care of them. If they don’t have family, well, all those I met had a family. I remember I met a lady who was Roma. She told me that she had a family in Milan: “my children are there, I don’t know how they are”, but she was telling me that her children were with her husband but she was arrested. After some time they released her. It’s very difficult to understand why she was arrested since she was an EU citizen, I even asked the question. I was told that anyone can be inside even if they are [EU citizens], you know” (Interview 3).

United Nations Committee on the Rights of the Child, *General Comment No. 12 (2009): The Right of the Child to be Heard*³⁸ clarifies that in order to comply with the participation requirement under Article 12 CRC:

“All States parties should develop administrative procedures in legislation which reflect the requirements of article 12 and ensure the child’s right to be heard along with other procedural rights, including the rights to disclosure of pertinent records, notice of hearing, and representation by parents or others.”

³⁷ This was another case where it was ambiguous whether the marriage was registered under law or whether it was a religious marriage.

³⁸ United Nations Committee on the Rights of the Child, *General Comment No. 12 (2009): The Right of the Child to be Heard*. 55th sess. UN Doc. CRC/C/GC/12, 1 July 2009.



A.'S STORY (INTERVIEW 11)

A. is a thirty-one-year-old Peruvian woman who arrived in Italy more than fifteen years ago. She used to have a regular job, a residence permit and a regular life where she rented a house and had a car. After a while, A. lost her job and she was very stressed since she realised that this meant that she risked losing her residence permit. A. committed crimes and consequently she was imprisoned for six months, during which time her residence permit expired. A. knew about CIE and so at the end of her detention in prison she was not surprised about being transferred to CIE.

A. does not want to go back to Peru and she does not have any family there. Her relatives all live in Italy now: her mother is a long-term resident, both of her brothers have regular jobs and Italian residence permits and her nine-year-old daughter was born in Italy. A.'s greatest distress is that she deeply misses her daughter: *"I always miss my daughter more and more. The problem is that I am stressed because I cannot see my daughter"*. A.'s daughter does not really know where her mother is because she thinks her mother is away working. Furthermore, A. cannot see her daughter because of the distance between where the daughter lives in Rome and Turin's CIE. In addition, A.'s daughter was not only born in Italy but she also attends school here and resides with her grandmother who has a valid permit to stay in Italy.

The only way for A. to stay connected to her family is via telephone, however the cost of telephone credit makes it difficult for A. to call her family as often as she would like to. Given A.'s strong family ties to Italy and her daughter's situation, this case raises legal concerns (see next paragraph, on "Communication with the Outside World").

Was it necessary to detain A. in CIE for five months instead of the supposedly default option of voluntary departure? Why did the authorities deem it inappropriate to let A. stay with her relatives while deportation was being organised? A.'s relatives have regular jobs, valid residence permits and fixed accommodation and A.'s daughter attends an Italian school. In the case that detention in CIE is really necessary, then why is A. detained in Turin's CIE when there is a CIE closer to her family in Rome?



4. COMMUNICATION WITH THE OUTSIDE WORLD

International Law

Articles 9(3) and 9(4) CRC note the positive obligations that State Parties have in relation to communication between detained parents and their children:

“9(3) States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

9(4) Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child [...].”

Council of Europe

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment's *CPT Standards* establish numerous guidelines for immigration detention centres in Europe in relation to the Article 3 ECHR prohibition on inhumane and degrading treatment. In terms of communication with the outside world, parts IV(31) and IV(79) state:

“IV(C)(31) [...] More generally, immigration detainees should be entitled to maintain contact with the outside world during their detention, and in particular to have access to a telephone and to receive visits from relatives and representatives of relevant organisations.”

“IV(79) Conditions of detention for irregular migrants should reflect the nature of their deprivation of liberty, with limited restrictions in place and a varied regime of activities. For example, detained irregular migrants should have every opportunity to remain in meaningful contact with the outside world (including frequent opportunities to make telephone calls and receive visits) and should be restricted in their freedom of movement within the detention facility as little as possible. [...]”

Italian Law

*Decreto Legislativo 286/1998*³⁹ (Legislative Decree 286/1998), article 14.2 states:

“14.2 The foreigner is detained in the centre, in a way that guarantees the necessary assistance and full respect of his own dignity. Freedom of correspondence and telephone communications are guaranteed as well. Beside what is stated under article

³⁹ *Decreto Legislativo 25 luglio 1998, n. 286 “Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero” (GU n. 191 del 18-8-1998 - Supplemento Ordinario n. 139) (“Testo Unico Immigrazione”).* Legislative Decree 25 July 1998, n. 286 “Unified text on provisions concerning immigration and norms on the condition of foreign citizens” (GU n. 191 of 18-8-1998 – Ordinary Supplement n. 139) (“Unified Text on Immigration”).

2.6, in every case freedom of external correspondence and telephone communication is guaranteed.”⁴⁰

In accordance with this provision, *Decreto del Presidente della Repubblica 394/1999*⁴¹ (Presidential Decree 394/1999), article 21.3 provides:

“21.3 In order to guarantee freedom of correspondence and of telephone communication, a decree of the Ministry of the Interior in consultation with the Ministry of Finance, sets rules for the use of telephone, telegraph and mail services and sets the boundaries for the amount of financial contributions to be made by the centre.”⁴²

In order to comply with *Decreto del Presidente della Repubblica 394/1999*, the Ministry of the Interior issued the *Decreto Ministeriale 15 gennaio 2001*⁴³ (Ministerial Decree of 15 January 2001), which sets out a detailed range of guarantees for detainees, including:

“1.1 Public telephones are available upon payment, with pre-paid cards or coins, inside the centres for identification and expulsion, in a number that is not smaller than one telephone per twenty-five detained foreign citizens.”⁴⁴

“1.2 As a contribution, each detained foreign citizen is given a pre-paid card charged with 10.000 Lire [approximately 5 euros] each 10 days of detention.”⁴⁵

“1.3 The card mentioned in 1.2 is given to the detained foreign citizen at the beginning of each ten-day period without obligation to give it back in the case that the detention ceases.”⁴⁶

“2.1 In the favour of the detained foreign citizens, they are guaranteed the use of mail and telegraph services in a way that guarantees the privacy of their correspondence.”⁴⁷

⁴⁰ “14.2 Lo straniero è trattenuto nel centro con modalità tali da assicurare la necessaria assistenza ed il pieno rispetto della sua dignità. Oltre a quanto previsto dall'articolo 2, comma 6, è assicurata in ogni caso la libertà di corrispondenza anche telefonica con l'esterno”.

⁴¹ *Decreto del Presidente della Repubblica 31 agosto 1999, n. 394* “Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, a norma dell'articolo 1, comma 6, del decreto legislativo 25 luglio 1998, n. 286” (GU n. 258 del 3-11-1999 - Supplemento Ordinario n. 190). Presidential Decree 31 August 1999, n. 394 “Regulations implementing the norms of the unified text on provisions concerning immigration and norms on the condition of foreign citizens, as provided for by article 1.6 of legislative decree 25 July 1998, n. 286” (GU n. 258 of 3-11-1999 – Ordinary Supplement n. 190).

⁴² “21.3 Allo scopo di assicurare la libertà di corrispondenza, anche telefonica, con decreto del Ministro dell'interno, di concerto con il Ministro del tesoro, del bilancio e della programmazione economica, sono definite le modalità per l'utilizzo dei servizi telefonici, telegrafici e postali, nonché i limiti di contribuzione alle spese da parte del centro”.

⁴³ *Decreto Ministeriale 15 gennaio 2001*, “Modalità di utilizzo dei servizi telefonici, telegrafici e postali dei centri di identificazione ed espulsione nonché limiti di contribuzione alle spese da parte dell'Amministrazione dell'interno” (G.U. n. 63 del 16-03-2001). Ministerial Decree of 15 January 2001, “Methods of use of telephone, telegraph and postal services in centres for identification and expulsion and limits to the contribution towards costs by the Ministry of the Interior (G.U. n. 63 of 16-03-2001).

⁴⁴ “1.1 Gli apparati telefonici per uso pubblico a pagamento, a scheda prepagata o a monete, sono installati presso i centri di identificazione ed espulsione in un numero non inferiore ad un telefono ogni 25 persone trattenute”.

⁴⁵ “1.2 A titolo di contributo, ad ogni cittadino straniero trattenuto è fornita una scheda telefonica di importo pari a lire diecimila ogni dieci giorni di permanenza”.

⁴⁶ “1.3 La scheda di cui al comma 2 è consegnata all'inizio di ogni periodo di dieci giorni senza obbligo di restituzione in caso di cessazione della misura di trattenimento”.

“2.2 Upon the request of the interested person [the detainee], the grant for postal and telegraph expenses is given in the form of stamps for three letters and a payment for three telegrams worth up to a total of 30.000 Lire [approximately 15 euros].”⁴⁸

“4.1 The Ministry of the Interior, in consultation with the Ministry of Finance, redefines proportionally the amount of the grant provided for in articles 1 and 2 in the case of relevant increases or reductions in the mail, telegraph or telephone tariffs.”⁴⁹

5. TELEPHONES AND TELEPHONE CREDIT

With large distances between family and CIE, telephone calls are the principal way of staying connected to loved ones. Detainees consistently expressed frustration that they could not afford to buy telephone credit. The interviews provide strong evidence that detainees are only being given a total of 3 x 5 euro international telephone cards (worth a total value of 15 euros) for their entire stay in CIE. The 15 euros of credit is distributed during a detainees' first weeks in Turin's CIE and allegedly they are not given any free telephone credit after this initial 15 euros of credit has been spent. Most detainees and religious personnel noted the difficulty of obtaining telephone credit: *“They [detainees] have to buy phone credit but we, the priests and nuns give them stamps. I don't know if they get them from other people or not” (Interview 3).*

Furthermore, Italian CIEs do not consistently apply rules about personal telephones. After an interview, we received a distressed phone message from one detainee who was unexpectedly transferred to the CIE of Gradisca d'Isonzo (GO) where detainees are not allowed personal telephones. It was very difficult to get in touch with this detainee once he had been transferred to Gradisca and the staff at Gradisca's CIE confirmed that the detainee could no longer use his telephone. In contrast, Turin's CIE allows its detainees to keep their telephones, however all of the cameras and recording devices must be broken. A few detainees were deeply distressed that their telephones might be tapped. However, we did not receive strong evidence to support this claim.

6. VISITS

Connection with family is not limited to telephone calls and those with loved ones who can afford to visit Turin have the option to receive visitors. However, one interviewee alleged the following limitations with the visiting system:

“The visiting hours are every afternoon from two to six o'clock and there is only one room for visits. The problem is that there is only one channel for all kinds of visits: for diplomatic personnel, for lawyers, for family members. So, if there is a diplomatic representative or a lawyer talking with a detainee, family members have to wait for their turn, even though they already have the authorisation and they may have had a long journey to come to

⁴⁷ “2.1 A favore del cittadino straniero trattenuto, è assicurato l'utilizzo del servizio postale e telegrafico in modo da garantire la riservatezza della corrispondenza”.

⁴⁸ “2.2 Il contributo per le spese postali e telegrafiche concesso ad ogni cittadino straniero trattenuto è erogato, su richiesta dell'interessato, tramite l'affrancatura di tre lettere ed il pagamento di tre telegrammi per un ammontare complessivo non superiore alle lire trentamila”.

⁴⁹ “4.1 Il Ministero dell'interno, di concerto con il Ministero del tesoro, del bilancio e della programmazione economica, ridetermina proporzionalmente il contributo di cui agli articoli 1 e 2 ove intervengano rilevanti variazioni, in aumento o in diminuzione, delle tariffe telefoniche, postali e telegrafiche”.

Turin. Sometimes, time is not enough and they have to go away and come back the following day with their bags as well. But there are at least two more rooms which are empty and not used and that could be used for visits. Once we complained about this and they opened an extra room. But a common answer to our requests is that there are not enough personnel to open a second room for visits. Once a Tunisian detainee went crazy when his wife, who had come from France and was pregnant, was waiting outside CIE because in that moment there was a diplomatic visit; she was waiting on the street and she felt faint. They let her enter and sit on a bench in the courtyard and at the end the Red Cross took her to the hospital” (Interview 2).

There are consistent reports that family and friends who visit CIE are being made to wait for long periods:

“Sometimes they wait two hours, one hour. Sometimes you will see that a person arrives there at one o’clock. When you arrive there at three [o’clock] they are still outside. It’s always like that. I remember once that there was a boy who came to the CIE with me. I got in and when I was coming out, at 5:30pm, 6:30pm, 6:00pm, at that moment they allowed him to get in, so they really have to wait outside for a long time” (Interview 3);

“Yes [family and friends can visit], but with the same problem as lawyers. You as a lawyer have to share the same place with a family. It means that I have to wait, the family has to wait. There are two rooms. You can be lucky or not. It is not much time for family. There is no rule. If there is somebody waiting for you, it is ten to fifteen minutes” (Interview 7).

Of the fifteen detainees who answered the question on visits, only two of them had received a visit from family. Only one detainee had had a friend visit during their detention in CIE. For most detainees, family and friends were unable to visit either because they were overseas, or they were in Italy but suffered severe financial constraints and could not buy train tickets to Turin, or they could not afford to miss work to see their loved ones during the CIE visiting hours. All too often detainees are placed in Turin’s CIE when their families live in other Italian regions. There are also detainees who suffer alone, having lost family members due to war: *“They all died, except my sister and my mum. My brother, they shoot him and threw him into the sea. My father was killed during the war. My mother was seriously injured when our house was destroyed. She cannot walk anymore. She’s in a wheelchair. A disaster” (Interview 22).*

The majority of detainees had received visits from the dedicated and kind religious personnel who volunteer to help them. Evidence indicates that currently only Christian religious personnel are visiting Turin’s CIE. These generous, tolerant and inspiring volunteers try their best to help detainees in a social worker-type capacity. They also have a very open approach to helping people and some try to obtain and bring religious materials from non-Christian religions that are published in the detainees’ language. Nevertheless, it is surprising that despite the significant Islamic detainee population there is currently no Islamic imam available for Turin’s detainees. Consequently, many Muslim detainees are holding their prayer sessions on their own in the only large, indoors available spaces: often vandalised and unpleasant canteen areas.

● ● ●

B.'S STORY (INTERVIEW 20)

B. is a forty year-old Algerian citizen, who arrived in Italy in the summer of 1992. He was escaping from the civil war that was taking place in his home country at that time: *"fights [...] were happening daily at that time in Algeria, [...] people were dying on the streets every day"*. He reached Turin and settled in the neighbourhood of San Salvario, where he has been living for twenty years. B. entered Italy as an irregular migrant and for his entire twenty years of residence in Turin he never had a valid passport or residence permit, nor did he ever attempt to regularise his stay.

B.'s work situation has always been unstable. Being without documents, he could not work with a regular contract. He used to oscillate between different short-term jobs, periods of unemployment and street crimes such as theft and drug possession, for which he was respectively sentenced to one year imprisonment and eight months imprisonment.

Notwithstanding this precarious situation, B. gradually built his private and social life in Turin. As a matter of fact, he is currently in a de facto relationship with a girl from another EU country ("C."). B. describes C. as *"my wife"* even though they were married in a Muslim religious ceremony and did not legally register their marriage according to Italian civil law. B. and C. have a daughter who is two and a half years-old. B. also has a son who is thirteen and was born from B.'s ex-partner who is an Italian lady. It is not clear whether B. was married to this Italian lady or living in a de facto relationship. However, the latter option seems the most likely, since it is clear from B.'s words that he believes that he is not allowed to get legally married in an Italian civil registry due to his status of irregular migrant. For the very same reason, B. believed that he could not recognise his children legally. So, although B. is a father to his children and involved in their lives, both his son and his daughter only have their respective mothers' surnames and EU nationalities.

B. was the only interviewee who proved to have such strong ties with family members living in the city of Turin. Indeed, during his first three months of detention, his partner C. and their baby had visited him regularly. B. has also received a couple of visits from his ex-partner and their teenage son. From this point of view, B. was much luckier than most of the detainees that we interviewed because he had been detained in a CIE in the town that he was previously living in.

Nonetheless, at the time of our interview B. was very upset about how his family was suffering outside CIE. His partner C. was a caregiver for elderly people, however she lost her job after B. was taken to CIE. C. could not afford to pay the rent for their flat anymore and consequently she and their baby were evicted and had to temporarily stay in a cheap hotel.

Whilst living in the hotel, C. was consistently looking for a job but with no positive result. Unfortunately, the sum that C. owed for their accommodation was increasing and the hotel owner started to put strong pressure on C. who did not have any money at all. Given this situation, lately C. has stopped coming to CIE regularly to visit B. Moreover, she does not have telephone credit to call him: *"I have too many worries: my family outside, with no money, and my two-year-old daughter [...] my wife is suffering and she needs money to pay the owner of the hotel. Today, at midday my daughter could not eat properly [due to money problems]. Only God knows"*.

According to B., this is the third time that he has been in Turin's CIE because he was detained for twenty-one days in 2006 or 2007 and then for two months in 2008 or 2009. On both prior occasions, B. was released from the centre with an order to leave the country that he obviously did not comply with.

During B.'s third detention period he applied for international humanitarian protection, but two days before our interview he was issued a negative response. Based on the notification of the *Commissione Territoriale's* (see glossary) decision that B. read to us, "*the judge evaluating his danger to society ordered in 2009 that the applicant be removed from the country on the grounds of social danger*" due to his criminal record. Moreover, the Commission had a strong suspicion B. did not have the family ties that he claimed to have because his paternity was not proven: "*His declarations seem to be completely instrumental, also after considering the dates of birth of the two children to whom he declares to be the biological father*".

A few days after we interviewed B., his cell-mates reported to us that B. had been put in isolation, waiting to be moved to the CIE in Gradisca d'Isonzo, which is 515 km away in North-Eastern Italy. We were unable to ascertain whether there was a reason for this abrupt transfer. Moreover, B. was one of the few detainees who received regular visits from his family. Two days later, we discovered that on the day that B. found out he was being transferred he had urgently tried to contact us. As soon as we discovered this, we immediately tried to contact him via his mobile telephone but our attempts were useless. Gradisca's CIE is the only immigration detention centre in Italy where detainees are not allowed to use their mobile telephones. We contacted the local *Questura* and the Immigration Office inside Gradisca's CIE to ask whether we could speak with B. However, an official explained to us that inside Gradisca's CIE detainees are not only prohibited from using their mobile phones, but they cannot receive phone calls from the outside at all. They can only make phone calls from the public telephones located inside the centre and in conformity with *Decreto Ministeriale 15 gennaio 2001* they only receive a five-euro telephone card (*Telecom Easy Africa*) every ten days. Given the fact that CIE staff could not put us directly in contact with B., we asked the official to give him our contact details. Unfortunately, we have not been able to talk with B. again.



III. PRISON AND CIE

1. IDENTIFICATION PROCEDURES FOR PRISONERS AND ACCESS TO LEGAL INFORMATION

A significant proportion of the detainees who were interviewed had been detained in jail and later transferred to CIE after finishing their jail sentences. The ex-prisoners who participated in the study had been released from prison in order to face a new deprivation of liberty that non-immigrant prisoners do not face. There are many cases where detainees were completely unaware that after jail they would be taken to CIE. These detainees thought they had repaid their debt to society and that they would be finally free: "*After five years of prison they told me to be prepared, because I was going to be released, but I was taken to Questura [...] and after three hours they explained to me that I had to be identified and that they were going to take me in CIE [...] I didn't know what CIE was*" (Interview 25). CIE is not a prison, or at least it should not be. Yet, the evidence described in the following section reveals that the reality of CIE is no different from prison and generally CIE is even worse. In CIE the limitation to personal freedom is coupled with more severe living conditions and isolation from the outside world, which is exacerbated by the lack of activities or education opportunities.

In Italy there is no specific act of parliament to address the issue of whether a person in criminal custody should be identified and have any barriers to expulsion removed while they are still in criminal custody. However, on 30 July 2007 the *Direttiva Interministeriale del Ministero dell'Interno e del Ministero della Giustizia* (Inter-ministerial Directive by the Ministry of the Interior and the Ministry of Justice)⁵⁰ was signed by former Minister of the Interior Giuliano Amato and former Minister of Justice Clemente Mastella, in order to establish an alternative measure whereby identification and deportation would occur without passing through centres for temporary detention (CPTs)⁵¹. The procedure suggested a strict collaboration between prison authorities and *Questura* in order to identify migrants during their detention in prison. After migrants were identified, the Ministerial Directive aimed to transfer them to another prison that was as close as possible to the place of deportation so that they would be repatriated upon release. Furthermore, the Ministerial Directive provided that authorities, upon *Questura's* request, should concentrate all foreigners of the same nationality in prisons that are located near their diplomatic representatives in order to facilitate collaboration. This kind of directive is not strictly obligatory because it is a ministerial proposal. However, the notion behind such proposals is that the Ministry is expressing guidance on an issue that will then be made into a legal rule. Nevertheless, this Ministerial Directive does not appear to be applied in Turin and often nothing is done to try to identify a person during their prison sentence.

According to *Direttiva del Ministero della Giustizia 30 luglio 2007*, *Questura* should be promptly informed when there is a final judgement that imprisons an irregular migrant. This would make it possible to immediately start the identification procedure. It is important to remember that detention in CIE should not be the rule but rather only the least preferred remedy⁵². If there is any chance to avoid a person's detention in CIE, then this should be taken into account. If identification occurred in prison it could avoid subsequent periods of CIE detention, or at least prior identification could reduce the necessary period of administrative detention:

⁵⁰ *Direttiva Interministeriale del Ministero dell'Interno e del Ministero della Giustizia firmata il 30 luglio 2007*. Inter-ministerial Directive by the Ministry of the Interior and the Ministry of Justice, signed 30 July 2007.

⁵¹ CPT is the old name for the Italian identification centres that existed before the CIE system.

⁵² Directive 2008/115/EC, Article 15(1).

"The problem is that after a long time in prison you can be taken to the camp. It is something really difficult to understand for them because they were in prison for such a long time and then they are taken to the camp, saying that they are not an identified person. It is not easy to understand which part of the world they came from and what their first name and surname is, and so on. The person has then the right to be really angry, saying "I was in prison for two years, why didn't you ever check these things before, and why do you have me detained without checking these things before? You knew I was without documents or a permit!" (Interview 7)

2. CONDITIONS OF DETENTION: A COMPARISON BETWEEN PRISON AND CIE

Each of the detainees interviewed adamantly responded that jail was better than CIE. The perspective that CIE has worse conditions than prison has also been supported by different professionals associated with CIE, as well as some lawyers who were interviewed. As one lawyer noted:

"They [CIE administration] say the centre is not a jail, I say not only that it is a jail, but that it is much worse than a jail. In jail rights are respected and detainees are treated as human beings, while inside CIE there are no clear rules, staff and guards can do whatever they want because there is nobody to control them. In prison life is regulated, in CIE it is not. In prison for any request there is a procedure to which you are subjected" (Interview 5).

This is an important revelation about how Turin's CIE fares in comparison to Italy's prisons, which are themselves renowned for overcrowding and questionable human rights practices⁵³. Our research suggests that the structure of prison might be more transparent. For example, in prison there are specific and clear rules that might make it easier to cohabit with other detainees and avoid negative relationships between detainees and staff. Ex-prisoners often highlighted the psychological impact of not knowing when you are leaving CIE, in comparison to the more exact dates given to criminal prisoners who would like to know when their sentence will finish. One lawyer explained this point further:

"The lack of a precise time limit is the worst thing. Also, because when you are in prison and the judge extends your period of detention for thirty days, you know that it's just for thirty days and then you will be released. When you are inside CIE, after thirty days there may be an extension of thirty more days, and then a further sixty days extension, and so on. It's an extremely vague term" (Interview 8).

Ex-prisoners noted the lack of activities in CIE in comparison to jail: *"I did junior high school in jail" (Interview 11); "It was better in jail - there was a gym, there were games" (Interview 12); "[In jail] I studied to be a house painter and I worked as well" (Interview 25); "In prison it was much better. For example, you have the possibility to cook something for yourself, to prepare a coffee, and so on. And in prison there are really lots of activities you can do: sport, Italian classes, school, etc. And you can also work and get paid for this. It's completely different from CIE" (Interview 18).*

⁵³ See for example: Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Senato della Repubblica, *Rapporto sullo stato dei diritti umani negli istituti penitenziari e nei centri di accoglienza e trattenimento per migranti in Italia*, 6 March 2012 <http://www.cestim.it/argomenti/25cpt/2012_commissione_straordinaria_senato_rapporto_diritti_umani_carceri_centri_accoglienza.pdf>; see also comments made at Italy's 2009 Universal Periodic Review at the United Nations Human Rights Council, Officer of the High Commissioner of Human Rights <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/ITSession7.aspx>> as at 6 September 2012.

Moreover, the space and facilities in CIE have been compared to jail: “There [in prison] you could buy everything: bath soap, food. Here instead there is one guy who comes and sells us different things, but he asks for double the price” (Interview 14). Furthermore, in prison there are usually two or three people per cell, in comparison to six or seven people in a CIE cell. It can be easier to get along with others in the cell when there are less people: “Where I was I had a room for two people, we also had a little stove to be able to cook” (Interview 11); “In prison we were three people to a cell” (Interview 19).

It is important to highlight that the Italian Penitentiary Police (*Polizia Penitenziaria*⁵⁴) is a specific police body who are explicitly trained to work in jail. In contrast, the military staff and the police monitoring Turin’s CIE receive comparatively little training because they were not expressly prepared and recruited for the purposes of working in CIE⁵⁵. This can contribute to tensions because authorities have received relatively little training on working with culturally and linguistically diverse communities, including asylum seekers who have often survived torture and trauma.

⁵⁴ The *Polizia Penitenziaria* is one of the five Italian police branches. It is a civil police branch under the authority of the Ministry of Justice. It has special competences in the provision of services and management of the people in jail or people who are living in conditions where their liberty has been restricted. The *Polizia Penitenziaria* does not work inside Turin’s immigration detention centre.

⁵⁵ For more information, see *Part B. Conditions of Detention. Chapter VI. Relationships with CIE Staff.*



D.'S STORY (INTERVIEW 14)

D. spoke to us on the telephone from inside CIE after five months of detention. His story struck us because he was suffering extremely, his voice wavering over the phone: *"I think death would be better. I've lost everything"*. D. said that before entering CIE he never had any mental health issues: *"I'm losing my head. I've attempted suicide twice"*. At the time of our interview, D. had been on a hunger strike for eight days as a desperate last plea for help. D. is a twenty-eight-year-old Moroccan who moved to Italy in 1997, as a teenager with a valid residence permit. He has worked in a variety of labouring jobs in Italy. He also met his partner here, although she is actually from another EU country ("EU Country 2"). They had a child together.

D. explained to us about how he lost his job and he could not find enough work to survive. He fell in with the wrong crowd. He was convicted for trafficking drugs and he was sentenced to thirty-two months prison. D. spoke candidly about how he regretted breaking the law and now he wanted to contribute positively to society. D.'s Italian residence permit expired while he was in prison. He was then placed under house arrest, at which point the police came and took him to CIE: *"I didn't know before that was I going to be transferred in CIE. They didn't give me any chance to talk with a lawyer. They told me they were going to take me to Turin and that I could speak with the judge there"*. After D.'s original arrest, his partner and child moved back to EU Country 2 where she has family. D. is desperately hoping to be reunited with his young family and to be able to spend time with his child. D. had expected to be able to see his child after leaving prison. He was not psychologically prepared for CIE detention and he was having difficulty coping with the prospect of living inside CIE for up to eighteen months. D. found the environment in CIE particularly difficult: *"I felt safer in prison. Everyday is worse. Nothing gets better here"*. He believes that the structure of CIE is degrading and does not respect human dignity: *"[Some of the staff], they look at you in an inhuman way, like if we were animals"*.

Shortly after the interview, D. was released from CIE due to health reasons. He was released without any place to sleep and he did not have any money. D. was fortunate to find an abandoned building of squatters to sleep in. Otherwise, he would probably have had no choice but to sleep on the streets, after exhausting any temporary homeless shelters that he might have been able to find. D. contacted us again approximately two months after leaving CIE. He was still outside CIE and waiting for documents enabling him to leave the country. He holds onto the hope of being allowed to travel to EU Country 2 to live with his partner and child.



IV. DAY-TO-DAY ISSUES

1. LEGAL FRAMEWORK: RESPECTING HUMAN DIGNITY

Council of Europe

Article 3 ECHR states that:

“3 No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Italian Legislation

Decreto Legislativo 286/1998 (Legislative Decree 286/1998), article 14.2 states:

*“14.2 The foreigner is detained in the centre, in a way that guarantees the necessary assistance and full respect of his own dignity [...]”*⁵⁶

Decreto del Presidente della Repubblica 394/1999 (Presidential Decree 394/1999), articles 21.1-21.2 provide:

*“21.1 The manner in which the foreigner is detained must guarantee, with respect to communal living, freedom to talk within the centre and with visitors coming from outside, in particular with the lawyer assisting the foreigner, and with religious personnel, freedom of correspondence and telephone communication, and fundamental human rights, being understood that there is an absolute ban for the foreigner to leave the centre.”*⁵⁷

*“21.2 Inside the centre the detained foreigners are guaranteed, besides the services needed for their maintenance and assistance, essential health services, activities for socialisation and freedom of worship, within the limits of the Constitution.”*⁵⁸

In June 2011 the Italian Government increased the maximum period of CIE detention from six months to eighteen months⁵⁹. Many civil society advocates claim that this was an unintended

⁵⁶ *“14.2 Lo straniero è trattenuto nel centro con modalità tali da assicurare la necessaria assistenza ed il pieno rispetto della sua dignità [...]”*

⁵⁷ *“21.1 Le modalità del trattenimento devono garantire, nel rispetto del regolare svolgimento della vita in comune, la libertà di colloquio all'interno del centro e con visitatori provenienti dall'esterno, in particolare con il difensore che assiste lo straniero, e con i ministri di culto, la libertà di corrispondenza, anche telefonica, ed i diritti fondamentali della persona, fermo restando l'assoluto divieto per lo straniero di allontanarsi dal centro.”* Articles 22.5 and 22.6 of *Decreto del Presidente della Repubblica 394/1999* go on to explain the exceptions to the ban on detainees leaving CIE. Article 22.5 of this law provides for an exception where a detainee is accompanied by police in order to go to the hospital, their embassy or the judge. Article 22.6 states that a judge can authorise an exception where a member of the family who is resident in Italy is at risk of dying or where there are other exceptional circumstances.

⁵⁸ *“21.2 Nell'ambito del centro sono assicurati, oltre ai servizi occorrenti per il mantenimento e l'assistenza degli stranieri trattenuti o ospitati, i servizi sanitari essenziali, gli interventi di socializzazione e la libertà del culto, nei limiti previsti dalla Costituzione.”* Articles 22.5 and 22.6 of *Decreto del Presidente della Repubblica 394/1999* go on to explain the exceptions to the ban on detainees leaving CIE. Article 22.5 of this law provides for an exception where a detainee is accompanied by police in order to go to the hospital, their embassy or the judge. Article 22.6 states that a judge can authorise an exception where a member of the family who is resident in Italy is at risk of dying or where there are other exceptional circumstances.

⁵⁹ Article 3.3 of *Decreto Legge 23 giugno 2011, n. 89 “Disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari” (GU n. 144 del 23-6-2011).*

consequence of EU Directive 2008/115/EC, which states that the maximum period for pre-removal detention in the European Union is eighteen months.

2. CONTEXTUALISING DAY-TO-DAY ISSUES

A year and a half is an extremely long time for a person to live in detention due to the administrative procedure of identification and expulsion:

“The worst problem is having to stay here for seven or eight months because after one or two months here it becomes really like a detention for criminal matters. Almost like a kidnapping. We are now talking about staying for nine or ten months and you never know if things are going to change. The fear that we will have is to wait for one and a half years, and in that case it would really be detention for criminal matters. This is kidnapping of a person, because we did not commit a crime. We are here against our will” (Interview 20).

Moreover, the day-to-day conditions of detention can raise questions about whether human dignity and other fundamental rights are being ensured, especially if the CIE is not able to cope with its purpose⁶⁰, or if the administration is not able to create decent and non-degrading conditions within the CIE.

The day-to-day issues in Turin’s CIE could become a matter of real concern. During our research we have faced several problems that were expressed by detainees, lawyers, religious personnel and other professionals. We conducted interviews with detainees from different sections of the CIE and in some of the sections certain day-to-day issues listed below appear to be worse than in other sections. Furthermore, day-to-day issues are often overlapping and they need to be understood in the context of a detainee who lives for months in a cell with up to six other people who they did not previously know, and with very little personal autonomy to make the everyday decisions that most of us take for granted.

3. SPACE

“This is a big cage that we cannot get out of.”

- Interview 21

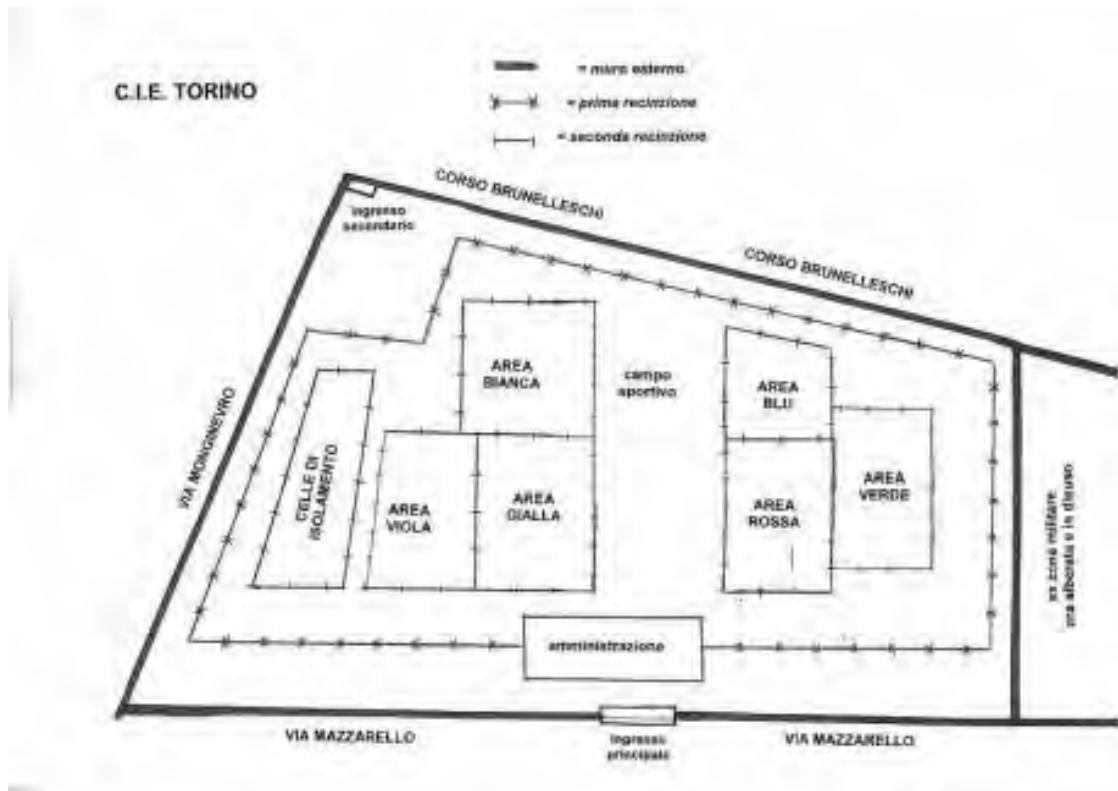
It is arguable whether there is enough space inside Turin’s CIE. There was a difference in how the interviewed detainees perceived the space that they live in, in comparison to how other interviewees who are not detained tended to judge the situation:

“Turin’s CIE consists of seven areas, named with different colours: the Green Area is the female area, then there is the Blue Area, the Yellow Area, the Red Area, the White Area, and so on. Between the areas there is a corridor. In each area there are five sleeping quarters. In each room there are six beds - true beds, not cement beds [and] quite often there are bunk beds. At the end of the room there is a toilet, a shower and a basin. There is no cupboard. Inside each room there is heating and air conditioning, if they are working. Inside each area, opposite to the rooms there is another building: the refectory. Here there are tables and benches, but in many areas they have been destroyed by the detainees

Law Decree 89/2011, “Urgent provisions to complete the implementation of EU Directive 2004/38/EC on free movement of EU citizens and the transposition of Directive 2008/115/EC on the removal of irregular third country nationals” (GU n. 144 of 23-6-2011).

⁶⁰ See *Part D. Other Matters, Chapter XIII. Figures and Costs*.

themselves. There is one basin and one telephone that works with international cards and this is something they very often ask us [religious personnel] to buy for them. Sometimes the telephone is working, sometimes it isn't" (Interview 2).



61

Concerning the space, detainees agreed on the same: "We are seven people in my room. We live in something like ten square meters. It's like living inside a big cage" (Interview 21). Moreover, detainees complained about windows being closed constantly and the absence of air conditioning: "We are seven people in one room, with one toilet and no windows. There is no air conditioning. There's a smell from the toilet so we always keep the door of our room open. We also sleep in the night leaving the door open, but the smell is always there. I don't blame anybody in particular in my room for this, it is normal when you have seven people all together in such a small space" (Interview 18). Shortly after this interview, in the summer of 2012 we received accounts from detainees who were suffering from the heat of an Italian summer inside CIE. The detainees reported that they had begun sleeping outside in the courtyard on mattresses, despite the fact that it was extremely uncomfortable due to large numbers of mosquitos.

Furthermore, there is no appropriate place for religious activities such as speaking confidentially with a priest: "We have organised it [a religious space] by ourselves. We have created a place to pray inside the refectory. However, you know how it is, with people talking on the telephone, nearby people smoking, it isn't good" (Interview 20).

However, the situation might be worse in other Italian CIEs: "Turin's CIE is better than other CIEs in Italy. At least there is an outdoor space: you can go out from your room, breathe some fresh air, look at the sky. In other CIEs there is not even this possibility" (Interview 28).

⁶¹ Unknown author, "Piantina CIE Torino 2.0", *Indymedia* (online), 21 June 2011 <<http://piemonte.indymedia.org/article/12780>>.

4. HYGIENE AND CLEANLINESS

Hygiene is one of the most important day-to-day problems inside the CIE. In particular, many male detainees were concerned about the absence of personal shaving instruments. The sharing of shavers presents a health concern given the possibility of cutting oneself during shaving and the fact that several diseases (such as Hepatitis B, Saph bacteria, HIV AIDS) can spread through contact with blood:

“We have two shavers to do our beards amongst a hundred of people, so it is not hygienic. Moreover sometimes you get the shaver when it has almost run out of battery. So you shave only a half of your beard and you stay like this for the following week” (Interview 20);

“We cannot buy blades. They are not allowed. We all have long beards and long hair. They give us one electronic shaver for the whole area – about twenty people. We risk getting skin disease, infections and also serious things” (Interview 21);

“In order to have a shave, once detainees could not do it on their own - they needed to take it in turns to get shaved. And this was one of the greatest problems because there were people who had to wait up to one month to be shaved and they were suffering about being untidy. There were people who had a barbershop in Tunisia, they said they could have shaved everybody and they were frustrated about waiting for someone else to come and shave them. But lately I saw in the refectory someone who was shaving with an electric shaver, so maybe now the situation has changed, but I am not sure about this” (Interview 2).

It is possible that the shavers are being cleaned between either individual users or rooms, and we did not have the opportunity to ask the CIE staff about this issue. However, based on the detainee interviews there was strong evidence that shavers were passing between at least two or more detainees without being sanitised. As noted in the above quotations, detainees were uninformed about the process and they brought the issue up with us, expressing concern for their health.

In CIE more generally, the level of cleanliness seems to depend on the area: *“some of them are tidy and clean, some of them are completely dirty and are left in a mess. It depends on the detainees themselves” (Interview 2)*. However, the overall impression is that CIE is not very clean and this adds pressure to cohabiting detainees who must live with five or six strangers:

“The CIE is not clean. It is really bad and this is the lack of respect not only for lawyers and judges but for the people who are inside. They [detainees] are not so important. This is the message. I don’t believe this is a lack of resources. The first thing would be to clean up the place. And also the other places, Red Cross places. [...] [T]here are places on the left where hearings take place and where you can meet your client and on the right, instead, there are Red Cross offices - the offices where the doctor, the social workers and the physiologists work. Obviously the room where you meet these people is clean and the pavement is clean. So, why is it that on the right it is clean, and on the left it is not clean? This is the lack of respect. This is a message” (Interview 7);

“The environment is not clean, we can already see this from the interview room and in the hallways, where on the walls there are enormous combat boot footprints. These are certainly not the footprints of detainees who have slippers, but of the military who lean their foot on the wall” (Interview 4).

More simple problems such as dirty blankets and mattresses can exacerbate an already stressful environment:

“There is a new Albanese guy who came and they gave him a dirty blanket. The Red Cross gave him trouble when he wanted to change it. He had to wait for one day for them to bring him another blanket and the second blanket was dirty anyway” (Interview 21);

“The bed is made of iron, the mattress has probably been used by one hundred people, the bedspread and the pillowcase are too thin and you get microbes” (Interview 17);

“[The mattresses and blankets] are disgusting. They are so dirty. Many people have used them before you and they never get cleaned” (Interview 18).

5. FOOD

When evaluating detainees’ responses to food, it is important to remember that detainees are inside administrative detention and as such legally they are not in CIE to be punished. Moreover, Turin’s CIE is not a short-term stop over: it is quite common for a person to be living there for months and months. The lack of dining space inside CIE was frustrating and degrading for several detainees: *“It’s terrible! We eat on the ground. In the room where we eat, there are no tables or seats so we have to eat on the ground or on the bed” (Interview 26).*

On the other hand, the food itself is dealt with quite consciously in the CIE. Detainees do have a chance to change their ration according to their religious beliefs or health problems: *“I went to the doctor because I do not eat tomatoes and they gave me a white diet. There are people from other religions who do not eat certain meats and they give them other things” (Interview 11).* This demonstrates that food habits are respected in some way. In contrast, a number of detainees also expressed frustration with food: *“Every day it’s always the same food” (Interview 18); “Since I am Muslim I eat tuna every day” (Interview 20).* Some detainees questioned the condition of their food: *“Sometimes it’s good, but sometimes food arrives cold or has a bad smell” (Interview 14).*

6. ACTIVITIES

Activities are vital for all human beings. Yet, our research indicates that there are insufficient activities for CIE detainees. There are activities that sporadically occur and offer detainees a couple of hours of distraction. However on the whole, the twenty-four hours a day of monotonous immigration detention is perhaps best summed up in the following short quotations: *“Detainees’ days are empty” (Interview 1); “I’m forced to take medication because otherwise time does not pass” (Interview 25); “You never know what to do. Nothing is certain and nothing to do” (Interview 23).*

Volunteers understand the difficulty of filling the empty days inside CIE and they do an amazing job trying to help detainees:

“I brought books inside CIE - dictionaries and note books. I also began Italian classes but I was alone. For one year I was the only one who was entering inside CIE, so I could either teach Italian or talk to them, and I understood that what they needed most was somebody to talk to. I had to limit the activities I could do with them because there was not enough time to do everything. But I also brought them games, like cards, draughts and so on and magazines and newspapers” (Interview 2);

“The volunteers when they come bring - how do you say it in Italian - to project a film. Every so often the Red Cross also comes to do a bit of gymnastics, they bring the radio. It makes me happy to do something” (Interview 11);

“[Detainees] play football, play cards, speak and talk together [to] pass the time because there isn’t anything to do” (Interview 21);

“On Sundays they show movies. The priest and sisters, they play games with us like bingo [and] volleyball” (Interview 24).

Detainees reported that they are allowed to play football on a cement yard inside their respective detention areas. There is a football pitch inside the centre, however at the time of our research we received reports from some detainees that they were not allowed to use the football pitch⁶².

The CIE administration has also implemented some activities. Detainees, lawyers and volunteers reported “pet agility” dog training workshops inside the CIE. This activity was not only aimed at training dogs but also at teaching Italian language skills. This was the only opportunity provided by the CIE administration for detainees to learn some Italian. However, from one perspective “[i]t looks like a joke” (Interview 7) because when understood in the context of CIE, the amount of attention given to dogs can be offensive in comparison to the treatment received by detainees. We should also recall that many people cannot imagine themselves near dogs due to their culture or religion.

7. RULES

When detainees first enter Turin’s CIE they are provided with a booklet with the CIE rules that is translated into several languages. However, when asked if there were rules in CIE most of the detainee interviewees did not link this booklet to the rules within CIE: *“Here there are no rules. You have to stay here and that’s it” (Interview 20); “No rules here.” (Interview 26); “No, there are no rules to follow” (Interview 11); “In jail there are precise rules, while here there are no rules” (Interview 25); “There are no specific rules” (Interview 13).* This is particularly concerning because this booklet explains both the detainees’ responsibilities and their rights. Our evidence calls into question whether a number of detainees might have trouble digesting the written information inside the booklet.

As concerns the small number of detainees who said that CIE did have rules, most of them only had a very vague understanding of what those CIE rules were: *“I don’t really know much about the rules. I guess they say that we must be respectful and not cause problems” (Interview 24); “There were no particular rules, you just had to be quiet and not make a racket, that’s it” (Interview 17).* However, some detainees reported more precise, although basic rules: *“We cannot escape, we have to obey the Red Cross and police” (Interview 14); “There are rules, we cannot have lighters and we cannot have things like a broom to do the cleaning” (Interview 21).* Indeed, a number of objects are prohibited inside CIE for safety reasons:

“Sometimes there are searches inside detainees’ rooms: detainees have to go out of the rooms while guards enter with dogs and check them. They are not allowed to keep

⁶² *“There is a small football pitch inside CIE, but we’ve never used it. We can only play inside our area, in the courtyard in front of our room” (Interview 18); “We do nothing here. They do not even allow us to use the small football pitch we have here. And indeed when we get hurt, it is often because we play football in the cement courtyard inside our area. We have a rubber ball that sticks to the cement, so it’s easy to fall and to get hurt” (Interview 20).*

anything that can be used as a weapon: knives, scissors, stones, razor blades and so on. These searches occur every time something wrong happens. For example, when detainees find stones somewhere, collect them and throw them to the guards” (Interview 2).

8. DRINKING WATER AND LAUNDRY

Many detainees expressed a concern about small amount of drinking water that they are given. It was alleged that CIE staff give detainees 1.5 litres every day and that this is not enough when it is hot. From time to time detainees also complained about the laundry facilities, an issue that can be influenced by the culture and personal habits of individual detainees. Detainees “*need to buy the detergent to wash [their] clothes” (Interview 21), which they do by hand.*

9. PURCHASING GOODS INSIDE THE CIE

Severe and consistent accusations were made about the pricing of products that are available to detainees. Once or twice a week a cooperative comes inside the centre with a sort of cart to sell products. Detainees reported that they receive a voucher for 20 euros/21 euros per week to purchase their personal items from the cooperative: “*[Detainees] can use this book of tickets only to buy cigarettes - four packs, drinks - coke, orange juice for 3.50 euros each, soap - 2 euros, and shampoo – 4 or 5 euros, and they pay a double price in comparison with outside” (Interview 2).*

10. INHUMANE AND DEGRADING TREATMENT?

The conditions inside Turin’s CIE call into question whether Italy is meeting its obligations to protect people from inhuman and degrading treatment, as prohibited by Article 3 ECHR: “*Here we are like animals and you cannot stay here more than a few days” (Interview 27).* Factually, a series of ECtHR cases have underlined the seriousness of overcrowding, bad sanitation or an absence of fresh air or heat in detention⁶³. We do not have the precise information about the size of the CIE cells, but this issue should not be left without careful consideration. Inhumane and degrading treatment is a high legal threshold to meet and it would require more detailed investigation to determine whether or not Italy is breaching the provision.

In questioning whether treatment is inhumane or degrading, it is necessary to evaluate day-to-day issues in the context of the other circumstances simultaneously affecting the detainees, such as separation from family, depression or post-conflict trauma in the case of asylum seekers⁶⁴. This research study revealed that there is an urgent need to conduct further research about the conditions inside Turin’s CIE in relation to Italy’s obligations under Article 3 ECHR.

⁶³ See: *Kalashnikov v. Russia*, 47095/99, Council of Europe: European Court of Human Rights, 15 July 2002; *Mandić and Jović v. Slovenia*, 5774/10 and 5985/10, Council of Europe: European Court of Human Rights, 20 October 2011; *Stručl and Others v. Slovenia*, 5903/10, 6003/10 and 6544/10, Council of Europe: European Court of Human Rights, 20 October 2011.

⁶⁴ See *Part B. Conditions of Detention, Chapter II. Family Relationships, CIE and Children; Part B. Conditions of Detention, Chapter V. Health and Medical Issues; Part C. Judicial and Legal Processes, Chapter XII. CIE, Political Asylum and International Humanitarian Protection.*

V. HEALTH AND MEDICAL ISSUES

1. LEGAL FRAMEWORK: THE RIGHT TO HEALTH

International Law

Article 12(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) states:

“12(1) The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

The United Nations Economic and Social Council, *General Comment No. 14 (2000): The Right to the Highest Attainable Standard of Health*⁶⁵ explains how to interpret the Article 12 ICESCR right to “the highest attainable standard of health”. In particular, paragraph 30 states:

“30. States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2.2) and the obligation to take steps (art. 2.1) towards the full realization of article 12.”

Moreover, paragraph 32 of *General Comment No. 14 (2000)* states:

“32. As with all other rights in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. [...]”

On this basis we can argue that under international law Italy has an obligation to progressively implement the right to health and to avoid any sort of retrogressive measure in comparison with the general standards achieved in the country. This obligation is meant to apply not only towards free Italian nationals, but also and probably more urgently, towards foreign citizens detained inside immigration detention centres, since a detainees’ right to health entirely depends on the action of the State or agents who discharge State functions.

Council of Europe

Parts IV(C)(31) and IV(C)(92) of the European Committee for the Prevention of Torture, *CPT Standards* on immigration detention centres stress the right to health care, specifying the importance of maintaining medical confidentiality and having a *qualified* interpreter for medical consultations:

“IV(C)(31) [...] All detention facilities for immigration detainees should provide access to medical care. Particular attention should be paid to the physical and psychological state of asylum seekers, some of whom may have been tortured or otherwise ill-treated in the countries from which they have come. The right of access to a doctor should include the right - if a detainee so wishes - to be examined by a doctor of his choice; however, the detainee might be expected to cover the cost of such a second examination. [...]”

“IV(C)(92) Obviously, medical confidentiality should be observed in the same way as in the outside community; in particular, irregular migrants’ medical files should not be accessible to non-medical staff but, on the contrary, should be kept under lock and key by the nurse or doctor. Moreover, all medical examinations should be conducted out of

⁶⁵ United Nations Economic and Social Council, *General Comment No. 14 (2000): The Right to the Highest Attainable Standard of Health*, 22nd sess. UN Doc. E/C.12/2000/4, 11 August 2000.

the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of custodial staff.

Whenever members of the medical and/or nursing staff are unable to make a proper diagnostic evaluation because of language problems, they should be able to benefit without delay from the services of a qualified interpreter. Further, detained irregular migrants should be fully informed about the treatment being offered to them.”

European Union Law

Article 16(3) of EU Directive 2008/115/EC states:

“16(3) Particular attention shall be paid to the situation of vulnerable persons. Emergency health care and essential treatment of illness shall be provided.”

Italian Law

Decreto Legislativo 286/1998 (Legislative Decree 286/1998), article 14.2 states:

“14.2 The foreigner is detained in the centre, in a way that guarantees the necessary assistance and full respect of his own dignity [...]”⁶⁶

Decreto del Presidente della Repubblica 394/1999 (Presidential Decree 394/1999), article 21.2 states:

“21.2 Inside the centre the detained foreigners are guaranteed, besides the services needed for their maintenance and assistance, essential health services, activities for socialisation and freedom of worship, within the limits of the Constitution.”⁶⁷

2. EXPERIENCES OF MEDICAL CARE INSIDE CIE

The medical staff working inside CIE consist of three doctors, two nurses and two psychologists. Doctors work rotating shifts in order to ensure that one is always there, twenty-four hours a day. Doctors, unlike nurses, are not allowed to enter the detainees’ areas and doctors meet detainees in the infirmary. Broadly speaking, most detainees seem to be satisfied about the way doctors work and treat them and as we mention later on in this section, the problems highlighted by interviewees about medical issues in CIE are largely unrelated to the doctors’ behaviour⁶⁸. Nurses enter the detainees’ areas twice a day together with Red Cross staff to bring detainees their pills and to make sure that detainees take them. Detainees have a good opinion about nurses. However, with regard to the psychologists, detainees highlighted their difficulty in meeting them due to particularly long waiting periods. This is worrying since psychologists have an extremely significant function in the cloistered and often psychologically claustrophobic world of the CIE. As an NGO worker noted about the psychologists’ perception about their role: “they try to limit the negative consequences of detention, to listen to detainees’ worries and give them some kind of support” (Interview 29).

⁶⁶ “14.2 Lo straniero è trattenuto nel centro con modalità tali da assicurare la necessaria assistenza ed il pieno rispetto della sua dignità [...]”

⁶⁷ “21.2 Nell’ambito del centro sono assicurati, oltre ai servizi occorrenti per il mantenimento e l’assistenza degli stranieri trattenuti o ospitati, i servizi sanitari essenziali, gli interventi di socializzazione e la libertà del culto, nei limiti previsti dalla Costituzione”.

⁶⁸ Nonetheless, some interviewees gave negative feedback about one doctor in particular: “He was a racist” (Interview 17); “He does not even understand what he should do” (Interview 20).

An ambulance is always available to take detainees to the closest hospital (*Ospedale Martini*) in the case of an emergency. According to a volunteer: *“This is too much. It’s a way to exaggerate a situation, to increase the number of services and to waste money. [...] No ambulance is needed, when a person needs it they can just call the hospital, which is not far away”* (Interview 1). Four of our detainee interviewees had had a direct experience of being taken to *Ospedale Martini* for a medical examination, while three other detainee interviewees had had their request to go to *Ospedale Martini* denied.

When detainees enter the CIE they first undergo a “medical examination”, which consists of an interview aimed at gathering general information about the detainee’s health conditions, previous illnesses, use of psychotropic medication, drug addiction, and so on. Many detainees complain about the lack of a proper initial medical check-up. However, as an NGO worker noticed: *“at least the detainee meets a doctor before entering CIE”* (Interview 29).

Language may become an issue when detainees do not understand doctors. This often happens to detainees who can only speak Arabic: in such cases there does not appear to be a professional trained interpreter and either the Red Cross staff or the religious personnel are asked to help translating on an extremely *ad hoc* basis. In another case, there was a detainee with a complicated medical history who could only speak Ukrainian and Russian, and he could barely understand Italian. This man reported the lack of interpreters both inside CIE and in the hospital, making it impossible for him to understand and communicate with doctors properly. This situation illustrates that Italy is not always meeting the requirement to provide qualified interpreters for medical consultations with immigration detainees, as specified under the abovementioned paragraph IV(C)(92) of the *CPT Standards* of the European Committee for the Prevention of Torture.

The major problem that has been consistently reported by all detainees and by many professionals and volunteers concerns the endemic delay in providing medical assistance and medical examinations, even when they are urgently needed⁶⁹. A volunteer explained:

“To be visited by the doctor there is a waiting list and sometimes detainees have to wait for two weeks after they’ve made a request for medical exams. They say that the key word inside CIE is “after”. Both CIE staff and medical staff always answer to detainees’ requests saying “after” and this makes them feel mocked” (Interview 1).

However, the real problem does not seem to lie in the medical staff themselves, rather the evidence indicated that it is a systemic problem caused by the procedure through which detainees access health care inside CIE and the nature of CIE detention⁷⁰. Such procedure was well explained by a former detainee:

“When you are not feeling well you have to call the guard, who has to call the Red Cross worker, who has to go to the doctor and tell him you need him. You are put on the list of people who need the doctor and then you have to wait and you may be waiting for hours, I mean for five to ten hours. Imagine you have something serious, like problems with your heart. And during lunch or dinner time they [military and Red Cross staff] do not care at all. [...] But generally speaking doctors behaved well towards detainees. It was not their fault, the real problem was that you had to wait for the police to open the door, you had to wait for Red

⁶⁹ *“It takes from five days to one week to see a doctor”* (Interview 25); *“They are always delaying responses”* (Interview 16).

⁷⁰ Military personnel and Red Cross staff play a crucial role in this procedure. Most detainees consider them to be at least partially responsible for a delay in providing medical assistance, in particular in cases of emergency. For further information on the role and behaviour of military and Red Cross staff, see *Part B. Conditions of Detention, Chapter VI. Relationships with CIE Staff*.

Cross staff to go and inform the doctor but in that moment Red Cross staff could be busy and I could stay there, waiting for hours” (Interview 17).

We collected a great number of accounts and personal experiences concerning this problem of waiting for medical attention. In the end, there seems to be a systemic slowness that affects health services inside CIE⁷¹. Along with the issue of delayed assistance, there is a more substantive problem of ineffective and/or inappropriate medical care inside CIE. We gathered several different stories of physical suffering and psychological frustration, which together give a realistic and worrying picture of medical services inside CIE⁷².

One detainee suffers from epilepsy. He is treated with Rivotril and Depakin 500 twice a day but he claims that his illness is not compatible with CIE detention:

“I told them that I wanted to go to the hospital because I suffer from epilepsy. However, they told me that I would only be taken to the hospital if I had a crisis and if I were in danger of dying. However, I would like to know who takes the responsibility of this. [...] I want this centre itself to take the responsibility if something bad happens to me while I am here. [...] The problem with epilepsy is that it comes like this and you are not aware that an epileptic crisis is coming. So, I’m afraid of dying because of falling and hitting my head on the ground. That’s why I want to go to the hospital. I cannot stay here. I am in danger of dying” (Interview 21).

The following statement by a volunteer perhaps summarises the situation the best: *“Medical services are inadequate. There are some medical staff who try to do their best but they cannot cope with the situation. [...] Once I even heard a doctor saying: “Please, do not bring anybody else here unless he’s dying”” (Interview 2).*

⁷¹ *“Doctors are fine. Nurses are fine. [...] But, when you have a problem or something happens, you always have to wait for many hours or even days before they call you. This is the problem” (Interview 22); “What you learn here since the beginning of your detention is that you always have to wait, and wait, and wait, whatever your request is. Once I had a terrible toothache. I told the Red Cross staff at 5 am, but they told me until 11 am there was no doctor. But even after 11 they were not taking me to see the doctor, nor were they giving me any painkillers. Until I finally started to make a racket, shouting, banging doors and so on, and only at that point did they bring me medicine. And it’s always like this. If you need something, you need to make a racket to obtain it. Otherwise they do not even look at you” (Interview 18); “Before a detainee is taken to the infirmary it takes a long time. This happened with two episodes of epileptic shocks: the staff were called again and again and it took half an hour to an hour for someone to come. They kept telling us that they had already been informed about that” (Interview 2); “Once a guy had swallowed something, he was lying close to the gate, he remained there for hours and nobody arrived” (Interview 2).*

⁷² *“If you ask for medication to sleep like a horse, they give it to you immediately. They give you whatever you want. But if you need precise medicine or a precise treatment or medical examination to heal yourself, then you have big difficulty getting it” (Interview 20); “I’ll tell you something: when I was in prison I broke my nose. It was three days before being released. When police brought me here I immediately told the doctor my nose was broken. He promised they would do something to fix it, but they didn’t do anything. I’ve been here for seven months and they haven’t done anything. Now I can only breathe through my mouth, since through my nose I cannot breathe anymore. [...] They told me they could provide me with a device that could help me to breathe better through my nose, but they said I had to pay for it with my own money. I said it was OK. They wrote it down but then they never brought me this device. It’s like giving candies to kids who are hungry: they give you a candy and that’s it.” (Interview 19); “It’s two months that my knee is hurting. [...] I also had this problem before entering CIE: my rotula is broken. Inside CIE I fell again and the problem came out again. My knee became immediately swollen. They took me to the doctor here inside CIE, but I found the bad doctor and he sent me back to my area. He told me it was nothing serious, but in reality it was hurting very much. The whole leg and the foot became swollen. There was something wrong. So they took me to the hospital, but doctors couldn’t understand exactly what my problem was. So they told me to go back there for a further check. My name is in the register for hospital examinations, but they don’t take me to the hospital. It’s two months that my knee is swollen and still hurting. And I’m waiting” (Interview 20).*

Nevertheless, it is also relevant to note that one detainee reported a completely opposite view of the medical situation inside the CIE, though it is important to bear in mind that this particular detainee had never actually needed medical care inside CIE: *“I think people are well-treated. If the person isn’t feeling well, they take them to the hospital”* (Interview 24). A second detainee also expressed her satisfaction and relief for the way an illness she had when she entered the CIE was proactively treated by the CIE medical staff.

We would like to conclude this section with a final remark about the consequences that CIE detention has on detainees’ physical health. A very common negative effect is drastic weight loss. Three detainees reported shocking weight losses of between fifteen to even twenty-five kilos: *“When I left prison I was 72 kilos. [...] [Now] I cannot eat. [...] I have lost weight, now I’m 55 kilos and I always have a stomach ache”* (Interview 14). One detainee also reported about the worsening of his previous illnesses, in particular blood pressure, asthma and liver problems.

3. RELATIONSHIPS WITH MEDICAL STAFF

Relationships between detainees and medical staff are complex and multi-faceted, being diversely characterised by both positive and negative aspects. With respect to the latter, some detainees complained about a lack of communication: *“Nobody tells me anything about my health. [...] I’ve always had a stomach ache. I was given an injection but after that they didn’t tell me anything”* (Interview 14). Other detainees emphasised the general lack of interest on the part of CIE staff: six interviewees alleged that both Red Cross and medical personnel do not really care about detainees’ health conditions: *“It would be enough for me to see that they do something when I complain about a toothache, instead of leaving me with my pain for half a day, just waiting”* (Interview 18). As a matter of fact, an NGO worker commented: *“A major problem that all detainees report, not only in Turin’s CIE, is a lack of attention to their medical care needs”* (Interview 29).

Several professionals and volunteers highlighted strong concerns about the lack of mutual trust between doctors and detainees. Given the fiduciary relationship between a doctor and a patient, and the intrinsic importance of trust between them, this problem takes on added dimensions. An NGO worker’s seemingly accurate assessment of the situation noted that:

“In all the centres we visited we noticed a reciprocal lack of trust between detainees and doctors. There is a guard-detainee relationship that overlaps with the doctor-patient relationship. But these are two different kinds of relationships, which should remain separate. And obviously the doctor-patient relationship, being the weakest one, suffers from this situation. It may happen that a doctor underestimates a problem because he is stuck in a “defensive” position. On the one hand doctors fear simulations, on the other hand detainees complain about this lack of attention towards their health problems” (Interview 29).

Other interviewees focused on the potential risks stemming from the conflict between alleged fake simulations from detainees on the one hand and a lack of attention from medical staff on the other hand:

“For example, there are detainees who are really ill and detainees who pretend to be ill just to be taken to the hospital in the hope of being released, and for the medical staff it is not easy to distinguish between these two cases. Sometimes they do not understand who is feeling really bad; they say he’s lying, he’s telling stories, while he might not be and this causes anger and frustration among detainees and staff as well” (Interview 2);

“Sometimes requests are underestimated. There are people inside CIE who are so depressed that they constantly ask for the doctor and the staff do not always answer their requests. But then it may happen that they are truly ill or injured and the staff do not listen to them” (Interview 28).

At the same time we need to acknowledge the existence of a completely different attitude on the part of medical staff. Indeed, professionals reported about alleged attempts by doctors to help some detainees to leave the CIE, by means of a request for their hospitalisation:

“If the doctor says that it is important for a detainee to go outside, then they will send him. Also, once you send them out you don’t really send them back, you release them. Sometimes they [doctors] do ask for a second opinion because they think like this - if they go to the hospital, they might get released. Sometimes they try” (Interview 3);

“There was one case [...] when one doctor told to one woman: “if you continue your hunger strike for another week, maybe you will be released”, and that’s what happened. She was released after a week with health problems. Okay, you helped a woman, but you are a doctor” (Interview 7).

4. SELF-HARM, SELF-MUTILATION AND HUNGER STRIKES

Self-harm is a serious problem in Turin’s CIE: *“The Red Cross gave me the following figures, which refer to the year 2011: 156 episodes of self-harming, 100 of them consisted of swallowing pharmaceuticals and other materials⁷³, 56 of them consisted of cutting oneself⁷⁴” (Interview 29)⁷⁵. These official figures are striking and unfortunately our interviews with detainees, professionals, journalists and volunteers also revealed similar evidence about the high number of self-harming incidents inside CIE:*

“Once I swallowed different kinds of pills all together; once I swallowed an aluminium tube of toothpaste; once I prepared a rope to hang myself. [...] I received assistance inside the centre. I was given medicines and then I was put in isolation” (Interview 17);

“I’m losing my head. I’ve attempted suicide twice” (Interview 14);

“Once a guy swallowed batteries and the inner corrosive liquid caused him a serious ulcer, therefore he was taken to the hospital” (Interview 28);

“Most of the time, it’s the Arabs who are trying to do that - they cut themselves” (Interview 3);

“They often swallow screws, those of the refectory’s tables and benches. They swallow all sorts of things, like the cleaner, batteries, and so on [...]. Many of them try to slash their wrists and some of them succeed in doing it and there is blood everywhere. Sometimes they jump off the roofs to break their legs. Sometimes they just climb on the roof or they go on hunger strike to attract attention to their case. Another case is that of the Egyptian guy in seclusion who tried to hang himself: he was taken to the hospital and then he was released” (Interview 2).

⁷³ The original Italian words used by this interviewee were *“per ingestione di corpi estranei”*.

⁷⁴ Here, the original Italian read *“per ferite da arma da taglio”*, which has been translated to “cutting oneself”.

⁷⁵ See also: Raffaella Cosentino and Alessio Genovese, “Lo scandalo dei centri di identificazione dove gli ospiti diventano detenuti”, *La Repubblica* (online), 9 June 2012 <http://inchieste.repubblica.it/it/repubblica/rep-it/2012/06/09/news/pezzo_principale-36856562/?inchiesta=%2Fit%2Frepubblica%2Frep-it%2F2012%2F06%2F09%2Fnews%2Fcie_le_galere_fuorilegge-36862905%2F>.

For the purposes of our study we considered hunger strikes as a form of self-harm. Of the fifteen current detainees interviewed, four were on hunger strike at the time that they spoke to us. One of them had been on a hunger strike for forty days and another one for twenty days. The latter had also started a thirst strike ten days before and was only taking half a glass of water and one cup of coffee every day. Although his health condition was extremely critical, he told us: *“some days ago I passed out [...] but then when they visited me they only weighed me and then they put me back in the cell”* (Interview 26).

One of the reasons pushing detainees towards self-harm is their hope of being taken to the hospital. Hospitalisation is largely considered to be a chance to avoid going back to CIE because it appears to be easier to escape from hospital than from CIE and detainees who are hospitalised after a hunger strike or an episode of self-mutilation are often discharged from the hospital and simultaneously released from CIE. A volunteer highlighted the possible dangerous consequences of such an arbitrary policy:

“It often happens that when they leave the hospital they are not taken back to CIE but they are released. The problem is that the criteria according to which people get out of CIE is not at all clear. This means that if everybody knows that the guy who tried to hang himself now is free, everybody may try to do the same. With no clear procedure the risk is to fuel detainees’ acts of self-mutilation and self-harming” (Interview 2).

Indeed, during an interview with an NGO worker who had the chance to meet the CIE director and staff, it emerged that the centre tries to deal internally with episodes of self-harm and attempted suicide. A reason may be precisely to avoid the risk of absconding from the hospital, or simply to try and minimise a worrying and widespread phenomenon:

“They told us that very often they have to deal with self-harming by cutting, something they can take care of inside the centre. Also in cases of swallowing pills or other materials, the director said that most of the past cases were not so serious, that they were able to solve them inside the centre. Only in some cases detainees were taken to the hospital. But he obviously tried to minimise the issue” (Interview 29).

5. DETAINEES WITH DRUG DEPENDENCY ISSUES

Turin’s CIE has specific medical services for detainees who enter with drug dependency issues. An NGO worker who had visited Turin’s CIE told us that SERT⁷⁶ staff enter CIE two or three times a week to administer methadone to detainees recovering from addiction:

“I acknowledge this is one of the few positive aspects among all the negative ones we noticed. For instance, I can make a comparison with the situation in Rome: there SERT staff enter inside prison but they do not enter inside CIE. On the contrary, in Turin they enter in both places. Indeed, when we visited Turin’s centre, a doctor from SERT was there” (Interview 29);

“In the past there was no such possibility and people who demonstrated addiction to these kinds of substances, they were released, because the CIE was not able to “heal” them. Now it can” (Interview 7).

⁷⁶ SERT (*Servizi per le tossicodipendenze* or “Services for drug dependent people”) is the public service offered by the national health system in order to heal and rehabilitate drug and alcohol addicted people. SERT also provides services aimed at the prevention of drug and alcohol addiction.

6. USE, MISUSE AND ABUSE OF PSYCHOTROPIC MEDICATION

Several professionals and volunteers made serious allegations about a widespread and reckless use of psychotropic medications inside the CIE, and our detainee interviews confirmed such suspicions. Whilst official figures are not available, it has been alleged that one third of detainees take psychotropic medication⁷⁷, and one of our interviewees claimed that this percentage is much higher⁷⁸. In any case, the most controversial aspect is that these medicines are given without prescription from a psychiatrist. There is no specialist inside CIE, nor are the psychologists involved in deciding whether a detainee needs psychotropic drugs. For medical staff it seems to be sufficient that the detainees request treatment and allegedly no further investigation is carried out⁷⁹.

The psychotropic medications used inside Turin's CIE seem to be predominantly benzodiazepines: *"Rivotril, Tavor, Talofen... there are four or five kinds of medicines and they always give them here"* (Interview 22). Our evidence suggests that a significant number of detainees who are transferred from jail to CIE ask for such medication immediately, since often they are already used to taking it in prison. According to one interviewee: *"their addiction to psychotropic drugs originates there. In jail there is an abuse of psychotropic medication"* (Interview 28). Besides ex-prisoners, generally speaking CIE detainees *"have in front of them the possibility of spending eighteen months inside the centre, with no activities, with a family outside, without having a clue of what will happen afterwards. From the psychological point of view it is a tragedy. Psychotropic drugs become a refuge, a shelter"* (Interview 28).

The detainees' perspectives on this issue were quite shocking. Most of them consider psychotropic drugs to be absolutely necessary to survive inside CIE: *"I'm forced to take medication because otherwise time does not pass. They give me forty drops of Minias and thirty drops of Tavor every day in the evening"* (Interview 25). A further example is that of an eighteen-year-old detainee who at the time of our interview had been inside CIE for twenty-seven days. Notwithstanding his young age and the relatively short time he had spent inside CIE, psychotropic medication seemed to be essential and unavoidable to him: *"Of course I have to take psychotropic drugs because here if you don't take the therapy you go crazy. You need psychotropic drugs both to sleep and to keep quiet. Almost everybody here takes psychotropic medication"* (Interview 22).

However, the issue of psychotropic medication inside CIE should not be dismissed by making reference to detainees' expressed consent, given the fact that the problem clearly has a double dimension, as one journalist observed:

"On the one hand, there is a strong request for psychotropic drugs from detainees themselves [...]. On the other hand, in my opinion the problem is that doctors give psychotropic medication too easily. Doctors admit it and they justify themselves by saying that otherwise detainees would be more upset and aggressive and more keen to create problems. [...] It is anyway more convenient to have a certain number of sedated detainees, than to have people who are always ready to start a fight" (Interview 28).

⁷⁷ Cosentino and Genovese, "Lo scandalo dei centri di identificazione dove gli ospiti diventano detenuti".

⁷⁸ "I think 70% of detainees take them" (Interview 28).

⁷⁹ "What we stress is that the use of these kinds of drugs in such a situation requires the intervention of a specialist, the presence of a psychiatrist able to evaluate on a case-by-case basis. In our opinion the lack of a monitoring conducted by a specialist represents an extremely relevant problem" (Interview 29); "When I asked for the medication, no psychologist came to talk with me [or] to ask me questions. And you know, these kind of drugs should not be taken without the supervision of a psychologist" (Interview 20).

VI. RELATIONSHIPS WITH CIE STAFF

“Guards who work in jail are much more respectful than CIE staff. In jail they know that in front of them they have a person who has rights, while inside CIE rights are not clearly defined, they are something rhetoric.”

- *Interview 1*

“Personnel were treating detainees like dogs. There was a case where one guy wanted to commit suicide by hanging himself and the personnel weren’t doing anything because they thought it was a joke. He almost died. Detainees ran into the room and tried to take him from the rope. Only after thirty minutes they opened doors and entered. After we made a strike, they were laughing and they did not care much. That is why we were making fire, because they were treating us like dogs. They put food inside which you can eat or not eat. That’s it.”

- *Interview 23*

1. PERSPECTIVES ON A COMPLEX RELATIONSHIP

The relationship that the detainees have with the CIE staff is one of the most significant both in terms of impact and sheer quantum of time. Given the diversity of individuals at the CIE it is perhaps equally unsurprising that the accounts recorded about these interactions are diverse. For the purposes of this section, the term “CIE staff” includes the Red Cross, the military personnel as well as others who work and help administer Turin’s CIE. This section will confine itself to the non-medical related accounts of detainee-staff interactions and their overwhelming leitmotif of dehumanisation felt by the former⁸⁰. Based on our interviews, at best the detainee-staff relationship is mixed and at worst it seems to regard the detainees as beings underserving of dignity and respect.

The CIE staff have an extremely difficult job and the criticisms in this section are not necessarily applicable to all staff members but rather they reflect the perception of how those outside of the staff body viewed the detainee-staff relationship and the CIE structure. The European Committee on the Prevention of Torture summaries the complex relationship between immigration detentions staff and detainees in the following terms:

“IV(B)(29) The staff of centres for immigration detainees have a particularly onerous task. Firstly, there will inevitably be communication difficulties caused by language barriers. Secondly, many detained persons will find the fact that they have been deprived of their liberty when they are not suspected of any criminal offence difficult to accept. Thirdly, there is a risk of tension between detainees of different nationalities or ethnic groups. Consequently, the CPT [Committee on the Prevention of Torture] places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.”

⁸⁰ “The[y] look at you in an inhuman way, like if we were animals” (Interview 14).

One interesting fact that emerged from this study was the lack of a uniform consensus on the behaviour of the Red Cross staff and the security apparatus. Some detainees faulted the former⁸¹ and others the latter⁸² whereas some held both responsible for misbehaviour. This is especially surprising since our interviews revealed that some detainees held diametrically opposed views to the same group of people at the CIE⁸³.

One of our non-detainee interviewees described the attitude of the CIE staff as being one built on a desire to emphasise control and authority. He outlined the problem of having the military section of the Red Cross staff in charge of the CIE and he expressed concern about the behaviour of the CIE authorities when the gates were closed to visitors:

“People who work inside CIE are not bad people but they behave in a way to emphasise the fact that they are those who have the control and decide on detainees’ lives. For example, if a detainee needs a doctor they are those who can or cannot call him. The CIE staff consist of the military section of the Red Cross: these people’s behaviour and their way of thinking is that of military personnel. They wear military uniforms. Moreover, there are four different military bodies working inside the centre and this is very strange because if you needed to save money, you could save it on things like this. You don’t need to have four people of two different military bodies to open a door! And, once you needed eight people to open a door! As if the detainees were lions! This militarisation raises detainees’ anger”;

“As long as it is open, half of the military should go away because they are not necessary. Those who remain, that is CIE staff, should not be military personnel. It makes no sense to militarise a place like this”; and

“CIE staff and guards should not play the role of the good people in front of us and then act as if they were the masters of detainees’ lives when we do not see them” (Interview 1).

Some interviewees noted a disparity between the manner in which different staff members treated the detainees. Some staff were patient and understanding of detainees’ psychological states while the others were more prone to direct insults against the detainees:

“The relationship between CIE staff and detainees varies very much according to the individual person. There are people who work there and who are extremely patient and understand that if detainees are rude it’s because of the situation that they are living. Moreover, they do all sorts of things just to be noticed, to attract the workers’ attention, otherwise they feel ignored. There are guards who talk with them, guards who insult them, it depends on each single person” (Interview 2);

“The Red Cross are good people. There are some people among the Carabinieri⁸⁴ and Guardia di Finanza⁸⁵ who are a bit so-so, but among them there are also good people” (Interview 21).

⁸¹ *“The Red Cross spoke badly to me. There are both Italian and foreign people working inside the Red Cross, but foreign people as well behave badly towards detainees” (Interview 17).*

⁸² *“The Red Cross is doing a great job, while military are bad” (Interview 25); “Carabinieri, guards when they pass by they speak badly to me, they insult me” (Interview 19); “Sometimes the military laugh at us, they joke, and when someone is unwell they do not call anyone” (Interview 26).*

⁸³ In contra-distinction to the indictment of the military, one of the detainees said *“With the army I’m fine. They behave themselves well” (Interview 22).*

⁸⁴ The *Carabinieri* is one of the five Italian police branches. It is under the authority of the Ministry of Defence. Similarly to *Polizia di Stato*, the *Carabinieri*’s main functions are: maintaining order, ensuring public security and preventing crimes. The *Carabinieri* is also part of the Italian army, so it is a military police branch.

There were mixed perspectives on how much a detainee's own behaviour influences the way in which they are treated:

"I'm a good guy, I'm quiet, I've never caused trouble, but all of them, the military staff, the Red Cross, they have an unfair agreement among them. Because although I'm a good guy, they treat me badly and although I've never caused them problems, after seven months I am still detained. They treat me as badly as they treat anybody else, even though I've always behaved well" (Interview 19);

"Here if you address them in an incorrect way, they do not respond to you either. If in contrast you behave well, they treat you well" (Interview 27).

A lawyer highlighted the issues arising from conflicts of interest at the CIE by noting that the non-military CIE staff are directly or indirectly paid for by the Red Cross, which is dependent on government administered funds:

"For example, translators seem to be good people who are trying to understand if there are problems or not but the problem is that they are paid by the Red Cross and the director of this camp is from the Red Cross. In any case, even if they are good people, they are paid by the Red Cross, they are not following the interest of the person, but the interest of the camp. For example, when detainees are speaking with translators about conditions for political asylum they will remind them that if they ask for political asylum they won't ever go back to their country" (Interview 7).

Another lawyer working with CIE detainees highlighted in detail the problems with the CIE management structure:

"[The correct word] to clearly pinpoint the relationship between the Red Cross management entity and the organism that controls the centre (Carabinieri, Guardia di Finanza, Police etc.) would be: "complicity". I fear that this may result in a loss of independence by the managing entities, both in terms of controlling administrative activities as well as [relationships with] migrants. There is also proximity between the police personnel of the Immigration Office who participate in the hearings and the Giudice di Pace's staff [clerks] or the Giudici di Pace themselves. Clearly, they have a rapport that comes from everyday life but which also limits the independence of the judiciary. [...] And, the Red Cross does not remain in a neutral position with respect to the centre, not merely in terms of hospitality [for detainees] but also in co-operation of control. [The Red Cross] tries to persuade migrants not to oppose etc. They do the job of persuasion. And when migrants express their needs, they do not know who to turn to" (Interview 5).

Interviewees also highlighted that the CIE staff focus on avoiding conflict and this can result in a failure to address problems⁸⁶ and a lack of concern for the detainees' well-being⁸⁷. Yet,

⁸⁵ The *Guardia di Finanza* is one of the five Italian police branches. It is under the authority of the Ministry of Economics and Finance. Although the *Guardia di Finanza* is part of the Italian army, it distinguishes itself for its special competences in the prevention and repression of financial and fiscal crimes.

⁸⁶ *"It is in the interests of the structure to avoid problems and they can transfer people to another section, just to avoid other conflicts. It is something that they can do and it is in their powers to do it" (Interview 7).*

⁸⁷ *"Very bad, not interested in people's well-being, they [military staff] are violent. [...] Well, they force people to become violent. For example, there are people who have been here for seven or eight months, they are experiencing a hard situation and they ask CIE staff for something and CIE staff don't help them, they don't give them what they ask for. Detainees ask again and again and they see that nobody cares. This is the moment they become violent, they raise hell and burn things. [...] The authorities don't do anything. They don't intervene. One time there was a man who was older, he had documents [i.e. a passport, not permit to stay], he was hosted in Italy by a sister who had been living in Italy for many years with valid documents [permit to stay],*

detainees are completely dependent on the staff at a time when their lives are extremely stressful and uncertain. As one detainee noted:

"[M]aybe the worst thing for me is that if you do not make a racket, nobody comes and nobody cares. Then, I don't understand why if their aim is to send people back to their home countries, they don't do it immediately. I can understand it may take one or two months to organise the repatriation, but no more than that. You cannot keep people who did nothing locked in a cage without telling them for how long. One month and then another one and then another one and you will never know when this torture will finish. And you don't know how it will finish. But at a certain point most of the people here only want to go out and go back to their country. If they don't have a family here, they just want to leave Italy" (Interview 18).

However, some interviewees seemed to believe that problems between the staff and detainees stemmed from the detainees themselves⁸⁸. Questions were raised about whether the CIE staff are sufficiently trained and capable of dealing with the volatile situation inside the CIE:

"I've noticed a level of complete ignorance among the staff [Red Cross and military staff]. When there are moments of tension they are not solved or calmed down at all. There is a lack of respect: in the first place from the military personnel, but respect is also missing from the Red Cross. There is a lack of professionalism, there are no rules and the staff are not prepared for what they are asked to do" (Interview 8).

Allegations were even raised about violence at the CIE, specifically about the role of the *Guardia di Finanza* and the *Carabinieri* military police corps⁸⁹. Perhaps the following poignant words can best express the current state of affairs in Turin's CIE: *"Here they are doing something really wrong because we have not been arrested for criminal matters! We are called "guests" so we should be treated as guests - not as animals" (Interview 15).*

2. VIOLENCE

An endemic problem at the CIE concerns the manner in which the staff and security personnel behave. While two detainees alleged physical violence, a frequent refrain from the detainees was the uncaring manner in which the personnel conducted themselves⁹⁰. The two detainees who alleged violence explained it in the following terms:

"They laugh about us, they bother us. It also happened a few days ago. I asked to see the doctor as I've been on a hunger strike for eight days. They put me inside a cell, I told them I couldn't stay there because I couldn't stay alone and it was cold but they pushed me inside and wanted to hit me with a truncheon" (Interview 14);

but he wanted to go back to his country because he had been inside CIE for three months. But they did not want to send him back to his home country, so he cut his veins - in a horrible way in front of them [CIE staff/military]. Nobody intervened" (Interview 15).

⁸⁸ *"It's very subjective. Some detainees appreciate very much the work of the Red Cross staff, they recognise they do a lot. But people working inside CIE, including guards, change quite often. [...] CIE staff treat female detainees in a more gentle way than male detainees, maybe because they are considered less violent and less dangerous than men" (Interview 8).*

⁸⁹ See the next section: *Part B. Conditions of Detention, Chapter VI. Relationships with CIE staff, 2. Violence.*

⁹⁰ *"Nothing. They do not intervene. And it is not necessary to call the Red Cross or the guards. There are cameras: they immediately notice when tensions rise up and we start fighting. They come closer and they stay there, outside the cage, staring at us while we are fighting" (Interview 18).*

“[A]t times police beat people. A policeman threatened to kill him [a fellow detainee]. A policeman entered the room at night and beat him up for no reason. Once the Guardia di Finanza entered in the isolation room where there was a guy and they beat him up harshly. They should not even enter into the isolation rooms. I saw this with my eyes⁹¹. And nothing was done to those Finanziere. [...]I’m talking about the military personnel [...]. More precisely, I’m not talking about the army, they are good guys. Rather, I’m talking about the Finanziere and Carabinieri, they are the ones that tend to be dangerous” (Interview 15).

It is difficult to measure the level of violence inside immigration detention: *“However inside CIE there is a space of suspension of the law: if a policeman beats you, of course you cannot denounce it” (Interview 28).*

We received allegations that the controversial measures of high-pressure water cannons and tear gas have been used inside Turin’s CIE:

“In October the Carabinieri came because the guys were causing trouble, they were protesting, trying to escape and Carabinieri used a lot of tear gas against them. But it was horrible for the girls as well: we were feeling really bad, our eyes hurting and full of tears” (Interview 17)⁹²;

“Yesterday evening, the guys in the area near our area started a revolt⁹³. It was the Blue Area. They caused a big racket. Guards came with batons and helmets. They were Carabinieri, Polizia, Guardia di Finanza and the Army, all of them. And, they shot us with water [water cannons]. I was sleeping. I heard the noise so all of us went out from our rooms. We saw all of these guards there. Some of them were shooting water and some of them were beating up the guys from the Blue Area. When they shot with water it was really something strong. The water has a pressure similar to seventy or eighty kilometers per hour. It’s like as if they were shooting with guns” (Interview 22).

Police use of water cannons has come under extremely negative criticism due to the harm that can be caused by them. For example, in September 2010 in Stuttgart, Germany a protester was blinded by a water cannon⁹⁴. Given the enclosed spaces within the CIE and the complete control exerted over the CIE inmates, the use of such extreme measures is highly questionable.

The detainees inside the CIE are all rights holders and have the right to be treated with dignity and in a humane manner. The obligation that a State has to protect individuals within detention from violence is even higher owing to the fact that detained individuals are wholly under the control and care of State facilities. Indeed, the ECtHR has expressly ruled that if any individual within detention is subjected to any kind of cruel or inhuman treatment or is killed within detention, then the burden of proof is on the State⁹⁵. We repeatedly heard from detainees that there was no accessible way to complain about specific individuals’ behaviour at Turin’s CIE. Yet, the State has a positive obligation to protect detainees against harmful actions by State

⁹¹ From the Violet Area it might be possible to see the isolation cells. See the map of Turin’s CIE under *Part B. Conditions of Detention, Chapter IV. Day-to-day Issues*.

⁹² The women’s area (Green Area) is located next to two male areas. See the map of Turin’s CIE under *Part B. Conditions of Detention, Chapter IV. Day-to-day Issues*.

⁹³ This detainee was living in the Red Area.

⁹⁴ See for example: Unknown author, “Blinded Stuttgart 21 protester wants apology”, *The Local: Germany’s News in English* (online), 28 December 2010 <<http://www.thelocal.de/society/20101228-32075.html>>.

⁹⁵ *Anguelova v. Bulgaria*, 38361/97, Council of Europe: European Court of Human Rights, 13 June 2002, paras. 110-111; *Salman v. Turkey*, 21986/93, Council of Europe: European Court of Human Rights, 27 June 2000, para. 100; *Demiray v. Turkey*, 27308/95, Council of Europe: European Court of Human Rights, 21 November 2000.

agents. All of the CIE staff are subject to this positive legal obligation because they are either State authorities (military personnel) or quasi-State authorities (Red Cross) who are discharging State functions.

VII. RELATIONSHIPS BETWEEN DETAINEES

1. INAPPROPRIATE MIX - GROUPING PEOPLE COMING FROM JAIL AND ASYLUM SEEKERS, YOUNG AND VULNERABLE PEOPLE

In Turin's CIE, all detainees of the same gender are grouped together, regardless of age, language or whether they are ex-prisoners or asylum seekers escaping trauma and conflict⁹⁶. The United Nations High Commissioner for Refugees and the Inter-Parliamentary Union's Committee on Parliamentary, Judicial and Human Rights Questions have advised governments that it is important that "recognition of physical and psychological traumas many asylum seekers have experienced, should be taken into account when considering any restrictions on their freedom of movement"⁹⁷. Yet, for asylum seekers in Turin's CIE: *"The culture inside CIE is similar to the culture of a jail. You often find the same dynamics both in jail and in CIE. There is no attention on dividing those who come from jail from those who have never had any contact with jail"* (Interview 28). Another lawyer defined the mixed nature of CIE as one of the main problems about how CIE is structured: *"There are no divisions based on cultural zones of arrival, or in relation to ex-offenders. This creates some vulnerability and the construction of hierarchies in different areas. If we place an individual victim of trafficking with an asylum seeker in a mixed area, these people will potentially be subjected to further abuse"* (Interview 5).

2. ETHNIC OR CULTURAL ISSUES AND TENSIONS

Detainees live under immense stress since there is a constant overhanging uncertainty about how long they will remain in detention and what country they will live in once free. There were very mixed perspectives about relationships between detainees. An evaluation of relationships between detainees must consider the pressure of sharing a cell with up to six other people with very limited personal space or activities:

"Living together is not easy. Sometimes everything is fine, sometimes someone loses his temper because of this situation. Sometimes it becomes unbearable and you go out of your mind. So there may be tensions and fights. But you should be clever enough to understand the other people and to avoid fights among each other" (Interview 20).

The restrictive CIE environment can exacerbate tensions: *"there have been some fights over food"* (Interview 11). Moreover, there is a diverse cultural, linguistic and religious mix in this constrained physical space:

"Relationships are difficult. Usually people who come from one country are together because of nationality, religion, etc. There can be problems with people coming from other countries. But if they [detainees] are kept in different sections, they [the problems] are limited. Probably, there are quarrels because there are so many people inside" (Interview 7);

"Well, between the detainees, yes. I saw one or two who were Moroccans, they had fought a day before. And also another time, a Senegalese had a fight with a Moroccan. One or two

⁹⁶ "Detainees are all together: young boys coming from Lampedusa with former convicts with asylum seekers. They are only more or less divided in different rooms according to their nationality, that's all" (Interview 2).

⁹⁷ United Nations High Commissioner for Refugees and the Inter-Parliamentary Union's Committee on Parliamentary, Judicial and Human Rights Questions, *Refugee Protection: A Guide to International Refugee Law* (2001), 81.

people fight and then more people get involved. But not all of them, if there are thirty people, maybe ten of them fight. Most of the fighting is between the Senegalese and the Moroccans. Among men you can easily see that Senegalese men move together or the Moroccans move together. These are the two groups which are most represented. Or, the Nigerians move together” (Interview 3);

“There is no problem of violence as long as there are no riots. Violence is not the rule, it is the exception” (Interview 28)⁹⁸.

Some detainees had very positive experiences in their cell blocks and they emphasised that a general solidarity is shared between detainees: *“I behave myself well with everybody. We are all experiencing the same situation, so we understand each other and we don’t cause trouble among ourselves” (Interview 22)*. In contrast, one detainee listed the following bad experiences that she was facing as an ethnic minority:

“Yes [CIE is overcrowded], very much so. I asked for a room at the Ospedaletto. Otherwise, six to seven people are kept in a small room. The other detainees were treating me badly. There were groups based on nationality such as the Nigerian group. There was racism. I was treated badly by the other detainees, since I was the only Kenyan”;

“Yes. The other girls would say that I think I’m special. They would tell me that I’m HIV positive because I’m skinny”;

“I raised the volume of the TV. I was slapped by another girl because it was 9 pm and the other girl wanted to sleep”; and

“I think there’s a lot of racism, the girls stick to groups based on their countries of origin” (Interview 24).

CIE staff gave the abovementioned detainee a room in isolation so as to minimise her exposure to such harassment.

⁹⁸ This interviewee was speaking about both detainee-detainee relationships and detainee-guard relationships.

PART C. JUDICIAL AND LEGAL PROCESSES

This section examines the judicial and legal processes concerning Turin’s CIE by considering: the level to which detainees understand what CIE is; the Italian legal and procedural framework; relationships between detainees and lawyers; the role of embassies and consulates in the identification procedure; and political asylum and humanitarian protection. Judicial and legal processes are two vital mechanisms through which the written word of human rights can be given life and made accessible to all. In contra-distinction, judicial and legal processes can also be a great barrier to accessing rights where there are problems such as the absence of clear procedures or an effective remedy, insufficient training in the public administration or inadequate legal and linguistic assistance for vulnerable individuals. Part C draws on the interviewees’ experiences in order to examine both the positive and negative ways in which the judicial and legal processes surrounding Turin’s CIE can serve to enhance or detract from our ability to give life to the text and intention of human rights law.

VIII. UNDERSTANDING WHAT CIE IS

1. LEGAL FRAMEWORK: THE RIGHT TO A FAIR TRIAL, THE RIGHT TO AN EFFECTIVE REMEDY AND PROCEDURAL SAFEGUARDS FOR PEOPLE FACING EXPULSION

Council of Europe

Article 1 of *Protocol 7* of the ECHR⁹⁹ (as amended by *Protocol 11* ECHR¹⁰⁰) sets out “procedural safeguards relating to expulsion of aliens”:

“1(1) An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:

- a) to submit reasons against his expulsion,
- b) to have his case reviewed, and
- c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.”

“1(2) An alien may be expelled before the exercise of his rights under paragraph 1.a, b and c of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security.”

Article 1 of *Protocol 7* ECHR is limited to third-country nationals who are “lawfully resident in the territory of the state” and therefore it does not offer protection to those who were not lawful residents.

The right to a fair trial is generally provided for by Article 6(1) of the ECHR, which states:

⁹⁹ *Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 22 November 1984, ETS No. 117 (entered into force 1 November 1988).

¹⁰⁰ *Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 11 May 1994, ETS No. 155 (entered into force on 1 November 1998).

“6(1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.”

However, Article 6(1) ECHR does not apply to expulsion and extradition proceedings and there are only very limited circumstances when it can apply to immigration matters¹⁰¹. In fact, this distinction between rights protection in criminal matters and rights protection in civil or administrative matters exists both in the ECHR as well as in Italian domestic law and procedure. There is a big difference between the procedural guarantees and protections that are afforded to migrants in immigration matters when compared with those rights guaranteed to accused people in the criminal justice system. Yet, in both cases an individual risks losing their liberty.

Article 13 of the ECHR states:

“13 Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority [...].”

Article 13 ECHR exists in order to ensure that there are remedies in national legal orders to examine and enforce the other rights and freedoms that are protected in the ECHR. Italy is obliged to provide an effective method of examining whether or not a violation has occurred, regardless of whether a violation actually occurred. In order to comply with the right to an effective remedy, the Italian domestic legal regime must ensure the following¹⁰²:

- a) The remedy needs to exist institutionally¹⁰³;
- b) The remedy must be adequate¹⁰⁴; and
- c) The remedy must be available to the individual.

The third requirement that a remedy must be available to the individual is particularly relevant when considering the extent to which some detainees actually understand what CIE is and what their personal legal circumstances and options are. For example, Article 13 ECHR has been interpreted to mean that an asylum seeker must not only have access to an appeal procedure, but they should also be in a position to initiate such an appeal and that appeal should have a suspense effect¹⁰⁵.

¹⁰¹ See for example *Maaouia v. France*, 39652/98, Council of Europe: European Court of Human Rights, 22 March 2000.

¹⁰² See H el ene Lambert, *The position of aliens in relation to the European Convention on Human Rights*, Council of Europe Publishing (2006), 37-38.

¹⁰³ *Silver and Others v. United Kingdom*, 9310/81, Council of Europe: European Court of Human Rights, 6 September 1987, para. 113; *Leander v. Sweden*, 9248/81, Council of Europe: European Court of Human Rights, 26 March 1987, paras. 29-30; and *Klass and Others v. the Federal Republic of Germany*, (Series A, 28) 2 EHRR 214, 6, Council of Europe: European Court of Human Rights, 6 September 1978, para. 67.

¹⁰⁴ See for example *Chahal v. The United Kingdom*, 70/1995/576/662, Council of Europe: European Court of Human Rights, 15 November 1996.

¹⁰⁵ Lambert, *The position of aliens in relation to the European Convention on Human Rights*. See also, Committee of Ministers of the Council of Europe, *Commission Report on Platform “ rzte f ur das Leben” v. Austria, judgment of 21 June 1988*; Recommendation No. R 98(13) of the Committee of Ministers of the Council of Europe, Explanatory Memorandum, para. 16.

Moreover, parts IV(89) and IV(84) of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment's CPT Standards emphasise the need for immigration detainees to be given information about rights in a language that they understand and to access judicial review and the right to an effective remedy:

"(IV)(84) It is essential that newly arrived irregular migrants be immediately given information on these rights in a language they understand. To this end, they should be systematically provided with a document explaining the procedure applicable to them and setting out their rights in clear and simple terms. This document should be available in the languages most commonly spoken by the detainees and, if necessary, recourse should be had to the services of an interpreter."

"(IV)(86) Detained irregular migrants should benefit from an effective legal remedy enabling them to have the lawfulness of their deprivation of liberty decided speedily by a judicial body. This judicial review should entail an oral hearing with legal assistance, provided free of charge for persons without sufficient means, and interpretation (if required). Moreover, detained irregular migrants should be expressly informed of this legal remedy. The need for continued detention should be reviewed periodically by an independent authority."

2. DETAINEES' EXPERIENCES OF UNDERSTANDING WHAT CIE IS

Detainees had extremely mixed levels of understanding about their legal situation or why their liberty has been taken away. The extent to which a detainee understands their situation is often influenced by language barriers and prior experience in Italy and with the Italian legal system. For example, one young and very confused detainee exclaimed: *"I don't know why I am inside here. I don't want to stay here and in Libya there are so many troubles. I don't want to go back there"* (Interview 22). He further explained his confusion because: *"I've never had problems with justice. I've never been to prison. I want freedom, here there is no freedom. I want to go out. I am eighteen, why am I inside here? I want political asylum or humanitarian protection"* (Interview 22). Like many detainees, this young man did not speak Italian and he relied on being able to find another detainee in CIE to try to interpret his confusion to us over the telephone. In this case, language barriers were strongly influencing the detainees' ability to obtain an effective remedy.

Other detainees said they knew what CIE was, although they had not received this information from the authorities but rather from other detainees or as a matter of their own general knowledge: *"I arrived with a group of people. We were aware that we were taken to CIE because we were clandestine migrants"* (Interview 17); *"I didn't get any explanation. However, I am aware of the reasons why they put me inside CIE, but I do not agree with such reasons"* (Interview 20).

Most lawyers and volunteers commented on this confusion over the difference between administrative detention and criminal detention:

"For those who were in jail and are detained in CIE waiting for repatriation the reason is quite clear. For those who are in CIE because of the crime of illegal immigration, it is more difficult to understand. Also, they don't understand that "illegal immigration" can be a crime because many of them entered with a visa. For example these Nigerian women, after sixty days their permit expires, they do not know they have to apply for documents and if they are caught on the street they are immediately brought to CIE. But they do not understand the crime of illegal immigration. They would understand better the "moral"

crime of prostitution. So, they always ask us the reason why they are still inside the CIE” (Interview 1);

“There is also a portion of migrants who have understood the reason for [CIE] detention, which is difficult to tolerate for those who come from long periods of [prison] detention. The reason for their complaint is that they have already served their sentence in prison” (Interview 5);

“Certainly, many link the idea of detention to having committed a crime. Then in this case, they do not understand why detention is necessary given that “they did nothing”. One does not find a justification, even on an ethical level. The worst is when the detention is extended” (Interview 10);

“The idea that detainees have is: “I’m here for no reason”. Generally you think you are detained because you did something wrong, that’s why they say: “I have done nothing wrong, why am I here?” The idea of detention is generally related to the idea of a punishment after having committed a crime. When they are aware of this (I’m referring in particular to the many among them who have been previously detained in prison and have served their sentence) they don’t understand the reason for a detention in CIE” (Interview 8).

This perspective was consistent with the following detainee’s description of his difficulties:

“[The hardest thing is] [n]ot knowing when they are going to let me out. After six months they told me “in one month”, then they told me “one more month”. This morning I spoke with the Immigration Office and they said maybe at the end of this month they will let me out. I’m tired. I was in jail, I left jail and immediately after I returned to another jail” (Interview 19).

Under article 13 of *Decreto Legislativo 286/1998*, the expulsion decree is the formal document that serves to notify detainees of the decision for their expulsion. However, several interviewees commented on the problem that written notice can be difficult to understand for people from culturally and linguistically diverse communities with different levels of access to education:

“As for the expulsion decree, many of them do not understand what this decree is. This is mainly due to a linguistic problem: since the document is written in Italian, it should be accompanied by a translation in the detainee’s mother tongue. In case they [Questura] are not able to translate it into the detainee’s mother tongue, and they must give a justification for this, then they can provide the detainee with a translation in one of the three main languages, English, French or Spanish, according to the preference expressed by the detainee himself. Of course they don’t really try to figure out the detainee’s linguistic skills, they just put a cross on one of the three languages. For example, they translate arbitrarily to English for all the people coming from Eastern Europe and to Spanish for all Latin Americans. Moreover, detainees often have problems with understanding the content of the document itself: it uses a specific legal parlance and it refers to legal provisions that remain unexplained. The section concerning the motivation is very short. So many factors actually prevent detainees from understanding what’s going on. We should also consider that many of them cannot read and some of them can barely write their names” (Interview 8);

“The decree is also delivered with a translation, but there are also cases of illiteracy - which means it is not possible [for illiterate detainees] to know why they are in detention” (Interview 5);

“Yes, they explain to them [the detainees] when they come inside, but there are not so many interpreters and they are not always there, they have particular hours. So, in theory they all know why they are there and they know that they are without papers, without documents. But, precisely what kind of conditions, how long they will stay inside, this is something which is not so properly clear. So, you have to explain to them pretty well. I also think that it is not in the interests of the structure to let them understand really well that they can stay for eighteen months. Because there are so many riots and they [the authorities] are afraid that if they are clear they will create anxiety and so on. So, in the beginning they are given this paper [...]” (Interview 7).

Surprisingly, sometimes detainees only discover the motive for their detention at their validation hearing. Yet, a situation where a detainee only finds out about the allegations made against them during their hearing severely calls into question the level of legal advice or case preparation which that detainee receives before their liberty is decided by the *Giudice di Pace*¹⁰⁶.

¹⁰⁶ A *Giudice di Pace* is a non-specialist small-claims judge who is in charge of resolving minor cases or disputes under civil, administrative or criminal law. In Italian, a *Giudice di Pace* is commonly called an “honorary judge” (*giudice onorario*) who is appointed by the Minister of Justice. *Giudici di Pace* are paid proportionally based on the number of matters that they decide, rather than the amount of time that they spend hearing and deliberating over matters. Selection is based on qualifications and generally the selected *Giudici di Pace* are law graduates who have obtained the qualification to practice law or who have exercised judicial functions. Unlike in some jurisdictions, in Italy it is not necessary to have years of experience as a lawyer or barrister before undertaking the *Giudice di Pace* role. The only further requirement is that a *Giudice di Pace* must be between thirty and sixty-five years of age. In criminal matters the *Giudice di Pace* does not have the power to imprison a person.

IX. AN OVERVIEW OF THE ITALIAN LEGAL AND PROCEDURAL FRAMEWORK

1. LEGAL FRAMEWORK ON FAIR HEARINGS

International Law

Italy has ratified numerous international and European human rights laws that function to ensure fair hearings and access to legal remedies.

Article 10 UDHR states:

“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

Council of Europe

The Article 13 ECHR right to an effective remedy¹⁰⁷ and the Article 5 ECHR right to liberty and security of person¹⁰⁸ provide procedural safeguards that must be respected in immigration matters.

In 2010 the Council of Europe’s Parliamentary Assembly published a report titled *The Detention of Asylum Seekers and Irregular Migrants in Europe*¹⁰⁹, which established ten guiding principles on the legality of detention of asylum seekers and irregular migrants. One of the guiding principles was: “Detention shall be carried out by a procedure prescribed by law and authorised by a judicial authority and subject to a judicial periodic review”.

European Union Law

Chapter III of EU Directive 115/2008/EC outlines procedural safeguards in irregular migration cases. For example, articles 12(1), 13(1) and 13(3) state:

“12(1) Return decisions and, if issued, entry-ban decisions and decisions on removal shall be issued in writing and give reasons in fact and in law as well as information about available remedies. [...]”

“13(1) The third-country national concerned shall be afforded an effective remedy to appeal against or seek review of decisions related to return, as referred to in Article 12(1), before a competent judicial and administrative authority or a competent body composed of members who are impartial and who enjoy safeguards of independence.”

“13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance.”

Italian Law

The Italian legal provisions concerning hearings are found in *Decreto Legislativo 286/1998*, which stipulates that the following must occur when migrants are issued an expulsion decree:

¹⁰⁷ See *Part C. Judicial and Legal Processes, Chapter VIII. Understanding what CIE Is*.

¹⁰⁸ See *Part B. Conditions of Detention, Chapter VI. Relationships with CIE Staff*.

¹⁰⁹ Parliamentary Assembly, *The Detention of Asylum Seekers and Irregular Migrants in Europe*, Report by the Committee on Migration, Refugees and Population, Doc.12105, 11 January 2012.

- 1) The *Questore*¹¹⁰ transmits copies of the documents to the *Giudice di Pace* with no delay and within forty-eight hours, for the validation of the *Questore's* deportation order (art. 14.3)¹¹¹;
- 2) The validation hearing takes place in *camera di consiglio*¹¹² (art. 14.4)¹¹³;
- 3) The foreigner and his lawyer must be quickly informed and be present at the validation hearing (art. 14.4)¹¹⁴; and
- 4) The judge must validate the detention order within the next forty-eight hours (art. 14.4)¹¹⁵.

On paper, *Decreto Legislativo 286/1998* appears to be in line with Italy's human rights obligations under European and international law. However, a deeper analysis of the practical operation of this legislation reveals that it fails to explicitly acknowledge the real objectives of international and European human rights protections for migrants. The measures concerning hearings should be adopted in conformity with the obligation to provide legal safeguards that guarantee an "effective protection of the interests of the individual concerned"¹¹⁶. Italian law prescribes that the hearing must be *in contraddittorio*. *Contraddittorio* essentially means that the validation hearing should not take place without hearing the foreigner's submissions because the purpose of the validation hearing is to hear the parties, in a way that enables the *Giudice di Pace* to evaluate the legitimacy of the expulsion decree.

It is necessary to do a minimum of *istruttoria*¹¹⁷, or preliminary investigation. The theory behind *istruttoria* is that each decision should be made according to the merits of the case within the legal framework. Each decision should be based on objective criteria, meaning that relevant questions need to be asked in all return decisions. Furthermore, a preliminary investigation may help to consider other facts beyond the illegal entry and/or stay that justified the return decision. Therefore, in order for the *Giudici di Pace* to follow the law they are required to

¹¹⁰ The *Questore* is the head of the Italian *Questura*.

¹¹¹ "14.3 Il questore del luogo in cui si trova il centro trasmette copia degli atti al giudice di pace territorialmente competente, per la convalida, senza ritardo e comunque entro le quarantotto ore dall'adozione del provvedimento"; *Decreto Legislativo 286/1998*, art. 14.3.

¹¹² *Camera di consiglio* is a special proceeding characterised by the fact that the dispute is resolved in a faster and private way without a public audience with limited *istruttoria*.

¹¹³ "14.4 L'udienza per la convalida si svolge in camera di consiglio con la partecipazione necessaria di un difensore tempestivamente avvertito. L'interessato è anch'esso tempestivamente informato e condotto nel luogo in cui il giudice tiene l'udienza. Lo straniero è ammesso all'assistenza legale da parte di un difensore di fiducia munito di procura speciale. Lo straniero è altresì ammesso al gratuito patrocinio a spese dello Stato, e, qualora sia sprovvisto di un difensore, è assistito da un difensore designato dal giudice nell'ambito dei soggetti iscritti nella tabella di cui all'articolo 29 delle norme di attuazione, di coordinamento e transitorie del codice di procedura penale, di cui al decreto legislativo 28 luglio 1989, n. 271, nonché, ove necessario, da un interprete. L'autorità che ha adottato il provvedimento può stare in giudizio personalmente anche avvalendosi di funzionari appositamente delegati. Il giudice provvede alla convalida, con decreto motivato, entro le quarantotto ore successive, verificata l'osservanza dei termini, la sussistenza dei requisiti previsti dall'articolo 13 e dal presente articolo, escluso il requisito della vicinanza del centro di identificazione e di espulsione di cui al comma 1, e sentito l'interessato, se comparso. Il provvedimento cessa di avere ogni effetto qualora non sia osservato il termine per la decisione. La convalida può essere disposta anche in occasione della convalida del decreto di accompagnamento alla frontiera, nonché in sede di esame del ricorso avverso il provvedimento di espulsione" *Decreto Legislativo 286/1998*, art. 14.4.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Directive 2008/115/EC, Introductory Principle 11.

¹¹⁷ *Istruttoria* is the initial stage of a legal procedure in which the Court collects all of the necessary elements for the next step of the proceeding. In the *istruttoria* phase the judge carries out investigations and acquires evidence and relevant information for the final judgement.

consider more than merely whether an immigrant's stay was illegal.

2. EXPERIENCES OF VALIDATION AND EXTENSION HEARINGS

Whilst detainees are present at validation hearings, there are nevertheless grave doubts about how effective the system actually is in creating an environment where the detainee and their lawyer are able to adequately explain the detainees' position to the *Giudice di Pace*. Different professional interviewees explained their perception of this problem:

"Validation hearings often have a casual atmosphere [...] the judge makes two or three questions, the chancellor writes, lawyers say something, and there it is. It was really a mere formality. So many fellow lawyers barely participate in validation hearings, leaving the decision on what to do to the Giudice di Pace. So, there is a reduced defence" (Interview 5);

"Validation hearings only last three minutes and all that these Giudici di Pace do is always to ask the same three questions. If someone tries to tell his life story they don't even listen. They just don't care. But they are deciding on people's lives!" (Interview 8)

Above all, this system gives a small amount of attention to the actual immigrants whose own liberty is being determined. In many cases, this is coupled with a failure to provide immigrants with the information necessary to understand their legal situation. One lawyer (Interview 5) explained fundamental flaws in the validation hearing system, which can be summarised as follows:

- Often migrants do not have an accurate perception of what happens at the validation hearing and who the actors who are present at the hearing are;
- Often migrants do not know that they are in a tribunal in front of a decision maker with a lawyer and the only person who they recognise is the police officer; and
- The perception is only to be in front of people who ask questions.

In validation hearings the right to a hearing *in contraddittorio* is at least formally guaranteed. In contrast, in extension hearings there is not even any formal right to *contraddittorio*. In general, the *Giudice di Pace* conducts extension hearings where only a representative from *Questura* and the detainee's lawyer are actually present. Yet, nothing seems to justify the detainees' absence. The *Corte di Cassazione*¹¹⁸ addressed this particular issue in 2010 by granting *contraddittorio* for extension hearings. Nevertheless, both our detainee and lawyer interviewees indicated that in their experience in Turin nothing has changed since the *Corte di Cassazione* raised the matter in 2010. The *Corte di Cassazione* again confirmed its guidance in the recent order n. 9596/12 of 13 June 2012:

"[...] [T]his Court has recently proceeded to consider the law secundum constitutionem (Cass. 4544 and 10290, 2010; Cass. 13117 and 13767, 2011) and reached the conclusion that the same guarantees of contraddittorio should be applied to extension hearings, consisting of the necessary participation of a legal representative and of hearing the detainee himself, as is explicitly foreseen for validation hearings, under art. 14.4 Law Decree 286/1998"¹¹⁹.

¹¹⁸ The *Corte di Cassazione* is the Italian Supreme Court located in Rome. It is a *giudice di legittimità*, which means that it cannot undertake merits review and it can only hear judicial review questions about the interpretation of law and procedural correctness. Moreover, it solves conflicts about jurisdiction.

¹¹⁹ *"[...] [Q]uesta Corte ha proceduto di recente alla doverosa lettura secundum constitutionem delle norme stesse (Cass. 4544 e 10290 del 2010, 13117 e 13767 del 2011) pervenendo alla conclusione per la quale al sub*

We are not in a position to draw conclusions about whether this recent 13 June 2012 Court order has helped to influence the manner in which extension hearings are conducted in Turin. However, in light of the current circumstances and past experience, it is legitimate to ask ourselves what would actually happen if there were *Giudici di Pace* in Turin who continued not to follow the *Corte di Cassazione's* order n. 9596/12 of 13 June 2012.

3. GIUDICE DI PACE

Decreto Legislativo 286/1998 gives *Giudice di Pace* the jurisdiction to conduct validation hearings and extension hearings. There are no specific provisions under European law that precisely dictate what level of judicial or administrative authority should be used to determine immigration and administrative detention matters. However, Article 13(1) of EU Directive 115/2008/EC does impose the requirement that the decision maker be competent, independent and impartial.

The choice to give *Giudice di Pace* jurisdiction over validation and extension hearings in Italy raises a number of concerns. During this research study we consistently received evidence that called into question whether *Giudice di Pace* is the appropriate forum for a matter as serious as immigration detention: “*Giudice di Pace* has a lack of information and a lack of training [...] and there is less authority by the *Giudice di Pace* in comparison to the toga [judges]” (Interview 5). Another interviewee alleged that *Giudici di Pace* often have a superficial attitude: “the implied understanding, although not expressed, is that you feel “so, here we are to validate” rather than “we are here to decide the final result”” (Interview 5). All of the lawyers who were interviewed expressed similar criticisms: “This kind of judge is completely inadequate and not prepared. In my opinion we need a proper judge [giudice togato¹²⁰], one which also has a specific background” (Interview 8).

In fact, the *Giudice di Pace* was originally created in 1991 for the purpose of settlement procedures and it can be equated to what some countries would call a Small Claims Tribunal or a local Civil and Administrative Tribunal. The *Giudice di Pace* usually decide matters like neighbourhood disputes, trespass to land, contraventions of legislation concerning the supplying alcohol to drunk people and summary criminal offences. Some interviewees went so far as to accuse the *Giudice di Pace* of being completely inadequate, incompetent and unprepared to embark on immigration decisions where a person’s liberty is at stake. For example, in criminal law the *Giudice di Pace* does not have the power to sentence a person to jail. Rather, the *Giudice di Pace* only has the jurisdiction to consider criminal matters where the maximum penalty is a pecuniary sentence, such as a fine.

Although CIE hearings are administrative procedures, the judges are deciding on personal freedom. Adopting *Giudice di Pace* as the forum to approve and extend immigration detention seems to conflict with the entire basis of a legal system that values the notion of liberty throughout its constitutional framework. It would be more in line with the constitutional idea

procedimento di concessione della proroga devono essere applicate le stesse garanzie del contraddittorio, consistenti nella partecipazione necessaria del difensore e nell'audizione dell'interessato che sono previste esplicitamente, ai sensi dell'art. 14, quarto comma, del d.lgs. n. 286 del 1998, nel procedimento di convalida della prima frazione temporale dell'trattenimento”, Corte di Cassazione, Sezioni Unite Civili, ordinanza del 13 giugno 2012, n. 9596. Supreme Court, Unified Civil Section, order of 13 June 2012, n. 9596; see also Corte di Cassazione, Sezione VI Civile, ordinanza del 19 giugno 2012, n. 10055. Supreme Court, Civil Section VI, order of 19 June 2012, n. 10055.

¹²⁰ A *giudice togato* is a judge who exercises a judicial function indefinitely and who is appointed via an open and competitive application process.

that “personal liberty is inviolable [...]”¹²¹ if the only courts who had the jurisdiction to decide matters of personal freedom were those courts that incorporate strong rights protection and procedural safeguards, such as *contraddittorio*, *istruttoria* and a timely appeal process.

Other lawyers raised doubts about the independence and neutrality of many *Giudici di Pace* and noted several problems in comparison to judges in other courts: “When material [evidence/legal argument] is provided to ordinary courts, the government [representative] cannot have a conversational attitude. However, with the *Giudice di Pace* this can happen” (Interview 5). Questions were raised as to whether the current set-up is consistent with the separation of powers and the need for judicial independence: “There are also rumours about phone calls between *Giudici di Pace* and *Questura*. It’s easy to put pressure on this kind of judge. Perhaps this is also the reason why they have been chosen for these procedures” (Interview 8).

It is not possible to appeal a *Giudice di Pace*’s decision in a validation hearing to the local Court. Rather, the only recognised avenue for appeal is to take the matter to the *Corte di Cassazione*, which is Italy’s Supreme Court located in Rome. Moreover, the *Corte di Cassazione* cannot undertake merits review, but rather it only hears questions about the interpretation of law, or judicial review. Appealing to the *Corte di Cassazione* is a complicated and time-consuming procedure and not all lawyers can personally appear in the *Corte di Cassazione* because to appear in this Court a lawyer must have practiced law for at least twelve years. In practice, this issue can force detainees to look for another lawyer if they would like to appeal the *Giudice di Pace*’s decision. Changing lawyers can be difficult and stressful for detainees because they are living each day inside detention, often facing emotional distress as well as language barriers.

The ECHR and the ICCPR both stipulate that a person has the right to an effective remedy in the case that a right in one of the respective covenants is breached¹²². Under Article 13 ECHR it is not enough for a remedy to be merely theoretically available. In *Čonka v Belgium*¹²³ the ECtHR held: “The Convention is intended to guarantee rights that are not theoretical and illusory, but practical and effective”¹²⁴. The choice to have the *Giudice di Pace* hear CIE matters, the alleged speed and lack of individuality in hearings where serious matters are decided and the difficulty of appealing *Giudice di Pace* decisions are all factors that combine to call into question whether Italy is meeting its human rights obligation to ensure that the right to an effective remedy could be reasonably accessed prior to a detainee’s expulsion.

¹²¹ Article 13 of the *Costituzione della Repubblica Italiana, aggiornata alla Legge Costituzionale 30 maggio 2003, n. 1*. Constitution of the Italian Republic, as updated by Constitutional Law 30 May 2003, n. 1. The original Italian version of Article 13 reads: “La libertà personale è inviolabile [...]”. However, there are situations where this liberty can be limited as explained, for example, by Article 13 itself.

¹²² Article 13 ECHR; Article 2(3) ICCPR.

¹²³ *Čonka v. Belgium*, 51564/99, Council of Europe: European Court of Human Rights, 5 February 2002.

¹²⁴ *Ibid.*, para. 46. For a further explanation of Article 13 ECHR, see *Part C: Judicial and Legal Processes, Chapter VIII. Understanding what CIE Is*.

X. RELATIONSHIPS WITH LAWYERS

1. LEGAL FRAMEWORK: LEGAL AID AND PRE-TRIAL CASE PREPARATION AND LEGAL ADVICE

Council of Europe

Part IV(C)(31) of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment's *CPT Standards* states:

"IV(C)(31) The right of access to a lawyer should apply throughout the detention period and include both the right to speak with the lawyer in private and to have him present during interviews with the authorities concerned. [...]"

European Union Law

Articles 13(3), 13(4) and 16(2) of EU Directive 2008/115/EC state:

"13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance."

"13(4) Member States shall ensure that the necessary legal assistance and/or representation is granted on request free of charge in accordance with relevant national legislation or rules regarding legal aid, and may provide that such free legal assistance and/or representation is subject to conditions as set out in Article 15(3) to (6) of Directive 2005/85/EC."

"16(2) Third-country nationals in detention shall be allowed - on request - to establish in due time contact with legal representatives, family members and competent consular authorities."

Italian Law

Article 18.4 of *Decreto Legislativo 150/2011*¹²⁵ (Legislative Directive 150/2011) states:

"18.4 The person¹²⁶ is granted free legal assistance by the State, and, if lacking a legal representative they will be assisted by a judge appointed lawyer, selected among those enlisted in the charter provided for by article 29 of Law Decree 271/1989, and by an interpreter, if needed."¹²⁷

¹²⁵ *Decreto Legislativo 1 settembre 2011, n. 150, "Disposizioni complementari al codice di procedura civile in materia di riduzione e semplificazione dei procedimenti civili di cognizione, ai sensi dell'articolo 54 della legge 18 giugno 2009, n. 69" (GU n. 220 del 21-09-2011)*. Legislative Decree of 1 September 2011, n. 150, "Provisions complementary to the civil procedure code on the reduction and simplification of pre-trial proceedings as per article 54 of the law of 18 June 2009, n. 69" (GU n. 220 of 21-09-2011).

¹²⁶ In this context the word "person" has been substituted to mean an applicant, a respondent, a plaintiff, a defendant or anyone with a substantial interest in legal proceedings.

¹²⁷ "Il ricorrente è ammesso al gratuito patrocinio a spese dello Stato, e, qualora sia sprovvisto di un difensore, è assistito da un difensore designato dal giudice nell'ambito dei soggetti iscritti nella tabella di cui all'articolo 29 delle norme di attuazione, di coordinamento e transitorie del codice di procedura penale, di cui al decreto legislativo 28 luglio 1989, n. 271, nonché, ove necessario, da un interprete".

2. LEGAL AID

The relationship between lawyers and detainees is multi-faceted and it includes lawyer-client interviews for advice or case preparation, representation in front of the *Giudice di Pace* and access to legal information about appeal rights, asylum applications or the validation and periodic extension of immigration detention¹²⁸. Detainees have the right to nominate an *avvocato di fiducia*¹²⁹ and where the detainee does not have their own *avvocato di fiducia* the *Giudice di Pace* will appoint an *avvocato d'ufficio*¹³⁰. In both cases, detainees with limited financial means have a legal right to access the *gratuito patrocinio* (legal aid), meaning that they do not have to pay for their lawyer's work. The process for appointing an *avvocato di fiducia* from within Turin's CIE appears to involve the Red Cross. Detainees call a Red Cross employee and give them the name of the lawyer who they wish to nominate. Our research suggests that detainees' legal choices are influenced by the knowledge and experience of other detainees. However, this study revealed that a number of detainees might not be aware that they have the option to appoint a personal lawyer, nor do they seem to understand the process through which this can be done. Thus, the *Giudice di Pace* often nominates an *avvocato d'ufficio* at the validation hearing:

"I only saw my staff attorney [avvocato d'ufficio] at the hearing together with the judge, that's it. They didn't tell me anything. That lawyer has never called me back again and I do not have his phone number so I cannot contact him" (Interview 22);

"I had my lawyer in Massa Carrara, but here they provided me with a staff attorney [avvocato d'ufficio]. And I got upset, because I've never asked for it. And she doesn't care about me. When validation and extension hearings occur she comes here, she receives money, but she has not come to visit me, nor called me, not even once" (Interview 19).

Not all the detainees are aware of the chance to nominate a lawyer without needing to pay legal fees due to the legal aid programme of *gratuito patrocinio*. Even though a detainee has a right to legal advice under the law, this right can be unattainable for those who are unaware that it exists. In many cases, crucial information about accessing lawyers for advice is only relayed by word of mouth between the detainees and as an interviewed detainee remarked: *"Within the CIE everyone knows me. I always help those who need either a lawyer or information" (Interview 14).*

While the *avvocato d'ufficio* participates in the hearing, our research raised serious doubts about the amount of time that is generally given to *avvocati d'ufficio* to prepare their cases and to understand the complexities of their client's stories. The *avvocato d'ufficio* is appointed the morning of the validation hearing with the *Giudice di Pace* and sometimes they will be reappointed for future extension hearings. Validation and extension hearings are absolutely crucial because they are the forums where *Questura's* representative claims for the validation or extension of detention and consequently the detainee's lawyer should have all of the individual information and time necessary to adequately explain the detainees' side of the case. Moreover, the lack of time to prepare cases was a recurrent complaint for lawyers and these time constraints do not only hinder the *avvocato d'ufficio* system. For example, one lawyer explained

¹²⁸ *"First of all, lawyers enter CIE to attend the hearings for the validation or extension of detention, or for interviews with their client. Of course this means that the detainee has previously formalised the lawyer's appointment. The hearings take place in the morning, while we can meet detainees in the afternoon, every day except Saturday, from 2 pm to 6 pm, without reservation. In theory the time for interviews is fifteen minutes but often visits are longer" (Interview 8).*

¹²⁹ An *avvocato di fiducia* is a lawyer who a person has individually chosen to represent them for a case.

¹³⁰ In the Italian legal system, an *avvocato d'ufficio* is a lawyer who is appointed by the judge or the prosecution in cases where legal assistance is required by law but a person did not nominate their own lawyer.

how time constraints can pose a massive obstacle for any lawyers who are attempting to provide good representation for their clients: *“We are not informed by the public administration when we are appointed by detainees, or we realise it at the hearing where we discover that we are nominated as their personally appointed lawyer [avvocati di fiducia]”* (Interview 5).

3. VISITS

Although there is usually one room allocated for lawyer-client interviews, maintaining privacy and respectful conditions is still a concern, especially where many lawyers come to visit their respective clients at the same time¹³¹:

“Originally the room had a fully closed door and the personnel, including Polizia di Stato¹³², Carabinieri, Guardia di Finanza and Alpini¹³³, often kept the door open for security requirements, until the door was taken off. Today the interview takes place under conditions of confidentiality and professional secrecy for lawyers, with visual and auditory monitoring: there is a window in the door so as to see inside the interview room” (Interview 4);

“Sometimes, when there are other lawyers waiting to meet their clients, interviews can take place in another room but in this case we have to leave the door open” (Interview 8);

“The place for interviews is really very bad. It is overcrowded. There is no respect. If you go inside a prison, and there the conditions are really not good- particularly nowadays in Italy they are overcrowded, at least [in prison] the places where you speak with a person are clean. There are enough chairs, enough places and you have some hours when you can enter. This is okay, this is to maintain order. But the person is respected. [In prison] [t]he place I need to speak with a person is respected. I am okay, we have a window. It is clean. I can put my stuff on the desk without thinking that this is dirty” (Interview 7).

4. COMMUNICATION

Another important problem highlighted by the interviewed lawyers concerned barriers to communication. Whilst Italian law provides for interpreters during the actual validation and extension hearings¹³⁴, there is no law that guarantees any professional interpreting service for client interviews inside Turin’s CIE. The lack of interpreters can be a significant impediment because our research suggests that at times neither the lawyer nor the client can fully comprehend what each other is advising or disclosing. No state-funded telephone interpreting service is provided for these consultations either. As one lawyer explained:

“Interpreter? The language problem is an important issue, almost crucial. It is not that different from what actually happens in prison. In the latter case the lawyer should nominate a technical consultant, such as an interpreter. This procedure usually turns out to be complex and tough in its application so in the end it’s not really implemented. Obviously, at the CIE this procedure does not exist but it might be practicable to ensure

¹³¹ For further information on the conditions and waiting times for visiting detainees, see *Part B. Conditions of Detention, Chapter II. Family Relationships, Children and CIE, 6. Visits* and *Part C. Judicial and Legal Processes, Chapter X. The Role of Embassies and Consulates in the Identification Procedure*.

¹³² The *Polizia di Stato* is one of the five Italian police branches. It is a civil police branch under the authority of the Department of Public Security of the Ministry of the Interior. Its main function is maintaining order and ensuring public security.

¹³³ The *Alpini* are the mountain troops of the Italian army.

¹³⁴ *Decreto Legislativo 286/1998*, article 14.4.

language support in a similar way [to prison]. Unfortunately, everything happens in this sort of heavy atmosphere within the unconcerned CIE environment, and so everything is vague and the space for rights is very limited” (Interview 10).

Our interviewees criticised the *ad hoc* provision of interpreters because the interpreters who are used can range from police officers and Red Cross staff to family members who interpret via telephone. Using non-professional interpreters challenges lawyer-client confidentiality and it limits the questions that lawyers can ask clients, particularly when the authorities are interpreting:

“There is a lack of interpreters and language may play a key role in the interview. It happened that I once had to ask a detainee about the way in which he had been detained in Lampedusa, to hypothesise about whether there had been a kidnapping of person [by the authorities]. The only person who could help me with interpretation was a police officer! Clearly, I could not enter into specific questions about the issue. We are missing a law that [specifically] regulates CIE interviews, also in relation to interpreters” (Interview 5).

Similarly, using well-meaning interpreters who are not professionally trained increases the risk of accidentally relaying important and at times technical legal information inaccurately:

“We have lots of problems with those who do not speak Italian. Sometimes Red Cross workers help us as interpreters but they are not so keen on doing it. They help us only when they realise the person really needs to talk with a lawyer to explain something. Once I had to speak on the phone with my client’s sister in Italian and then pass the phone to my client so that her sister could explain to her in Arabic what I was saying. Very complicated!” (Interview 8)

5. LACK OF TRUST

Immigration detainees are vulnerable and often trying to decipher a foreign legal system in a second language, so they rely on the help and expertise of professionals. Consequently, a lawyer can be a detainee’s most significant support or link to the outside world. However, detainees often complain that they cannot get in touch with their lawyers, even for matters as fundamental as organising telephone advice or an appointment. Lack of communication can foster a lack of trust.

Sometimes detainees who were transferred from jail to CIE consider their interactions with their previous lawyer to have been a failure and they frequently hold lawyers responsible for their additional CIE detention. Our study revealed that often criminal lawyers do not clearly explain to their immigrant clients about the identification procedure and the realistic possibility of being detained in CIE after release from prison.

Many detainee interviews showed a general distrust of a system that does not appear transparent or based on the rule of law: *“There is a mafia-like agreement involving police, judges and lawyers. The lawyer has an unfair agreement with the CIE in order to extend the detention as this would mean more money for the Italian Government from the European Union” (Interview 15).* This detainee did not perceive of their personal lawyer as a personal representative but rather as another element of an untrustworthy system that was acting in concert.

XI. THE ROLE OF EMBASSIES AND CONSULATES IN THE IDENTIFICATION PROCEDURE

1. LEGAL FRAMEWORK: IDENTIFICATION PROCEDURES AND THE RIGHT TO CONSULAR REPRESENTATION

European Union Law

Articles 16(2) and 15(4) of EU Directive 2008/115/EC state:

“16(2) Third-country nationals in detention shall be allowed - on request - to establish in due time contact with [...] competent consular authorities.”

“15(4) When it appears that a reasonable prospect of removal no longer exists for legal or other considerations or the conditions laid down in paragraph 1 no longer exist, detention ceases to be justified and the person concerned shall be released immediately.”

Italian Law

Article 22.4 of *Decreto del Presidente della Repubblica 394/1999* states:

“22.4 Inside the centre, one or more appropriate rooms are made available for the consular authorities to carry out their activities. The public security authorities grant full cooperation with the consular personnel in order to speed up the implementation of [identification] procedures and the release of the necessary documents [for repatriation], with expenses covered by the Ministry of the Interior.”¹³⁵

2. RELYING ON ONE’S OWN EMBASSY

CIEs were created to speed up identification procedures and implement return decisions, while holding those foreigners whose repatriation cannot be immediately enforced and who are not considered suitable for the legally preferred option of voluntary departure. Hence, on paper the reason why irregular migrants are kept inside CIEs is to identify their country of origin and logistically organise their return:

“If a person has his original and valid passport the procedure is fast: they just have to buy him a ticket. But if detainees don’t have their original passport because they have a copy of it, or if they don’t have any copy at all, or if their original passport is not valid anymore, then their consulate has to intervene and in this case terms [of detention] become unpredictable” (Interview 8).

The identification procedure *ipso facto* implies the involvement of the embassy or consulate of the country to which the foreigner claims to belong. Diplomatic or consular representatives of the third country involved are contacted by *Questura* and are asked for their cooperation in identifying the detainee. After the third country authorities recognise the detainee as a citizen, the repatriation may take place:

¹³⁵ “22.4 Nell’ambito del centro sono resi disponibili uno o più locali idonei per l’espletamento delle attività delle autorità consolari. Le autorità di pubblica sicurezza assicurano ogni possibile collaborazione all’autorità consolare al fine di accelerare l’espletamento degli accertamenti e il rilascio dei documenti necessari, con spese a carico del bilancio del Ministero dell’interno”.

“Your repatriation does not depend on you, but on your embassy [or] consulate. It depends on the fact that it recognises you as its own citizen. If you give your true personal details it is easier to be quickly repatriated but everything depends on your embassy. It has to give its authorisation for your repatriation, this means it has to check and identify you as its own citizen. But this is not easy because some people are not registered at all, for example those who come from the countryside” (Interview 28).

Our interviews with professionals and volunteers at Turin’s CIE revealed a systematic lack of cooperation from several embassies and consulates. On the one hand, some consulates seem to accept their involvement in the identification procedure but nevertheless it was alleged that they still tend to delay the recognition of their citizens as much as possible. For others, there can be genuine practical difficulties hampering the identification process, as highlighted by the abovementioned interview (Interview 28). On the other hand, we received allegations that some consulates and embassies completely refuse any kind of cooperation with Italian authorities, albeit not in an explicit manner. The reasons for such a choice are usually of a political nature:

“Also, there are particular cases. For example, in Modena’s CIE I was told: “we do not host Chinese people because their embassy does not cooperate, if it does not help us identifying them, we cannot repatriate them”” (Interview 28);

“If Italy allocates money for inspections at sea, patrol boats, etc. the country collaborates, but if you do not give anything in return the embassies do not cooperate. Moldova and Ukraine, for example, work slowly” (Interview 4).

The situation appears to be particularly frustrating for detainees who have been taken to CIE after having served a prison sentence¹³⁶. Undeniably, from the detainees’ perspectives there is a lack of efficiency and insufficient cooperation between their consulates and embassies and the Italian authorities who manage criminal and administrative detention:

“Some consulates do not send anyone to identify their citizens, neither in jail nor inside CIE. They do not send any officials, documents, certificates or fingerprints. For example, the Egyptian consulate- I don’t know nowadays, but in the past they never went to jail or CIE to identify migrants who reported to be Egyptian nationals. So, in some cases these migrants remained in jail for years and all that time nobody went there to identify them [...]. But in order to be repatriated they must be identified, so they are detained inside CIE up to eighteen months only for the purpose of identification. And I really do not understand the reason why their own country of origin does not help them to get out of it, to get out of CIE. Detainees themselves suffer very much for this reason because they usually have very good relationships with their consulates and they do not understand why those who are supposed to help and protect them do not do it” (Interview 1).

Moreover, Article 15(4) of EU Directive 2008/115/EC provides that a detainee should be released from CIE when it becomes evident that for some reason the return decision issued against him cannot be enforced. Thus, if it becomes apparent that a detainee will never be identified by a given country because that country simply does not process identification requests, then the detainee in question should be released because the initial reason justifying their detention no longer exists. From our interviews we discovered that while this sometimes occurs, it is only after a considerable period of time has elapsed:

“The rule says that you should not detain a person if you see that there is no chance that you can identify him or deport him. You can release him after it is not possible to obtain his

¹³⁶ See Part B. Conditions of Detention, Chapter III. Prison and CIE.

deportation order, information from the embassy, documents or any other reason. They do it more or less after six months” (Interview 7).

There is strong evidence that Article 15(4) of EU Directive 2008/115/EC is being frequently ignored by Italian authorities, as exemplified in cases where irregular migrants are put inside CIE more than once even when it had not been possible to identify them during their first period of CIE detention:

“There are migrants who have already been inside CIE three or four times and who have already been released because their embassy is not able to identify them” (Interview 28);

“For example, I have a client who is currently detained in CIE and this is her third time inside CIE. But if you couldn’t repatriate her on either the first time or the second one, how can you put her inside CIE for a third time? Why do you detain her? It is only to increase the number of detainees because they [Questura] know that they will never be able to repatriate her. Serbia didn’t recognise her as a Serbian citizen, she has no birth certificate, she has no documents at all. They [Questura] continue asking the Serbian consulate for identification, even though I’ve already provided them with a declaration by the Serbian consulate where it is stated that she does not appear in their records. But they keep insisting” (Interview 8).

A revealing element emerged from our detainee interviews: only one out of seventeen detainees replied affirmatively when asked whether he had ever met diplomatic or consular representatives from his country of origin during his period of detention inside CIE. Furthermore, our only interviewee to have met with consular officials, “X”, has a revealing story to tell. At the time we interviewed X he was inside CIE detention and he had been detained for approximately seven months. Moreover, before arriving in CIE X had also served a sentence of thirteen months imprisonment and no identification procedure was started during that period. Three months after X entered CIE, the Moroccan consular representatives went to visit him. X told us they spoke about the place he comes from and about sending his documents from Morocco to Italy. Yet, strangely enough, it seems the Moroccan representatives did not talk to X about the authorisation for his repatriation at all. On the contrary: *“they told me at the end of this month or next month maximum they [Italian authorities] would release me, but not sending me back to Morocco, just setting me free” (Interview 19).* This is the only direct account we have of a meeting with consular representatives inside Turin’s CIE.

The lack of cooperation between Italian and foreign authorities evidently affects detainees by increasing their feelings of uncertainty because they rarely know if and when their very own embassy or consulate will aid in the identification process. In addition, it generates a sense of disappointment towards their own representatives who, from the detainees’ perspective, have simply left them inside the CIE without even trying to help them out. It seems that often, after a few months of detention, a number of detainees would simply like to go back to their home country. However, it appears that complex political issues are at stake and play a crucial role in the implementation of return decisions.

XII. CIE, POLITICAL ASYLUM AND INTERNATIONAL HUMANITARIAN PROTECTION

“So often the world sits idly by, watching ethnic conflicts flare up, as if these were mere entertainment rather than human beings whose lives are being destroyed. Shouldn't the existence of even one single refugee be a cause for alarm throughout the world?”

- **Urkhan Alakbarov**

“In my country there are troubles right now. Why do they put me in this centre? My family in Libya was affected a lot by the war in Libya. My brother was burnt alive and my father was killed. I escaped from Libya because of the war and I got to Tunisia. From Tunisia I left for Italy.”

- **Interview 22**

1. LEGAL FRAMEWORK: THE RIGHT TO ASYLUM

International Law

As conflicts around the world have multiplied along bloody ethno-political and religious lines, governments are tasked with feeding, clothing and according rights to asylum seekers who have fled their countries of origin. At the time the *1951 Convention Relating to the Status of Refugees*¹³⁷ was signed in the city of Geneva, governments anticipated a speedy resolution to the “refugee crisis”¹³⁸. However, this hope for the refugee crisis to be short-lived was both mistaken and short-sighted; the problems with adequately assisting refugees are neither new nor unusual, except perhaps in the scale at which it took place during the 20th century¹³⁹. Throughout the history of human civilizations, the expulsion of groups of people by other more powerful groups has been commonplace. Language, culture and religion are but some of the many factors that foster antagonism and arouse intolerance towards “the Other” and history is regrettably replete with such examples. However, the difficulty of arriving at an international consensus regarding the term “asylum” is equally understandable, given the plurality of those who could or have been called asylum seekers at different times in history.

The law governing asylum seekers’ rights is broad and multi-faceted and it has been incorporated in domestic, regional and global treaties, covenants, legislation, norms and regulations. The right to seek asylum is expressed in Article 14(1) UDHR:

“14(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution”.

Article 1(A)(2) of the *Convention Relating to the Status of Refugees* (as amended by the *1967 Protocol*) defines a refugee as:

¹³⁷ *Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 U.N.T.S.150 (entered into force 22 April 1954).

¹³⁸ Interestingly, the United Nations’ High Commissioner for Refugees was a post created with an initial period of three years, after which it was expected to cease. Ray Wilkinson, “The Refugee Convention at 50...”, *Refugees: The Wall Behind which Refugees can Shelter* 2(123), 2001, 2.

¹³⁹ The right to secure asylum is one that was recognised by the Greeks and Egyptians, and a limited understanding of the right to asylum was first codified in law by King Ethelbert of Kent in about 600 A.D.

"1(A)(2) A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

While the *1951 Convention Relating to the Status of Refugees* offers a broad range of rights, what is sought to be examined in this section is the condition of those detainees inside Turin's CIE who are asylum seekers and have not yet qualified for the level of protection guaranteed to a refugee, or those who have applied for a subsidiary protection status. The best practice standards for the procedure of determining a refugee application have been articulated in the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*¹⁴⁰ and the Council of Europe's *Guidelines on Human Rights Protection in the Context of Accelerated Asylum Procedures*¹⁴¹.

International law permits the detention of asylum seekers but restricts such actions by way of Article 31(1) of the *1951 Convention Relating to the Status of Refugees*, which disallows the State from imposition of penalties on irregular entrants in cases where they have come directly from a State where they claim to have been persecuted if "[...] they present themselves without delay to the authorities and show good cause for their illegal entry or presence". Article 31(2) further restricts unnecessary prohibitions on movement:

"31(2) The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country."

Furthermore, the *UNHCR Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*¹⁴² and relevant *Conclusions*¹⁴³ together militate against detention and require the State to justify each individual detention decision as being necessary and for a specific purpose and to be as brief as possible. Detention is to be permitted only where it is necessary and lawful in order to verify identity, to determine the truth of the basis for an asylum claim, to deal with cases of destroyed or fraudulent identity documents or for national security or public order¹⁴⁴.

Moreover, the *UNHCR Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers* state that "conditions of detention for asylum-seekers should be

¹⁴⁰ United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992, UNHCR 1979.

¹⁴¹ Committee of Ministers of the Council of Europe, *Guidelines on human rights protection in the context of accelerated asylum procedures*, adopted by the Committee of Ministers of the Council of Europe on 1 July 2009 at the 1062nd meeting of the Ministers' Deputies.

¹⁴² United Nations High Commissioner for Refugees, *Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*, UNHCR, 26 February 1999, Guidelines 2 and 3.

¹⁴³ United Nations High Commissioner for Refugees, *Conclusion No. 44 (XXXVII) Detention of Refugees and Asylum-Seekers*, ExCom, UNHCR, 37th Session, 1986, para. B.

¹⁴⁴ *Id.*; United Nations High Commissioner for Refugees, *Conclusion No. 85 (XLIX) International Protection*, ExCom, UNHCR, 49th Session, 1998, para. (w); United Nations High Commissioner for Refugees, *Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*, Guideline 3.

humane with respect shown for the inherent dignity of the person” and that asylum seekers should be able to have contact with the world outside, visitors, exercise, recreation activities, educational opportunities, freedom to practice their religion and provision of basic day-to-day necessities¹⁴⁵. Moreover, both the *UNHCR Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers* and the Council of Europe’s *Guidelines on Human Rights Protection in the Context of Accelerated Asylum Procedures* state that asylum seekers must be granted the right to be informed of the reasons for their detention both *de jure* and *de facto* and about their entitlements and remedies in a manner and language that is comprehensible to them¹⁴⁶. Furthermore, asylum seekers have the right to “contact and be contacted by the local UNHCR Office, available national refugee bodies or other agencies and an advocate. The right to communicate with these representatives in private, and the means to make such contact should be made available”¹⁴⁷. This right should be communicated to asylum seekers immediately following their detention¹⁴⁸.

Council of Europe

While the ECtHR has found that States have a broad discretion to detain irregular migrants, such detention must be shown to have been justified, reasonable and in reasonable conditions¹⁴⁹. It has been equally noted that all controlling laws governing immigration detention must not derogate from the rights granted under international law in order to ensure the procedural guarantees which enable a person to apply for asylum¹⁵⁰.

European Union Law

During the last decade the European Union has committed itself to harmonising asylum procedures in all its Member States. EU Directive 2003/9/EC¹⁵¹, EU Directive 2004/83/EC¹⁵² and EU Directive 2005/85/EC¹⁵³ respectively lay down: a set of minimum standards concerning the reception of asylum seekers; the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted; and the procedures for granting and withdrawing refugee

¹⁴⁵ United Nations High Commissioner for Refugees, *Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*, Guideline 9.

¹⁴⁶ *Id.*; Committee of Ministers of the Council of Europe, *Guidelines on human rights protection in the context of accelerated asylum procedures*, Principle XI.5. See also Committee of Ministers of the Council of Europe, *Twenty Guidelines on Forced Return*, adopted by the Committee of Ministers of the Council of Europe on 4 May 2005 at the 925th meeting of the Ministers’ Deputies, Guideline 6.

¹⁴⁷ United Nations High Commissioner for Refugees, *Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*, Guideline 5(v); United Nations Working Group on Arbitrary Detention, *Annual Report 1998*, UN Doc. E/CN.4/1999/63, 18 December 1998, para. 69, Guarantee 14; United Nations Working Group on Arbitrary Detention, *Annual Report 1999*, UN Doc. E/CN.4/2000/4, 28 December 1999, Annex II, Deliberation No. 5 “Situations regarding immigrants and asylum-seekers”, Principle 10.

¹⁴⁸ United Nations General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, A/RES/43/173, adopted 9 December 1988, Principle 16.2; Committee of Ministers of the Council of Europe, *Guidelines on human rights protection in the context of accelerated asylum procedures*, Principle XIV.

¹⁴⁹ *Saadi v. United Kingdom*, para. 74.

¹⁵⁰ *Amuur v. France*, 17/1995/523/609, Council of Europe: European Court of Human Rights, 25 June 1996, para. 43.

¹⁵¹ Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, L 31/18 *Official Journal of the European Union*, 6.2.2003.

¹⁵² Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, L 304/12 *Official Journal of the European Union*, 30.9.2004.

¹⁵³ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, L 326/13 *Official Journal of the European Union*, 13.12.2005.

status. The harmonisation of EU national systems and procedures is meant to help limit the secondary movements of asylum seekers among Member States, where such movements would be caused by differences in the national legal frameworks.

EU Directive 2003/9/EC establishes that applicants must be informed “of at least any established benefits and of the obligations with which they must comply relating to reception conditions”¹⁵⁴. As a general rule, Member States shall allow asylum seekers freedom of movement within their territory or within an assigned area¹⁵⁵. However, according to Article 7(3), “when it proves necessary, for example for legal reasons or reasons of public order, Member States may confine an applicant to a particular place in accordance with their national law”. Member States shall ensure asylum seekers’ rights in terms of: family unit¹⁵⁶, access to the education system for minors¹⁵⁷ and material reception conditions and health care¹⁵⁸. Special provisions must be applied to people with special needs, such as minors and victims of torture and violence¹⁵⁹.

EU Directive 2004/83/EC aims to ensure that Member States apply common criteria for the identification of persons in need of international protection and that a minimum level of benefits are available for these people in all Member States. International protection is a broader concept than political asylum and it includes both the refugee status and the subsidiary protection status. Therefore, the rights and benefits related to humanitarian protection are granted also to persons eligible for subsidiary protection, who are defined as third-country nationals who do not qualify as refugees but who, if returned to their country of origin, would face a real risk of suffering serious harm, and who are unable or unwilling to avail themselves of the protection of that country¹⁶⁰. According to Article 4(3), the assessment of an application for international protection is to be carried out on an individual basis and includes taking into account: the facts relating to the applicant’s country of origin; documentation and statements presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm; and the individual position and personal circumstances of the applicant. Chapter VII of EU Directive 2004/83/EC lists the whole range of rights and benefits that Member States have to guarantee to persons who have recognised subsidiary protection status.

EU Directive 2005/85/EC aims to establish common standards and procedures for granting and withdrawing refugee status throughout the EU. The Directive provides procedural guarantees for applicants, such as the rights: to be informed about the procedure in a language they can understand; to access legal assistance; to communicate with the UNHCR; and to receive the services of an interpreter¹⁶¹. Applicants should also be given the opportunity to have a personal interview before a decision is taken and Member States must ensure that a written report is made containing the essential information about the application as reported by the applicant¹⁶². Moreover, EU Directive 2005/85/EC sets minimum requirements for the decision-making process: decisions should be taken individually, objectively and impartially; precise and up-to-date country of origin information should be obtained by different sources; and the personnel examining applications and taking decisions should be specialised in the field of refugee and

¹⁵⁴ Directive 2003/9/EC, Article 5(1).

¹⁵⁵ Directive 2003/9/EC, Article 7(1).

¹⁵⁶ Directive 2003/9/EC, Article 8.

¹⁵⁷ Directive 2003/9/EC, Article 9.

¹⁵⁸ Directive 2003/9/EC, Articles 13, 14 and 15.

¹⁵⁹ Directive 2003/9/EC, Articles 17, 18, 19 and 20.

¹⁶⁰ Directive 2004/83/EC, Article 2(f).

¹⁶¹ Directive 2005/85/EC, Articles 10(1) and 15.

¹⁶² Directive 2005/85/EC, Articles 12 and 14.

asylum law¹⁶³. In addition, decisions about applications must be given in writing and negative decisions must be motivated and written information must be provided explaining how to challenge negative decisions¹⁶⁴. Finally, Member States must ensure that applicants have the right to an effective remedy before a court against negative decisions taken on their application for asylum¹⁶⁵.

Italian Law

Italy transposed the three aforementioned EU directives into domestic law¹⁶⁶.

However, Italy's treatment of asylum seekers and refugees has been considered as extremely controversial within the European Union, amidst international human rights NGOs and at Italy's 2010 Universal Periodic Review by the United Nations Human Rights Council¹⁶⁷. For example, on 2 July 2012 the Administrative Court of Stuttgart in Germany decided that the applicant asylum seekers could not be sent back to Italy under the "Dublin II Regulation"¹⁶⁸. In making their decision, the judges took into consideration the decision of the Court of Justice of the European Union of 21 December 2011 (C-411/10 and 493/10) and decided that if the applicant asylum seekers were returned to Italy they would be faced with the risk of "inhuman and degrading treatment" based on the "systemic deficiencies" of the asylum procedures and reception conditions in Italy. This recent decision is in line with similar assessments given in past months by other administrative courts all over Germany, such as the courts in Lüneburg, Freiburg, Karlsruhe, Dusseldorf, Augsburg, Gelsenkirchen and Magdeburg¹⁶⁹.

¹⁶³ Directive 2005/85/EC, Article 7(3).

¹⁶⁴ Directive 2005/85/EC, Articles 9(1) and 9(2).

¹⁶⁵ Directive 2005/85/EC, Article 39.

¹⁶⁶ *Decreto Legislativo 30 maggio 2005, n. 140 "Attuazione della direttiva 2003/9/CE che stabilisce norme minime relative all'accoglienza dei richiedenti asilo negli Stati membri"* (GU n. 168 del 21-7-2005). Legislative Decree 30 May 2005, n. 140 "The implementation of Directive 2003/9/EC laying down the minimum standards for the reception of asylum seekers" (GU n. 168 of 21-7-2005); *Decreto Legislativo 19 novembre 2007, n. 251 "Attuazione della direttiva 2004/83/CE recante norme minime sull'attribuzione, a cittadini di Paesi terzi o apolidi della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonché norme minime sul contenuto della protezione riconosciuta"* (GU n. 3 del 4-1-2008). Legislative Decree 19 November 2007 "The implementation of Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals as refugees or as persons who otherwise need international protection and the content of the protection granted" (GU n. 3 of 4-1-2008); *Decreto Legislativo 28 gennaio 2008, n. 25 "Attuazione della direttiva 2005/85/CE recante norme minime per le procedure applicate negli Stati membri ai fini del riconoscimento e della revoca dello status di rifugiato"* (GU n. 40 del 16-2-2008). Legislative Decree 28 January 2008, n. 25 "The implementation of Directive 2005/85/EC on the minimum standards on procedures in Member States for granting and withdrawing refugee status" (GU n. 40 of 16-2-2008).

¹⁶⁷ See for example: Amnesty International, *Annual Report 2012*, 2012 <<http://www.amnesty.org/en/region/italy/report-2012>>; Human Rights Watch, *Annual Report 2012: Events of 2011*, 2012, 450-452 <<http://www.hrw.org/world-report-2012>>; Thomas Hammarberg, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011*, CommDH(2011)26, Strasbourg, 7 September 2011; International Commission of Jurists, *United Nations Human Rights Council 7th Session Working Group on the Universal Periodic Review 8-19 February 2010: ICJ Submission to the Universal Periodic Review of Italy*, September 2009, 3; for a full list of questions raised and recommendations made to Italy at the Human Rights Council peer-based review process, see <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/ITSession7.aspx>>.

¹⁶⁸ *Verwaltungsgericht Stuttgart, Urteil vom 12. Juli 1990-A 9 K 10452/89*, A 9 K 10452/89, Germany: Verwaltungsgericht, 12 July 1990; Council Regulation (EC) No 343/2003 of 18 February 2003, establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, L 50/1 *Official Journal of the European Union* 25.2.2003 ("Dublin II Regulation").

¹⁶⁹ For more details about the information that the Stuttgart Court considered in making their determination about the living conditions of asylum seekers in Italy, see the report done by the German NGO "Pro Asyl":

2. THE SITUATION INSIDE TURIN'S CIE

Our study shows that many of the international and European protections for asylum seekers are at best respected in form. A number of detainees obtain information about their rights via informal channels such as communication with other detainees¹⁷⁰. There appears to be a concerted attempt to dissuade detainees from asking for asylum- a lawyer working at the CIE noted that detainees were frequently questioned about their desire to apply for asylum and at times they were misinformed about their legal rights¹⁷¹. At least in part, this could be attributed to an inherent conflict of interest because all of the CIE staff whether it be interpreters, Red Cross or the police are essentially government paid and hence there is no way to access a completely independent source of information at the CIE:

“For example, translators seem to be good people who are trying to understand if there are problems or not but the problem is that they are paid from the Red Cross and the director of this camp is from the Red Cross. In any case, even if they are good people, they are paid by Red Cross, they are not following the interest of the person [detainee], but the interests of the camp. For example, when detainees are speaking with translators about conditions for political asylum, they will remind them that if they ask for political asylum they won't go back to their country” (Interview 7).

In the words of another lawyer:

“There is a sort of word of mouth among guys detained in the same area, especially among those who may not have a lawyer, this happened for example with many Tunisians. Many of them apply for asylum but then they say: “No, I don't really want asylum, I want the humanitarian permit”, because some of them more or less understand what asylum is and understand that they want something different but they just don't know the proper procedure since nobody ever explains it to them. Nobody inside CIE explains to them what asylum is and what the procedures are. They don't know what the Commission¹⁷² is. Some get more precise information through their lawyers, at least I hope so. Most of them only apply for asylum once they are inside CIE, and not before, and they do it [apply] a little bit randomly, without knowing exactly what asylum is and what its function is. [...] There is no information” (Interview 8).

Even more alarmingly, in practice there is no prohibition on deportation in the period between when a request for asylum is first made and when that request is formalised by being

Maria Bethke and Dominik Bender, Förderverein PRO ASYL e.V., *The Living Conditions of Refugees in Italy*, 27 February 2011 <http://www.proasyl.de/fileadmin/fm-dam/q_PUBLIKATIONEN/2011/Italyreport_en_web_ENDVERSION.pdf>.

¹⁷⁰ “Everyone here knows. Nearly everyone has asked for asylum, like the Tunisians who arrived from Lampedusa. Between us we get information” (Interview 12).

¹⁷¹ “Also, for example, once a person asks for political asylum they say: “Okay, but are you really sure that you want to ask for political asylum? Because you know, if they accept your request you can never go back to your country”. It is something I know directly from the director of the CIE. He told me that this is what they tell [detainees]. Because from their point of view all requests are not really requests for political asylum and it is something that they [detainees] are doing just to have a chance to go out of the camp. In fact, [if you get refugee status] you really cannot go back, because Italian authorities will think you have no problems, but you can go [back to your country of origin] with another kind of protection, humanitarian for example. But this is something they say to avoid a request. [...] They [detainees] are not well informed about their rights, I would say” (Interview 7).

¹⁷² The *Commissione territoriale per il riconoscimento della protezione internazionale* is an administrative body under the authority of the Ministry of the Interior. Its function is to examine and decide on the applications for the recognition of the refugee status or the subsidiary protection status. There are ten *Commissioni Territoriali* in Italy. Each of them is competent over a territory that comprises a number of provinces.

administratively entered onto official records. This is a striking violation of both the letter and spirit of international guarantees for asylum seekers¹⁷³. Even reapplication does not halt deportation and the overwhelming impression that the CIE authorities have about those applying for asylum is that they are lying: *“It is like this because some of the stories have nothing to do with political asylum but sometimes the problem is not with the stories. Sometimes they are real asylum seekers but they [the CIE authorities] do not understand, they think that they [detainees] are all liars. They are all treated like liars”* (Interview 8).

Moreover, there is anecdotal evidence to suggest a racial and national classification of irregular entrants and migrants, which violates the fundamental principle against a group-identity based denial of asylum claims. The theory and the practice of claiming asylum is starkly different:

“It works like this when you arrive in Lampedusa: if you are Black they make you apply for asylum, if you are Arab they take you to CIE. In recent years there has been a true racial separation. From the theoretical point of view, according to the law if you apply for asylum at the border you will be taken to CARA [reception centre for asylum seekers], while if you do not apply for asylum and you are issued a rejection order or a return decision you will be taken to CIE. If you apply for asylum after you received a rejection order or return decision, that is after you entered CIE, then you have to stay inside CIE until a decision is made by the relevant Commission. Meanwhile your removal is suspended.

But from the practical point of view it works in a different way. In 2011, 25,000 Tunisian migrants arrived in Italy and in addition there were migrants from sub-Saharan Africa. When boats were coming from Libya it was decided that those people could apply for political asylum. On those boats there were people from Nigeria and from Mali who had never thought about Italy, they were fleeing a war and they did not even know what an application for asylum was. The UNHCR was responsible for dividing those who could apply from those who could not. If on the same boats there was a Tunisian guy, given the fact that there is a well-working repatriation agreement between Italy and Tunisia, he was directly taken to CIE. Arab people were not allowed to apply for asylum. If they wanted to, they could do it from inside CIE.

[...] So, there are people who are arbitrarily directed towards the asylum procedure, when such procedure will end up in a refusal. There has been a certain approximation in dealing with these procedures. There have been serious cases in 2011. There have been Tunisian migrants who applied for political asylum the moment they crossed the border. The UNHCR did its job properly but then the Prefettura of Lampedusa did not formalise the application. And this is a very serious episode” (Interview 28).

Another case which calls into question the way that asylum procedure is conducted is a recent experience that a lawyer recounted whereby owing to administrative *lachesse* an asylum claim almost failed to be heard. The manner in which the whole incident occurred suggests endemic problems with the way the Italian asylum system is operating:

On 28 April 2012, “Y” was brought to Turin’s CIE after receiving a deportation order. Y is a Nigerian citizen who fled from Kaduna’s riots in 2002 and whose immediate application for asylum had been rejected. On 30 April 2012, Turin’s *Giudice di Pace* validated Y’s detention and

¹⁷³ *“Also, for example, if I am inside the CIE and I ask the Red Cross to make a request for political asylum, from the moment I make this request to the moment they bring me to the Immigration Office inside the camp to formalise the request, one week, ten days, two weeks can pass. During this week I have no guarantee and I can be deported. You are not protected until you formalise your request. If there is a lawyer who comes and says, well, there is my client who wants to ask for it [asylum], okay, they will write [it] in the Immigration Office but if there is no lawyer then there is no guarantee”* (Interview 7).

on the same afternoon Y informed the police guard that he wanted to apply for political asylum. On 7 May 2012, the *Giudice di Pace* at Aosta – in charge of the opposition against the deportation order issued by authorities in Aosta – suspended the repatriation following a successful appeal by Y¹⁷⁴. However, before 9 May 2012, Y was transferred to Rome’s CIE, which is the same course taken by Nigerian citizens before being repatriated from Italy because there are no direct flights between Turin and Nigeria. When Y’s lawyer called Turin’s *Questura* requesting information on his political asylum application, the local authorities denied having received any such claim from Y during the course of his detention in Turin’s CIE. After numerous attempts, Y finally managed to enrol his claim at the Immigration Office in Rome. A few days later, however, the *Giudice di Pace* at Aosta surprisingly reviewed his decision and withdrew the suspension of the deportation procedure even before the hearing. This latest decision – called upon by *Questura* – was grounded on the fact that Y had a criminal record. Under international and domestic legislation a criminal record very rarely affects an asylum seeker’s position. On 23 May 2012, Rome’s *Giudice di Pace* extended Y’s detention. A few days later, Y saw his application rejected and he was ultimately repatriated.

The focal point in this whole case is the manner in which, by commission or omission, the authorities can carelessly endanger asylum claims, perhaps influenced by a presumption that all such applications are baseless and false. There is already a problem with the delay in asylum claims in Turin because it takes almost twelve days to process the claims, despite the fact that the ECtHR case of *Saadi v. The United Kingdom* held that even a seven-day delay was only justifiable by extraordinary circumstances. However, the issue in Y’s case was that a multiplicity of authorities almost caused someone to be deported, political asylum request notwithstanding. In Y’s case, apart from his lawyer, there do not appear to have been any other safeguards to stop involved authorities from expelling a person during the period between making their claim for asylum and having that claim processed and registered.

¹⁷⁴ In order for a lawyer to appeal a deportation order that is issued by a *Prefettura*, it is necessary to lodge the merits-review appeal with the *Giudice di Pace* who has jurisdiction over that *Prefettura*’s territory.

● ● ●

E.'S STORY (INTERVIEW 22)

Today, E. is only eighteen years old. He was born in Libya, where he lived with his family. E.'s father was Libyan and his mother is Tunisian: *"I escaped from Libya because of the war and I went to Tunisia. From Tunisia I left to Italy"*. Conflict and instability have claimed the lives of people who were close to E. - his father was recently killed and his brother was shot and thrown into the sea. E.'s mother was also seriously injured and their house was destroyed.

E. paid 5,000 euros for the twelve-day boat journey to Italy: *"I put my life at risk. We were about two hundred people. It happened that they threw some people overboard who had died on the ship. I saw that with my eyes"*. E. arrived in Sicily in 2010, as a child without documentation. E. underwent fingerprinting and a wrist x-ray to demonstrate his youth and he was then taken to a residence for unaccompanied minors: *"I stayed there for about nine months. But over there they didn't feed me and I was beaten up. After a while I got sick and doctors took me to hospital and I escaped from there"*. E. reached Switzerland where he ended up in a centre for migrants. Shortly after E. was sent back to Italy because his fingerprints were registered in Italy: *"They led me to Milan. I spent seven hours there inside the airport's immigration office. They brought me some papers and they made me sign those. But I could not read in Italian, so I just signed some papers without knowing what was written on them. There wasn't anyone able to translate them into Arabic. No interpreters, no lawyers. Nothing. I realised that the documents were for my expulsion just now, during my detention in Turin's CIE. I have never had problems with justice and I have never been to prison. I want freedom but here there isn't. I want to go out. Why am I still here?"*

E.'s vulnerability and distress was evident from first contact. We had telephoned another detainee, "F.", to participate in this study. F. was happy to have contact from the outside world, and he frantically tried to explain that he was worried about a young man in his cell, E. E. speaks very little Italian, however fortunately F. was able to translate fluently from Arabic for us. E. was detained in Turin's CIE a mere twelve days after his eighteenth birthday. We first spoke to E. on his 27th day of detention and we tried to understand if E. had applied for asylum before being detained in CIE, however E. could not answer this question because he did not understand what we were talking about because he did not even seem to understand the legal concept of a right to asylum. When we asked E. if his attorney had advised him about his rights, he answered: *"I only saw my lawyer at the hearing together with the judge, that's it. They didn't tell me anything. That lawyer never called me back again and I do not have his phone number so I cannot contact him"*. In light of these circumstances, we paused the research in order to urgently find a lawyer to advise and represent E. with an interpreter.

Due to the language barrier and the priority of getting E. legal representation, part of E.'s interview remains incomplete and there are some facts missing. Following the interview, E.'s new lawyer assisted him to make an application for international humanitarian protection. E.'s application was rejected by Turin's *Comissione Territoriale*. According to a later conversation with F., the grounds that E. received for the rejection were that when E. had first arrived in Italy, he had said that he was a Libyan. However, in Switzerland E. told the authorities that he was Tunisian. So, his story appeared to be incoherent and untrustworthy to the *Comissione Territoriale*. Yet, it also seems possible that E. could identify as being both Tunisian and Libyan, since he had a Libyan father and a Tunisian mother.

E. could have launched an appeal against the *Commissione's* decision. However, by this stage time had passed in CIE and E. was so upset and distressed that he said that he wanted to do anything possible to leave CIE detention and he just saw the appeal as prolonging the situation. We must remember that E. is an eighteen-year-old who is detained in a foreign country whilst mourning the loss of his loved ones who recently died in conflict. Since the decision to appeal was ultimately in E.'s hands, there was nothing else that E.'s lawyer could do at this stage. At the present moment E. is simply waiting for his repatriation to take place. Perhaps if E. had received understandable legal advice on asylum when he arrived in Italy or if E. had had a better experience as a child in the children's refuge then things might have been worked out differently. Perhaps if E. had been able to speak to a lawyer with an interpreter in Switzerland or if he had been able to speak to a lawyer for comprehensive and interpreted advice and informed representation in Turin before his validation hearing, then things might have been different.



PART D. OTHER MATTERS

Part D documents additional miscellaneous matters about Turin's CIE, which assist to contextualise our understanding of the centre in terms of its wider economic, social and political context. This part begins with figures on the capacity and costs of Turin's CIE and Italian immigration detention centres more generally. The body of the report then concludes with a comment on a wider sociological issue that was raised by the research in the preceding chapters: the complex question of how identity should be classified. It became apparent throughout the study that at the heart of the CIE was law about who classifies identity, the systemic barriers that prevent access to justice for particular groups of people and the difficulty that some people have in accessing the means necessary to claim their own identity within the legal system.

XIII. FIGURES AND COSTS

1. CAPACITY, DURATION OF DETENTION AND REPATRIATION

At a national level there are thirteen Italian CIEs which can accommodate a total of up to 1,901 detainees¹⁷⁵. The maximum capacity of Turin's CIE appears to be controversial, as most sources including Italy's Senate Commission refer to 180 places¹⁷⁶, while others maintain that total allowance is 210¹⁷⁷. However, the capacity of Turin's CIE is limited due to the impracticability of one of the inner areas, the White Area, from which most escape attempts occurred in 2011. According to Turin's *Prefettura* a total number of 1,144 foreigners entered Turin's detention centre during 2011, with more than 50% being Tunisian citizens¹⁷⁸. Other sources show similar numbers (1,140¹⁷⁹) or slightly lower numbers (1,018¹⁸⁰). The average period of detention ranges from thirty-five days¹⁸¹ to forty-one days¹⁸². Local authorities claim that throughout 2011 nobody was detained in Turin's CIE longer than 280 days¹⁸³. Concerning the repatriation rate, according to members of Turin's *Prefettura* 650 detainees were repatriated during 2011, which represents some 57% of the total detainee population¹⁸⁴. Similarly, an investigation by *Medici per i Diritti Umani* places the 2011 repatriation rate for Turin's CIE at 55.8%¹⁸⁵, while a report by *Associazione A Buon Diritto Onlus* calculated that this repatriation rate was 50.3%¹⁸⁶. The national average repatriation rate for Italian CIE detainees is estimated to be between

¹⁷⁵ Commissione straordinaria per la tutela e la promozione dei diritti umani, *Rapporto sullo stato dei diritti umani negli istituti penitenziari e nei centri di accoglienza e trattenimento per migranti in Italia*, 109.

¹⁷⁶ *Id.*

¹⁷⁷ Luigi Manconi and Stefano Anastasia (eds), *Associazione A Buon Diritto Onlus, Lampedusa non è un'isola. Profughi e migranti alle porte dell'Italia*, June 2012, 292; Medici per i Diritti Umani (MEDU), *Le Sbarre Più Alte. Rapporto sul centro di identificazione ed espulsione di Ponte Galeria a Roma*, May 2012, 7.

¹⁷⁸ Figures provided by members of Turin's *Prefettura*; figures released on regional TV news involved in the "LasciateCIEntrare" action as part of the "Open Access Now" European Alternatives campaign.

¹⁷⁹ Manconi and Anastasia (eds), *Lampedusa non è un'isola*, June 2012, 303.

¹⁸⁰ Medici per i Diritti Umani (MEDU), *L'iniquo ingranaggio dei CIE. Breve analisi dei dati nazionali completi del 2011 sui centri di identificazione ed espulsione*, July 2012, 3.

¹⁸¹ Figures provided by members of Turin's *Prefettura*.

¹⁸² Manconi and Anastasia (eds), *Lampedusa non è un'isola*, June 2012, 306.

¹⁸³ Figures provided by members of Turin's *Prefettura*.

¹⁸⁴ *Id.*

¹⁸⁵ Medici per i Diritti Umani, *L'iniquo ingranaggio dei CIE*, 3.

¹⁸⁶ Manconi and Anastasia (eds), *Lampedusa non è un'isola*, June 2012, 307.

47%¹⁸⁷ and 50%¹⁸⁸. Repatriation expenditures remain rather unclear, speculations elaborated on public figures suggest that a single deportation costs between 4,000 and 10,000 euros¹⁸⁹.

2. COSTS

Providing a final cost for the whole of the administrative detention process is a challenging task, as a comprehensive figure should include hard-to-calculate outflows. On a national level, *Corte dei Conti* – the most important judicial body on public budget control – estimates that in 2010 the final budget for Italian CIEs was 200 million euros¹⁹⁰. Expenditure on the construction of CIEs was 140 million euros, running costs accounted for 30 million euros and another 34 million euros was spent on repatriation procedures. The same Court maintains that in 2004 surveillance activity – implemented by 800 law enforcement officers – cost 26.3 million euros, a figure that has probably been raised throughout recent years¹⁹¹.

In recent years, Turin's CIE underwent a major maintenance program in order to increase its capacity to its present size. The total expenditure of some 14 million euros suggests that this cost 78,000 euros per place inside CIE¹⁹². All available sources claim that organisations running Italian CIEs are granted an average daily funding of 40-45 euros per “guest”¹⁹³. As a result, each detainee costs the State some 1,200-1,300 euros per month, or 7,200-8,100 euros per semester. Turin's CIE is run by the Red Cross, who had a total budget of 3,646,538 euros to manage it in 2011¹⁹⁴. Furthermore, salaries must be paid for roughly another eighty guards operating inside Turin's CIE on a daily basis, ranging from *Polizia di Stato*, *Carabinieri*, *Guardia di Finanza* to the *Esercito Italiano*¹⁹⁵.

¹⁸⁷ Manconi and Anastasia (eds), *Lampedusa non è un'isola*, June 2012, 307.

¹⁸⁸ Medici per i Diritti Umani, *L'iniquo ingranaggio dei CIE*, 3.

¹⁸⁹ Maurizio Bongioanni, “Quanto ci costano i Cie (e chi li gestisce)”, *Radio Radicale* (online), 7 July 2012 <<http://fainotizia.delta.radioradicale.it/contributo/07-07-2012/testo/quanto-ci-costano-i-cie?page=1>>; figures presented by Andrea Stuppini at the European Alternatives Conference, “Quali alternative ai CIE? Prospettive e Proposte”, Bologna, 10 May 2012.

¹⁹⁰ Fulvio Paleologo, “Cie – Dopo il decreto sui rimpatri ancora diritti violati”, *Progetto Melting Pot Europa* (online), 9 August 2011 <<http://www.meltingpot.org/articolo16934.html>>; figures presented by Andrea Stuppini at the European Alternatives Conference, “Quali alternative ai CIE? Prospettive e Proposte”, Bologna, 10 May 2012.

¹⁹¹ Manconi and Anastasia (eds), *Lampedusa non è un'isola*, 66.

¹⁹² Figures provided by members of Turin's *Prefettura*; Maurizio Bongioanni, “Quanto ci costano i Cie (e chi li gestisce)”; figures presented by Andrea Stuppini at the European Alternatives Conference, “Quali alternative ai CIE? Prospettive e Proposte”, Bologna, 10 May 2012.

¹⁹³ *Id.*; Raffaella Cosentino, “Cinque biglietti per un rimpatrio. Quanto costa un'espulsione?”, *Progetto Melting Pot Europa* (online), 2 May 2012 <<http://www.meltingpot.org/stampa17700.html>>; Grazia Naletto, “Immigrati, il costo della cattiveria”, *Sbilanciamoci* (online), 23 November 2010 <<http://www.sbilanciamoci.info/content/pdf/7022>>; Maurizio Bongioanni, “CIE: grandi gruppi e concorrenza al ribasso”, *Radio Radicale* (online), 9 July 2012 <<http://fainotizia.delta.radioradicale.it/contributo/09-07-2012/testo/chi-gestisce-i-cie-grandi-gruppi-e-concorrenza-al-ribasso?page=2>>; Antonello Mangano, “Gli intrappolati. La spending review dimenticata”, *Radio Radicale* (online), 6 July 2012 <<http://www.fainotizia.it/inchiesta/06-07-2012/gli-intrappolati>>.

¹⁹⁴ Medici per i Diritti Umani, *Le Sbarre Più Alte*, 7.

¹⁹⁵ Figures provided by members of Turin's *Prefettura*.

XIV. CLASSIFYING IDENTITY

Language is a powerful tool. Italian immigration law and policy adopts rather surprising terminology to explain the condition of people whose liberty is taken away by the State because they do not have valid immigration documents. The findings from this report strongly indicate that the conditions inside Turin's CIE might be worse than prison¹⁹⁶. Yet, unlike in prison, in CIE a detainee is not a "detainee" (*il detenuto*). Rather, the rules given to detainees in CIE describe them with the euphemism of a "guest" (*l'ospite*). These "guests" cannot leave at their own free will: "*The greatest issue is freedom, I think that any other problem is a matter of secondary importance. People do not understand the reason why they have to throw away one year and a half of their own life inside a cage*" (Interview 28). Nevertheless, the Italian legislation prescribes that they are not being "detained" but rather they are "kept" (*trattenuti*). The Italian legislative term *trattenuto* is the noun that derives from the verb "to keep" (literally, "the kept"). This process of linguistic abstraction is perhaps meant to separate CIE administrative detention from criminal detention.

Identity is not only classified on a linguistic level in order to separate people. Throughout the research, it became clear that there is a deeper question on how we classify identity and perhaps make decisions that deeply affect young people: "*I thought my family would have helped me, while in my family I only found racists. All of them are racist. My own family. My blood. We have the same blood in our body. Why do you treat me like this? I cannot understand. I am going mad*" (Interview 21). Even where there might be legal possibilities for a person to assert their identity rights, lack of access to legal aid and the emotional stress of long legal procedures can also inhibit access to justice.

This Othering process is not limited to third-country nationals, since European Union citizens can end up on the wrong side of identity classification. We received reports alleging that Romanians have also been detained in Turin's CIE: "*It's very difficult to understand why she was arrested since she was an EU citizen, I even asked the question. I was told that anyone can be inside even if they are [EU citizens], you know*" (Interview 3). The practice of detaining Romanian EU citizens is not limited to Turin. According to *Medici per i Diritti Umani*, in 2011 a total of 304 Romanians were detained in Rome's Ponte Galeria CIE¹⁹⁷. This made Romanians the third most represented nationality in Rome's CIE¹⁹⁸. Moreover, Roma gypsies who for generations have been crossing European borders can now find themselves inside CIE.

One area in which young people can suffer is when they are born in Italy to immigrant parents. A person might have lived their entire life in Italy and yet they still cannot claim citizenship rights until they are eighteen years old¹⁹⁹. For example, we spoke to a mother who was a long-term resident with a nine-year-old daughter who had been born in Italy. The little girl goes to school in Italy, speaks Italian as a mother tongue and knows only Italy as her local community.

¹⁹⁶ See *Part B. Conditions of Detention, Chapter III. Prison and CIE*.

¹⁹⁷ *Medici per i Diritti Umani, Le Sbarre Più Alte*, 21.

¹⁹⁸ *Id.*

¹⁹⁹ See *Legge 5 febbraio 1992, n. 91, "Nuove norme sulla cittadinanza"* (GU n. 38 del 15.2.1992). Law of 5 February 1992, n. 91, "New norms on citizenship" (GU n. 38 of 15.2.1992). This law provides that in order to be an Italian citizen by birth: a person must be the child of a father or mother with Italian citizenship (article 1.1.a); their citizenship must not follow that of their parents, pursuant to the law of their country (article 1.1.b); or they must be born within the Republic's territory and both parents must be either stateless or unknown (article 1.2). Article 4.2 provides that "a child who is born in Italy to parents who are not Italian citizens and who has legally resided with no interruption until they turn eighteen, becomes a citizen if he declares that he wants to acquire Italian citizenship within one year" ("*Lo straniero nato in Italia, che vi abbia risieduto legalmente senza interruzioni fino al raggiungimento della maggiore età, diviene cittadino se dichiara di voler acquistare la cittadinanza italiana entro un anno dalla suddetta data*").

Yet, this girl suffers as her mother is locked in CIE over the other side of the country. Who decides this child's identity? This young girl has never been to her mother's country of origin, and yet she risks having her mother deported. The mother had committed crimes that resulted in her serving a six month prison sentence before being taken to CIE. The mother served her time and repaid her debt to society, before being distanced from her daughter for subsequent CIE detention. The daughter has not committed any crime. Yet, at the time of the interview the daughter had already suffered more than five months without her mother due to the mother's CIE detention. At least in this case the daughter could still live with her grandmother, who was a long-term Italian resident with a valid permit to stay. Nevertheless, the way that the CIE system actually operates is extremely concerning when we consider it in terms of individual stories and look at the potential effects on immigrant children, their families and their sense of self.

So, if birth place and life experience are not enough, then surely blood is? In reality, this depends on practical factors: *"[I]t is shameful. I am Italian. I was born in Italy. My father was Italian and they put me in a detention centre. I will be an example for Italy because I am not the only one. There are many people in the same situation as me"* (Interview 21). Blood itself is not enough because one needs to be able to prove their blood and to be able to access the associated legal processes and bureaucratic requirements. In this case, a now deceased Italian parent had not put his paternity on the child's Italian birth certificate. A baby cannot choose whether their parents acknowledge them on their birth certificate. Yet, it is that baby who will grow up classified according to their parents' decision. Had this detainee's father acknowledged his biological son then the young man's life would be very different today: *"I came here to Italy so as to claim my rights. What is the basis of a person? It is his birth certificate. Or, am I wrong? I was born here in Italy, my father was Italian and they put me inside the centre instead of helping me. This is not justice. I also have a horrible disease [severe epilepsy]. I cannot stay here. I am in danger of dying"* (Interview 21). Again, we can only see the system for what it is when we consider it on this human level.

● ● ●

G.'S STORY (INTERVIEW 21)

When we interviewed G. he had been inside CIE for ten days and his story immediately struck us. His answer to one of our first questions – *“What is your country of origin?”* – was as decisive as bewildering: *“Italy!”*

As a matter of fact, G. was born in Italy in 1983 from a Moroccan mother and an Italian father. His father did not recognise him legally since at the time of G.'s birth his father was in prison. G. has a birth certificate stating he was born in Italy from a Moroccan mother but his Italian father is not mentioned therein.

A short time after G.'s birth, his mother decided to go back to her home country and to her family because in Italy she was completely alone with her baby and to her great distress nobody was willing to help her, not even the family of G.'s father. Therefore, G. went to Morocco with his mother when he was nine months old and he was raised by his mother and continued to live in Morocco until the age of twenty-two. Meanwhile, in 1999 G.'s father died.

In 2006, G. decided to leave Morocco for Italy, feeling that half of his identity was Italian: *“I came back to Italy because I wanted to claim my rights because I was born here in Italy and my father was Italian”*. His decision to leave for Italy was not an easy one and his mother was actually against this idea, given the bad experiences she had had as a young woman in Italy. Nonetheless, G. paid about 5,000 euros cash and entered Italy irregularly by boat.

G. went to Padua because he knew that he could find his father's family there. He was hoping they could help him to get Italian documents but his hopes were soon shattered. They categorically refused to help him or to have anything to do with him: *“in my family I only found racists”*. In particular, G. has an older half-brother because before meeting G.'s mother, G.'s father was married to an Italian woman and had a child with her. G. asked his half-brother to do genetic tests together with him, in order to prove that they both have the same Italian father. Although at first his half-brother seemed to be helpful, in the end he refused to do these genetic tests. G. believes that his half-brother was worried that if G. was legally recognised as his half-brother then G. might be able to claim part of his father's inheritance. This situation caused G. great frustration and disappointment: *“when I came to Italy I thought it would have been completely different. I thought Italy was completely different. I thought they would have provided me with documents. I thought my family would have helped me”*.

After working on a farm for one year without a regular contract, G. found himself unemployed. Shortly after he run out of money, he met *“the wrong people”* and he began stealing. Caught by the police, he was sentenced to prison and spent seven months and fifteen days in jail. Once out of prison G. wanted to change town in order to transform his life and avoid the bad crowd that he had been part of. So, G. came to Turin where he had some Moroccan friends who were long-term residents. After three months in Turin G. was caught by the police on the street: *“They took me to Questura, they kept me in Questura for one day and then they took me here [inside CIE]. I asked the people, “what is this?” And, they told me, “it is a reception centre [centro di accoglienza] for migrants”*.

G. cannot find any good reason for his detention inside a centre for migrants because he sees himself as Italian. He is also concerned about his CIE detention because he suffers from serious epilepsy, an illness that he considers to be incompatible with the structure of Turin's CIE.

G. was highly distressed and he could not understand the reason why the authorities do not believe that his father was Italian, why the burden of proof laid on him, and why he has not been able to find anyone capable of helping him to get recognition of his own identity. Aside from G.'s "Italian blood", he also finds it quite unreasonable that a baby born in Italy from foreign parents is not granted Italian citizenship on the basis of a *ius soli* principle.



PART E: CONCLUSION

XV. BETWIXED AND BETWEEN

“History shows that it is not only senseless and cruel, but also difficult to state who is a foreigner.”

- *Claudio Magris*

“Recognize yourself in he and she who are not like you and me.”

- *Carlos Fuentes*

This research report has been a long and emotionally draining task that has taken nine months and hundreds of volunteer hours to research and produce. There were eight people directly involved in collating and writing the report and between us there were representatives from four continents and six countries. As might be expected from such a diverse group, we also had distinct and strong opinions, styles and perspectives on our subject of study, differences which we believe made this report stronger and more rigorous. Our report aims to be empirically sound and thorough at covering different aspects of the situation concerning Turin’s CIE and we believe that by interviewing a broad cross-section of people we have gone some way towards achieving our goal. Our one regret is that we were unable to interview any of the CIE staff or the State authorities.

Although these issues have already been extensively discussed over the course of our report we believe it important to reiterate some of the most important points that our research uncovered. Notwithstanding any problem we raise about conditions of detention, we would like to emphasise that our examination of these contingent issues in no way derogates from our overarching suggestion that the wider purpose and functioning of the administrative detention system and the existence of immigration detention structures must necessarily be examined in the most stringent and immediate manner possible. In particular, our investigation revealed the following problems:

- I. Detainees do not take part in all extension hearings, despite the *Corte di Cassazione’s* rulings in cases number 4544/2010, 10290/2010, 13117/2011, 13767/2011, 9596/2012 and 10055/2012.
- II. The current Italian legal aid guarantees do not include extra support for special cases where external consultants such as doctors or psychologists are needed to visit detainees or to write reports.
- III. Full linguistic assistance is not granted as a matter of right throughout the whole legal procedure. While there are interpreters during the hearings, in the pre-trial stage the lack of professional interpretation can impede access to justice because it infringes on the opportunity to seek legal advice and express informed instructions to a lawyer.

- IV. There is an urgent need to improve the relationship between the Italian authorities and the foreign authorities in Italy.
- V. Evidence suggests that the military and police personnel inside Turin's CIE have not had sufficient training on European and international human rights law, or on working with culturally and linguistically diverse communities, asylum seekers and victims of torture and trauma.
- VI. The *Giudice di Pace* is an institution that has been built to deal with limited small-claims matters. It is highly concerning that this forum is being used to decide cases involving personal freedom and liberty.
- VII. In immigration matters where the liberty of a person is at stake, there is no provision for a merits-based appeal (*appello nel merito*) of a validation hearing. The only manner in which a decision made by a *Giudice di Pace* in a validation hearing may be challenged is via an appeal to the *Corte di Cassazione* for judicial review. However, appellants to this Court generally face significant delays in having their case heard and time is clearly of the essence for appellants living in immigration detention.
- VIII. Turin's CIE does not contain separate channels for consular visitors, lawyers, family members and other visitors, leading to a situation plagued with excessive waiting times and delays.
- IX. The *Decreto Ministeriale 15 gennaio 2001* is being violated since Turin's detainees are not being given the amount of telephone credit that is prescribed by this legally binding ministerial decree. This is especially egregious since the telephone is frequently detainees' only means of accessing the world beyond the CIE and of keeping in touch with their loved ones.
- X. Although there is much to be reformed about the Italian prison system itself, the overwhelming consensus among CIE detainees who have previously been in Italian prisons, is that prison is by far a better environment than CIE, which to a large extent goes to show how reprehensible Turin's CIE is.
- XI. In order to avoid the possibility of extra CIE detention after jail, if a person is sentenced to prison and if that person faces a reasonable prospect of deportation, then the public authority should begin the identification procedure as soon as possible after criminal detention.
- XII. There are insufficient activities and a lack of education and training opportunities inside Turin's CIE.
- XIII. Often migrants are not taken to the CIE that is closest to where their friends and family reside. This can result in separation from children, family and friends who live in Italy, and it calls into question Italy's application of international and European legal principles on the right to family life and the best interests of the child.

- XIV.** There are endemic delays in providing medical assistance and medical examinations to detainees. The research indicates that this is a systemic problem caused by the procedure through which detainees access health care inside CIE.
- XV.** There is strong evidence to indicate the high misuse of psychotropic medication in Turin’s CIE.
- XVI.** There are extremely worrying rates of self-harm by detainees inside Turin’s CIE.
- XVII.** There is insufficient independent monitoring of immigration detention facilities in Italy and the current state of affairs does not meet Guideline IV(89) under the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment’s *CPT Standards*²⁰⁰.

Over the course of our report we have found that the human rights violations at Turin’s CIE are so endemic and pervasive that they call into question the very existence of such structures and at the very least require a concerted attempt at re-examining the purpose and intended functions of the CIE and the wide gap between the former and reality. We will refrain from enunciating a final opinion on the same, except to say that even within our research group there was no consensus as to what steps should be taken in the future. However, we did unanimously agree that the present state of affairs is singularly untenable. The medical facilities inside Turin’s CIE are woefully inadequate, families are torn apart and the legal safeguards are respected more in the breach. The people inside CIEs are not serving time due to criminal punishment. Rather, they languish in these structures owing to a systemic lack of support from their country of nationality and their country of residence and they are in many ways stuck in limbo: *betwixt and between*.



²⁰⁰ “(IV)(89) Independent monitoring of detention facilities for irregular migrants is an important element in the prevention of ill-treatment and, more generally, of ensuring satisfactory conditions of detention. To be fully effective, monitoring visits should be both frequent and unannounced. Further, monitoring bodies should be empowered to interview irregular migrants in private and should examine all issues related to their treatment (material conditions of detention, custody records and other documentation, the exercise of detained persons’ rights, health care, etc.)”, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, *CPT Standards*.

APPENDIXES

APPENDIX 1: GLOSSARY OF ITALIAN TERMINOLOGY USED

Alpini → The *Alpini* are the mountain troops of the Italian army.

Avvocato di fiducia → An *avvocato di fiducia* is a lawyer who a person has individually chosen to represent them for a case.

Avvocato di ufficio → An *avvocato d'ufficio* is a lawyer who is appointed by the judge or the prosecution in cases where legal assistance is required by law but a person did not nominate their own lawyer.

Camera di Consiglio → *Camera di consiglio* is a special proceeding characterised by the fact that the dispute is resolved in a faster and private way without a public audience with limited *istruttoria*.

Carabinieri → The *Carabinieri* is one of the five Italian police branches. It is under the authority of the Ministry of Defence. Similarly to *Polizia di Stato*, the *Carabinieri's* main functions are: maintaining order, ensuring public security and preventing crimes. The *Carabinieri* is also part of the Italian army, so it is a military police branch.

Commissione territoriale → The *Commissione territoriale per il riconoscimento della protezione internazionale* is an administrative body under the authority of the Ministry of the Interior. Its function is to examine and decide on the applications for the recognition of the refugee status or the subsidiary protection status. There are ten *Commissioni Territoriali* in Italy. Each of them is competent over a territory that comprises a number of provinces.

Contraddittorio → In the context of immigration detention, *contraddittorio* essentially means that the validation hearing should not take place without hearing the foreigner's submissions because the purpose of the validation hearing is to hear the parties, in a way that enables the *Giudice di Pace* to evaluate the legitimacy of the expulsion decree.

Corte di Cassazione → The *Corte di Cassazione* is the Italian Supreme Court located in Rome. It is a *giudice di legittimità*, which means that it cannot undertake merits review and it can only hear judicial review questions about the interpretation of law and procedural correctness. Moreover, it solves conflicts about jurisdiction.

Giudice di Pace → A *Giudice di Pace* is a non-specialist small-claims judge who is in charge of resolving minor cases or disputes under civil, administrative or criminal law. In Italian, a *Giudice di Pace* is commonly called an "honorary judge" (*giudice onorario*) who is appointed by the Minister of Justice. *Giudici di Pace* are paid proportionally based on the number of matters that they decide, rather than the amount of time that they spend hearing and deliberating over matters. Selection is based on qualifications and generally the selected *Giudici di Pace* are law graduates who have obtained the qualification to practice law or who have exercised judicial functions. Unlike in some jurisdictions, in Italy it is not necessary to have years of experience as a lawyer or barrister before undertaking the *Giudice di Pace* role. The only further requirement is that a *Giudice di Pace* must be between thirty and sixty-five years of age. In criminal matters the *Giudice di Pace* does not have the power to imprison a person.

Giudice togato → A *giudice togato* is a judge who exercises a judicial function indefinitely and who is appointed via an open and competitive application process.

Gratuito patrocinio → *Gratuito patrocinio* is free legal assistance provided by law when a person cannot afford the cost of a lawyer. In many English jurisdictions, this is called “legal aid”.

Guardia di Finanza → The *Guardia di Finanza* is one of the five Italian police branches. It is under the authority of the Ministry of Economics and Finance. Although the *Guardia di Finanza* is part of the Italian army, it distinguishes itself for its special competences in the prevention and repression of financial and fiscal crimes.

Istruttoria → *Istruttoria* is the initial stage of a legal procedure in which the Court collects all of the necessary elements for the next step of the proceeding. In the *istruttoria* phase the judge carries out investigations and acquires evidence and relevant information for the final judgement.

Polizia di Stato → The *Polizia di Stato* is one of the five Italian police branches. It is a civil police branch under the authority of the Department of Public Security of the Ministry of the Interior. Its main function is maintaining order and ensuring public security.

Polizia Penitenziaria → The *Polizia Penitenziaria* is one of the five Italian police branches. It is a civil police branch under the authority of the Ministry of Justice. It has special competences in the provision of services and management of the people in jail or people who are living in conditions where their liberty has been restricted. The *Polizia Penitenziaria* does not work inside Turin’s immigration detention centre.

Prefetto → The *Prefetto* is the head of the Italian *Prefettura*.

Prefettura → The *Prefettura* is the local branch of the Ministry of the Interior and it represents the central government at a local level. In each of the 110 Italian provinces (*Province*) there is a *Prefettura*. *Prefettura* offices manage issues such as order and public security, civil rights and immigration, local autonomies and voting matters.

Questore → The *Questore* is the head of the Italian *Questura*.

Questura → The *Questura* is an office of the *Polizia di Stato* that is under the authority of the Ministry of the Interior and is competent in the territory of the province (*Provincia*) where it is located. *Questura*’s main function consists in maintaining order and ensuring public security within the territory of the province.

APPENDIX 2: ABBREVIATIONS

CARA → *Reception Centre for Asylum Seekers*

CIE → *Centre for Identification and Expulsion*

CPT → *Centre for Temporary Detention*

CRC → *Convention on the Rights of the Child*

ECHR → *European Convention for the Protection of Human Rights and Fundamental Freedoms*

ECtHR → *European Court of Human Rights*

EU → *European Union*

ICCPR → *International Covenant on Civil and Political Rights,*

ICESCR → *International Covenant on Economic Social and Cultural Rights*

UDHR → *Universal Declaration of Human Rights*

APPENDIX 3: THE INTERVIEW FORMS

INTERVIEW FORM 1: FOR DETAINEES AND FORMER DETAINEES

The International University College of Turin (IUC) in association with Associazione per gli Studi Giuridici sull'immigrazione (ASGI) is conducting a study on the conditions for migrants in the centre for identification and expulsion (CIE) in Turin. This study is being conducted as part of a clinical legal training program, which is a program run by the International University College of Turin in cooperation with the University of Turin and Eastern Piedmont University in Alessandria.

The research is limited to experiences of detention that occurred in Turin from January 2011 to June 2012. The objective is to investigate and analyse whether the treatment of immigration detainees in Turin's CIE meets Italian, European and international human rights standards. The project also aims to inquire into systemic and individual problems faced by detainees, their families and people who work in CIEs.

The project began in January 2012 and it will be developed by collecting and presenting diverse insights into the situation in the CIE. A qualitative survey will be composed of questionnaires and interviews aiming to discover holistic information about experiences of immigration detention in Turin. We will be investigating issues relating to human rights law as well as broader socio-legal issues including mental health, the effects of separation from family, experiences of language barriers and any hurdles faced to accessing legal assistance or in understanding the Italian legal framework.

Date of interview:

Interviewer:

Location of interview:

Reference number:

Language used:

Interpreter:

Has the detainee received a full explanation about this interview and the purpose for it? Yes No

Does the interviewee voluntarily consent to this interview? Yes No

1. Basic Information

Sex: Male Female

Age:

Country of origin:

Nationality of detainee:

Date of arrival:

Date of detention:

2. Accommodation

Did you have a fixed address in Italy? Yes No

In what capacity did you live at this address? (as property owner, as a tenant with a rental agreement, as a guest without a rental agreement?)

How much rent did you need to pay per month?

Who lived with you?

3. Family Situation

Do you have family in Italy? Yes No

Are they staying regularly? (with a valid *permesso di soggiorno* for the activities they are conducting)

Yes No

Were they living with you?

Yes No

What were/are their work activities?

4. Work Situation

Have you worked in Italy? Yes No

Which kind of work was that?

For what period?

What were the hours that you worked and what was the monthly pay?

Were you working regularly (with a contract)?

Yes No

How did you access/find the work?

Approximately what income have you made between January 2010 and April 2012?

5. Individual Freedom and Self-determination

- Did you enter Italy with a regular visa? Yes No
Did you need to pay someone to enter irregularly? Yes No
How much? How did you materially pay that amount?
Are you still in debt to someone for this reason? Yes No
During your stay in Italy, did you have to deliver your income to someone? Yes No
In the course of your stay in Italy did you need to do degrading activities? Yes No
In the course of your stay in Italy did someone seize and have custody of your documents? Yes No
Do you know about the possibility of denouncing a situation of exploitation or violence and obtaining protection from the Italian state?
(i.e. by the State issuing a special protective residence permit) Yes No

6. Conditions of Stay in Italy

- Have you ever had a “permesso di soggiorno” (permit to stay) for Italy and/or the European Union? Yes No
What type of permesso did you have?
When did it expire?
Have you ever previously been deported from Italy or the European Union? Yes No
If yes, what were the circumstances of that/those previous deportation(s)? (i.e. When? Where? Why? How? Please provide a brief explanation of surrounding events)

7. Reasons for Expulsion

- The decree for your detention has been declared due to:
 Clandestine entry Irregular staying Social danger
Can you explain the circumstances in detail?
In what place (house, street, bus, market, club or other venues) were you stopped by the authorities before receiving the expulsion decree?

8. Identity and/or Travel Documents

- Do you have a valid:
 Passport? Identity card? Fiscal code? (*Codice Fiscale*)

9. Relationship with Authorities from your Country of Origin

- During your detention, have you ever met authorities who are diplomatic or consular representatives from your country of origin? Yes No
How many days after you entered CIE?
What questions were posed when you met?
Were you recognised/ identified as a citizen from your country of origin? Yes No
What did the diplomatic/consular personnel tell you about the time-frame for releasing the “nulla osta” (no legal obstacles document) for your possible repatriation?
How much time passed between when you met with the diplomatic/consular personnel and your repatriation/ release from CIE? (For former detainees who have left CIE) OR How much time has passed since you met with the diplomatic/consular personnel? (For detainees within CIE)

10. Case Awareness

- Do you know why you have been detained? Yes No
If yes, who informed you about the reasons for your detention? How were you informed?

11. Space

- How do you feel about the room you are required to sleep in?
How do you feel about the rest of the space inside the CIE?
Do you feel that the centre is overcrowded? Yes No
Please explain your answer.
Do you have a space within the CIE where you can go when you need to feel more at ease, or when you feel you need to be alone from other detainees? Yes No
Please explain your answer.

12. Routine

Could you please describe the kinds of rules that you must follow in the CIE?

13. CIE Staff

How do the CIE staff interact with you?

Do you feel that they treat you differently from other detainees? Yes No

Why do you think so?

14. Safety

How safe do you feel in this centre? Can you please explain your answer?

Have you ever been mocked or insulted by anyone inside the centre? Yes No

Please explain the incident(s) and circumstances.

Have you ever been physically assaulted by anyone inside the centre? Yes No

Please explain the incident(s) and circumstances.

Have you ever made a formal complaint to the CIE staff about the level of safety in the centre? Yes No

If yes, could you describe what happened afterward?

15. Activities

Does the centre provide for any activities that people can participate in? Yes No

Do you have access to the following?

Books Computers Internet Telephone Television Educational activities (classes, workshop, etc.) Sporting facilities Spiritual or religious space

Outdoor space Other

What could the centre reasonably provide that would have the most positive impact on your life?

16. Hygiene & Sanitation

Please describe the hygienic and sanitation conditions:

- Are beds, mattresses and blankets available? Yes No
- Are they clean and appropriate for use? Yes No
- Is the area inside and outside the CIE clean? Yes No
- Do detainees have access to clean drinking water? Yes No
- Do detainees have access to clean toilets? Yes No
- Do detainees have access to shower facilities? Yes No
- Do detainees have access to hot water? Yes No
- Do detainees have access to soap, shampoo, toothpaste and toilet paper? Yes No
- Are detainees able to shower in private? Yes No
- Are laundry facilities adequate? Yes No
- Do detainees have problems caused by poor sanitation, such as body or skin disease? Yes No

17. Medical

Are there any medical staff inside the centre? Yes No

How often do you meet with medical staff in the CIE? *Please circle

1x/week 2x/month 1x/month Less than 1x/month

What kind of medical staff are they? (ex., nurses, doctors, psychiatrists, etc.)

Did you receive a medical examination when you arrived to the facility? Yes No

Do the medical staff speak to you in a language you can understand? Yes No

Do you feel that being in detention has impacted your physical or mental health? Yes No

Please explain your answer.

How do you feel about the quality of the medical services inside CIE?

Are there any medical services you need but are not provided by CIE? Please explain.

Have you ever committed an act of self-mutilation or self-harm during the course of detention? Yes No

What did it consist of? (i.e. injuring yourself deliberately, going on hunger strike)

What type of medical assistance did you receive on that occasion?

18. Social Interaction within the CIE

How do you get along with the other detainees?

Do you notice any particular problems in the interaction between detainees, or groups of detainees?

Is there anyone you can turn to when you experience any problems?

19. Contact with the Outside World

Do you have family members in your country of origin? Yes No

If yes, is your family there being taken care of, or do they rely on your support for their well-being?

Family taken care of Family needs my support

How do you stay in contact with friends and family outside CIE?

Telephone Letters Other

Do you receive phone credit cards?

Do you get letters and stamps if you ask for it?

Do you ever receive personal visits from the following? How often?

Family members: Yes No

Friends: Yes No

Religious persons: Yes No

Lawyers: Yes No

Other organisations or people: Yes No *Please list them.

How long are the visits?

Are your conversations private? Yes No

If not, in which circumstances are the visits taking place?

20. Conditions of Detention and the Family

[If the interviewee has minor children in Italy]

Are your children detained with you? Yes No

If yes, please, explain how it is happening.

If not, what happened to your children?

[If the interviewee is married and his/her spouse is in Italy]

Is your spouse detained with you in CIE? Yes No

If not, what happened to your spouse?

If yes, do you share the same sleeping quarters with your spouse? Yes No

If you do not share the same sleeping quarters with your spouse, how do you keep in contact with her/him inside CIE?

21. Conditions of Detention and Nutrition

Does the food provided by CIE suit you? Please explain.

22. Detention in Jail for Criminal Matters

Were you detained in jail before being transferred to CIE? Yes No

What were you detained for?

For how long were you detained in jail?

How do you feel about being detained in CIE after you were released from prison?

From your experience, could you tell how do you feel about the space in a jail?

How safe did you feel in prison? Please, explain if you ever have been mocked or physically assaulted by anyone inside a jail.

How did you get along with other detainees in jail?

Did you have a chance to study or work while detained in jail?

Did you have a chance to buy something inside jail (food, etc.) in comparison with CIE?

23. Asylum application

Did you apply for asylum before/after being detained in CIE? Yes No

Did you receive information on your right to asylum inside CIE? Yes No

If yes, who provided you with such information?

Is there a dedicated space/arrangement for asylum seekers inside CIE? Yes No

In case you applied for asylum, how many days did you have to wait from the very first request to:

- formally submit the application?
- being interviewed before the relevant Commission?
- get issued the final result?

What was the outcome of your application?

24. Conditions of Detention and the Individual

What are the greatest difficulties that you have had to face in CIE?

Is there a time when life inside CIE became very difficult for you? Yes No

If yes, please describe that time and how you have felt since then.

Would you like to add something?

Thank you for your participation!

We guarantee you that all the data will be used with respect and no personal information will be disclosed.

INTERVIEW FORM 2: FOR NGOS, LAWYERS, RELIGIOUS PERSONNEL WHO ENTER CIE*

*A similar albeit modified version of this interview form will be used for researchers and journalists working on the issue of CIE.

The International University College of Turin (IUC) in association with Associazione per gli Studi Giuridici sull'immigrazione (ASGI) is conducting a study on the conditions for migrants in the centre for identification and expulsion (CIE) in Turin. This study is being conducted as part of a clinical legal training program, which is a program run by the International University College of Turin in cooperation with the University of Turin and Eastern Piedmont University in Alessandria.

The research is limited to experiences of detention that occurred in Turin from January 2011 to June 2012. The objective is to investigate and analyse whether the treatment of immigration detainees in Turin's CIE meets Italian, European and international human rights standards. The project also aims to inquire into systemic and individual problems faced by detainees, their families and people who work in CIEs.

The project began in January 2012 and it will be developed by collecting and presenting diverse insights into the situation in the CIE. A qualitative survey will be composed of questionnaires and interviews aiming to discover holistic information about experiences of immigration detention in Turin. We will be investigating issues relating to human rights law as well as broader socio-legal issues including mental health, the effects of separation from family, experiences of language barriers and any hurdles faced to accessing legal assistance or in understanding the Italian legal framework.

Date of interview:

Interviewer:

Location of interview:

Reference number:

Language used:

Interpreter:

Has the interviewee received a full explanation about this interview and the purpose for it? Yes No

Does the interviewee voluntarily consent to this interview? Yes No

What category does the interviewee belongs to? (lawyer, NGO member, religious staff...)

1. Basic Information

[when applicable]

How did you receive the authorisation to enter the centre?

How long did it take?

2. The Centre of Identification and Expulsion

How often do you visit the centre?

Does the staff regularly provide you with information about conditions in the CIE? Yes No

When you want to visit detainees, how long do you have to stand waiting/queuing to enter?

And according to your experience, what is the average waiting time for detainees' family members?

For how long do you typically meet with detainees during your visits?

What do you do with the detainees when you visit them?

Are there cells or other locations within Turin's CIE that are used for punishment or seclusion? If yes, please explain.

3. Case Awareness

Do detainees know why they have been detained? Yes No

If yes, who informs them about the reasons for their detention and when?

4. Space

Can you please describe the sleeping quarters within which detainees are held?

Does the centre impose a restriction on how many hours detainees can spend indoors and outdoors? If yes, please explain.

Do you feel that the centre is overcrowded? Please explain your answer.

What is the level of privacy a detainee can expect to have in the centre?

5. Routine

Does the centre have clear rules and procedures? Yes No

Are these rules respected? Yes No

Based on your observations, which of the centre's rules impact the lives of detainees most?

5. CIE Staff

How do the CIE staff interact with detainees?

Do the staff discriminate between detainees in their treatment of them? Yes No

If so, please provide specific examples of how and why detainees are treated differently.

7. Safety

Based on your observations, how safe is this CIE environment for detainees? Please explain your answer.

Are there detainees who are, or have been, mocked or insulted by other people inside the centre? Yes No

If yes, please explain the incidents and circumstances.

Are there detainees who are, or have been, physically assaulted by other detainees? Yes No

If yes, please explain the incidents and circumstances.

Are detainees able to speak with CIE staff about the level of safety in the centre? Yes No

If yes, how do the staff typically respond?

8. Activities

Does the centre provide for any activities that detainees can participate in? Yes No

Do detainees have access to the following?

- | | | |
|---|--|--|
| <input type="checkbox"/> Books | <input type="checkbox"/> Computers | <input type="checkbox"/> Telephone |
| <input type="checkbox"/> Education opportunities (e.g., classes, materials, training) | | <input type="checkbox"/> Sporting facilities |
| <input type="checkbox"/> Spiritual or religious space | <input type="checkbox"/> Outdoor space | <input type="checkbox"/> Television |
| <input type="checkbox"/> Internet | <input type="checkbox"/> Other | |

9. Hygiene & Sanitation

Please describe the hygienic and sanitation conditions:

Are beds, mattresses and blankets available? Yes No

Are they clean and appropriate for use? Yes No

Is the area inside and outside the CIE clean? Yes No

Do detainees have access to clean drinking water? Yes No

Do detainees have access to clean toilets? Yes No

Do detainees have access to shower facilities? Yes No

Do detainees have access to hot water? Yes No

Do detainees have access to soap, shampoo, toothpaste and toilet paper? Yes No

Are detainees able to shower in private? Yes No

Are laundry facilities adequate? Yes No

Do detainees have problems caused by poor sanitation, such as body or skin disease? Yes No

10. Medical

Can you please describe the medical services in the detention centre?

Have medical services been needed by detainees but made unavailable by the staff? Please explain.

Do detainees receive medical examinations when they arrive in the centre? Yes No

Does the medical staff speak to detainees in a language they can understand? Yes No

Do detainees ever report to you the following physical conditions:

- Headaches or migraines? Fatigue? Bone or joint discomfort or pain?
 Problems with their skin, such as skin disease? Stomach discomfort or pain? Others?

Do detainees ever report to you the following mental conditions:

- Sadness, crying? Irritability? Insomnia? Feelings of tension and stress?

Intrusive and discomfoting thoughts? Suicidal thoughts? Confusion? Others?

Do detainees who feel this way receive help from the centre? Please explain.

Can detainees access medical care outside of the detention centre? Yes No

According to your experience, how often do detainees commit acts of self-mutilation or self-harming?

What kind of medical assistance do they usually receive?

What are the consequences of an act of self-mutilation for the detainee who committed it?

What kind of treatment or medication do people who are addicted to drugs receive inside CIE?

11. Social Interaction within CIE

How do detainees get along with each other?

Have you noticed any particular problems in the interaction between detainees or groups of detainees?

What is the level of rapport between detainees and CIE staff?

12. Contact with the Outside World

How are detainees able to communicate with friends and family living outside the centre?

Do they receive phone credit cards and/or letters and stamps if they ask for them?

Are detainees allowed to receive personal visits from the following? How often?

Family members: Yes No

Friends: Yes No

Religious persons: Yes No

Lawyers: Yes No

Other organisations or people: Yes No *Please, list them.

Are their conversations private? Yes No

If not, in which circumstances do conversations take place?

How could the visiting situation be improved?

13. Conditions of Detention and Family Relations

Do detainees have children with them inside CIE? Yes No

If yes, please, explain the circumstances.

If not, what happens to their children?

Do detainees have spouses that are detained with them inside CIE? Yes No

If yes, then how does the centre accommodate couples?

14. Conditions of Detention and Nutrition

What is the type and quality of the food that detainees are given?

15. Detention in Jail for Criminal Matters

Have you ever come across detainees who before entering the centre were detained in jail for criminal matters? Yes No

If yes, what were they detained for?

If yes, on the basis of your observations, how do you think they feel about being detained in CIE after they were released from prison?

If yes, have they ever mentioned their experience in jail to you? Have they ever compared these two different kinds of detention (in jail and in CIE)?

16. Asylum application

Have you ever come across detainees who applied for asylum before/after entering the CIE? Yes No

Do detainees receive information on their right to asylum inside CIE? Yes No

If yes, who provides them with such information?

Is there a dedicated space/arrangement for asylum seekers inside CIE? Yes No

If yes, please explain.

When detainees apply for asylum, how many days do they usually have to wait from the moment of their very first request for asylum, to:

- formally submit the application (onto the official record system)?
- be interviewed before the relevant Commission?
- get issued the final result?

According to your experience, what is the most common outcome of asylum applications by CIE detainees?

17. Conditions of Detention and the Individual

Based on your observations, what are the top difficulties faced by detainees?

Have detainees ever described to you a time when detention became really difficult for them? Please explain.

Would you like to add something?

Thank you for your participation!

We guarantee you that all the data will be used with respect and no personal information will be disclosed.

INTERVIEW FORM 3: FOR CIE STAFF*

*This interview form was prepared, however unfortunately we were unable to interview CIE staff so Interview Form n. 3 was not used (See *Part A. Introduction, Methodology*). We hope to use it in future monitoring and/or investigations of Turin's CIE.

The International University College of Turin (IUC) in association with Associazione per gli Studi Giuridici sull'immigrazione (ASGI) is conducting a study on the conditions for migrants in the centre for identification and expulsion (CIE) in Turin. This study is being conducted as part of a clinical legal training program, which is a program run by the International University College of Turin in cooperation with the University of Turin and Eastern Piedmont University in Alessandria.

The research is limited to experiences of detention that occurred in Turin from January 2011 to June 2012. The objective is to investigate and analyse whether the treatment of immigration detainees in Turin's CIE meets Italian, European and international human rights standards. The project also aims to inquire into systemic and individual problems faced by detainees, their families and people who work in CIEs.

The project began in January 2012 and it will be developed by collecting and presenting diverse insights into the situation in the CIE. A qualitative survey will be composed of questionnaires and interviews aiming to discover holistic information about experiences of immigration detention in Turin. We will be investigating issues relating to human rights law as well as broader socio-legal issues including mental health, the effects of separation from family, experiences of language barriers and any hurdles faced to accessing legal assistance or in understanding the Italian legal framework.

Date of interview:

Interviewer:

Location of interview:

Reference number:

Language used:

Interpreter:

Has the interviewee received a full explanation about this interview and the purpose for it? Yes No

Does the interviewee voluntarily consent to this interview? Yes No

What kind of role/function do you have inside the centre?

1. Basic Information

What is the maximum capacity of the CIE that you work for?

Are there cells or other locations within the CIE that are used for discipline or seclusion?

Does the CIE you work for keep records?

- | | |
|---|--|
| <input type="checkbox"/> Number of detainees | <input type="checkbox"/> Sex/gender of detainees |
| <input type="checkbox"/> Age of detainees | <input type="checkbox"/> Nationality of detainees |
| <input type="checkbox"/> Ethnicity of detainees | <input type="checkbox"/> Duration of detention for detainees |
| <input type="checkbox"/> Other (please specify) | <input type="checkbox"/> I do not know |

2. Case Awareness

How and when does the CIE inform detainees about the reasons for their detention?

How does the CIE update detainees about their detention?

3. Space

Can you please describe the sleeping quarters within which detainees are held?

Is there enough space in the facility to sufficiently accommodate all of the people currently detained here?

Please explain.

If there is not enough space, how do the staff address this problem?

4. Routine

What are the rules and procedures for staff working in CIE?

How are the staff trained in the rules of the centre?

How do the staff inform detainees on CIE's rules and procedures?

5. CIE Staff

Please describe the level of rapport between CIE staff and the detainees.

What kind of staff are the detainees in regular contact with?

Do the staff you described treat certain detainees differently from one another? Yes No

Please, explain why or why not.

6. Safety

Do you feel safe working inside CIE? Please explain.

How do the staff provide for the safety of detainees?

Can the staff intervene when detainees verbally or physically harass each other?

If so, how? Please describe the incident(s).

Are there ever any verbal or physical altercations between staff and detainees? Yes No

If so, could you please describe an incident(s) and how the conflict was solved?

How do staff members support detainees who have concerns about their security?

7. Activities

Does the CIE provide any activities that people can participate in? Yes No

If yes, what kinds of activities are provided?

Do detainees have access to the following?

- Books Computers Internet Telephone Television Educational
activities (classes, workshop, etc.) Sporting facilities Spiritual or religious space
 Outdoor space Other

8. Hygiene & Sanitation

What responsibilities do staff have to ensure a clean environment?

What responsibilities do detainees have to ensure a clean environment?

How do detainees obtain personal care supplies, such as soap, shampoo and toothpaste? Please explain (including quantities and frequency).

What kind of shower and toilet facilities does the centre provide to detainees?

How are detainees able to do their laundry?

9. Medical

Can you please describe what medical services are available in the centre?

What does the centre do when a detainee is sick?

Are there times when CIE's medical services cannot respond to the medical needs of detainees? Please describe an incident(s).

Does the centre provide detainees with access to external medical care? Yes No

If yes, in which cases?

What medical services do detainees receive when they first arrive at the CIE?

Are medical services provided to detainees in a language they can understand? Yes No

If not, then how do the medical staff solve this problem?

According to your experience, how widespread is the use of psychotropic drugs inside CIE? Please explain.

According to your experience, how frequent are cases of self-harming and self-mutilation?

What kind of medical assistance is usually provided in such cases?

What kind of treatment or medication do people who are addicted to drugs receive inside CIE?

10. Social Interaction within the CIE

How do detainees typically get along with each other? Please explain.

How do detainees and staff typically get along with each other? Please explain.
Does the centre encourage social interaction among detainees? How so?

11. Contact with Family & the Outside World

How do the staff facilitate detainees' ability to communicate with friends and family outside CIE?
In what ways are staff unable to support detainees' communication needs and requests?

Are detainees able to do and to receive personal telephone calls inside CIE? Yes No

Do they receive phone credit cards? Yes No

How much and how often?

Do they get letters and stamps if they ask for it? Yes No

Are detainees able to receive personal visits inside CIE? Yes No

If yes, do they receive visits from the following and approximately how often?

Family members: Yes No

Friends: Yes No

Religious persons: Yes No

Lawyers: Yes No

Other organisations or people: Yes No *Please list them.

How long are the visits in average?

Are detainees' conversations private? Yes No

If not, in which circumstances are the visits taking place?

12. Conditions of Detention and the Family

Do detainees have children with them inside CIE? Yes No

If yes, please explain the circumstances.

Are there couples detained inside CIE? Yes No

If yes, are they allowed to share the same sleeping quarter? Please explain.

13. Conditions of Detention and Nutrition

Does the centre account for detainees' nutritional needs and for differences in detainees' cultures when preparing and serving food? Yes No

If yes, how so?

14. Consequences of Prolonged Detention on the Individual

What do you observe to be the top most difficult things detainees face in the CIE?

How do you think detention generally impacts the persons who experience it?

Are detainees aware of what the outcome of their detention may be? How so?

Does the centre help to prepare detainees for their eventual departure from detention either to the host country or to their country of origin? How so?

15. Suggestions

Do you have any suggestions for how CIE might be improved (either for detainees or staff or both)?

Would you like to add something?

Thank you for your participation!

We guarantee you that all the data will be used with respect and no personal information will be disclosed.

APPENDIX 4: THE CONSENT FORM

CONSENT FROM

I, _____, do hereby declare that I understand that:

1. Through this interview/questionnaire, where I will be asked about my experiences concerning the detention centre and/or detainee life in general, I am taking part in a research study on the conditions of detention in Turin's CIE and the law and policy pertaining to attendant issues concerning the CIE.
2. This study will collect information from a broad cross-section of individuals including but not limited to, present and former (January 2011 – June 2012) detainees, their families, government officials, CIE administrators, lawyers, CIE staff, non-governmental organisations and persons with some knowledge of the inner workings of the CIE.
3. The information collected from all of these interviews/questionnaires, including my own, will be used to prepare reports which may be made public and whose findings may be used for further research in allied fields.
4. I understand that my responses will be treated as highly confidential and that my participation will be anonymous- i.e., my name will not be published anywhere in the report and any specific identifying information will be likewise deleted from any public report.
5. I also understand that, with my express consent, my response may be recorded and retained as part of an electronic archive for academic purposes at the International University College, Turin. These uses may include research and advocacy in the area of migration law and studies.
6. I freely and fully give the International University College, Turin and any partner institutions full rights over the use of this information for academic, policy, research and advisory purposes but retain full moral rights over the information I have disclosed herein.
7. I may choose not to answer any one or more of the questions I am asked and I may withdraw from the study at any time.

I agree to take part in this research study.

Signature: _____

Address (If applicable): _____

Date: _____

Name of person obtaining consent: _____

Reference no.: _____

BIBLIOGRAPHY AND SOURCES

International Treaties

Convention Against Torture and Inhuman or Degrading Treatment or Punishment, opened for signature 10 December 1984, 1465 U.N.T.S. 85 (entered into force 26 June 1987).

Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 U.N.T.S. 3 (entered into force 2 September 1990).

Convention Relating to the Status of Refugees, opened for signature 28 July 1951, 189 U.N.T.S.150 (entered into force 22 April 1954).

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, opened for signature 26 November 1987, ETS 126 (entered into force 1 February 1989).

European Convention for the Protection of Human Rights and Fundamental Freedoms, opened for signature 4 November 1950, ETS 5 (entered into force 3 September 1953 and ratified by Italy 26 October 1955).

International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 U.N.T.S. 171 (entered into force 23 March 1976).

International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 993 U.N.T.S. 3 (entered into force 3 January 1976).

International Convention on the Elimination of all Forms of Racial Discrimination, opened for signature 21 December 2005, 660 UNTS 195 (entered into force 4 January 1969).

League of Arab States, *Arab Charter on Human Rights*, opened for signature 22 May 2004, reprinted in 12 Int'l Hum. Rts. Rep. 893 (2005) (entered into force 15 March 2008).

Organisation of African Unity, *African [Banjul] Charter on Human and Peoples' Rights*, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) (entered into force 21 October 1986).

Organisation of American States, *American Convention on Human Rights*, opened for signature 22 November 1969, OASTS 36, 9 ILM 673 (1970) (entered into force 18 July 1978).

Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, opened for signature 22 November 1984, ETS No. 117 (entered into force 1 November 1988).

Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, opened for signature 11 May 1994, ETS No. 155 (entered into force on 1 November 1998).

Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

European Union Directives and Regulations

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, L 31/18 *Official Journal of the European Union*, 6.2.2003.

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, L 251/12 *Official Journal of the European Union*, 3.10.2003.

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, L 304/12 *Official Journal of the European Union*, 30.9.2004.

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, L 326/13 *Official Journal of the European Union*, 13.12.2005.

Council Regulation (EC) No 343/2003 of 18 February 2003, establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, L 50/1 *Official Journal of the European Union* 25.2.2003 (“Dublin II Regulation”).

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, L 348/98 *Official Journal of the European Union*, 24.12.2008 (“Return Directive”).

Italian Law

Costituzione della Repubblica Italiana, aggiornata alla Legge Costituzionale 30 maggio 2003, n. 1. Constitution of the Italian Republic, as updated by Constitutional Law 30 May 2003, n. 1.

Decreto del Presidente della Repubblica 31 agosto 1999, n. 394 “Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell’immigrazione e norme sulla condizione dello straniero, a norma dell’articolo 1, comma 6, del decreto legislativo 25 luglio 1998, n. 286” (GU n. 258 del 3-11-1999 - Supplemento Ordinario n. 190). Presidential Decree 31 August 1999, n. 394 “Regulations implementing the norms of the unified text on provisions concerning immigration and norms on the condition of foreign citizens, as provided for by article 1.6 of legislative decree 25 July 1998, n. 286” (GU n. 258 of 3-11-1999 - Ordinary Supplement n. 190).

Decreto Legge 23 giugno 2011, n. 89 “Disposizioni urgenti per il completamento dell’attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari” (GU n. 144 del 23-6-2011). Law Decree 89/2011, “Urgent provisions to complete the implementation of Directive 2004/38/EC on free movement of EU citizens and the transposition of Directive 2008/115/EC on the removal of irregular third country nationals” (GU n. 144 of 23-6-2011).

Decreto Legislativo 25 luglio 1998, n. 286 “Testo unico delle disposizioni concernenti la disciplina dell’immigrazione e norme sulla condizione dello straniero” (GU n. 191 del 18-8-1998 - Supplemento Ordinario n. 139) (“Testo Unico Immigrazione”). Legislative Decree 25 July 1998, n. 286 “Unified text on provisions concerning immigration and norms on the condition of foreign citizens” (GU n. 191 of 18-8-1998 - Ordinary Supplement n. 139) (“Unified Text on Immigration”).

Decreto Legislativo 30 maggio 2005, n. 140 “Attuazione della direttiva 2003/9/CE che stabilisce norme minime relative all’accoglienza dei richiedenti asilo negli Stati membri” (GU n. 168 del 21-7-2005). Legislative Decree 30 May 2005, n. 140 “The implementation of Directive 2003/9/EC

laying down the minimum standards for the reception of asylum seekers” (GU n. 168 of 21-7-2005).

Decreto Legislativo 19 novembre 2007, n. 251 “Attuazione della direttiva 2004/83/CE recante norme minime sull’attribuzione, a cittadini di Paesi terzi o apolidi della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonché norme minime sul contenuto della protezione riconosciuta” (GU n. 3 del 4-1-2008). Legislative Decree 19 November 2007 “The implementation of Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals as refugees or as persons who otherwise need international protection and the content of the protection granted” (GU n. 3 of 4-1-2008).

Decreto Legislativo 28 gennaio 2008, n. 25 “Attuazione della direttiva 2005/85/CE recante norme minime per le procedure applicate negli Stati membri ai fini del riconoscimento e della revoca dello status di rifugiato” (GU n. 40 del 16-2-2008). Legislative Decree 28 January 2008, n. 25 “The implementation of Directive 2005/85/EC on the minimum standards on procedures in Member States for granting and withdrawing refugee status” (GU n. 40 of 16-2-2008).

Decreto Legislativo 1 settembre 2011, n. 150 “Disposizioni complementari al codice di procedura civile in materia di riduzione e semplificazione dei procedimenti civili di cognizione, ai sensi dell’articolo 54 della legge 18 giugno 2009, n. 69” (GU n. 220 del 21-09-2011). Legislative Decree of 1 September 2011, n. 150 “Provisions complementary to the civil procedure code on the reduction and simplification of pre-trial proceedings as per article 54 of the law of 18 June 2009, n. 69” (GU n. 220 of 21-09-2011).

Decreto Ministeriale 15 gennaio 2001, “Modalità di utilizzo dei servizi telefonici, telegrafici e postali dei centri di identificazione ed espulsione nonché limiti di contribuzione alle spese da parte dell’Amministrazione dell’interno” (G.U. n. 63 del 16-03-2001). Ministerial Decree of 15 January 2001, “Rules for the use of telephone, telegraph and postal services in centres for identification and expulsion, and the scope of the Ministry of the Interior’s financial contribution” (G.U. n. 63 of 16-03-2001).

Direttiva Interministeriale del Ministero dell’Interno e del Ministero della Giustizia firmata il 30 luglio 2007. Inter-ministerial Directive by the Ministry of the Interior and the Ministry of Justice, signed 30 July 2007.

Legge 5 febbraio 1992, n. 91, “Nuove norme sulla cittadinanza” (GU n. 38 del 15.2.1992). Law of 5 February 1992, n. 91, “New norms on citizenship” (GU n. 38 of 15.2.1992).

Ministero dell’Interno, Circolare Prot. n. 1305 del 1 April 2011 (11050/110(4)). Ministry of the Interior, Circular Protocol n. 1305 of 1 April 2011 (11050/110(4)).

European Court of Human Rights Case Law

A.W. Khan v. United Kingdom, 47486/06, Council of Europe: European Court of Human Rights, 12 January 2010.

Amuur v. France, 17/1995/523/609, Council of Europe: European Court of Human Rights, 25 June 1996.

Anguelova v. Bulgaria, 38361/97, Council of Europe: European Court of Human Rights, 13 June 2002.

Boultif v. Switzerland, 54273/00, Council of Europe: European Court of Human Rights, 2 August 2001.

Chahal v. The United Kingdom, 70/1995/576/662, Council of Europe: European Court of Human Rights, 15 November 1996.

Čonka v. Belgium, 51564/99, Council of Europe: European Court of Human Rights, 5 February 2002.

Demiray v. Turkey, 27308/95, Council of Europe: European Court of Human Rights, 21 November 2000.

Gül v. Switzerland, 53/1995/559/645, Council of Europe: European Court of Human Rights, 22 January 1996.

Jabari v. Turkey, 40035/98, Council of Europe: European Court of Human Rights, 11 July 2000.

Kalashnikov v. Russia, 47095/99, Council of Europe: European Court of Human Rights, 15 July 2002.

Klass and Others v. the Federal Republic of Germany, (Series A, 28) 2 EHRR 214, 6, Council of Europe: European Court of Human Rights, 6 September 1978.

Kroon and Others v. The Netherlands, 18535/91, Council of Europe: European Court of Human Rights, 27 October 1994.

Leander v. Sweden, 9248/81, Council of Europe: European Court of Human Rights, 26 March 1987.

Maaouia v. France, 39652/98, Council of Europe: European Court of Human Rights, 22 March 2000.

Mandic and Jovic v. Slovenia, 5774/10 and 5985/10, Council of Europe: European Court of Human Rights, 20 October 2011.

Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, 13178/03, Council of Europe: European Court of Human Rights, 12 October 2006.

Omojudi v. United Kingdom, 1820/08, Council of Europe: European Court of Human Rights, 24 November 2009.

Onur v. United Kingdom, 27319/07, Council of Europe: European Court of Human Rights, 17 February 2009.

Saadi v. United Kingdom, 13229/03, Council of Europe: European Court of Human Rights, 29 January 2008.

Salman v. Turkey, 21986/93, Council of Europe: European Court of Human Rights, 27 June 2000.

Silver and Others v. United Kingdom, 9310/81, Council of Europe: European Court of Human Rights, 6 September 1987.

Strucl and Others v. Slovenia, 5903/10, 6003/10 and 6544/10, Council of Europe: European Court of Human Rights, 20 October 2011.

Tuquabo-Tekle and Others v. the Netherlands, 60665/00, Council of Europe: European Court of Human Rights, 19 October 2004.

Üner v. the Netherlands, 46410/99, Council of Europe: European Court of Human Rights, 18 October 2006.

X v. Switzerland, 8257/1978/13 DR 248, Council of Europe: European Court of Human Rights, 10 July 1978.

National Case Law

Corte Costituzionale, sentenza del 20 luglio 2011, n. 245. Italian Constitutional Court, judgment of 20 July 2011, n. 245.

Corte di Cassazione, Sezione VI Civile, ordinanza del 19 giugno 2012, n. 10055. Supreme Court, Civil Section VI, order of 19 June 2012, n. 10055.

Corte di Cassazione, Sezioni Unite Civili, ordinanza del 13 giugno 2012, n. 9596. Supreme Court, Unified Civil Section, order of 13 June 2012, n. 9596.

Verwaltungsgericht Stuttgart, Urteil vom 12. Juli 1990-A 9 K 10452/89, A 9 K 10452/89, Germany: Verwaltungsgericht, 12 July 1990.

General Comments, Guidelines and Standards on International Law

Committee of Ministers of the Council of Europe, *Guidelines on human rights protection in the context of accelerated asylum procedures*, adopted by the Committee of Ministers of the Council of Europe on 1 July 2009 at the 1062nd meeting of the Ministers' Deputies.

Committee of Ministers of the Council of Europe, *Twenty Guidelines on Forced Return*, adopted by the Committee of Ministers of the Council of Europe on 4 May 2005 at the 925th meeting of the Ministers' Deputies.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, *CPT Standards*, CPT/Inf/E (2002) 1, revised 2011.

United Nations Committee on the Rights of the Child, *General Comment No. 12 (2009): The Right of the Child to be Heard*. 55th sess. UN Doc. CRC/C/GC/12, 1 July 2009.

United Nations Economic and Social Council, *General Comment No. 14 (2000): The Right to the Highest Attainable Standard of Health*, 22nd sess. UN Doc. E/C.12/2000/4, 11 August 2000.

United Nations General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, A/RES/43/173, adopted 9 December 1988.

United Nations High Commissioner for Refugees, *Conclusion No. 44 (XXXVII) Detention of Refugees and Asylum-Seekers*, ExCom, UNHCR, 37th Session, 1986.

United Nations High Commissioner for Refugees, *Conclusion No. 85 (XLIX) International Protection*, ExCom, UNHCR, 49th Session, 1998.

United Nations High Commissioner for Refugees, *Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers*, UNHCR, 26 February 1999.

Books/ Articles/ Reports

Akandji-Kombe, Jean-François, "Positive Obligations under the European Convention on Human Rights: A guide to the European Convention on Human Rights", *Human Rights Handbooks, No. 7*, Council of Europe, 2007.

Amnesty International, *Annual Report 2012*, 2012
<<http://www.amnesty.org/en/region/italy/report-2012>>.

Bethke, Maria and Bender, Dominik, Förderverein PRO ASYL e.V., *The Living Conditions of Refugees in Italy*, 27 February 2011 <http://www.proasyl.de/fileadmin/fm-dam/q_PUBLIKATIONEN/2011/Italyreport_en_web_ENDVERSION.pdf>.

Commissione De Mistura, Senato della Repubblica, *Rapporto della Commissione De Mistura per le verifiche e le strategie dei Centri per gli immigrati*, 31 January 2007 <<http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/1/2007131181826.pdf>>.

Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Senato della Repubblica, *Rapporto sullo stato dei diritti umani negli istituti penitenziari e nei centri di accoglienza e trattenimento per migranti in Italia*, 6 March 2012 <http://www.cestim.it/argomenti/25cpt/2012_commissione_straordinaria_senato_rapporto_diritti_umani_carceri_centri_accoglienza.pdf>.

Committee of Ministers of the Council of Europe, *Commission Report on Platform "Ärzte für das Leben" v. Austria, Judgment of 21 June 1988*, Recommendation No. R 98(13) of the Committee of Ministers of the Council of Europe, Explanatory Memorandum.

Hammarberg, Thomas, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011*, CommDH(2011)26, Strasbourg, 7 September 2011.

Human Rights Council, Universal Periodic Review (Italy)
<<http://www.ohchr.org/EN/HRBodies/UPR/Pages/ITSession7.aspx>>.

Human Rights Watch, *Annual Report 2012: Events of 2011*, 2012 <<http://www.hrw.org/world-report-2012>>.

International Commission of Jurists, *United Nations Human Rights Council 7th Session Working Group on the Universal Periodic Review 8-19 February 2010: ICJ Submission to the Universal Periodic Review of Italy*, September 2009.

Jesuit Refugee Service-Europe, *Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants*, June 2010 <http://detention-in-europe.org/index.php?option=com_content&view=article&id=220&Itemid=242>.

Lambert, Hélène, *The position of aliens in relation to the European Convention on Human Rights*, Council of Europe Publishing, 2006.

Manconi, Luigi and Anastasia, Stefano (eds.), Associazione A Buon Diritto Onlus, *Lampedusa non è un'isola. Profughi e migranti alle porte dell'Italia*, June 2012 <<http://www.abuondiritto.it/upload/files/Lampedusa.pdf>>.

Medici per i Diritti Umani (MEDU), *Le Sbarre Più Alte: Rapporto sul centro di identificazione ed espulsione di Ponte Galeria a Roma*, May 2012 <http://www.mediciperidirittiumani.org/pdf/LE_SBARRE_PIU_ALTE.pdf>.

Medici per i Diritti Umani (MEDU), *L'iniquo ingranaggio dei CIE. Breve analisi dei dati nazionali completi del 2011 sui centri di identificazione ed espulsione*, July 2012 <http://www.mediciperidirittiumani.org/pdf/LINIQUO_INGRANAGGIO.pdf>.

Medici per i Diritti Umani (MEDU), *Rapporto Centro di Permanenza Temporanea ed Assistenza Brunelleschi di Torino*, June 2006 <<http://www.mediciperidirittiumani.org/rapporto2.htm>>.

Nowak, Manfred, *UN Covenant on Civil and Political Rights Commentary*, N.P. Engel Publisher, 2nd revised ed., 2005.

Parliamentary Assembly, *The Detention of Asylum Seekers and Irregular Migrants in Europe*, Report by the Committee on Migration, Refugees and Population, Doc.12105, 11 January 2012 <<http://assembly.coe.int/Documents/WorkingDocs/Doc10/EDOC12105.pdf>>.

United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992, UNHCR 1979.

United Nations High Commissioner for Refugees and the Inter-Parliamentary Union's Committee on Parliamentary, Judicial and Human Rights Questions, *Refugee Protection: A Guide to International Refugee Law*, 2001.

United Nations Working Group on Arbitrary Detention, *Annual Report 1998*, UN Doc. E/CN.4/1999/63, 18 December 1998.

United Nations Working Group on Arbitrary Detention, *Annual Report 1999*, UN Doc. E/CN.4/2000/4, 28 December 1999.

Wilkinson, Ray, "The Refugee Convention at 50...", *Refugees: The Wall Behind which Refugees can Shelter* 2(123), 2001.

Internet Articles and Other Internet Sources

Bongioanni, Maurizio, "CIE: grandi gruppi e concorrenza al ribasso" *Radio Radicale* (online), 9 July 2012 <<http://fainotizia.delta.radioradicale.it/contributo/09-07-2012/testo/chi-gestisce-i-cie-grandi-gruppi-e-concorrenza-al-ribasso?page=2>>.

Bongioanni, Maurizio, "Quanto ci costano i Cie (e chi li gestisce)", *Radio Radicale* (online), 7 July 2012 <<http://fainotizia.delta.radioradicale.it/contributo/07-07-2012/testo/quanto-ci-costano-i-cie?page=1>>.

Cosentino, Raffaella, "Cinque biglietti per un rimpatrio. Quanto costa un'espulsione?", *Progetto Melting Pot Europa* (online), 2 May 2012 <<http://www.meltingpot.org/stampa17700.html>>.

Cosentino, Raffaella and Genovese, Alessio, "CIE, le galere fuorilegge", *La Repubblica* (online), 9 June 2012 <http://inchieste.repubblica.it/it/repubblica/rep-it/2012/06/09/news/cie_le_galere_fuorilegge-36862905/>.

Cosentino, Raffaella and Genovese, Alessio, "Lo scandalo dei centri di identificazione dove gli ospiti diventano detenuti", *La Repubblica* (online), 9 June 2012

<http://inchieste.repubblica.it/it/repubblica/rep-it/2012/06/09/news/pezzo_principale-36856562/?inchiesta=%2Fit%2Frepubblica%2Frep-it%2F2012%2F06%2F09%2Fnews%2Fcie_le_galere_fuorilegge-36862905%2F>.

European Migration Network (ed.), *Practical responses to irregular migration: the Italian case*, 2012 <<http://www.emnitaly.it/down/rs-27-02.pdf>>.

Gatti, Fabrizio, “Io clandestino a Lampedusa”, *L'Espresso* (online), 7 October 2005 <<http://espresso.repubblica.it/dettaglio/io-clandestino-a-lampedusa/2104770//0>>, English translation available at <http://www.jrseurope.org/news_releases/OctLampedusaLifestory.pdf>.

Mangano, Antonello, “Gli intrappolati. La spending review dimenticata”, *Radio Radicale* (online), 6 July 2012 <<http://www.fainotizia.it/inchiesta/06-07-2012/gli-intrappolati>>.

Naletto, Grazia, “Immigrati, il costo della cattiveria”, *Sbilanciamoci* (online), 23 November 2010 <<http://www.sbilanciamoci.info/content/pdf/7022>>.

Paleologo, Fulvio, “Cie – Dopo il decreto sui rimpatri ancora diritti violati”, *Progetto Melting Pot Europa* (online), 9 August 2011 <<http://www.meltingpot.org/articolo16934.html>>.

Unknown author, “Blinded Stuttgart 21 protester wants apology”, *The Local: Germany's News in English* (online), 28 December 2010 <<http://www.thelocal.de/society/20101228-32075.html>>.

Unknown author, “Piantina CIE Torino 2.0”, *Indymedia* (online), 21 June 2011 <<http://piemonte.indymedia.org/article/12780>>.

CONTACT DETAILS

Human Rights and Migration Law Clinic, International University College of Turin

Address: Human Rights and Migration Law Clinic,
The International University College of Turin
Piazza Carlo Felice, 18
Torino 10121
Italy

Tel: +39 011 4407007

Fax: +39 011 5633683

Email: Mr Ulrich Stege (Clinical Legal Program Coordinator)
ustege@iuctorino.it

Avv. Maurizio Veglio (Clinical Legal Program Italian Lawyer and ASGI member)
maurizio.veglia@gmail.com

Ms Emanuela Roman (Clinical Legal Program Research Fellow)
manuroman@libero.it

