Italy Immigration Detention Profile

November 2017

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INTRODUCTION[1]

Italy confronts considerable migration challenges as the main European destination for asylum seekers and migrants attempting to cross the Mediterranean by boat. During 2016, approximately 180,000 people reached Italian shores, of whom 25,000 were unaccompanied children, more than double compared to the previous year.[2] 2016 was also the deadliest year on record for boat migrants, as more that 5,022 people died or went missing, compared to 3,771 in 2015.[3]

Italy has responded to this "emergency" situation by ramping up its domestic detention system as well as interdiction efforts aimed at preventing asylum seeker boat arrivals from North Africa. The country has been instrumental in supporting European Union (EU) programs to equip and train the Libyan coastguard to intercept trafficking boats.[4]

The country's securitization agenda is also reflected in recent legal changes. In April 2017, Italy adopted Law 46/2017 (the Minniti-Orlando Decree, D.L 12/2017), which establishes several new immigration and asylum control measures: It introduces a new article in the Consolidated Immigration Act that expands the criteria for assessing the risk of absconding to include repeated refusal to give fingerprints. It eliminates the possibility to appeal a first instance court decision rejecting an asylum application,

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[1] The Global Detention Project would like to thank Costanza Ragazzi for her assistance completing this profile and Valeria Ferrari and Adele del Guercio for their helpful comments and suggestions. Any errors in this profile are those of the GDP.
[2] UNICEF, "Number of unaccompanied or separated children arriving by sea to Italy doubles in 2016," 13 January 2017, https://www.unicef.org/media/media_94399.html.
[3] UNHCR, "Refugees/Migrants Response – Mediterranean," https://data.unhcr.org/mediterranean/country.php?id=105.
[4] European Commission, "Malta Declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route," 3 February 2017, http://www.consilium.europa.eu/en/press/press-releases/2017/01/03-malta-declaration/.

making appeal possible only through the Supreme Court. It simplifies asylum procedures by removing the courts' obligation to hear an asylum seeker; the applicants' testimony is now to be videotaped and the court has the option of deciding on whether it is necessary to conduct a full hearing. Lastly, the law allocates 13 million euros for the establishment of new detention centres.

Immigration detention in Italy has long operated in a grey area, leading to intense national and international scrutiny.[5] For instance, in its December 2016 ruling in *Khlaifia vs. Italy*, the Grand Chamber of the European Court of Human Rights found that Italy violated article 5 of the European Convention on Human Rights, which protects the right to liberty and security, in relation to its detention of four Tunisian migrants at a "first aid and reception centre" in Lampedusa (the centre was later converted into a "hotspot").[6]

The *Khlaifia* case also underscores how the language denoting detention in Italy can be misleading, which can have serious implications on the rights afforded detainees and lead to confusion about practices in the country. A case in point was the review of Italy before the UN Committee against Torture in November 2017. During the session an Italian official responded to a question concerning immigration detention by arguing that such detention did not exist in the country. He said, "Now, detention or people being held in centres for repatriation, this is once again not a form of detention, this is administrative holding of a person, it is temporary and has to do with preparing a case for repatriation. This only affects dangerous individuals, all of these stages of the process are provided for in our law."[7] When the Global Detention Project raised this quote with an expert in Italy, she said: "In Italian legislation, administrative detention is defined as 'administrative holding' (*trattenimento amministrativo*). The word detention is not used. However, people are held in a place and they cannot go out. Ironically, the fact that it is not defined as detention makes the condition and the accessibility to rights worse than in prison." Regarding the Italian official's assertion that this "administrative holding" only applies to "dangerous" people, the expert said: "There is no assessment of the dangerousness of the people held in the administrative detention centers. They are there due to their immigration status and not because they are necessarily dangerous individuals."[8]

Concerns over arbitrary detention in Italy have intensified since early 2016 after Italy's implementation of the controversial "hotspot" approach to addressing migration and refugee pressures, an EU-promoted registration and identification procedure that involves holding people at key points of arrival (for more on hotspots, see the related section below). Under pressure from the European Commission, Italy's Interior Ministry stated in mid-2017 that six new hotspots would be opened (in addition to the four

[5] Luca Masera (University of Brescia), Telephone interview with Michael Flynn (Global Detention Project), 23 November 2012; Claudia Pretto (Associazione studi giuridici sull'immigrazione), Email correspondence with Izabella Majcher (Global Detention Project), 4 November 2012.
[6] Denise Venturi, "The Grand Chamber's ruling in Khlaifia and Others v Italy: one step forward, one step back?" Strasbourg Observers, 10 January 2017, https://strasbourgobservers.com/2017/01/10/the-grand-chambers-ruling-in-khlaifia-and-others-v-italy-one-step-forward-one-step-back/.
[7] Vittorio Pisani, *Consideration of Italy - Replies of Italy*, 62nd session of the Committee Against Torture, 15 November 2017, minute 44:15, http://webtv.un.org/meetings-events/human-rights-treaty-bodies/committee-against-torture/watch/consideration-of-italy-contd-1585th-meeting-62nd-session-of-committee-against-torture/5648383897001.
[8] Valeria Ferraris (ASGI), Email Correspondence with Michael Flynn (GDP), 19 November 2017.

already existing ones) with the aim of accelerating repatriation procedures for undocumented migrants.[9]

Based on available statistics from official sources, it appears that the number of detainees in Italy dropped considerably between 2012 and 2015, from nearly 8,000[10] to 5,200.[11] As of mid-2017, more recent statistics covering the surge in arrivals in 2016 included mainly daily population rates at long-term detention facilities, called Return Detention Centres (Centri di Permanenza per i Rimpatri, or CPRs) (formerly known as Centri di Identificazione ed Espulsione, or CIEs). Between 1 January and 15 September 2016, 1,968 were reportedly detained at CPRs.[12] A Chamber of Deputies statistical dossier indicates that on 24 January 2017, 285 people were detained in CPRs.[13] On the same date, 355 adults and 20 unaccompanied minors were accommodated at hotspots. However, the statistics concerning hotspots do not distinguish between those who are detained and those who are able to leave such facilities (see "Hotspots" below).

Formal requests to get more clarity on Italy's detention operations are sometimes stymied by lack of transparency. For instance, during 2013-2015, Access Info Europe and the Global Detention Project undertook a joint initiative aimed at assessing the degree of openness with respect to information about immigration detention in 33 countries, including Italy.[14] The two groups repeatedly sent brief questionnaires asking for data on where people were detained and how many had been detained in recent years, and requesting details about asylum seekers and children in detention. The questions were translated and sent using designated channels and according to access information laws. Italy was one of six countries that ignored all requests (the others included Cyprus, Iceland, Malta, Norway, and Portugal). Discussing these cases, the report noted, "Administrative silence in the face of access to information requests is unacceptable as access to information is a fundamental human right."[15]

LAWS, POLICIES, PRACTICES

Italian legislation explicitly affirms the fundamental rights of undocumented migrants. As stipulated in article 2(1) of the Immigration Act, a non-citizen "regardless of how he is present at the territory of the State," shall have his fundamental rights recognized. Also,

[9] A. Zinti, "Migranti, istituiti sei nuovi hotspot: due verranno aperti in Sicilia, tre in Calabria e uno a Cagliari," *La Repubblica*, 05 July 2017, http://palermo.repubblica.it/cronaca/2017/07/05/news/migranti_due_nuovi_hotspot_in_sicilia_verranno_aperti_a_palermo_e_a_siracusa-169998642/; F. Sarzanini, "Migranti, La sfida di Minniti sui porti e sulle Ong. 'Pronti sei nuovi hotspot ora rivediamo Triton'," *Corrire della Sera*, 04 July 2017, http://www.corriere.it/politica/17_luglio_04/migranti-sfida-minniti-porti-ong-pronti-sei-nuovi-hotspot-ora-rivediamo-triton-cff03110-60fa-11e7-b845-9e35989ae7e4.shtml.

[10] Police Authority data reported by Doctors for Human Rights (Medici per i Diritti Umani), cited in Italian Council for Refugees (CIR), *Country report: Italy*, Asylum Information Database (AIDA), January 2015, http://www.asylumineurope.org/reports/country/italy/general.

[11] Chamber of Deputies, *Dossier a cura degli Ispettori della Guardia di Finanza addetti all'Archivio della Commissione – Dati Statistici*, 23 January 2017, https://immigrazione.it/docs/2017/dati-statistici-23-gennaio-2017.pdf.

[12] Senate Human Rights Commission, "Report on identification and expulsion centres," January 2017, http://bit.ly/2mFIDEg.

[13] Chamber of Deputies, *Dossier a cura degli Ispettori della Guardia di Finanza addetti all'Archivio della Commissione – Dati Statistici*, 23 January 2017, https://immigrazione.it/docs/2017/dati-statistici-23-gennaio-2017.pdf.

[14] Global Detention Project and Access Info Europe, *THE UNCOUNTED: The Detention of Migrants and Asylum Seekers in Europe*, December 2015, https://www.globaldetentionproject.org/the-uncounted-the-detention-of-migrants-and-asylum-seekers-in-europe.

[15] Global Detention Project and Access Info Europe, *THE UNCOUNTED: The Detention of Migrants and Asylum Seekers in Europe*, December 2015, https://www.globaldetentionproject.org/the-uncounted-the-detention-of-migrants-and-asylum-seekers-in-europe.

article 10 of the Italian Constitution provides that the legal status of foreigners is regulated by law in conformity with international norms and treaties and affirms the right to asylum. Article 13 of the Constitution provides that personal liberty is inviolable and that detention shall only be allowed for judicial reasons and in a lawful manner.

Despite this, numerous reports by civil society groups, international organisations, and other observers have repeatedly denounced violations of the fundamental rights of non-citizens in detention. In its 2012 profile on Italy, the Global Detention Project (GDP) cited numerous reports showing that authorities routinely detained non-citizens outside the framework of the law.[16] Since then, and particularly since the establishment of the "hotspot approach," many of the hardships that non-citizens face in custody appear to have been exacerbated.

Grounds for immigration detention. Detention of non-citizens is established in the Turco-Napolitano Law (Law n. 40/1998).[17] Article 11 provides the grounds for issuing an administrative expulsion order, including for overstaying a visa by more than two months and entering Italy by evading border controls. Article 12 states that when it is not possible to immediately return someone at the border or complete an expulsion order, then the police commissioner may order detention at a temporary holding facility. The police must communicate this decision to a magistrate, who is to undertake a "validation hearing" and issue a detention order within 48 hours.

Based on the Turco-Napolitano Law, the Consolidated Immigration Act *(Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, the "Immigration Act")* was issued in July 1998 (Legislative Decree n. 286). Articles 11 and 12 of the Turco-Napolitano Law are found in the Immigration Act as articles 13 and 14 respectively. The Consolidated Immigration Act, which has been amended several times, remains the main legislation relevant to immigration detention, asylum procedures, and reception conditions.

Substantive changes in immigration detention policy were provided in the 2002 Bossi-Fini Law (Law n. 189/2002).[18]

Asylum seekers. According to article 6(2) of Law Decree 142/2015, which incorporated the EU Reception Conditions Directive and Asylum Procedures Directive into Italian legislation, asylum seekers may be detained if: a) they fall under the exclusion clause under article 1F of the Geneva Refugee Convention; b) are issued with an expulsion order as a danger to public order or state security, are suspected of being affiliated to a mafia-related organization, has conducted or financed terrorist activities, has cooperated in selling or smuggling weapons or habitually conducts any form of criminal activity,

[16] Senate Human Rights Commission, "Rapporto Sui Centri di Identificazione ed Espulsione in Italia," January 2017, https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20(2%20gennaio%202017).pdf; Luca Masera (University of Brescia), Telephone interview with Michael Flynn (Global Detention Project), 23 November 2012; Claudia Pretto (Associazione studi giuridici sull'immigrazione), Email correspondence with Izabella Majcher (Global Detention Project), 4 November 2012.

[17] Parlamento, "Leege 6 marzo 1998, n.40, 'Disciplina dell'immigrazione e norme sulla condizione dello straniero'," 1998, http://www.camera.it/parlam/leggi/98040l.htm.

[18] Parlamento, "Legge 30 luglio 2002, n.189, 'Modifica alla normative in material di immigrazione e di asilo'," 2002, http://www.camera.it/parlam/leggi/02189l.htm.

including with the intention of committing acts of terrorism; c) may represent a threat to public order or security; or d) poses a risk of absconding.[19]

As clarified in article 6(2)(d), the assessment of the risk of absconding is to be carried out on a case-by-cases basis and take such factors into account as previous systematic false statements or failure to comply with alternatives to detention. Article 17(3) of Law Decree 13/2017 provides a new factor for finding a risk of absconding, namely the repeated refusal to undergo fingerprinting. Under article 6(3) of Law Decree 142/2015, if a person in pre-removal detention applies for asylum he should remain in detention if there are reasonable grounds to consider that the asylum application was submitted solely to delay or obstruct return.

Children and other vulnerable groups. According to Italian law, children, pregnant women, or women that have given birth in the previous six months cannot be expelled from the country. Further, unaccompanied minors cannot be detained in dedicated detention centres (Legislative Decree 142/2015, Article 19(4)). However unaccompanied asylum-seeking minors may still be housed in secure accommodation centres for identification and age determination purposes for a maximum period of 60 days (Legislative Decree 142/2015, Article 19(1)). It is not forbidden for minors to be detained with their families if they request it and a judge authorizes it.[20]

In April 2017 Law 47/2017 concerning the protection of unaccompanied minors was approved. This law reinforces the prohibition against expelling or refusing entry to unaccompanied children (Art. 3).[21] The law amends article 19 of the Immigration Act to specify that unaccompanied minors are to be accommodated at dedicated "first aid" facilities (*centri di prima accoglienza a loro destinati*) where they are to be housed for a maximum of 30 days (previously it was 60) (Law 47/2017, Art 17).

There are no legal guarantees in Italian legislation for the protection of other vulnerable persons, such as victims of violence and torture, so they may be at risk of being placed in detention.[22]

Despite the fact that there is no legal basis for detaining unaccompanied minors in hotspots for identification purposes, reports indicate that de facto detention of children at these facilities is common despite the devastating impact it has them (see the section on "Hotspots" below for more details). Human Rights Watch reported in 2016 that unaccompanied minors as young as 12 were placed in de-facto detention sometimes for over a month alongside unrelated adults at the hotspot of Pozzallo. When HRW visited the centre in June 2016, of the 365 people held at the centre 185 where unaccompanied children. The children were vulnerable to violence and sexual harassment. A 17-year-old Eritrean girl told the rights watchdog that men "come when we sleep, they tell us they need to have sex. They follow us when we go to take a shower. All night they wait for us.

[19] Italian Council of Refugees (CIR) and Association for Legal Studies on Immigration (ASGI), *Country Report : Italy*, AIDA and ECRE, December 2016, http://www.asylumineurope.org/reports/country/italy.
[20] M. Di Donato, and D. Di Rado, (CIR), *AIDA Country Report: Italy*, ECRE, December 2015, http://www.asylumineurope.org/reports/country/italy.
[21] Gazzetta Ufficiale, "Legge 7 aprile 2017, n.47," April 2017, http://www.gazzettaufficiale.it/eli/id/2017/04/21/17G00062/sg.
[22] M. Di Donato, and D. Di Rado, (CIR), *AIDA Country Report: Italy*, ECRE, December 2015, http://www.asylumineurope.org/reports/country/italy.

… They [the police, the staff] know about this, everybody knows the problem, but they do nothing."[23]

Children face severe hardships in other hotspots as well. A visit to the Lampedusa hotspot organized as part of a LasciateCIEentrare campaign, experts found that although the compound had separate areas for unaccompanied minors it frequently confined more children than the 60-bed capacity. The average stay of children at the Lampedusa hotspot was at the time reported to be 25 days.[24]

Another critical issue concerning children are inaccurate age assessments. In Italy the main tool used to determine whether one is a minor involves wrist-bone x-rays.[25] This procedure can have a high margin of error as it indicates level of biological development rather than chronological age since birth.[26] NGOs have reported numerous cases in which age assessments were inaccurate.[27]

Length of detention. The maximum length of pre-removal detention is 90 days (Consolidated Immigration Act, Art 14(5)); the maximum length of detention for asylum seekers is 12 months (Decree 142/2015, Article 6.8). The police commissioner may prolong the detention of an applicant for international protection for periods that do not exceed 60 days.

The maximum length of detention in Italy has changed several times in recent years. The Turco-Napolitano Law initially established a maximum detention period of 30 days (Art 12). The Bossi-Fini Law subsequently amended article 14(5) of the Consolidated Immigration Act, providing that if the procedures to verify the identity of a non-citizen face serious difficulties then a judge can extend the detention period for an additional 30 days. In May 2008, the then-newly elected Berlusconi government adopted a package of provisions, known as the "security package" (*pacchetto sicurezza*), with the objective of combatting irregular migration. The "security package" included Law 94/2009,[28] which amended the Consolidated Immigration Act by increasing the maximum period of detention at an Identification and Expulsion Center (CIE) to 18 months. In 2013, this was shortened to the current period of 90 days (Consolidated Immigration Act, Art 1(5)).

According to the Senate Extraordinary Commission for the Promotion of Human Rights, the average detention period in Italy's long-term detention centres during 2015 was 25.5 days.[29]

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[23] Human Rights Watch, "Italy: Children Stuck in Unsafe Migrant Hotspot," 23 June 2016, https://www.hrw.org/news/2016/06/23/italy-children-stuck-unsafe-migrant-hotspot.
[24] A. Ballerini, "A Lampedusa l'Hotspot non ci può essere," Melting Pot, 2 February 2016, http://www.meltingpot.org/A-Lampedusa-l-Hot-spot-non-ci-puo-essere.html.
[25] A. Ballerini, "A Lampedusa l'Hotspot non ci può essere," Melting Pot, 2 February 2016, http://www.meltingpot.org/A-Lampedusa-l-Hot-spot-non-ci-puo-essere.html.
[26] Arsalan Manzoor Mughal, Nuzhat Hassan and Anwar Ahmed, "Bone Age Assessment Methods: A Critical Review," Pak J Med Sci, 30(1): 211-215, January-February 2014.
[27] M. Di Donato, and D. Di Rado, (CIR), *AIDA Country Report: Italy*, ECRE, December 2015, http://www.asylumineurope.org/reports/country/italy.
[28] Parlamento, "Disposizioni in material di sicurezza pubblica," 15 July 2009, http://www.parlamento.it/parlam/leggi/09094l.htm.
[29] Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Senato della Repubblica, *Rapporto sui Centri di Identificazione ed Espulsione in Italia*, February 2016, http://www.asylumineurope.org/sites/default/files/resources/senato_cie_report_2016.pdf.

If a non-citizen can no longer be detained at a CIE because the maximum detention period has expired before an order of expulsion can be executed, then the police can issue a provision ordering the non-citizen to leave the country within seven days. If this is violated, either because the non-citizen does not leave or because he re-enters the state's territory, he can be prosecuted and sentenced to up to a year of imprisonment. If the non-citizen violates the expulsion order a second time, he can be imprisoned for between one and four years.

Procedural guarantees. Upon arrest of a non-citizen who appears to have violated immigration law, the police are to notify the appropriate judicial authority (*giudice di pace*, "justice of the peace") within 48 hours. Following a "validation hearing" in the presence of a lawyer, the judge is to issue a detention order within 48 hours. Non-citizens then have the right to appeal a detention and/or extension decision to the Court of Cassation (Consolidated Immigration Act, Art 14(6)).

Both validation and extension hearings have been the subject of criticism, in part because the judges often have little knowledge of immigration law. The Special Rapporteur on the Human Rights of Migrants has stated that the judges "deciding whether expulsion and detention orders should be extended are justices of the peace without any particular expertise in immigration issues. The ability of these lay judges to review the detention orders on the merits seems to be limited; rather, the confirmation of the detention orders is perceived to be, in many cases, based on mere formalities, thus resulting in a lack of real judicial control over the order."[30]

There has also be criticism over the poor quality of public defenders. Government lawyers are often appointed just hours before the hearing and only briefly meet their clients, often without an interpreter. Even when adequate defence is provided decisions can rely on superficial judicial reasoning, according to study produced by the Monitoring Center on Juridical Control of Migrants' Removal. The study concluded that detention appear to be a mere formality in which summary decisions are frequently arrived at in less than five minutes of deliberation.[31]

There are also challenges in the process of appealing decisions to the court of cassation. The appeals process is a lengthy and complex process and many lawyers do not fulfil the requirements needed to be able to act in front of the Court of Cassation (one needs to have practiced law for at least 12 years).[32]

Alternatives to detention. Alternatives to detention were introduced in the 2011 amendment to the Consolidated Immigration Act, transposing the EU Returns Directive. In line with Article 14(1bis), in cases where detention may be ordered officials may instead order one of three kinds of non-custodial measures: a) relinquishing passport or other equivalent document; b) obligation to reside at a previously identified location; c)

[30] F. Crépeau, "Report by the Special Rapporteur on the human rights of migrants, François Crépeau, on his mission to Italy (29 September – 8 October)" Human Rights Council Twenty-third session, 2012, http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx.
[31] Monitoring Center on Juridical Control of Migrants' Removal, *Executive Summary 2016*, 01 March 2017, http://www.lexilium.it/pubblicazioni/.
[32] A. Di Pascale, *REDIAL PROJECT National Synthesis Report – Italy*, Odysseus Network, http://euredial.eu/publications/national-synthesis-reports/.

reporting obligations. However, these measures may be applied only with respect to migrants who have their passport or other equivalent document.[33]

Based on an examination of 2015 data from detention-centre hosting cities Bari and Torino, the Monitoring Centre on Juridical Control of Migrants' Removal found that no decision to authorize alternatives to detention was recorded. Assessing case law from judges of the peace in the cities of Bologna and Prato (which currently do not have detention centres) for the same time period, the group found that alternatives to detention where adopted more frequently, in 92 percent and 16 percent of cases respectively. The most frequent alternative to detention adopted was the submission of the passport and obligation to report to police headquarters.[34]

Hotspots. In May 2015 the European Commission, as part of its agenda on migration, outlined its new "hotspot" approach.[35] Hotspots are to be located at arrival points in frontline member states (Italy and Greece) and are "designed to inject greater order into migration management by ensuring that all those arriving are identified, registered and properly processed."[36] Ultimately, this approach is supposed to enhance the effectiveness of EUs relocation programs and speed up returns of those classified as "economic migrants."

Crucially, hotspots in Italy—unlike those in Greece—are not regulated by specific laws but only at a policy level through a "Roadmap"[37] developed by the Interior Ministry and standard operating procedures (SOPs)[38] drafted with the assistance of the European Commission, Frontex, Europol, the European Asylum Support Office, UNHCR, and the IOM. According to these guidelines, non-citizens are to be identified, registered, and fingerprinted at hotspots and subsequently either channelled to the reception system (if an application for international protection has been made) or transferred to pre-removal detention centres if the person is categorised as undocumented. Law 46/2017 (Minniti-Orlando) introduced the concept of hotspots (referred to as "punti di crisi") in Italian legislation (article 17). However, according to the Italian Refugee Council (CIR), this act does not clarify or standardize the functioning of hotspots at a legislative level, which would include provisions establishing whether hotspots should operate in an open or closed door policy.[39]

[33] PICUM, *Building Strategies to Improve the Protection of Children in an Irregular Migration Situation in Europe: Country Brief Italy*, July 2012, http://picum.org/it/pubblicazioni/rapporti-di-conferenze-e-seminari/.
[34] Monitoring Center on Juridical Control of Migrants' Removal, *Executive Summary 2016*, 01 March 2017, http://www.lexilium.it/pubblicazioni/.
[35] European Commission, *European Agenda on Migration*, 13 May 2015, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf.
[36] European Parliament - Policy Department for Citizen's Rights and Constitutional Affairs, *On the Frontline: the Hotspot Approach to Managing Migration*, p.8, May 2016, http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556942/IPOL_STU(2016)556942_EN.pdf.
[37] Ministero dell'Interno, "Roadmap Italiana," 25 September 2015, http://www.meltingpot.org/IMG/pdf/roadmap-2015.pdf.
[38] Ministero dell'Interno - Dipartimento per le libertà civili e l'immigrazione, "Standard Operating Procedures," http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/hotspots_sops_-_english_version.pdf.
[39] Elisa Maimone (CIR Italian Refugee Council), Email exchange with Izabella Majcher (Global Detention Project), June 2017; Francesco Ferri, Dario Belluccio, Guido Savio and Annapaola Ammirati (Associazione per gli studi giuridici sull'Immigrazione, ASGI), email exchange with Izabella Majcher (Global Detention Projet), June 2017.

A core objective of the hotspot approach is to ensure swift identification and subsequent categorization of non-citizens arriving in Europe.[40] Since the end of 2015 there has been a notable increase in the rate of fingerprinting. Amnesty International has argued that this is a result of the increase use of aggressive and coercive measures on part of the Italian police. Such measures have allegedly included the use of torture like electrocution, other uses of force, and prolonged detention.[41] Although no law that allows for the use of force has yet been adopted, in 2014 a Ministerial circular explained that fingerprints could be taken "even with the use of force if necessary."[42]

In practice, non-citizens are not allowed to leave the hotspot premises until they have been identified and fingerprinted.[43] This practice appears to extend beyond 48 hours – a period allowed under Consolidated Immigration Act. For instance, in one case, 200 migrants from Eritrea and Sudan who arrived in Lampedusa in January 2016 were detained for many weeks after refusing to have their fingerprints taken.

Law 46/2017 (Minniti-Orlando) amends the Consolidated Immigration Act to characterize the repeated refusal to provide fingerprints as "risk of absconding" and therefore as a ground for pre-removal detention (Law 46/2017 Art.17). Detention in such circumstances is to be carried out in pre-removal detention centres, not hotspots.

Reports indicate that the role of hotspots has expanded to include detention not just of maritime arrivals but also people detained at border regions in the north of Italy. According to observers, since mid-2016 border points with France (Ventimiglia) and Switzerland (Como) have been transferring people apprehended while attempting to cross the border irregularly to hotspots, mainly Taranto.[44] Most of the transferees have already been identified and fingerprinted, in some cases after having been hosted in a reception centre. Observers speculate that these transfers are intended to serve as a coercive measure aimed at discouraging border-crossings.[45]

There has also been broad criticism of procedures at the hotspots. In a report on the hotspot of Contrada Imbriacola, Lampedusa, a Senate human rights commission stated that the pre-identification procedure consists of a short and superficial interview with police officers, together with Frontex officials, the aim of which is to fill in a form called the "foglio notizie."[46] People are required to answer the question "venuto in Italia per" (came to Italy for) by selecting one of five options:1) occupation; 2) to join relatives; 3) escaping from poverty; 4) asylum; 5) other reasons. Only if the correct answer (asylum) is chosen the possibility to apply for international protection is given, otherwise the

[40] Amnesty International, *Hotspot Italia: Come le Politiche dell'Unione Europea Portano a Violazioni dei Diritti di Rifugiati e Migranti*, 3 November 2016, https://www.amnesty.org/en/documents/eur30/5004/2016/it/.
[41] Amnesty International, *Hotspot Italia: Come le Politiche dell'Unione Europea Portano a Violazioni dei Diritti di Rifugiati e Migranti*, p.17, 3 November 2016, https://www.amnesty.org/en/documents/eur30/5004/2016/it/.
[42] Ministero dell'Interno, "circolare n. 27978," 23 September 2014, http://www.meltingpot.org/IMG/pdf/circolare_impronte.pdf.
[43] Elisa Maimone (CIR Italian Refugee Council), Email exchange with Izabella Majcher (Global Detention Project), June 2017.
[44] A. Quadroni and M. Luppi, "Il 'giro dell'oca' dei trasferimenti coatti dal Nord Italia a Taranto," OpenMigration. 10 November 2016, http://openmigration.org/analisi/il-giro-delloca-dei-trasferimenti-coatti-dal-nord-italia-a-taranto/.
[45] A. Quadroni and M. Luppi, "Il 'giro dell'oca' dei trasferimenti coatti dal Nord Italia a Taranto," OpenMigration. 10 November 2016, http://openmigration.org/analisi/il-giro-delloca-dei-trasferimenti-coatti-dal-nord-italia-a-taranto/.
[46] An example of the "foglio notizie" can be found at http://www.integrationarci.it/wp-content/uploads/2016/04/allegato1-foglio-notizie.jpg.

person is categorised as an economic migrant and is transferred to a CPR/CIE or refused entry.

The Interior Ministry provides data regarding the average number of days spent in hotspots (8.2 for adults and 12.6 for unaccompanied minors[47]). However, this cannot be equated to the average length of de-facto detention in hotspots as in some hotspots—Pozzallo and Taranto—once non-citizens have been fingerprinted they receive a pass that allows them to exit the facility during the day and thus are no longer strictly detained.[48]

Criminalization. In 2008, as part of the Berlusconi government's "security package," the penal code was amended to introduce migration as an aggravating circumstance in criminal law (Law 125/2008, Art 1(g)). In 2010, migration as an aggravating circumstance was declared unconstitutional by the constitutional court (judgment n. 249 8 July 2010) and abolished. However, Italy still criminalises irregular entry and stay. In 2009, Article 6(3) of the Consolidated Immigration Act was amended so that the crime of irregular entry and stay is punishable with a fine between 5,000 and 10,000 euros.

In 2014, with legislation concerning non-carceral penal detention (*la legge in materia di pene detentive non carcerarie e di sospensione del procedimento con messa alla prova nei confronti degli irreperibili*) (Law 67/2014), Parliament mandated that the government de-penalise certain crimes, including irregular entry and stay. Re-entry after expulsion would remain sanctionable. The government was supposed to complete the process of de-penalisation within 18 months, but no action had been taken concerning irregular entry and stay as of late 2017. According to a source in Italy, "when the deadline expires, the crimes that were not de-penalised remain crimes and a new delegation law has to be enacted by the Parliament. The point is that there was a lack of political will from the Italian government. They depenalised other crimes but not the one concerning irregular entry or stay."[49]

Targeted nationalities. Italy has been criticized for discriminatory deportation and detention practices. A recent case concerned a January 2017 circular issued by the Interior Ministry to the police headquarters (*questuras*) in Rome, Turin, Brindisi and Caltanisetta requesting that 95 places in CPRs/CIEs be reserved for Nigerian nationals (50 for women and 45 for men) until 18 February 2017, when a deportation flight was scheduled to depart in cooperation with the Nigerian embassy.[50] The police were encouraged to carry out targeted actions to trace Nigerian citizens present on national territory in undocumented way. Rights groups including (Association for Juridical Studies on Immigration) ASGI argued that this violated international human rights norms in multiple ways. In particular, the involvement of the Nigerian embassy in "tracking down" Nigerian nationals, some of whom could be potential asylum seekers, violated the principle of non-refoulement and non-discrimination. Also, the "reservation" of such a high number of places in detention centres for Nigerian women raised the spectre that a

[47] Open Migration, "Infografiche," 2017, http://openmigration.org/infografiche#all.
[48] Elisa Maimone (CIR Italian Refugee Council), Email exchange with Izabella Majcher (Global Detention Project), June 2017.
[49] Valeria Ferraris (ASGI), Email Correspondence with Michael Flynn (GDP), 19 November 2017.
[50] ASGI, "Salto di qualità nelle politiche repressive: rintraccio e rimpatrio su base etnica," 02 Feburary 2017, http://www.asgi.it/notizia/telegramma-nigeria-ministero-interno-rintraccio-rimpatrio-base-etnica/.

group of migrants vulnerable to trafficking would be targeted for detention and deportation.

Torture and ill treatment in detention. There have been reports of migrants and asylum seekers suffering torture and mistreatment in detention centres in Italy. Amnesty International documented the testimonies of 24 people who recount having been victims of torture or other ill treatment at the hand of Italian police as part of fingerprinting procedures. Most of the testimonies where given by Sudanese people who accused the police of having beaten them up, given electric shocks with electric batons, sexually humiliated them and inflicted genital pain. People also recount having been arbitrarily detained with no food or water for multiple days in the coercive attempt of obtaining fingerprints.[51] In one case, Djoka and Ali, two teenage boys fleeing Darfur, recount being detained in separate police stations for multiple days (Djoka in Sicily and Ali in Puglia) and then being brought to "electricity rooms" located in each station where they were given electric shocks until they either accepted to have their finger prints taken or where too weak to pose any resistance. The Amnesty report also recounts allegations of ill treatment at the hotspots of Taranto, Lampedusa, Pozzallo, as well as at police stations in Bari, Cagliari, Catania, Foggia and Savona as well as in a reception centre in Ancona.[52]

Bilateral and multilateral agreements and cooperation. Italy has been a leading proponent in Europe of increasing cooperation with African countries to stem migration flows, particularly with Libya. The country also has readmission agreements with several countries including Egypt, Tunisia, Nigeria, and Morocco.[53]

The vast majority of arriving asylum seekers and migrants depart from Libya (according to UNHCR in 2016 departures from Libya amounted to 89.7 percent of maritime arrivals in Italy),[54] thus it has been an important country with which bilateral agreements have been signed (most notably in 2009 and 2012) and cooperation increased, including direct collaboration with the Libyan Coast Guard and the establishment of border protection agreements with local tribes in the interior of Libya.[55] The current political situation in Libya prevents formalization of readmission agreements, yet the Interior Ministry has repeatedly claimed that cooperation with Libya is essential to halt irregular arrivals and increase expulsions.[56] (See, for example, the response from the Interior Minister to the Council of Europe's Commissioner for Human Rights' September 2017 letter expressing concern about Italy's collaboration with Libyan authorities.) By mid-2017, the Italian government was claiming that its engagement strategy was a clear success, pointing to dramatic decreases in arrivals in July and August while ignoring the

[51] Amnesty International, *Hotspot Italia: Come le Politiche dell'Unione Europea Portano a Violazioni dei Diritti di Rifugiati e Migranti*, p.17, 3 November 2016, https://www.amnesty.org/en/documents/eur30/5004/2016/it/.
[52] Amnesty International, *Hotspot Italia: Come le Politiche dell'Unione Europea Portano a Violazioni dei Diritti di Rifugiati e Migranti*, 3 November 2016, https://www.amnesty.org/en/documents/eur30/5004/2016/it/.
[53] Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Senato della Repubblica, *Rapporto sui Centri di Identificazione ed Espulsione in Italia*, p.16, February 2016, http://www.asylumineurope.org/sites/default/files/resources/senato_cie_report_2016.pdf.
[54] UNHCR, "Italy Sea Arrivals Dashboard," 2016, https://data2.unhcr.org/en/documents/download/52680.
[55] Jacopo Barigazzi, "Italy sees unexpected reduction in Mediterranean migration flows," Politico, 3 August 2017, http://www.politico.eu/article/europe-sees-unexpected-reduction-in-mediterranean-migration-flows/.
[56] G. Rosini "Migranti, Minniti vuole 'raddoppiare le espulsioni'. Ma mancano gli accordi: 'E l'intesa con la Libia sarebbe inapplicabile'," Il Fatto Quotidiano, 07 January 2017.

horrific treatment faced by migrants and asylum seekers in custody in Libya.[57] Human Rights Watch commented, "After years of saving lives at sea, Italy is preparing to help Libyan forces who are known to detain people in conditions that expose them to a real risk of torture, sexual violence and forced labour."[58]

The Department of Public Security has initiated joint operations with several important countries of origin, including Gambia, Ivory Coast, Ghana, Senegal Bangladesh, and Pakistan.[59] Agreements aimed at enhancing police cooperation do not need to be approved by the parliament. One such agreement, a 2016 "memorandum of understanding" between the Italian and Sudanese police forces, is aimed at strengthening police cooperation between the two countries to combat against organised crime, trafficking of migrants and irregular immigration, the trade in human beings, drug trafficking and terrorism.[60] The existence of this agreement was brought to light when a group of 48 Sudanese refugees were coercively taken from the border of Ventimiglia, transported to the hotspot in Taranto, and then later to the airport in Turin from which they were deported back to Sudan.[61] According to Amnesty International, all of the deportations had not been officially authorized by the *giudice di pace*.[62]

After his 2014 visit to Italy, the Special Rapporteur on the Human Rights of Migrants highlighted readmission agreements as a key concern with respect to the country's efforts to adhere to critical human rights norms: "Of particular concern to the Special Rapporteur is the information he received about continued violations of the principle of non-refoulement and of the prohibition of collective expulsions with regard to the return of some migrants, possibly including minors, immediately after their arrival. He learned that, on the basis of bilateral readmission agreements, nationals of Egypt and Tunisia are often returned without having had access to asylum procedures; this has occurred in, among other places, Pozzallo."[63]

Operating regulations. The Interior Ministry adopted regulations concerning the criteria for the management of CPRs/CIEs in 2014. The aim was to standardize detention operations, which were previously largely determined by prefect police chiefs.[64] Amongst other issues the regulations establish basic rights of detainees (including the

[57] "Data from the Italian interior ministry shows that about 11,100 migrants made the dangerous crossing in July compared to more than double that amount in the same month in 2016 (just over 23,500)." Quoted in Jacopo Barigazzi, "Italy sees unexpected reduction in Mediterranean migration flows," Politico, 3 August 2017, http://www.politico.eu/article/europe-sees-unexpected-reduction-in-mediterranean-migration-flows/. See also, Giulia Paravicini, "Italy's Libyan 'vision' pays off as migrant flows drop," Politico, 10 August 2017.
[58] Jacopo Barigazzi, "Italy sees unexpected reduction in Mediterranean migration flows," Politico, 3 August 2017, http://www.politico.eu/article/europe-sees-unexpected-reduction-in-mediterranean-migration-flows/.
[59] Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Senato della Repubblica, *Rapporto sui Centri di Identificazione ed Espulsione in Italia*, p.16,February 2016, http://www.asylumineurope.org/sites/default/files/resources/senato_cie_report_2016.pdf.
[60] ASGI, "Memorandum of understanding between the Italian public security department and the Sudanese national police. A reading guide," 2016, http://www.statewatch.org/news/2016/nov/asgi-italy-sudan-mou.pdf.
[61] ASGI, "Memorandum of understanding between the Italian public security department and the Sudanese national police. A reading guide," 2016, http://www.statewatch.org/news/2016/nov/asgi-italy-sudan-mou.pdf.
[62] Amnesty International, *Hotspot Italia: Come le Politiche dell'Unione Europea Portano a Violazioni dei Diritti di Rifugiati e Migranti*, p. 51, 3 November 2016, https://www.amnesty.org/en/documents/eur30/5004/2016/it/.
[63] F. Crépeau, "Report by the Special Rapporteur on the human rights of migrants, François Crépeau, on his follow-up mission to Italy (2–6 December 2014)" Human Rights Council Twenty-ninth session, 2014, http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx.
[64] Ministro dell'Interno, "Regolamento recante criteri per l'organizzazione e la gestione dei CIE," meltingpot, 20 October 2014, http://www.meltingpot.org/Regolamento-recante-criteri-per-l-organizzazione-e-la.html#.WRrAh1WLSUk.

right to information and the right to medical assistance), the services to be provided, and security procedures.[65] Included in the document is the charter of rights and obligations of non-citizens in detention centres *(Carta dei diritti e dei doveri dello straniero nei centri di Identificazione ed Espulsione)*, which is to be given to every detainee upon arrival.

Previous regulations concerning operations at CIEs established that the police commissioner and security forces are responsible for security and order at the centres. Their specific responsibilities are to monitor the entrances and perimeters of centres, to verify who accesses them, and to allow entry only to authorised vehicles.[66] While security forces are supposed to be allowed only exceptional entry into facilities during emergency situations, observers say their presence is much more noticeable. According to one report, police forces are often present in the lodging and communal areas, as well as during meetings with visitors and medical appointments.[67] However, it is unclear whether or to what extent these earlier regulations have been superseded by the more recent ones. A source in Italy told the GDP that this procedure does not appear to be standard at all CIEs.[68]

As discussed in more detail in the following section of this profile, the Interior Ministry outsources internal management of and operations at centres to both public and private institutions. Currently detention centres in Italy are managed by a broad range of associations, companies, and cooperatives, including both for-profit and not-for-profit entities. In some cases for-profits and not-for-profits jointly operate centres.[69]

Outsourcing, privatization, and corruption. The prefectures where immigration centres are located outsource management and services at the centres on behalf of the Interior Ministry. The main criteria for deciding contracts is supposed to be "value for money." Services mentioned in contract tenders fall under five main categories[70]: administrative management; general assistance; medical assistance; cleaning services and hygiene; distribution of goods.[71]

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[65] Ministero dell'Interno, "Criteri per l'organizzazione e la gestione dei centri di identificazione ed espulsione previsti dall'articolo 14 del decreto legislativo 25 luglio 1998, 286 e successive modificazioni, " 2014, http://www.prefettura.it/FILES/docs/1233/Regolamento%20Unico%20CIE.pdf.

[66] Ministero dell'Interno - Direzione generale dei servizi civil, "Circolare del 30 agosto 2000," Bianco Directive, 30 August 2000, http://www.osservatoriomigranti.org/assets/files/DET-NORM-NAZ/Direttiva%20del%20Ministero%20dellInterno%20del%2030%20agosto%202000.pdf.

[67] G. Campesi, "La detenzione amministrativa degli stranieri in Italia: storia, diritto, política," Democrazia e Diritto, 3-4, pp. 27, 2011.

[68] Valeria Ferraris (ASGI), Email Correspondence with Michael Flynn (GDP), 19 November 2017.

[69] See Global Detention Project, Italy Country Profile, "Institutions" section for details, https://www.globaldetentionproject.org/countries/europe/italy.

[70] Interior Ministry, "SCHEMA DI CAPITOLATO DI APPALTO PER LA GESTIONE DEI CENTRI DI ACCOGLIENZA PER IMMIGRATI," 09 May 2013, http://webcache.googleusercontent.com/search?q=cache:xxSb4ch4p7cJ:www1.interno.gov.it/mininterno/export/sites/default/it/assets/files/26/2013_05_09_Capitolato_di_appalto_per_la_gestione_CIE.pdf+&cd=1&hl=it&ct=clnk&gl=ch.

[71] Services mentioned in tenders:

1) Administrative management
   - Includes storage and collection of data on all detainees/guests and visitors
2) Supplying general assistance to the person consisting in;
   - Linguistic and cultural mediation
   - Provision of legal information
   - Centre Orientation
   - Distribution, conservation and regulation of meals
   - Barber services
   - Laundry services
   - When necessary, assistance to children and infants
   - Other general assistance services specific to each centre typology

At hotspots there can be up to five EU agencies operating (in addition to other local and international actors): Frontex, European Asylum Suport Office (EASO), EUROPOL, the Fundamental Rights Agency, and euLisa.[72] Currently, in Italian hotspots only Frontex and EASO experts and cultural mediators are present.[73] In addition, service agreements are signed between associations and cooperatives and the prefectures in which the hotspots are located.[74]

Several institutions that provide management or services at immigration facilities have been investigated for corruption.[75] For instance, as part of the "Mafia Capitale" investigation, four managers of the Cooperative La Cascina were arrested for corruption related to their management of the Mineo Centri di Accoglienza per Richiedenti Asilo (Centre for the Reception of Asylum Seekers)[76] and an additional 13 employees of the Cooperative Connecting People, which managed both a reception centre and a detention centre in Garadisca d'Isonzo, were accused of fraud.[77]
In a separate case, several people—including a priest and manager of a Catholic charity—associated with a clan, which is part of the powerful 'Ndrangheta crime syndicate, were arrested in May 2017 on accusations that they took millions of euros that were intended for operations at the Sant'Anna migrant facility in Capo Rizzuto. The facility was nominally operated by the Catholic Misericordia charity. According to the BBC, "The arrests come two years after L'Espresso magazine published an investigation, alleging funds were being stolen and managers were making money by starving the migrants who lived there. A year earlier, it was alleged the number of migrants said to be living at the centre had been greatly over exaggerated, while in 2013 a health inspection found asylum seekers were being fed small portions of out-of-date

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3) Medical services consisting in;
   - Medical screening at arrival and identification of vulnerabilities
   - Equipped first aid centre within the centre
   - Potential transfer to hospital
4) Cleaning services and environmental hygiene
   - Cleaning of daytime and nigh-time spaces, communal areas and offices
   - Disinfection, sanitization, rat and cockroach extermination on surfaces.
   - Collection and disposal of special waste
   - Collection of liquid from internal sewage, if not connected to the communal sewage
   - Care of green areas
5) Distribution of goods:
   - Meals
   - Bedding
   - Products for personal hygiene
   - Clothes
   - Comfort items

[72] European Parliament, Policy Department for Citizen's Rights and Constitutional Affairs, *On the Frontline: the Hotspot Approach to Managing Migration,* p.8, May 2016, http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556942/IPOL_STU(2016)556942_EN.pdf.
[73] European Commission, "Hotspots state of Play," 2 October 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_hotspots_en.pdf.
[74] E. Palazzotto, "Il Sistema Hotspot e la Negazione dello Stato di Diritto in Europa: Relazione di Minoranza sull-approccio Hotspot nell'ambito del Sistema di identificazione ed Accoglienza," Commissione Parlamentare di Inchiesta sul sistema di accoglienza, di identificazione ed espulsione, nonche sulle condizioni di trattamento dei migranti e sulle risorse pubbliche impregnate, 2016.
[75] Vittorio Martone, "Marketisation of Social Services and Mafia Infiltration: The Case of Migrant Reception Centres in Rome," European Review of Organised Crime, 2017, http://sgocnet.org/site/wp-content/uploads/2016/09/Martone_9-29.pdf.
[76] Vittorio Martone, "Marketisation of Social Services and Mafia Infiltration: The Case of Migrant Reception Centres in Rome," European Review of Organised Crime, 2017, http://sgocnet.org/site/wp-content/uploads/2016/09/Martone_9-29.pdf; S. Balducci "Dentro il labirinto delle cooperative di Mafia Capitale: dalla 29 Giugno a La Cascina," RaiNews, 07 October 2015, http://www.rainews.it/dl/rainews/articoli/labirinto-cooperative-Mafia-Capitale-a75ef368-a6bc-4ba1-a98a-14e65bb8446b.html.
[77] M. Bovi, "Immigrazione e affari. Nuova inchiesta per Scozzari sull'accoglienza a Trapani," Tp24, 12 February 2016, http://www.tp24.it/2016/02/12/cronaca/immigrazione-e-affari-nuova-inchiesta-per-scozzari-sull-accoglienza-a-trapani/97924.

food. Police believe the clan … was awarding contracts, including for food supplies, to other members of the 'Ndrangheta syndicate, as well as setting up its own associations."[78]

DETENTION INFRASTRUCTURE

Italy has operated a large range of facilities over the years for the purposes of detaining and/or accommodating non-citizens for immigration- or asylum-related reasons. These have included:

- **Return Detention Centres** (Centri di Permanenza per i Rimpatri, or CPRs), formerly **Identification and Expulsion Centres** (Centri di Identificazione ed Espulsione, or CIEs);
- **Temporary Stay and Assistance Centres** (Centri di Permanenza Temporanea e Assistenza, or CPTAs);
- **Centres for First aid and Reception** (Centri di Primo Soccorso ed Accoglienza, or CPSAs);
- **Reception Centres** (Centri di Accoglienza, or CDAs);
- **Centres for the Reception of Asylum Seekers** (Centri di Accoglienza per Richiedenti Asilo or CARAs);
- **Police stations**;
- **Hotspots**.

The Interior Ministry only explicitly uses the term to hold (or to detain) to describe operations at CPRs. Nevertheless, as this report discusses in more detail below, based on official operating procedures as well as reports by numerous observers, the Global Detention Project concludes that several of other types of facilities operate as secure detention centres and should be recognized as immigration detention centres. These include the hotspots, the CPSAs, and the CDAs.

The website of the Interior Ministry, as per its most recent update (in 2015) at the time of this publication in mid-2017, differentiated between only three overarching types of migration-related detention and/or accommodation facilities: CPSAs, CDAs/CARAs, and CPRs.[79]

1. CPSAs- Centri di Primo Soccorso ed Accoglienza (Centers for First Aid and Reception). These facilities are intended to serve as an initial accommodation for new arrivals. People receive medical care, they are identified and photographed, and have the possibility to apply for international protection. People are subsequently transferred to other centres, depending on an initial determination of their status.

2. CDAs - Centri di Accoglienza (Reception or Welcome Centres) and **CARAs - Centri di Accoglienza per Richiedenti Asilo (Centres for the Reception of Asylum**

[78] BBC, "Mafia controlled Italy migrant centre, say police," 15 May 2017, http://www.bbc.com/news/world-europe-39922085.
[79] Ministero dell'Interno, "Centri per l'immigrazione," 28 July 2015, http://www.interno.gov.it/it/temi/immigrazione-e-asilo/sistema-accoglienza-sul-territorio/centri-limmigrazione.

Seekers). CDAs are used as initial confinement for people who have been apprehended on national territory. They are to remain at the centres for as long as necessary to establish their identities and verify their status. Undocumented non-citizens who apply for international protection are sent to a CARA for identification and for the initiation of procedures required to apply for asylum. The Interior Ministry does not appear to differentiate between CDAs and CARAs.

3. CPRs - Centri di Permanenza per i Rimpatri (Return Detention Centres). Non-citizens who arrive irregularly in Italy and who do not apply for asylum or do not qualify for it are held in CPRs, which are Italy's principal long-term immigration detention facilities. Previously called Centri di Identificazione ed Espulsione (Identification and Expulsion centres), the Minniti-Orlando Decree changed the name to Centri di Permanenza per i Rimpatri (Return Detention Centres). They were established to ensure that deportation orders are effectively carried out.

There are numerous complications related to this classification. First, as Italian legislation lacks specific norms relating to the functioning of reception centres, in particular for CDAs and CPSAs, the typology and specificity of each centre is not easily defined. Because of this legislative vacuum and the pervasive "emergency" logic guiding migration control practices, the issue of the reception of migrants has acquired an informal character.

Secondly, since the Interior Ministry's online list was last updated in 2015 there have been numerous developments, including the launching of the "hotspot" approach. Two CPSAs have been transformed into hotspots (Lampedusa and Pozzallo). The list also fails to take into account numerous other custodial facilities, including the Centres of Extraordinary Reception (Centri di Accoglienza Straordinaria - CAS),[80] which were officially created by legislative decree 142/2015.[81] Although there are currently over 3,000 CAS in Italy no official list of these structures exists. Along with CAS there appear to be other more "informal" typologies of reception centres whose existence surfaces only occasionally through media and whose operations remain murky. Case in point is the centre at Cona, in the province of Venice. Following the death of Sandrine Bakayoko, an Ivorian national staying at the centre, media reports referred to the centre as a Centro di Prima Accoglienza (CPA),[82] a typology that has no reference in Italian legislation or policy.

Despite the lack of clarity about operations at immigration facilities and the confusing nomenclature, the Global Detention Project considers some of these types of facilities to be detention centres because reports about their operations indicate that people can be deprived of liberty at them, as detailed in the sections below.

[80] OSAR, *Conditions d'Accueil en Italie. A propos de la situation actuelle des requérant-e-s d'asile et des bénéficiaires d'une protection, en particulier de celles et ceux de retour en Italie dans le cadre de Dublin*, Aout 2016, https://www.osar.ch/assets/news/2016/160908-sfh-bericht-italien-f.pdf.
[81] Gazetta Ufficiale, "Decreto Legislativo 18 agosto 2015, n.142," 18 August 2015, http://www.gazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg.
[82] La Repubblica, "Migranti, rivolta nel cpa di Cona: 25 operatori bloccati per ore, poi liberati," 03 January 2017, http://www.repubblica.it/cronaca/2017/01/03/news/migranti_rivolta_in_cpa_a_cona_25_operatori_tenuti_bloccati_nella_struttura-155310307/.

Detention Centres. Italy officially designates only one type of immigration facility as a detention centre, the Return Detention Centres (CPRs) (previously Identification and Expulsion Centres, or CIEs). These facilities were introduced in the "Turco-Napolitano" law in 1998 (initially called Centri di Permanenza Temporanea – Centres for Temporary Stay). The function of these centres is to administratively detain those non-citizens slated for deportation.

The number of operating detention centres has decreased during the last several years. In February 2013 there were 13 CIEs in operation. By July 2014, the list had been winnowed to 11 after the Modena and Lamezia Terme facilities were closed.[83] According to the "Italian Roadmap" produced by the Interior Ministry in September 2015, only seven CIEs where in operation: Caltanissetta Contrada Pian del Lago (96 places) Roma Ponte Galeria (250 places), Torino Corso Brunelleschi (180 places), Brindisi Loc. Restinco (83 places), Bari Palese area Aereoportuale (112 places), Crotone Sant'Anna (30 places) and Trapani Milo (204).

As of early 2017, only four Return Detention Centres (CPRs) where in operation: Caltanisetta (96 places), Roma (125 places), Torino (90 places) and Brindisi (48 places), with combined capacity of 359.

According to the campaign LasciateCIEntrare the reduction in the number of CIEs is the result of a combination of different factors, which include the increased visibility of abuses occurring in these centres brought to light by civil society. Another reason for the reduction, they argue, is the overall failure of the CIE system and the continuous rebellions of the detainees against the detention system.[84] Although they received little media coverage, the CIEs in Bari and Crotone were closed following revolts that included detainees setting fire to matrasses and blankets.

The multi-year trend in closures, however, is poised for a major reversal. The recently approved Minniti-Orlando law allocates 13 million euros for the development of new detention centres and authorises the expenditure of some 4 million euros in 2017, 12.5 million euros in 2018, and 18 million euros starting 2019 for management (Art 19 comma 3). These new centres are to be distributed across the entire national territory (Art 19 comma 2). The broad expanse of locations is intended to ensure that they are located away from urban areas that are easily reachable. Article 19.2 of the law states that the facilities, under public ownership, will have a limited capacity to guarantee conditions of detention that respect the dignity of persons. In May 2016 the Interior Ministry provided the regions with a list of 11 facilities that will soon be converted in CPRs; many of these facilities are ex and currently inoperative CIEs. Together these new facilities would add 1,100 places to the capacity of the country's long-term detention centres.[85]

[83] Senato della Repubblica, *Rapporto sui Centri di Identificazione ed Espulsione in Italia*, p. 14, July 2014, https://www.senato.it/application/xmanager/projects/leg17/file/RapportoCIE.pdf.
[84] LasciateCIEntrare, *#20GiugnoLasciateCIEntrare*, October 2016, http://www.asylumineurope.org/sites/default/files/resources/20giugnolasciarecientrare.pdf.
[85] F. Sarzanini, "Ecco i nuovi 11 centri per i rimpatri," Corriere della Sera, 08 May 2017, http://www.corriere.it/cronache/17_maggio_09/migranti-nuovi-centri-clandestini-identificare-equipaggi-ong-f21d0876-3422-11e7-8367-3ab733a34736.shtml.

Conditions at detention centres. There have been various campaigns aimed at highlighting the deplorable conditions of detention in many of these facilities, including the LasciateCIEntrare campaign.[86] One of the facilities the campaign visited was the CIE/CPR of Brindisi Restinico.[87] The centre is located 10km away from the city centre, it is surrounded by farmland and has no nearby public transport. The detention facility is located within a CARA and is separated from it by a tall concrete wall. Cooperativa Auxilium obtained the contract to manage the centre. Detainees are not allowed to bring mobile phones inside the centre and it is forbidden to take photographs or videos.

In its report, LasciateCIEntrare described the centre as being divided into three blocs, each bloc surrounded by a steel barrier with a steel net placed at a height of 10 meters. Each bloc has a communal room comprised of a concrete table with concrete chairs and a television. The delegation observed that at the time of the visit almost 15 out of the 46 detainees were given psychiatric drugs. The detainees interviewed complained of terrible hygienic conditions, poor food quality, and insect infestations.

Hotspots. As of July 2017, there were four hotspots in operation: Lampedusa, Pozzallo, Taranto, and Trapani[88] (more generally about the EU hotspot approach, see "Hotspots" under the Infrastructure section). All of these facilities operated previously as either CIEs or reception centres. Together, they have a total capacity of 1,600 places. According to the original plans (as outlined in the September 2015 roadmap) another two hotspots had to be set up, in the ports of Augusta and Porto Empedocle. In July 2017, encouraged by the European Commission, the Interior announced that six new hotspots would be opened so accelerate repatriation procedures of irregular migrants. They were to be located in Palermo (Sicily), Siracusa (Sicily), Cagliari (Sardinia), Crotone (Calabria), Reggio Calabria (Calabria) e Corigliano Calabro (Calabria).[89]

As noted previously ("Hotspots" in the policy section), asylum seekers and migrants are not allowed to leave the premises until they are identified. This procedure may take up to a few weeks, depending on a number of arrivals. Similar practice is carried out in Greece's hotspots. This measure amounts to de-facto detention, in line with the ECtHR's ruling in *Amuur v. France*. The court ruled that holding asylum seekers in airport international zone for 20 days under police surveillance amounted to detention. Thus, in the GDP's terminology, hotspots should be classified as secure reception centres. At the same time, these centres function also as non-secure reception centres, accommodating the people who passed though the identification phase. They are generally allowed to exit the facilities during the day. The GDP thus classifies the hotspots as both "secure" (with respect to the population prevented leaving the premises) and "non-secure" (for the population who can exit the premises during the day) reception centres.

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[86] LasciateCIEntrare, *#20GiugnoLasciateCIEntrare*, October 2016, http://www.asylumineurope.org/sites/default/files/resources/20giugnolasciarecientrare.pdf.
[87] LasciateCIEntrare, *#20GiugnoLasciateCIEntrare*, October 2016, http://www.asylumineurope.org/sites/default/files/resources/20giugnolasciarecientrare.pdf.
[88] European Commission, "Hotspots state of Play," 2 October 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_hotspots_en.pdf.
[89] A. Zinti, "Migranti, istituiti sei nuovi hotspot: due verranno aperti in Sicilia, tre in Calabria e uno a Cagliari," La Repubblica, 05 July 2017, http://palermo.repubblica.it/cronaca/2017/07/05/news/migranti_due_nuovi_hotspot_in_sicilia_verranno_aperti_a_palermo_e_a_siracusa-169998642/.

Condition at the hotspot of Lampedusa Contrada Imbriacola. The first hotspot to become fully operational was Contrada Imbriacola, on the Island of Lampedusa, which was "converted" from a CPSA to hotspot in September 2015. Until July 2016 services were supplied by the Confraternita Nazionale delle Misericordie, which were then taken over by the Cooperative Vivere.[90]

According to the Senate Extraordinary Commission for the Promotion of Human Rights, the Contrada Imbriacola hotspot building is divided into compounds, with a dedicated part for minors and women, and has no communal spaces or recreational activities. Toilets were not heated or cleaned properly, and the space in the dormitories was insufficient. Theoretically people should not be kept in hotspots for more than 48 hours, however officials in Lampedusa and Linosa say that people are often detained beyond 30 days and could effectively be detained for indefinite amounts of time.

A delegation of the campaign LasciateCIEntrare visited the hotspot in July 2016. In their report[91] they noted that some of the detainees had been detained for almost a month and in some cases detention had exceeded three months. The prefabricated buildings were run down. There was no canteen, no launderette and no ventilation system; the rooms were therefore extremely hot in the summer and freezing in the winter. During the month prior to the visit, tap water was interrupted for several hours a day and was salty. Further, the established pocket money (2.50 euros per day) was often not supplied or "replaced" with a pack of biscuits (worth 44 cents). Critically, the delegation observed that at the time of their visit there were 10 unaccompanied minors in the centre confined alongside adults for an average period of 25 days and in some cases up to 50 days.[92] Although the hotspot is a "closed" centre, a study conducted by ECRE, the Danish Refugee Council and other groups reported that people could exit from a hole in the fence and that this was largely tolerated.[93]

Reception Centres. Reception centres in Italy can be divided into three categories: CDAs (Centri di Accoglienza – Welcome Centres), CPSAs (Centri di Primo Soccorso e Accoglienza – First aid and welcome centers), and CARAs (Centri di Accoglienza per Richiedenti Asilo – Welcome Centers for Asylum Seekers). To these once can add the recent "informal" system of CAS (Centri di Accoglienza Straordinaria - Centres for Extraordinary Reception). Only the CDAs and the CPSAs appear to operate at least in part as sites of deprivation of liberty.

CDAs and CPSAs. CDAs (Centri di Accoglienza – Welcome Centres) were established by Law n. 563/1995, the so-called Apulia Law of 1995 (Law n. 563/1995 Art 2). The Apulia Law authorised the opening of three immigration centres on the Apulia coast in

[90] E. Palazzotto, "Il Sistema Hotspot e la Negazione dello Stato di Diritto in Europa: Relazione di Minoranza sull-approccio Hotspot nell'ambito del Sistema di identificazione ed Accoglienza," Commissione Parlamentare di Inchiesta sul sistema di accoglienza, di identificazione ed espulsione, nonche sulle condizioni di trattamento dei migranti e sulle risorse pubbliche impregnate, 2016.
[91] LasciateCIEntrare, *#20GiugnoLasciateCIEntrare*, October 2016, http://www.asylumineurope.org/sites/default/files/resources/20giugnolasciarecientrare.pdf.
[92] E. Palazzotto, "Il Sistema Hotspot e la Negazione dello Stato di Diritto in Europa: Relazione di Minoranza sull-approccio Hotspot nell'ambito del Sistema di identificazione ed Accoglienza," Commissione Parlamentare di Inchiesta sul sistema di accoglienza, di identificazione ed espulsione, nonche sulle condizioni di trattamento dei migranti e sulle risorse pubbliche impregnate, 2016.
[93] ECRE, the Danish Refugee Council, et al., *The implementation of the hotspots in Italy and Greece: A study*, 05 December 2016, http://www.ecre.org/wp-content/uploads/2016/12/HOTSPOTS-Report-5.12.2016..pdf.

order to manage arrivals of "boat people" crossing the Adriatic Sea and coming mainly from Albania. The centres where to provide first aid as people awaited identification and/or expulsion. It is the first time that the word "centri" (centres) appears in Italian Law, yet the juridical status of these centres remains unclear. The declared aims of the facilities include both humanitarian assistance and "controlling illegal immigration."

An inter-ministerial decree issued in February 2006 changed the name of some of these centres to CPSAs (Centri di Primo Soccorso e Accoglienza – First Aid and Welcome Centres).[94] These facilities are intend to provide first aid and other processing for irregular arrivals while they await the determination of their juridical status. According to the research center Osservatorio Migranti, despite their apparent humanitarian character, CDAs and CPSAs usually operate in ways much akin to the operation of CIEs, providing a secure, closed-door regime.[95]

CDAs and CPSAs are not regulated by specific norms. ASGI reports that although the Apulia Law is often invoked when referring to CDAs and CARAs, this law geographically and temporarily limited to the regulation of first aid activities carried out in the Apulia region between the July and October 1995.[96] According to ASGI when referring to the juridical nature of CDAs and CPSAs, one should characterize is as a *vacation legis.* In effect, no norm regulates the modalities of reception or the maximum period of detention in a CDA or CPSA. The Apulia Law merely states that people should be held only for the amount of time strictly necessary for the operations of rescue and first aid (art. 12 comma 1 Law n. 563/1995).[97] The "hybrid status" of CDAs and CPSAs lead to practices that are ultimately coercive in nature.[98] Importantly, as one scholar observes, current legislation does not define the obligation of having detention measures authorized by a justice of the peace.[99]

In these spaces, which fall in grey areas of the law, men, woman and children are systematically detained, for identification purposes, for periods of time that well exceed the 48 hours. MSF has reported this concerning the CPSA in Pozzallo[100] (converted into a hotspot in 2016) and by Amnesty International concerning the CPSAs of Pozzallo and Lampedusa[101] (converted into a hotspot in 2015). According to an expert from the Italian Refugee Council, "The discussion on whether the maximum length of detention should be of 24 or 48 hours, according to the current legislation, is purely theoretical as in

[94] G. Campesi, "La detenzione amministrativa degli stranieri in Italia: storia, diritto, política," Democrazia e Diritto, 3-4, pp. 177-226, 2011.
[95] Osservatorio Migranti, "Centri Accoglienza in Italia," http://www.osservatoriomigranti.org/?cda.
[96] ASGI, "Capitolo 3: Il Sistema dei Centri: I C.P.S.A, I C.A.R.A e I C.I.E," Il Diritto alla Protezione, *La Protezione Internazionale in Italia, Quale Futuro?*, pp. 119 – 144, 2012.
[97] ASGI, "Capitolo 3: Il Sistema dei Centri: I C.P.S.A, I C.A.R.A e I C.I.E," Il Diritto alla Protezione, *La Protezione Internazionale in Italia, Quale Futuro?*, pp. 119 – 144, 2012.
[98] Osservatorio Migranti "Centi Accoglienza," http://www.osservatoriomigranti.org/?cda.
[99] G. Campesi, "La detenzione amministrativa degli stranieri in Italia: storia, diritto, política," Democrazia e Diritto, 3-4, pp. 177-226,2011.
[100] Medici Senza Frontiere, *Rapporto di Medici Senza Frontiere Sulle condizioni di accoglienza nel CPSA Pozzallo*, 17 November 2015, http://archivio.medicisenzafrontiere.it/pdf/Rapporto_CPI_CPSA_Pozzallo_final.pdf
[101] Amnesty International, *Hotspot Italia: Come le Politiche dell'Unione Europea Portano a Violazioni dei Diritti di Rifugiati e Migranti*, 3 November 2016, https://www.amnesty.org/en/documents/eur30/5004/2016/it/.

practice people are usually detained for more than 48 hours."[102] According to ASGI, at the CPSA of Cagliari, non-citizens have been detained for as long as 60 days.[103]

As of 2015, there were five reception/welcome centres in operation, according to the Interior Ministry. These include the facilities at Cagliari, Elmas (220 places), Caltanissetta, Contrada Pian del Lago (360 places), and Lecce, Otranto. Facilities at Lampedusa and Pozzallo have been converted into hotspots since 2015. In addition to these, the centres of Bari Palese, Area Aeroportuale (744 places), Brindisi Restinico (128 places), Crotone localita' Sant'Anna (875), and Foggia, Borgo Mezzanone (856 places) operate as a mixture of secure CDAs and non-secure CARAs.[104]

CARAs, which were introduced in 2002, were initially called Identification Centres and regulated by presidential decree n. 303/2004 and legislative decree n. 25/2008. The stated function of CARAs is to house asylum seekers present on national territory for the time necessary to assess their applications.[105] The 2008 regulations relevant to the management and operation of CARAs highlight their humanitarian nature. They establish that an asylum seeker will not be housed in a CARAs for a period exceeding 35 days, after which the person will be issued a three month residency permit. Further, the 2008 decree establishes that the act of leaving a CARA does not imply the withdrawal of one's asylum application but only the revocation of the provision of accommodation in reception centres (D.lgs 25/2008 Art. 22). Thus, CARAs do not involve the use of coercive measures, as such the GDP does not classify them as detention centres.

CAS, regulated by legislative decree 142/2015, are structures to be used during "emergencies" when spaces are no longer available in other reception centres. Although strong criticisms have been raised concerning the lack of transparency of how these centres are managed, and the overall appalling standards of reception, there are no reports of deprivation of liberty at these facilities.[106] Commenting on the lack of oversight and transparency at these and other reception facilities, one source in Italy said: "The tender for CAS is issued by the Prefect (the local representative of the Ministry of Interior). In Italy, there is one Prefect in each Province. It is the Ministry of Interior that defines the requirements for the CAS and because the Prefect signs a contract with the organisation that manages CAS, they also have the duty and the power to control. Since several months the Ministry of Interior carries out a project named Mireco (Monitoring and Improvement of Reception Conditions) but the current results are not publicly available and the project is still on-going."[107]

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[102] Amnesty International, *Hotspot Italia: Come le Politiche dell'Unione Europea Portano a Violazioni dei Diritti di Rifugiati e Migranti*, p.28, 3 November 2016, https://www.amnesty.org/en/documents/eur30/5004/2016/it/.
[103] ASGI, "Capitolo 3: Il Sistema dei Centri: I C.P.S.A, I C.A.R.A e I C.I.E," Il Diritto alla Protezione, *La Protezione Internazionale in Italia, Quale Futuro?*, pp. 119 – 144, 2012.
[104] Ministero dell'Interno, "Centri per l'immigrazione," 2015, http://www.interno.gov.it/it/temi/immigrazione-e-asilo/sistema-accoglienza-sul-territorio/centri-limmigrazione.
[105] G. Campesi, "La detenzione amministrativa degli stranieri in Italia: storia, diritto, política," Democrazia e Diritto, 3-4, pp. 177-226, 2011.
[106] LasciateCIEentrare et al., "InCAStrati," February 2016, http://www.cittadinanzattiva.it/files/primo_piano/giustizia/inCAStrati-report.pdf.
[107] Valeria Ferraris (ASGI), Email Correspondence with Michael Flynn (GDP), 19 November 2017.

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