



LOCKED UP AND EXCLUDED

Informal and illegal detention
in Spain, Greece, Italy and Germany

migreurop
___ _ _ _

INTRODUCTION

This report provides an overview of the use of administrative detention of non-nationals in four member-states of the European Union (EU). While three of those (Italy, Spain, Greece) are points of first arrival for people trying to reach Europe, the fourth one (Germany) is considered a destination country, which people reach by crossing borders internal to the Schengen Area. The way each of these four countries governs migration, including through the use of administrative detention, depends on their position within what has been called the EU border regime – namely the set of rules, laws, structures, agencies and practices that have been developed by EU institutions over the last 30 years to govern migration.

As has long been argued by Migreurop, this border regime is premised on an unequal sharing of control practices and duties within and outside the EU territory. On the one hand, member-states closer to the external borders of the Union have been endowed with the role of buffer zones against migrants on behalf of core western and northern EU member-states (especially through the Dublin Convention that states that the country responsible for assessing an asylum claim in the EU is the first country of entry, thereby forcing member-states sharing a border with the Schengen Area to deal with the majority of asylum requests). On the other hand, this mechanism is mirrored outside the EU/Schengen border as third countries have been encouraged in various ways by the EU to control their borders in order to prevent migrant departures (a process referred to as the externalisation of migration control).

The twin practices of deportation and detention play a key role in the establishment and enactment of this regime. According to European legislation, there exist a number of grounds allowing to administratively detain people in view of deportation. People may be detained if they are present on EU territory without a valid residence permit (Return Directive); if they arrive at a EU border (whether by land, plane, or boat) and do not meet the criteria for admission into the territory (Schengen border code) and, in some cases, people who have claimed asylum and whose request is being examined (Directive on the reception of asylum seekers). **These multiple uses of detention have led to its trivialisation and systematisation as a central mode of migration governance and a means of selecting, disciplining and excluding migrants.**

The exact conditions governing detention are defined at the national (or federal, as is the case with Germany) level, where issues such as the sites used for, or the maximum legal length of, detention are decided. Material detention conditions can significantly vary from one member-state to the other. However, it may be stated that – across the board – the limited legal channels to access EU asylum systems, and their exclusionary designs whereby most applicants receive negative decisions, have resulted in a multiplication of detention. Over the last thirty years, a constantly growing number of people is locked up upon arrival, at some point in their stays in the EU or following the rejection of their asylum claims.

The role played by detention in the broader system of migration control and its concrete implementation also vary depending on where a country is located geographically and politically in the EU border regime. For instance, in Germany, one of the main causes of detention is related to Dublin procedures: people are placed in

Migreurop is a network of associations, activists and researchers, with a presence in around twenty countries across Europe, Africa and the Middle East. The network strives to raise awareness of and to oppose policies that marginalise and exclude migrants, notably, detention in camps, various forms of displacement and the closure of borders, as well as the externalisation of migration controls by the European Union and its member-states. In this way, the network contributes to defending migrants' fundamental rights (including the right 'to leave any country, including their own') and to promoting freedom of movement and settlement.

Author: **Céline Cantat**
Cartography: **Olivier Clochard**
Graphic Design: **La Société**
Director of publication: **Claudia Charles**

—
September 2020

Photo Credit: © **Lucia Gennari** (ASGI / Migreurop, Italy)
Centro di identificazione ed espulsione (CIE, current CPRs) Modena, Italy 2013 (cover and p.41)
CIE Roma - Ponte Galeria, Italy 2013 (p.50)

Thanks and acknowledgements go to:

Mirko Medenica who participated in the research and writing of this report.

Camille Baril, Anaïs Da Silva Fernandes, Lise Fauvre, Luna Russo who collected data for mapping.

Anna Amiach, Diletta Agresta, Mathilde Albert, Mikel Araguas, Iker Barbero, Giulia Crescini, Brigitte Espuche, Lucia Gennari, Harald Glöde, Stefan Kessler, Anna Sibley, Vicky Skoumbi, Julia Winkler, who provided guidance and feedback.

This study was carried out with the support of the European United Left (GUE/NGL) in the European Parliament



pre-removal centres or other facilities in order to be sent back to another country of the EU which they are considered to have crossed before entering Germany. In other countries, such as those sharing a border with the Schengen Area, including Italy, Spain and Greece, detention is increasingly used in order to filter people upon arrival. This logic has been reflected with the increase use of detention facilities focused on fast identification in the view of deportation, such as the hotspots in Italy and Greece or the CATEs in Spain.

While the use of detention as a means of filtering people upon arrival has been in use for a long time, and has significantly increased following 2015 with the establishment of the “hotspot approach”, the research on which this report is based and that focused on detention during the year 2019 has also identified a process of further informalisation and precarisation of administrative detention. Indeed, especially though not solely in countries of arrival, we witness an **increase in the use of informal or de facto detention whereby people are detained either outside legal frameworks or through a bending of existing legal provisions, for short periods of time and in the goal of deporting them as fast as possible** to another country or to the other side of the border.

This form of detention has a number of features:

It tends to occupy a hybrid place between formal and informal processes: in all four countries under study, new grounds for detention and new kinds of facilities have been introduced in recent years, in order to regulate detention practices which would otherwise fall outside the scope of the law. However, these legal framework and infrastructures are often themselves legally contestable. Moreover, there remains an excess: a number of detention practices still fall outside of legality in spite of the introduction of new legislative norms that aim to formalise them;

These forms of detention usually take place away from ‘traditional’ detention facilities such as pre-removal centres and are rather carried out in informal sites, including border zones and police stations;

They are usually short and aimed at assuring immediate deportation; however, it regularly happens that, for various reasons, such detention is prolonged. In such cases, people are locked up in extremely insalubrious conditions including police stations or border transit zones for long periods of time, with very little access to rights, to legal representation and to information;

These different forms of detention often work together: while official information on the matter tends to be lacking, we have gathered testimonies about people who were moved from short-term detention facility to other similar facilities (for instance to different police stations) with hardly any record being kept and legal lengths of detention being significantly exceeded. These detentions in informal places make practices of containment and control invisible and work as means of deterrence and disciplining for migrants;

As mentioned, depending on how such detention is governed and defined in national legislations, it may or may not officially count as detention. As a result, official detention figures sometimes seem to be dropping yet this decrease is related to and in fact conceals the increase in informal, *de facto* detention not recorded in official detention statistics;

Due to its informal nature, such detention is even harder to document and monitor than that practised under regular conditions. One interesting way to conceive of the scope of such detention is to look at non-admission figures. This is especially telling in the case of Spain, by far the member-state with the highest number of non-admissions, where 493,455 people were refused access to the territory in 2019. Most of these people would have been held, even for short periods of time, in border facilities before being removed. Yet official data on people detained in pre-removal centres and other detention recognised facilities only account for 28,781 detainees in 2019.

In this report, based on data and findings about the use of administrative detention in 2019, we focus the analysis on the way detention practices at the margin of legality and illegality have developed in Italy, Spain, Greece and Germany. We show that ‘traditional’ detention as practiced in pre-removal facilities continues to be a central aspect of the EU border regime, but that it is also increasingly complemented by informal forms of detention. Those have as purposes to speed up deportations at the borders of EU members-states, but they are also deterrence practices and means of exercising control over migrants. As explained, we see these practices as pertaining to a continuum which goal is to further filter, control and exclude migrants in the EU.

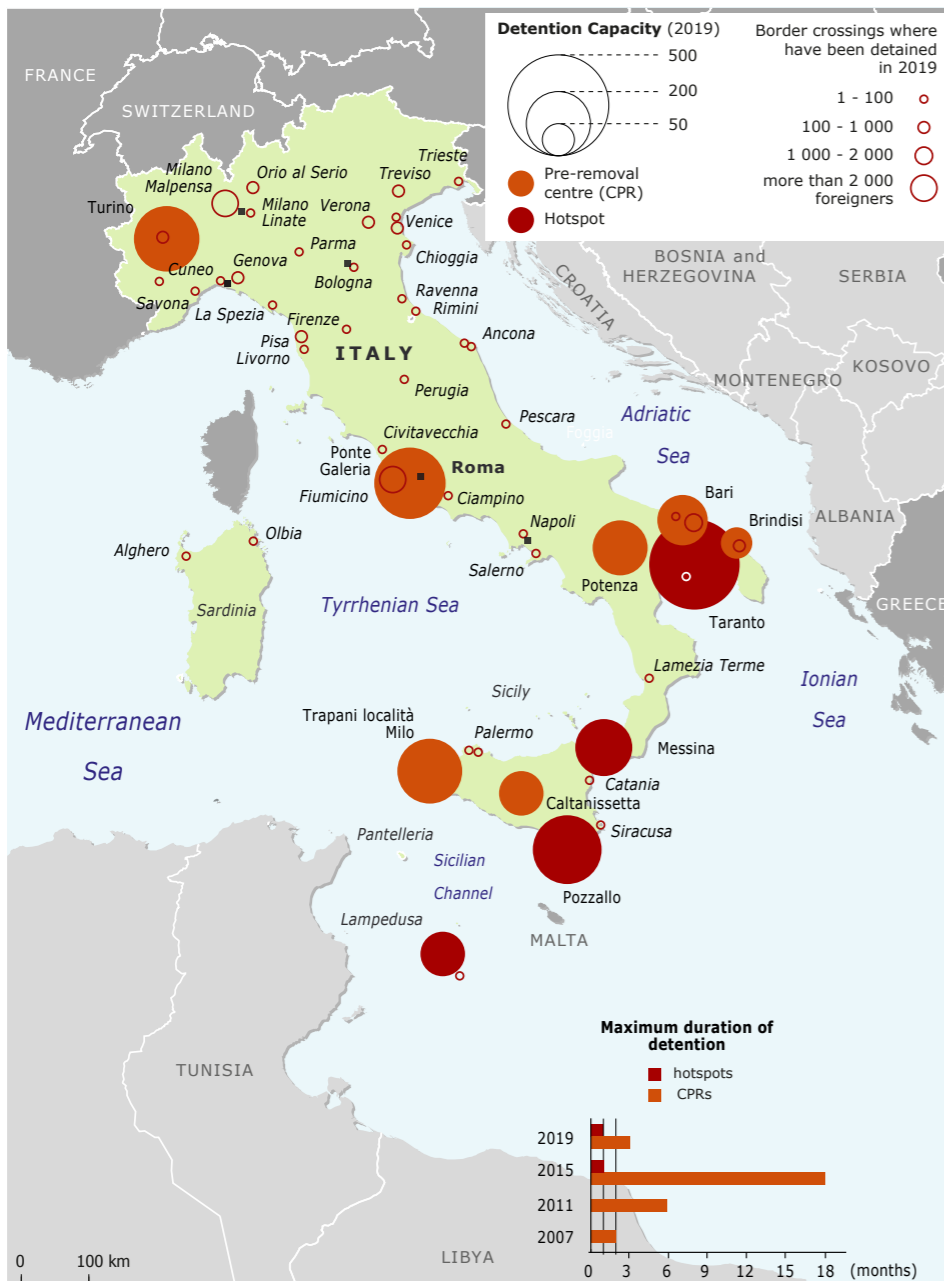
This trend is more visible in countries of arrival as it is aimed at accelerating returns at the border: in some ways, it could be seen as a means of legalising push-backs by holding arriving migrants for short periods of time, a way to circumvent accusations of illegal returns at sea or at the land borders of countries. This does not however mean that illegal pushbacks do not keep taking place: rather it shows that the EU border regime operates through a range of formal and informal, legal and illegal practices, which all converge towards the further precarisation and exclusion of migrants. In Germany also, new forms of less regulated detention are being legalised in order in particular to increase deportation capacity and to speed up Dublin returns in the country. In this case, legalisation could lead to the routinisation of such detention, through the adoption of a legal framework that allows the systematisation of hitherto illegal practices.

While these informal practices are not new, their multiplication raises very serious concerns regarding transparency and accountability – two aspects of migration governance that have long suffered from shortcomings that will be further worsened yet in the current context. In other words, understanding detention and its role in migration governance in the EU today requires paying attention both to the figures and experiences of people detained in pre-removal centres under long-standing legal frameworks, and to the increasing number of individuals faced with precarious, possibly short-term types of containment in informal facilities on or at the borders of members-states’ territories.

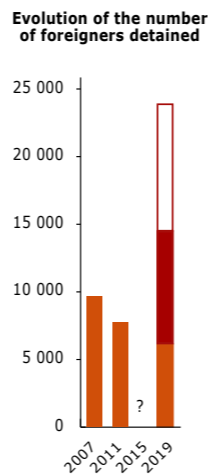
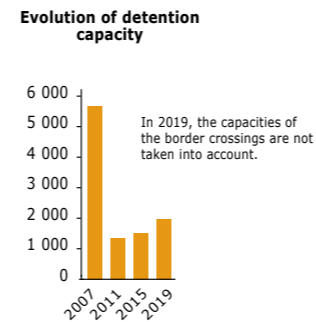
TABLE OF CONTENTS

ITALY	8
A. Key figures at a glance	9
B. General trends	10
C. Grounds for detention	10
D. Detention infrastructure	11
E. Number of detainees and effective length of detention	12
F. Unlawful detention	12
G. Detention conditions in CPRs	13
H. Detention conditions in hotspots	15
I. Privatisation	15
SPAIN	18
A. Key figures at a glance	19
B. General trends	20
C. Grounds for detention	20
D. Detention infrastructure	21
E. Number of detainees and effective length of detention	23
F. Detention conditions in CIEs	23
G. Detention conditions in police stations, CATEs and CETIs	26
H. Detention conditions in Transit zones	26
I. Privatisation	27
GREECE	30
A. Key figures at a glance	31
B. General trends	32
C. Grounds for detention	32
D. Detention infrastructure	34
E. Number of detainees and effective length of detention	35
F. Detention conditions in PRDCs	35
G. Detention conditions in police stations and Athens airport	37
H. Detention conditions in RICs	37
I. Privatisation	39
GERMANY	42
A. Key figures at a glance	43
B. General trends	44
C. Grounds for detention	44
D. Detention infrastructure	46
E. Number of detainees and effective length of detention	47
F. Detention Conditions	47
G. Privatisation	47
H. Criminalisation	48

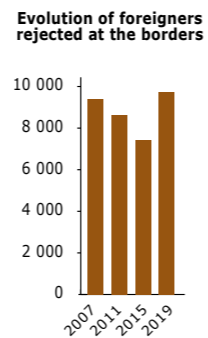
ITALY



Sources : Eurostat ; Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al Parlamento 2020, <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/a5fa1a499fdaf9e241f537006675c158.pdf> ; Short overview of the Italian reception system, https://www.asylumineurope.org/reports/country/italy/detention-asylum-seekers/detention-conditions/place-detention#_ftn2



In 2019, 23,872 foreigners were detained if we take into account those who were kept at border crossings (9,943), knowing that there are surely double counts (a person detained at her arrival at Rome airport may be taken to a CPR).



A. KEY FIGURES AT A GLANCE

07 Pre-removal Detention Centres (CENTRI DI PERMANENZA PER IL RIMPATRIO)

1,085 total capacity
6,172 people detained in 2019
5,508 men
664 women
39 days of detention on average

04 Hotspots

890 total capacity
7,757 people detained in 2019, including:
5,196 men
952 women
1,609 minors (**1,228** unaccompanied)
1-5 days of detention on average in three out of four hotspots
42 days of detention on average in Messina hotspot

39 Known locations for border holding

9,943 persons detained in 2019, including:
2,839 in Milan Malpensa airport
2,378 in Rome Fiumicino
1,251 in Bari port

9,720 Cases of non-admission at border

ALL Centres run through private entities

B. GENERAL TRENDS

Immigration detention in Italy has long been criticised for being **inhumane, ineffective and costly**: detention centres have been described as carceral and punitive environments, which do not even provide detainees with the same degree of protection as prisons. Living conditions are deplorable and centres have been the stages of **frequent protests** by detainees.

Meanwhile, the opening of hotspots in the country in 2015 had led to the further **systematisation of de facto detention**. The main goal of such informal detention is the **quick filtering and possible return** of migrants arriving in the country and the deterrence of potential migrants. This new rationale of detention is reflected in new legal grounds for detention with the 2018 introduced notion of detention “for the purpose of establishing or identifying identity”.

While the hotspot approach has met implementation difficulties, the logic it reflects is clearly that of an increasing use of detention as a means of **migrant selecting and filtering** leading to accelerated returns and deportations at the borders of the EU. Additionally, the February 2017 Memorandum of Understanding between Italy and the Libyan government of national accord (renewed in February 2020)¹ led to the emergence of **“pushbacks by proxy”** whereby Libyan coastguards are trained and supported by Italy (and the EU) to bring back migrants to shore, where they are routinely placed in Libyan camps where they face well-documented grave human rights violations including torture and abuse².

C. GROUNDS FOR DETENTION

Under the current legal regime, there exist **five grounds**^{3,4} for the detention of migrants in preremoval detention centres (*Centri di Permanenza per il Rimpatrio*, henceforth CPRs):

1. If they fall under the exclusion clause under Article 1F of the Geneva Refugee Convention
2. If there is an expulsion order
3. If the person represents a danger for public order and security
4. If the person is considered as posing a risk of absconding

Since 2018, migrants can be detained in separate facilities:

5. For the purpose of establishing or identifying identity (Decree Law 113/2018, implemented by L132/2018)⁵

The legal bases of Italy’s criminalising policies towards migrants date back from the late 1990s, when the country adopted its first law on immigration in order to align its legislation with developments at the EU level. The 1998 Turco-Napolitano Law (40/1998)⁶ introduced administrative detention for migrants awaiting deportation, leading to the opening of the country’s first detention centres. In the following decades, the Law was amended several times and new laws were adopted laying out the scope and rules governing detention in the country. The latest amendment to the country’s immigration legislation dates from 2018, under the leadership of Matteo

Salvini. This amendment doubled the length of detention (**from 90 to 180 days**) in CPRs and introduced **a new ground for the detention of asylum seekers** for identification purposes (with a maximum **length of detention of 30 days**). If the determination or verification of identity is not possible in these premises within 30 days, people can be transferred to CPRs.

This additional ground for detention was introduced in relation to the opening of the hotspots. However, the law does not clearly specify which facilities may be used for detention for the purpose of identification. Rather, a Circular issued on 27 December 2018 by the Ministry of Interior specified that it is the responsibility of local Prefects to identify those.⁷ However, in late 2019, local prefectures had not yet formally identified appropriate place for detention for identification purposes. Therefore, in hotspots, people were (and are) **de facto detained**, outside any clear legal framework and without any control by judicial authorities.

In the case of the Lampedusa hotspot, it has been reported that *de facto* detention even exceeded the identification phase. In addition, the law does not specify in which cases the need for identification arises, thus linking detention to an objective circumstance such as the lack of identity documents. As such, this new ground may represent a violation of the prohibition on detention of asylum seekers for the sole purpose of examining their application under Article 8(1) of the recast Reception Conditions Directive.⁸

D. DETENTION INFRASTRUCTURE

In 2019, there were **seven operational CPRs**, located in Brindisi, Bari, Caltanissetta, Potenza, Rome, Turin and Trapani. There are conflicting numbers regarding the overall capacity of the Italian CPR system: the National Guarantor of the rights of persons detained or deprived of personal liberty declared a total capacity of 638 places,⁹ while a break-down of capacity per facility provided by the Italian NGO ASGI on the basis of information obtained from the Minister of Interior (MoI) reaches 1,085 (see below).¹⁰

Location	Capacity
Brindisi	48
Bari	126
Caltanissetta	96
Potenza	150
Rome	250
Turin	210
Trapani	205
Total	1,085

Additionally, there were **four operational hotspots** in 2019, located in Lampedusa, Messina, Pozzallo and Taranto with a total capacity of 890.¹¹

Location	Capacity
Lampedusa	96
Messina	160
Pozzallo	234
Taranto	400
Total	890

In addition to detention in CPRs and hotspots, Article 4 of the Immigration Act stipulates that “illegal immigrants **can be held in border zones** if there are no places available in the CPRs” and it is not possible to proceed to immediate administrative expulsion or border rejection. Detention in such temporary holding facilities can be performed by police commissioners, who must communicate the decision to a magistrate in order to obtain a detention order within 48 hours. **39 sites for such holding** have been identified.¹²

While these represent different types of detention, they work in continuum in order to further limit people’s access to the territory: by filtering people upon arrival in the hotspots and border zones, and by targeting those rejected by the asylum system or whose residence permits have expired in the mainland CPRs.

During 2019, the Italian authorities planned **an extension of the network of CPRs**: a new CPR in Gradisca s’Isonzo (Gorizia) was open in mid-December 2019 and a formerly closed CPR in Macomer (Nuoro) was reopened in January 2020. In order to speed up the extension of the CPR network, Decree Law 113/2018 was adopted, encouraging the use of negotiated procedures without tender.¹³

E. NUMBER OF DETAINEES AND EFFECTIVE LENGTH OF DETENTION

Based on official data,¹⁴ in 2019 there were **6,172 people detained in CPRs**, which constituted a 50% increase compared to 2018 (4,092). The majority of detainees were nationals of Tunisia (2,117), Morocco (788) and Nigeria (734). It must be noted that only the CPR in Rome hosted women, and that there were cases of people declaring themselves as minors being held in CPRs, in violation of the law. Generally speaking, procedures for identifying minors in CPRs were insufficient. The average length of detention was **39 days**.

The number of people held in **hotspots in 2019 was 7,757**, which showed a decrease compared to 2018 (13,777). This may be linked to the further criminalisation and militarisation of migration in the Central Mediterranean in the period, making it increasingly difficult for people to disembark on Italian coasts. The average length of detention was **1 to 5 days**, with the exception of Messina hotspot, where average detention lasted **42 days**, in breach of official maximum length (30 days).¹⁵

9,943 persons were also held in border offices.¹⁶

F. UNLAWFUL DETENTION

According to Italian civil society organisations, **detention in facilities other than CPRs and prisons violates Article 10** of the recast Reception Conditions Directive, which does not allow any detention in other locations. It is also considered to violate **Article 13 of the Italian constitution**, which foresees that limitation of personal freedom must be an exception and its modalities have to be regulated by law (e.g. detention sites must be known in advance).

As a result of detention being practiced in a grey legal area or on a *de facto* basis, administrative detainees, who face prison-like conditions, do not even receive the same guarantees and legal provisions as prison detainees.¹⁷ This concerns *de facto*

detention in the hotspots, which are not identified as detention facilities by law, and detention in border zones in which people were sometimes stranded for over a week without access to lawyers. However, the Central Directorate for Immigration (Moi) declared border holding did not constitute detention since it was part of the immediate refoulement procedure.¹⁸ This was contested by the National Guarantor, who stated that such holding amounted to detention. Yet, in early 2020, border zones continued operating as detention sites without having been officially recognised as such.

G. DETENTION CONDITIONS IN CPRs

According to official monitoring bodies who conducted visits in CPRs in recent years, detention conditions vary from one centre to the other but share a number of **critical features**. In a 2018 report, the National Guarantor noted that key issues in CPRs included: “poor material and hygienic conditions of the structures, lack of activities, Centres closed to civil society, scarce transparency starting from the lack of a system for recording critical events and for tackling procedures, lack in considering the different legal positions, individual needs and vulnerabilities of the detained persons, difficulties in accessing information, lack of a complaint procedure to assert violations of rights or submit requests”.¹⁹ A similar situation was reported in 2019 across CPRs.

Overnight accommodation rooms: Across the board, CPRs feature poor infrastructures, with some lacking basic arrangements such as heating. Overnight accommodation rooms are shared by at least four people but often more. In some CPRs, such as the one in Turin, accommodation rooms are equipped with squat toilets that are not separated from the rest of the room: toilets are only a few meters away from some of the beds. Such arrangements deny both privacy and dignity to detainees. Monitoring visits to CPRs and testimonies²⁰ also report critical issues including the lack of basic items such as bedsheets, door handles and light switches (to turn the light on and off) or the interdiction to keep trash bins. Garbage being left on the floor has led to rooms being occupied by cockroaches and other insects. The CPR of Palazzo San Gervasio in Potenza was found to detain people in inhumane and degrading conditions leading the Moi to declare it would close the Centre in December 2019 (the Centre remains currently opened).²¹ After visiting the CPR in Turin in January 2020, the National Guarantor for the rights of detained persons compared areas of the facility to “zoo cages”. In 2018, he had described living conditions across four CPRs as “prison like”.

Sanitary facilities and healthcare provision: In most CPRs, reports speak of degraded sanitary facilities featuring critical issues such as a reduced number of usable shower rooms, missing doors to toilets, mould and dirt in the bathrooms. Most CPRs feature basic medical units that can conduct general health checks (though not at all times), but in case of more serious health issues, medical assistance must be requested from the outside by the administration of the Centre. There have been reports of requests from detainees being ignored by the administration and of medical assistance being provided with severe delays.²² If detainees are allowed to leave the CPR due to severe health problems or injuries, they are brought back to the Centre immediately after receiving treatment.²³ It was also reported that over the course of 2019, healthcare provisions in CPRs was significantly reduced. For example, in the Trapani CPR, the number of hours when a doctor was present on site dropped from 144 to 42 hours a week (-70.83%). A similar situation was observed regarding the CPR’s psychologist,

whose hours went from 54 to 24 a week, as well as for the cultural mediator (108 to 48 hours) and the available lawyer, who went from 72 to just 16 hours on site.²⁴ Psychological distress is widespread in CPRs, leading to acts of self-harm and attempts at suicide. For instance, a 20-year-old Nigerian detainee committed suicide by hanging in the CPR in Brindisi. He arrived in Italy in 2017, after experiencing detention in Libya. In spite of administrative knowledge of severe mental health issues, he was placed in the Brindisi CPR following the rejection of his asylum claim. After being refused access to the psychiatrist of the Centre in spite of numerous requests, the young man took his own life in June 2019.²⁵

Common spaces: Most CPRs lack common space, even of the most basic kind such as canteens. In the CPR in Palazzo San Gervasio, for instance, there is no common room inside the blocks and, besides shared toilets and bathrooms, the only common space is the corridor: detainees are thus forced to eat standing outside in the corridor or sitting on their beds in their shared accommodation rooms.²⁶ This lack of space means that detainees are deprived access to basic social or recreational activities.²⁷ It has been reported that even when facilities would allow leisure opportunities, guards tend to deny those to detainees invoking safety issues.²⁸ Based on various reports, it was also noted that none of the CPRs featured spaces of worship.

Quality of life and safety within the centres: In both 2018 and 2019, the National Guarantor compared living conditions in CPRs to those of prisons and zoos.²⁹ The configuration of several CPRs featured carceral dimensions including bars, high metallic gates and screens. Detainees are prevented from moving across units within CPRs and, as mentioned, lack access to any social or recreational activities. Detainees are isolated from the outside world: civil society organisations are usually not allowed inside CPRs, in spite of legal provisions allowing their presence.³⁰ Cases of obstruction of legal aid and services were reported, for example denial of access to legal representatives to visit clients inside CPRs without clear reasons, or denial of translation services.³¹ Additionally, upon entering detention, cell phones (especially those with cameras) are usually confiscated in order to prevent outside communication and the recording of visual testimonies. There is no internet connection in CPRs.

CPRs are heavily guarded by a range of security personnel including members of the police, the *carabinieri* and the army as well as guards. In some case, the number of security officers equals that of detainees, making CPRs places of intensive surveillance.³² Many cases of detainees exposed to violence by guards have been reported: the situation is aggravated by detainees' isolation and the lack of opportunity to file official complains in case of mistreatment. This has led to a **series of protests** in CPRs, such as the ones that occurred in the CPR in Turin in July 2019. The protest irrupted following the death of 32-year-old detainee Faisal Hossai, after he was placed in an isolation room for 15 days, although no provision exists to regulate the placement, duration, conditions, and safeguards surrounding the use of segregation units or cells inside Italian immigration detention centres.³³ In January 2020, an official investigation was initiated against several administrators and guards in the CPR in Potenza for violence against detainees and "inappropriate administration of tranquilizers", including heavy sedatives.³⁴ Administration of drugs to detainees has been reported as a crucial issue in CPRs for several years.

Inappropriate use of facilities: The National Guarantor for the rights of detained persons, heard in Parliament in June 2019, reported that during a visit to the CPR in Turin he found two rooms in the basement, the existence of which had been denied by the

responsible authorities. Writing on the walls indicated that people had been placed and detained inside those rooms for some periods of time, outside any legal scrutiny.³⁵ Similar issues had been highlighted in a 2018 report, when it was already found that precautionary rooms in the CPRs in Brindisi, designed to provide isolation on the ground of health protection, were used for other purposes without the consent of the medical staff. In particular, they were used to separate individuals from others and segregate people who are detained in the Centre.

H. DETENTION CONDITIONS IN HOTSPOTS

Conditions in hotspots varied greatly, given that the facilities hosted different numbers of persons at any given time. In general however, they were characterised by the practice of *de facto* detention and frequently marked by overcrowding and poor hygiene conditions.³⁶ **In Lampedusa**, in 2019, in spite of an official capacity of 96 people, the hotspot routinely held 250 or 300 people,^{37 38} with UNHCR signalling peaks at 400 in October 2019.³⁹ Reports indicated poor conditions, including failure to distribute hygiene kits, people eating on the floor or on their mattresses, and no access to functioning phones.⁴⁰ In December 2019, as part of an appeal to the ECtHR to transfer some people out of the Lampedusa hotspot, images were shared featuring bathrooms without doors, mattresses without sheets and rubble scattered on the floors of the Centre.⁴¹

The Messina hotspot is made of zinc containers with a capacity of 250 people: it is not designed for the purpose of detention, yet, as in the other hotspots, people can be held for weeks and in fact maximal detention length for the purpose of identification was routinely exceeded in Messina. A report based on a visit in July 2019 underlined critical issues, such as overcrowding in containers and insufficient hygiene services and food. Some detainees who had been accommodated in the hotspot for about two months had not been registered to the national health service and could only access the hotspot clinic. Children could not be vaccinated, and victims of torture or violence did not have access to specialists. People also lacked information about the redistribution procedure to the mainland.⁴²

There is less available information regarding living conditions in the **Taranto and Pozzallo hotspots**: however, they remain precarious facilities made of tents and containers that are not designed to be used as detention facilities. The unlawful practice of detention is taking place away from public eyes, as Centres are usually located several kilometres away from the nearer city.

I. PRIVATISATION

The Italian immigration detention system is significantly privatised: CPRs are headed by the Prefecture on behalf of Mol and managed by **both private companies and not-for-profit entities** as a result of tenders with price bidding.⁴³ According to decrees from Mol, contracts are assigned primarily on the basis of the most economically advantageous bid.⁴⁴ Until 2015, the *Italian Red Cross* was the main contractor operating CPRs but over the last few years, several private entities have gained centrality.⁴⁵ Outsourced services include administrative management, general assistance, medical assistance, transport, delivery of goods, meal provision and cleaning services.⁴⁶ Amendments introduced by Decree Law 113/2018, as well as the new terms and con-

ditions for tenders, favour large international companies operating in the domain of immigration.⁴⁷ For example, in November 2019, in a tender procedure for the management of the CPR in Brindisi,⁴⁸ previously run by the Auxilium cooperative, the contract was entrusted to a consortium composed by the *HERA* group, one of Italy's largest multi-utilities corporations and the *AGH Resort Ltd*, a local company involved in the market of migrants' reception centres.

In 2019, all seven CPRs were run by private (profit or non-profit) entities. The CPRs in Bari and Trapani were run by *Cooperativa Badia Grande*, a non-profit organisation focused on assistance to minors, disabled people and immigrants. The CPR in Brindisi was run by *Auxilium Società Cooperativa Sociale*, an organisation focused on management and developing of health, social care, social and educational services. The CPR in Caltanissetta was run by *San Filippo Neri Cooperativa Sociale* while the Centre in Potenza was managed by the private company *Engel Italia S.R.L.* (a company that was investigated in 2014 for the mistreatment of detainees in a CPR it managed). The CPR in Roma was run by *Albatros Cooperative Sociale*, and that in Turin was run by the French private company *Gepsa S.A.*, focused on the management of prisons and other detention facilities, and currently running 60 facilities in France and Italy.

1 Maccanico, Yasha, Italy renews Memorandum with Libya, as evidence of a secret Malta-Libya deal surfaces, 2020, <https://www.statewatch.org/media/documents/analyses/no-357-renewal-italy-libya-memorandum.pdf>

2 See for instance: <https://www.theguardian.com/law/2019/jun/03/icc-submission-calls-for-prosecution-of-eu-over-migrant-deaths>

3 Law 142/2015, available in Italian at: <https://www.refworld.org/docid/57b6d6cd4.html>

4 Law 40/1998, available in Italian at: <https://www.refworld.org/pdfid/58c2aa5e4.pdf>

5 Law 113/2018, available in Italian at: <https://www.gazzettaufficiale.it/eli/id/2018/10/04/18G00140/sg>

6 Law 40/1998, available in Italian at: <https://www.camera.it/parlam/leggi/98040l.htm>

7 European Council on Refugees and Exiles (ECRE), Country Report: Italy, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_it_2019update.pdf, p. 132

8 Reception Conditions Directive, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>

9 Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al Parlamento, 2020, <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/a5fa1a499fdaf9e241f537006675c158.pdf> (in Italian), p. 195

10 European Council on Refugees and Exiles (ECRE), Country Report: Italy, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_it_2019update.pdf, p. 131

11 Ibid, p. 132

12 Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al Parlamento, 2020 <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/a5fa1a499fdaf9e241f537006675c158.pdf>, (in Italian), p. 199

13 European Council on Refugees and Exiles (ECRE), Country Report: Italy, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_it_2019update.pdf, p. 131

14 Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al Parlamento 2020, available in Italian at: <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/a5fa1a499fdaf9e241f537006675c158.pdf>, p. 192

15 Ibid, p. 203

16 Ibid, p. 201

17 SGI, Manifeste illegittimità costituzionali delle nuove norme concernenti permessi di soggiorno per esigenze umanitarie, protezione internazionale, immigrazione e cittadinanza previste dal decreto-legge 4 ottobre 2018, n. 113, 15 October 2018, available in Italian at: <http://bit.ly/2FCsyLW>

18 Letter from Ministry of Interior, 8 October 2019, available in Italian at: <https://www.questionegiustizia.it/data/doc/2180/risposta-dir-centrale-frontiere-e-immigrazione-lettera-aperta-respingimento-fiumicino.pdf>

19 Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al Parlamento 2018, available in Italian at: <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/29e40afb6be5b608916cad716836dfe.pdf>, p.228

20 Included testimonies collected by the Mai più lager - NO ai CPR campaign and communicated to the researchers; "Report on the thematic visits to the immigration removal centres (IRC) in Italy" by National Guarantor for the rights of person detained or deprived of liberty, February-March 2018 <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/e722e8372fc66f268cdd0ba948ec4717.pdf> and Hearing at Chamber of Deputies of the National Guarantor for the rights of detained persons, 27 June 2019, available in Italian at: https://www.camera.it/leg18/1079?idLegislatura=18&tipologia=indag&sottotipologia=c01_immigrazione&anno=2019&mese=06&giorno=27&idCommissione=01&numero=0004&file=indice_stenografico

21 La Gazzetta del Mezzogiorno, "Un lager chiamato CPR che non riesce a chiudere. Il Ministero: "Svuotate la struttura". Ma resta lettera morta", 14 December 2019

22 See Trapani Oggi, Cosa succede al CPR di Milo? Interrogazione al Ministro dell'Interno del deputato del PD Fausto Raciti, 22 January 2020, available in Italian at: <https://www.trapanioggi.it/cpr-di-milo-interrogazione-al-ministro-dell'interno-del-deputato-del-pd-fausto-raciti> and testimonies collected by the Mai più lager - NO ai CPR campaign

23 LasciateCIEntrare, Violenze strutture fatiscenti e difficoltoso accesso alle cure. Report dal CPR di Torino, 16 September 2019, available in Italian at: <https://www.lasciatecientrare.it/violenze-strutture-fatiscenti-e-difficoltoso-accesso-alle-cure-report-dal-cpr-di-torino/>

24 Torino Oggi, "CPR di Corso Brunelleschi il Garante lancia l'allarme Gabbie come allo zoo una persona non può soggiornare lì", 22 January 2020 available in Italian at: <https://cutt.ly/WyO7ItQ>

25 LasciateCIEntrare, "Morire di 'malaccoglienza' - La storia di Harry. Arrivato come invisibile, morto da invisibile.", 3 June 2019, available in Italian at: <https://bit.ly/2YBKxE>

26 National Guarantor for the rights of person detained or deprived of liberty, "Report on the thematic visits to the immigration removal centres (IRC) in Italy", February-March 2018, <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/e722e8372fc66f268cdd0ba948ec4717.pdf>

27 Ibid, see also information collected by on the basis of multiple testimonies by the Mai più lager - NO ai CPR campaign.

28 Landscapes of Border Control, CPR Brindisi-Restinco, <https://borderlandscapes.law.ox.ac.uk/location/cpr-brindisi-restinco>

29 National Guarantor for the rights of person detained or deprived of liberty, "Report on the thematic visits to the immigration removal centres (IRC) in Italy", February-March 2018 and "Relazione al Parlamento 2020".

30 Regulation on the "Criteria for the organisation and management of the Immigration Removal Centres", October 20, 2014, Article No. 6 letter a) provides for access to the Centres, with authorisation granted by the Prefecture, of "representatives of Bodies, voluntary associations or social cooperatives allowed to carry out assistance activities on the basis of collaboration agreements signed with the Ministry of the Interior or with the Prefecture".

31 "LasciateCIEntrare, Violenze strutture fatiscenti e difficoltoso accesso alle cure. Report dal CPR di Torino, 16 September 2019, available in Italian at: <https://www.lasciatecientrare.it/violenze-strutture-fatiscenti-e-difficoltoso-accesso-alle-cure-report-dal-cpr-di-torino/>

32 Testimonies collected by the Mai più lager - NO ai CPR campaign

33 Landscapes of Border Control, CPR Turin, <https://borderlandscapes.law.ox.ac.uk/location/cpr-torino>

34 Il Mattino di Foggia, "Maltrattamenti nel Cpr di Palazzo San Gervasio", la scoperta del giornalista investigativo Amendolara su Panorama: "Sedavano gli immigrati", 9 January 2020, available in Italian at: <https://www.ilmattinodifoggia.it/news/basilicata-free/46746/maltrattamenti-nel-cpr-di-palazzo-san-gervasio-la-scoperta-del-giornalista-investigativo-amendolara-su-panorama-sedavano-gli-immigrati.html>

35 "Hearing at Chamber of Deputies of the National Guarantor for the rights of detained persons", 27 June 2019, available in Italian at: https://www.camera.it/leg18/1079?idLegislatura=18&tipologia=indag&sottotipologia=c01_immigrazione&anno=2019&mese=06&giorno=27&idCommissione=01&numero=0004&file=indice_stenografico

36 Border Criminologies blog, Ammirati, A., Gennari, L. and Massimi, A., Forced Mobility and the Hotspot Approach: The Case of the Informal Disembarkation Agreements, 12 February 2020, <https://cutt.ly/OyO7d6f>

37 Repubblica.it, Lampedusa, l'hotspot è sovraffollato, i migranti di Open Arms in 8 in una stanza, 22 August 2019, available in Italian at: <https://cutt.ly/lyO7f6h>

38 Borderline Sicilia, Il confine Lampedusa. Prassi illegittime, indifferenza e resistenza, 29 September 2019, available in Italian at: <https://cutt.ly/LyO7g2B>

39 UNHCR, Italy Fact Sheet – October 2019, <https://data2.unhcr.org/en/documents/details/72439>

40 Borderline Sicilia, Europa frontier sud : un'altra estate di morti in mare e diritti calpestati, September 2019, available in Italian at: <https://www.borderlinesicilia.it/monitoraggio/agrigento-lampedusa/4308-9europa-frontiera-sud-un-altra-estate-di-morti-in-mare-e-diritti-calpestati.html>

41 ASGI, La Corte Edu chiede chiarimenti all'Italia sull'hotspot di Lampedusa, 12 December 2019, available in Italian at: <https://cutt.ly/dyO7vuR>. See also, video TG 3 Regione Sicilia, 6 December 2019, <https://cutt.ly/MyO7vNF>

42 ASGI, Hotspot e redistribuzione dei migranti: troppe criticità. Le richieste di ASGI, Borderline e ActionAid, 9 October 2019, available in Italian at: <https://www.asgi.it/asilo-e-protezione-internazionale/hotspot-messina-monitoraggio/>

43 National Guarantor for the rights of person detained or deprived of liberty, "Report on the thematic visits to the immigration removal centres (IRC) in Italy", February-March 2018, <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/e722e8372fc66f268cdd0ba948ec4717.pdf>

44 Decreto del 21 novembre 2008 Ministero dell'Interno, available in Italian at: <http://www.prefettura.it/FILES/AllegatiPag/1238/D.M.%2021%20NOVEMBRE%202008.pdf>

45 Global Detention Project, Italy: Complicit in Grave Human Rights Abuse?, 15 October 2019, <https://www.globaldetentionproject.org/italy-complicit-in-grave-human-rights-abuse>

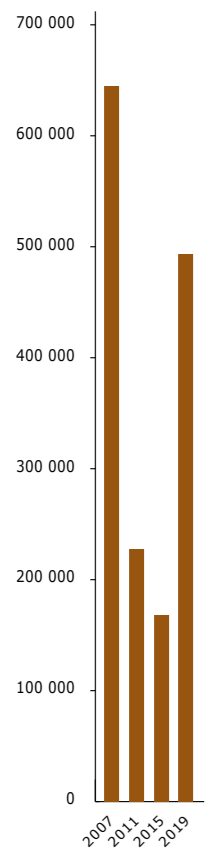
46 Ibid

47 Linkiesta, Francesco Floris, Migranti, ora il business si chiama detenzione e rimpatrio (e a fare i soldi sono i francesi), 14 February 2019, available in Italian at: <https://www.linkiesta.it/2019/02/migranti-ora-il-business-si-chiama-detenzione-e-rimpatrio-e-a-fare-i-s/>

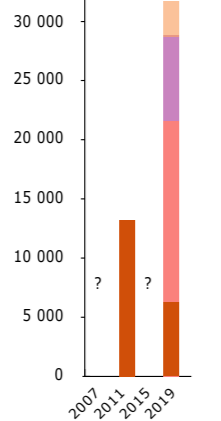
48 Prefettura Ufficio Territoriale del Governo di Brindisi, 19Gara Europea procedura aperta CPR Brindisi-Restinco 48 posti, 3 May 2019, available in Italian at: http://www.prefettura.it/brindisi/contenuti/19gara_europea_procedura_aperta_cpr_brindisi_restinco_48_posti-7483629.htm

SPAIN

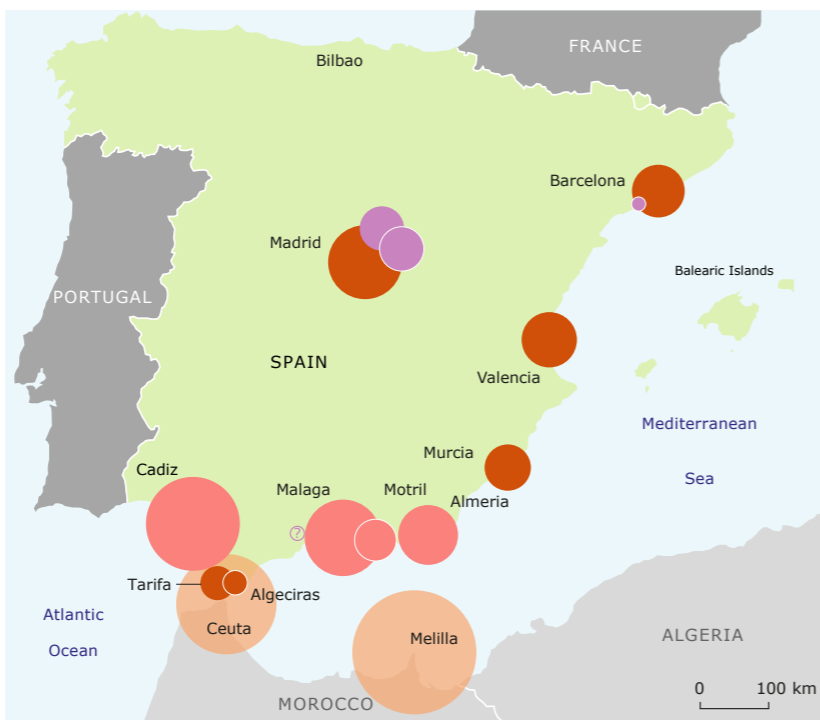
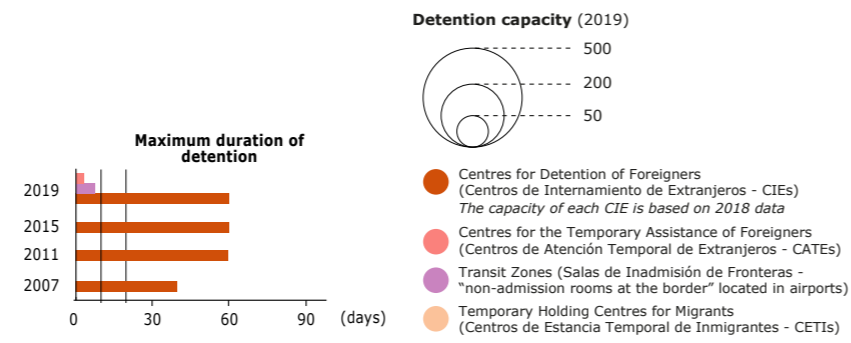
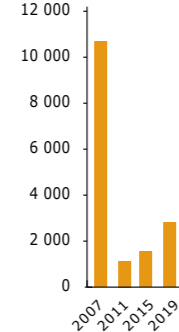
Evolution of foreigners rejected at the borders



Evolution of the number of foreigners detained



Evolution of detention capacity



Sources : Country Report: Spain, European Council on Refugees and Exiles (ECRE), https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf ; Short overview of the Spanish reception system, https://www.asylumineurope.org/reports/country/spain/place-detention#_ftn1 ; Informe CIE 2019, El Servicio Jesuita a Migrantes (SJM), https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf ; Barbero, Iker. (2020). Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des)regulación jurídica y mecanismos de control de derechos y garantías.

A. KEY FIGURES AT A GLANCE

07 Centres for Detention of Foreigners (CENTROS DE INTERNAMIENTO DE EXTRANJEROS - CIES)

1,589 total capacity
6,473 people detained in 2019
Average length of detention: N/A⁴⁹

04 Centres for the Temporary Assistance of Foreigners (CENTROS DE ATENCIÓN TEMPORAL DE EXTRANJEROS - CATES)

1,020 total capacity
15,288 people detained in 2019
Average length of detention: N/A

02 Temporary Holding Centres for Migrants (CENTROS DE ESTANCIA TEMPORAL DE INMIGRANTES - CETIS)

1 294 capacity
512 in Ceuta
782 in Melilla

04 Transit Zones (SALAS DE INADMISIÓN DE FRONTERAS - "NON-ADMISSION ROOMS AT THE BORDER" LOCATED IN AIRPORTS)

Around 200 total capacity
7,020 people detained in 2019
Average length of detention: N/A

493,455 Cases of non-admission at the border

B. GENERAL TRENDS

Detention in official facilities in Spain has been slowly decreasing over the last decades. However, **new forms of detention and de facto holdings** are on the rise at the country's borders, where record numbers of **expedited returns and refusals of entry** are taking place. The strategy thus seems to be to **deport as fast as possible**, and in many cases without placing people in pre-removal centres. This form of detention, aimed at quick deportation, has been enacted through the opening of four Centres for the Temporary Assistance of Foreigners (CATEs), which function as extensions of police stations and where about half of all people arriving by sea are held.

This form of **expedited removal** (*expulsiones exprés*) bypasses the intervention of juridical power, raising concerns about the protection needs of those deported. Moreover, Spain alone amounts for 67% of non-EU citizens refused entry at the border: 493 455 were denied entry into the country in 2019.⁵⁰ Spain therefore seems to have adopted an overall strategy of prevention of access to the territory, which means deportation and refusals of entry are conducted without placing people in official pre-removal detention facilities (most probably following short detention periods which are not documented or not considered as detention by law).

Such a strategy was already visible in Ceuta and Melilla where Migrant Temporary Stay Centres (CETIs) have been used since the early 2000s to filter people arriving in the Spanish enclaves and prevent their access to the mainland.

In official facilities, following relentless criticism and denunciation by civil society organisations, the Spanish Ombudsperson and supervisory judges, small improvements in detention conditions could be noted in 2019. However, the situation remains far from acceptable and **most detention centres do not present adequate sanitary and safety conditions**. There have been multiple reports of brutality in the centres, and they frequently become the stage of protests on the part of detainees. In *de facto* facilities, circumstances are deplorable.

Additionally, towards the end of 2019, arrivals in the Canary Islands significantly increased – a trend that continued in 2020. This followed the allocation of 140 million euros by the EU to support Morocco in preventing migrants to reach Spain via the enclaves of Ceuta and Melilla. Additional funds were provided by Spain, resulting in Morocco officially preventing 74,000 people from reaching the EU.⁵¹ This led to shift in preferred routes towards the Canary Islands, often via Mauritania but also from as far as Gambia.⁵² During 2019, a total of 2,698 people arrived by sea on the Canary Islands, more than twice as much as in 2018.⁵³ As a response to the increase of boat arrivals, the Spanish Government announced the reopening of CIE of El Matorral in Fuerteventura⁵⁴ (still not reopen as of September 2020).

C. GROUNDS FOR DETENTION

The legal framework for immigration detention in Spain is set out by the Organic Law on the Rights and Freedoms of Aliens in Spain and Their Social Integration (Aliens Act) adopted in 2000.⁵⁵ The sole purpose of detention is to secure deportation. Grounds for detention included within the Aliens Act are the following:

1. For the purposes of expulsion from the country due to violations including, being on Spanish territory without proper authorisation, posing a threat to public order or participating in clandestine migration;
2. When a judge issues a judicial order for detention in cases when authorities are unable to carry out a deportation order within 72 hours;
3. When a notification for expulsion has been issued and the non-national fails to depart from the country within the prescribed time limit.

Asylum seekers are usually not detained: however, people who are in detention when they apply for asylum remain detained pending the decision. Although children shall not be detained as a rule, the Aliens Act foresees the possibility of detaining families with children. The competent authority to authorise, on police request, detention in a Centre for the Detention of Foreigners (*Centro de Internamiento de Extranjeros*, henceforth CIEs) is the Provincial Court (*Audiencia Provincial*).⁵⁶

Non-citizens arriving by sea are almost systematically issued with a detention order and can be detained for a maximum period of **72 hours** at a police station or an equivalent facility (see CATEs below).⁵⁷ Detention for longer than this requires an investigating judge to deliver a judicial order prolonging detention at an officially designated detention centre (Aliens Act, Article 61.1.d). The prolonged detention can last up to **60 days**, and the individual can only be confined as long as necessary to affect expulsion (Article 62.2).⁵⁸ Besides for those hosted in CETIs, people who claim asylum at the border are also *de facto* detained and obliged to remain in border facilities for up to **8 days** while their admissibility to claim asylum is examined.⁵⁹

D. DETENTION INFRASTRUCTURE

CIEs

In 2019, there were **seven operational CIEs** which are de jure pre-removal detention facilities as defined by the Aliens Act. They are located in Algeciras-Tarifa, Barcelona, Madrid, Murcia (temporarily closed in July 2019 due to malfunction), Tenerife, Valencia and Barranco Seco (Gran Canaria) (temporarily closed and reopened in November 2019). In 2019, the MoI also expressed its intention to re-open a formerly closed CIE in Fuerteventura (Canary Islands). The total capacity of CIEs was **1,589 places** (including 116 places for women).⁶⁰

There is no available break-down of detention capacity per facility in 2019.

Data for 2015:⁶¹

Location	Capacity
Algeciras-Tarifa	350
Barcelona	226
Madrid	240 (40 women)
Murcia*	12
Tenerife	N/A
Valencia	135
Barranco Seco**	168
Total	N/A

* temporarily closed in July 2019 ** reopened in November 2019

Police stations and CATEs

Persons arriving in Spain by sea and automatically issued with detention orders are detained in police stations, awaiting removal. **Police stations** in Málaga, Tarifa, Almería and Motril in particular have been used for this purpose. Following intensive criticism regarding identification processes in police stations, especially in respect to the identification of vulnerabilities, the Spanish government opened specific facilities for emergency and referrals. Among those, the **Centres for the Temporary Assistance of Foreigners - Centros de Atención Temporal de Extranjeros (CATEs)** operate as closed facilities under police surveillance.⁶² **CATEs have been created outside of any legal framework and are essentially the extension of police stations:** they have in reality not prevented the repetition of issues that were identified regarding detention in police stations.

In 2019, there were **four operational CATEs** located in San Roque (Cádiz), Malaga, Motril and Almería⁶³. Various sources have reported that of 2019, Spanish authorities planned to open a fifth CATE in Cartagena. This seems to testify to the dedication to **further expand this mode of detention** and filtering upon arrival.⁶⁴

An academic study⁶⁵ observed a **total capacity of 1,020 places** while a breakdown per CATE provided by the *Association for Human Rights of Andalusia* indicates a higher number (see below).⁶⁶

Location	Capacity
San Roque (Cádiz)	450/600*
Motril.	90/250*
Malaga.	300
Almería.	180/unspecified*
Total	1,020/at least 1,150*

*Number provided by the *Association for Human Rights of Andalusia*

CETIs

There are **two Migrant Temporary Stay Centres – Centros de Estancia Temporal de Inmigrantes (CETIs)** in the autonomous cities of Ceuta and Melilla. This type of centre hosts any migrant who enters the Spanish territory undocumented, either by land or by sea and arrive in the Ceuta and Melilla enclaves. Every third country national who enters irregularly the Spanish territory through the two cities is placed in one of the two centres before being returned or moved to the peninsular territory. The capacities of the Ceuta and Melilla CETIs are 512 and 782, respectively, including places in tents in the latter.

Transit zones

Additionally, people who apply for asylum at the borders or in airports are held in **ad hoc transit zones** called *Salas de Inadmisión de fronteras*. Those are *de facto* detention sites located in international airports and in seaports. In 2019, operational transit zones were mainly those in Madrid Barajas Airport (Terminals 1 and 4, each with a capacity of around **80 people**) and Barcelona El Prat airport, officially accommodating up to **10 people**. There is also one such zone in Málaga airport, for which capacity is unknown.⁶⁷ Additionally, there seems to be two similar zones in Tenerife airport (north and south): these are mentioned in complaints filed with the Spanish Ombudsman, however no other sources have been identified.⁶⁸

E. NUMBER OF DETAINEES AND EFFECTIVE LENGTH OF DETENTION

As mentioned, pre-removal detention in CIEs in Spain has been decreasing more or less continuously over the last ten years,⁶⁹ with exceptions in 2016 and 2017. This decline is related to other measures of migration governance in the country. In particular, while less people are detained in CIEs, the number of people who are **served a deportation order upon arrival** by sea and are removed from the territory directly from police stations within 72 hours, without entering a CIE, has thoroughly increased. The opening of the CATEs testifies to this reality and to the strategic vision and the political will behind this policy. This is also related to developments regarding Spain's cooperation with third countries (particularly Morocco) which have allowed for hasty returns, and to the country's need to show higher deportation rates to its EU counterparts.

In 2019, **6,473 persons were detained** in CIEs according to *El Servicio Jesuita a Migrantes*. This is a decrease from 2018 (by 1,382).⁷⁰ 2,164 people applied for asylum whilst in immigration detention:⁷¹ only 10% of applicants were granted admission to asylum process.⁷²

The available number for people detained in CATEs for the period between January and mid-December 2019 was **15,288**.⁷³ This represents more than half of the people arriving by sea which also testifies to the new mode of governance through detention upon arrival.

In 2019, the CETIs in Ceuta and Melilla received respectively **1,856 and 6,855 people over the course of 2019 (a total of 8,721)**. The CETI in Ceuta was used at capacity throughout the year (around 510) – while it had been largely overcrowded in previous years.⁷⁴ However, the CETI in Melilla was working well over capacity (with an occupancy rate generally between 170% and 205%). The average length of detention in the Ceuta CETI in 2019 was **129 days**. Yet, in some cases, people were made to wait much longer, with the *Spanish Commission for Refugees (CEAR)* reporting on asylum seekers waiting 420 days before being transferred to the mainland.⁷⁵ Such lengthy detention has been considered as a deterrence measure targeting specific nationalities by local NGOs and associations.

Mol figures declared a total of **7,020 persons** held in detention in transit zones in 2019.⁷⁶

Data on the average period of effective detention in 2019 is available not for CIEs and CATEs.

F. DETENTION CONDITIONS IN CIEs

CIEs are under the responsibility of Mol through the General Directorate of the Police. Detention conditions in CIEs have long been the object of criticism and complaints by detainees, members of civil society organisation, judges and the Spanish Ombudsman. In 2014, the CIE Regulation was adopted with the aim to regulate and unify the conditions in CIEs. However, there are still large differences across CIEs, and detention conditions as well as services available largely depend on individual management.⁷⁷

Overall, in 2019, in spite of improvement to some of the facilities, there remained **critical issues regarding conditions in the CIEs**, including a lack of maintenance, prison-like appearance, heavily armed guards (riot gear, firearms), reports of mistreatment, torture and disproportionate use of force actions by police officers, lack of appropriate healthcare, legal assistance and other services, cases of suicide and attempted suicide, as well as discrimination on the basis of nationality.

Carceral environment and inappropriate infrastructure: under Article 62 of the Aliens Act, CIEs are defined as public establishments of a non-penitentiary nature and admission to and stay in these facilities shall be solely for preventive and precautionary purposes, with no limitations other than those applying to freedom of movement. However, several reports speak of prison-like conditions, featuring bars in detainees' accommodation rooms, overcrowding of the rooms, a lack of adequate space for activities, ventilation, water, heating, and toilets.⁷⁸ Heavy restrictions on visits and external communications were also reported, leading to insufficient access to legal, medical, psychological and social assistance as well as to interpreters and translators.⁷⁹ In December 2019, a detainee confined in the Valencia CIE secretly recorded videos highlighting the facility's poor conditions, including dirty and broken toilets, dark cells filled with bunk beds, and black water leaking from showers.⁸⁰ During a monitoring visit to the CIE in Algeciras and Tarifa in September 2019, the Spanish Ombudsperson reported dirt and lack of maintenance in accommodation rooms, as well as a lack of basic furniture. Similarly, in April 2019, a visit to the same CIE by the supervising judge found that the facilities had failed to comply with previous recommendations and did not provide adequate space for detention. Visits to the Murcia and Madrid CIEs raised similar concerns regarding infrastructure, living conditions, and safety.⁸¹ In the Valencia CIE, inmates also complained about food being insufficient.⁸² In November 2019, the CIE in Barranco Seco (Gran Canaria) was reopened following renovation work worth €1.5 million. A visit by the supervising judge following the reopening stated that the facility still featured significant deficiencies and irregularities and did not guarantee a dignified treatment of inmates.⁸³

Sanitation and healthcare provision: Reports describe poor sanitary conditions in the CIEs, with lack of access to clean bathrooms and running water. In spite of a commitment made by the Council of Ministers in January 2019, the Spanish Ombudsperson notes that not enough progress has been made to improve the health and sanitation conditions in CIEs. In 2019, healthcare services in CIEs were provided by Clinica Madrid SA, a private company contracted by Mol for a three-year period. Healthcare services were not continuously available (no medical personnel on site at nights and during the afternoons on weekends). Reporting procedures do not require medical staff to report incidents or injuries to supervising courts.⁸⁴

Mental health issues in CIEs: In 2019, the *Servicio Jesuita a Migrantes* visiting teams identified several people with signs of mental disorder or a psychiatric history being detained in CIEs, without appropriate mental healthcare. Incidents of self-harm, attempted suicide and suicide are frequent.⁸⁵ In July 2019, a 25-year-old Moroccan man committed suicide at the Valencia CIE. He was found dead in the isolation room in which he had been placed the day before for starting a fight with other inmates. Investigation showed that the man had informed the director of the Centre that he was in deep pain following the fight and had not been properly attended to.⁸⁶ Another documented case showed that a detainee was made to spend nine days in solitary confinement after attempting suicide in the CIE in Barcelona.⁸⁷

Detention of minors: Although minors should not be detained, in 2019, the visiting teams of the *Servicio Jesuita a Migrantes* detected 59 cases of minors not recognised as such being detained in CIEs.⁸⁸ While some minor detainees lacked documentation proving their age, others who had certification of their age were nonetheless detained.⁸⁹ Generally speaking, age determination processes were lacking or problematically enforced.

Procedural impediments: The lack of access for civil society organisations and lawyers resulted in procedural issues such as detainees lacking access to legal information, including the rights they are entitled to and key facts regarding their personal situation (for instance, date and details of their deportation). While the facilities in Madrid, Barcelona and Valencia have recently started providing legal assistance, other CIEs still do not. Lack of information, interpretation and translation (available only following a request from a lawyer) has been an obstacle for accessing protection.

Use of force and violence: CIEs in Spain have been the scenes of repeated protests, which have both been caused by and in turn have triggered violent responses by police. There often are attempts to silence reports of police's use of force in CIEs; for instance, five hours of CCTV footage of a police intervention to contain a riot in the Tenerife CIE went missing in September 2019.⁹⁰ Remaining images showed police officers carrying riot gear and firearms entering detainees' rooms.⁹¹ In April 2019, 69 detained individuals at the CIE of Madrid were forced out of the centre to be checked one-by-one by the police. Detainees were ordered to stand facing the wall and were forcibly searched while police officers uttered insults and racist expressions.⁹² Following a complaint filed by the detained individuals, the investigation indicated acts of torture, disproportionate actions of the police officers and the violation of the detainees' dignity.

In May 2019, 101 individuals detained at the CIE in Madrid wrote a letter to the surveillance judge, denouncing serious human rights violations.⁹³ These included allegations of abusive treatment and continuous aggressions which remain unpunished; scarce medical assistance and lack of access to medicine; lack of psychological support; irregularities in expulsion procedures (i.e. no or limited information on deadlines as well as unjustified isolation); obstacles and/or denial of access to the asylum procedure; arbitrary access of family members or relatives for the purpose of visits. NGOs including *SOS Racismo*, *Pueblos Unidos*, and *Plataforma CIEs No Madrid* supported the complaint and in June 2019, more than 100 NGOs requested the resignation of the director of the Madrid CIE.⁹⁴ In December 2019, the director of the CIE was still in function.

Discrimination on the basis of nationality: Migrants of Moroccan and Algerian nationality are disproportionately represented in CIEs detainee population. Of the people visited in 2019 by Iridia in the CIE in Barcelona, 85% were from Morocco and Algeria. Similarly, the *Servicio Jesuita a Migrantes* stated that two third of detainees across all CIEs were from Moroccan and Algerian origin.⁹⁵ Some civil society organisations denounce the situation as one of discrimination on the basis of nationality, based on the fact that deportations to Morocco and Algeria are more easily enforceable.⁹⁶ Other groups see this phenomenon as a way for Spanish authorities to raise deportation numbers, thereby showing to the rest of the EU their willingness to protect the Union's borders.⁹⁷ Besides this overrepresentation of Moroccans and Algerians in CIEs, it has also led to many people from these nationalities being placed in police stations upon arrival in order to be deported within 72 hours of arrivals.

G. DETENTION CONDITIONS IN POLICE STATIONS, CATEs AND CETIs

CATEs were officially opened to improve the situation of people detained upon arrival by sea. Previously, if police stations were full, authorities used sports centres and municipal pavilions, converting them into large scale *ad hoc* police stations. CATEs were thus established as designated facilities for the purpose of initial identification.⁹⁸ Yet CATEs remain largely unregulated, as neither their establishment nor their operating regulations have been the subject of any legally binding document.⁹⁹

CATEs are usually fenced off and made of containers. They propose poor staying conditions. CATEs have been used to detain minors with their family upon arrival, yet there is no separation between men, women and minors. Isolated minors have also been detained with adults.¹⁰⁰ Facilities are insufficient for their official capacity, with an average of 2,3 m² of space per person,¹⁰¹ which is below official standards for prison detention. Sanitary conditions are poor and there is no heating. Lack of privacy is routine, including for communication between detainees and their lawyer.¹⁰² The authorities do not consider them as specific to immigration detention, but rather as extensions of police stations.¹⁰³ In practice however, there are many inconsistencies with defining CATEs as police stations: for instance NGOs and agencies such as *Save the Children*, *the Red Cross*, UNHCR, and *CEAR* are present in CATEs. Additionally, custody registration books of detainees, which are mandatory in police stations, are often non-existent in CATEs.¹⁰⁴

Persons held in the CETIs in Ceuta and Melilla are not free to move outside the two cities. In order to be transferred to the Spanish mainland, they need to get permission from the Ministry of Inclusion, Social Security and Migration.¹⁰⁵ Conditions and standards of accommodation in CETIs are characterised as inadequate and below those of the centres in the peninsula.¹⁰⁶ Overcrowding has been an issue for years – and this continued in 2019 most particularly in the CETI in Melilla.¹⁰⁷ This situation led to migrants being housed in cluttered and dirty plastic tents, exposed to cold and lack of food.¹⁰⁸ There were reported cases of arbitrary or non-motivated sanctions and punishments, as well as police violence.¹⁰⁹ As stated in a study of the CETI in Melilla, the overall management setting is “producing conditions conducive to constant punishment through discipline as a technology of power”.¹¹⁰

H. DETENTION CONDITIONS IN TRANSIT ZONES

Non-admission rooms or transit zones (*Salas de Inadmisión de Fronteras*) are located in the airports of Barcelona El Prat, Málaga and in Terminals 1 and 4 of the Madrid Barajas Airport. These rooms are owned by the public company *AENA*, which operates the airports, and are guarded by agents of the national police.¹¹¹ Following an unannounced visit carried out in March 2019 by the Spanish Ombudsperson at the Madrid Barajas Airport, serious concerns were raised about the deplorable conditions of the transit zone. These spaces are not suitable for long holding, although people can stay up to 8 days in holding. The rooms lack space, access to daylight as well as medical services and medicines.¹¹² Separation by gender is not respected in the rooms, basic necessities such as sheets, blankets and towels are missing, and people do not have access to their baggage.¹¹³

I. PRIVATISATION

Spain’s immigration detention centres are overseen by Mol and are managed by the General Police Directorate (*Dirección General de Policía*). The country’s law permits Mol to outsource services to other ministries or public and private entities. Overall, the management of CIEs has not been placed in private hands, though some political forces (including the rightist party *Ciudadanos*) have proposed to privatise management and security inside detention centres in order to “modernise” them and to re-open closed wings in prisons for immigration detention.¹¹⁴ Some services in detention centres are provided by the private sector, including medical services (*Sermedes*, *Clínicas Madrid*) and interpretation. The *Spanish Red Cross* has also signed an agreement to provide social assistance in detention facilities. In a report, the Defensor del Pueblo highlighted that this raised serious issues regarding the right to private life and confidentiality around medical data due to the server used by the private medical provider in CIEs.¹¹⁵ There has also been a record of privatising food provision, with private company *ALBIE* receiving over 24 million euros worth of contract between 2010 and 2016. 2019 data are not available.¹¹⁶

49 In 2018, the average length was 26,08 days (SJME report 2018, p. 25), <https://sjme.org/wp-content/uploads/2019/06/Informe-CIE-2018-SJM.pdf>

50 Eurostat, https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirfs&lang=en

51 Infomigrants, Migrant arrivals increase in Spain's Canary Islands, 5 February 2020, <https://www.infomigrants.net/en/post/22572/migrant-arrivals-increase-in-spain-s-canary-islands>

52 AFP, Migrants trying to reach Europe pushed to deadly Atlantic, 2 September 2020, <https://apnews.com/9f296250d-4176d0c1252183eddbafa51>

53 Ministerio del Interior, http://www.interior.gob.es/documentos/10180/11261647/informe_quincenal_acumulado_01-01_al_31-12-2019.pdf/97f0020d-9230-48b0-83a6-07b2062b424f

54 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 90

55 Organic Law on Rights and Freedoms of Aliens in Spain and Their Social Integration (2000), available in Spanish at: <https://www.boe.es/buscar/pdf/2000/BOE-A-2000-544-consolidado.pdf>

56 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 91

57 Article 58(6) Aliens Act

58 Article 62(2) Aliens Act

59 Article 21 Asylum Act, available in Spanish at: <https://www.boe.es/boe/dias/2009/10/31/pdfs/BOE-A-2009-17242.pdf>

60 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 90

61 Pueblos Unidos-Servicio Jesuita a Migrantes, Joint report, 2015, available in Spanish at: https://www.icade.comillas.edu/images/Clinica_Juridica_ICADE/Informe_situacion_actual_CIE_junio_15.pdf

62 Barbero, Iker, Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des) regulación jurídica y mecanismos de control de derechos y garantías, 2020

63 Asociación pro Derechos Humanos de Andalucía, Derechos Humanos en la Frontera Sur 2019, available in Spanish at: <https://www.apdha.org/wp-content/uploads/2019/02/informe-frontera-sur-2019-web.pdf>, p. 30

64 This has been extensively reported in Spanish media outlets (e.g. <https://www.laopiniondemurcia.es/comunidad/2019/10/01/region-contara-nuevo-centro-inmigrantes/1056458.html>); <https://www.lavanguardia.com/local/murcia/20200727/482556324863/velez-lamenta-que-cartagena-no-tenga-ya-un-cate-por-la-negativa-del-pp-cuando-se-planteo.html>) <https://www.europapress.es/murcia/noticia-cep-exige-mayor-esfuerzo-implantacion-cate-cartagena-evitar-contagios-20200530174022.html>

65 Barbero, Iker, Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des) regulación jurídica y mecanismos de control de derechos y garantías, 2020

66 Asociación pro Derechos Humanos de Andalucía, Derechos Humanos en la Frontera Sur 2019, available in Spanish at: <https://www.apdha.org/wp-content/uploads/2019/02/informe-frontera-sur-2019-web.pdf>, pp. 31-34

67 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 95

68 Defensor del Pueblo, Visita al Puesto Fronterizo Tenerife Norte, en La Laguna (Santa Cruz de Tenerife), 18 February 2020, available in Spanish at: <https://www.defensordelpueblo.es/resoluciones/visita-al-puesto-fronterizo-tenerife-norte-en-la-laguna-santa-cruz-de-tenerife/>

69 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 12

70 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 4

71 Ministerio del Interior, available in Spanish at: http://www.interior.gob.es/documentos/642012/9911687/Nota_avance_mensual_datos_proteccion_internacional_2019_12_31.pdf/2cf48c9d-6378-4899-91dc-c7281c04dd46

72 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 4

73 Barbero, Iker, Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des) regulación jurídica y mecanismos de control de derechos y garantías, 2020

74 CEAR, Annual report 2020, https://www.cear.es/wp-content/uploads/2020/06/Informe-Anual_CEAR_2020_.pdf, p. 83

75 CEAR, Annual report 2020, https://www.cear.es/wp-content/uploads/2020/06/Informe-Anual_CEAR_2020_.pdf, p. 88

76 Ministerio del Interior, available in Spanish at: http://www.interior.gob.es/documentos/642012/9911687/Nota_avance_mensual_datos_proteccion_internacional_2019_12_31.pdf/2cf48c9d-6378-4899-91dc-c7281c04dd46

77 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 96

78 Ibid, p. 96

79 Ibid, p. 96

80 El Diario, "Dentro del CIE: las "inhumanas" condiciones del centro de extranjeros de Valencia grabadas por un interno," 13 December 2019, available in Spanish at: <https://cutt.ly/uriCDDF>

81 Fiscalía General del Estado, "Memoria Elevada al Gobierno de S.M., Capítulo III: 4.6 Control de Centros de Internamiento de Extranjeros (CIE)," 2019, available in Spanish at: https://www.fiscal.es/memorias/memoria2019/FISCALIA_SITE/index.html

82 Defensor del Pueblo, Ficha de seguimiento de la visita realizada por el MNP – CIE Valencia, 13 November 2019, available in Spanish at: <https://mapamnp.defensordelpueblo.es/%2faccesibilidad%-2f115202095148resumen.PDF>

83 El Salto Diario, 'El CIE de Las Palmas no garantiza "un trato digno" tras una reforma de un millón y medio de euros', 11 February 2020, available in Spanish at: <https://cutt.ly/NtqmMBO>

84 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 96

85 Ibid, p. 96

86 Ibid, p. 96

87 Iridia, Vulneracions de drets en el CIE de Barcelona el 2019, April 2020, available in Catalan at: https://drive.google.com/file/d/1J51rMI_AAger3hpxUWbthdT9jL5eZ2al/view

88 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 33

89 Campana CIEs No, available in Spanish at: <https://ciesno.wordpress.com/page/1/>

90 Defensor del Pueblo, Ficha de seguimiento de la visita realizada por el MNP – CIE Tenerife, 23 September 2019, available in Spanish at: <https://mapamnp.defensordelpueblo.es/%2faccesibilidad%-2f11520209404resumen.PDF>

91 Ibid

92 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 30

93 Mundo en Movimiento, '101 personas internas en el CIE de Aluche denuncian públicamente vulneraciones de derechos', 2 May 2019, available in Spanish at: <https://cutt.ly/eroogvD>

94 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2018: Discriminación de Origen, 2019, available in Spanish at: <https://sjme.org/wp-content/uploads/2019/06/Informe-CIE-2018-SJM.pdf>, p. 97; El País, "Mas de 150 ONG Piden el Cese del Director del CIE de Madrid," 9 July 2019, available in Spanish at: https://elpais.com/politica/2019/07/08/actualidad/1562605450_743443.html

95 Info Libre, 'Servicio Jesuita a Migrantes denuncia "discriminación" en los CIE: dos tercios de internos son de Marruecos y Argelia, 6 June 2019, available in Spanish at: <https://cutt.ly/dtUOA2C>

96 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 41

97 Barbero, Iker, Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des) regulación jurídica y mecanismos de control de derechos y garantías, 2020

98 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 31

99 Barbero, Iker, Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des) regulación jurídica y mecanismos de control de derechos y garantías, 2020

100 Publico, Interior encerró en "celdas para adultos" a menores llegados en patera a Málaga, 23 November 2019, available in Spanish at: <https://www.publico.es/sociedad/menores-migrantes-interior-en-cerro-celdas-adultos-menores-llegados-patera-malaga.html>

101 Asociación pro Derechos Humanos de Andalucía, Derechos Humanos en la Frontera Sur 2019, available in Spanish at: <https://apdha.org/media/informe-frontera-sur-2020.pdf>, p. 61

102 Barbero, Iker, Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des) regulación jurídica y mecanismos de control de derechos y garantías, 2020

103 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf

104 Barbero, Iker, Los Centros de Atención Temporal de Extranjeros como nuevo modelo de gestión migratorio: Situación actual, (des) regulación jurídica y mecanismos de control de derechos y garantías, 2020

105 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 88

106 El País, Council of Europe slams conditions for migrants in Spain's exclave cities, 6 September 2018, https://english.elpais.com/elpais/2018/09/06/inenglish/1536232097_658790.html

107 Meilla Hoy, El CETI de Meilla cierra 2019 con casi el doble de solicitudes de asilo de marroquíes, rozando las 650, 19 April 2020, available in Spanish at: <https://www.melillahoy.es/noticia/130043/inmigracion/el-ceti-de-melilla-cierra-2019-con-casi-el-doble-de-solicitudes-de-asilo-de-marroquies-rozando-las-650.html>

108 Infomigrants, 800 migrants detained in Spain in poor conditions, says NGO, 29 January 2020, <https://www.infomigrants.net/en/post/22406/800-migrants-detained-in-spain-in-poor-conditions-says-ngo>

109 El Faro de Melilla, 'Incidentes al desalojar a una familia a la que han denegado asilo', 26 July 2019, available in Spanish at: <https://elfarodemeilla.es/incidente-ceti-familia/>

110 Sahraoui, Nina, Integration into liminality: women's lives in an open centre for migrants at Europe's Southern Antechamber, Journal of Ethnic and Migration Studies, 46:9, 1809-1827, 2020, available at: <https://www.tandfonline.com/doi/full/10.1080/1369183X.2019.1597690>

111 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 96

112 European Council on Refugees and Exiles (ECRE), Country Report: Spain, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_es_2019update.pdf, p. 101

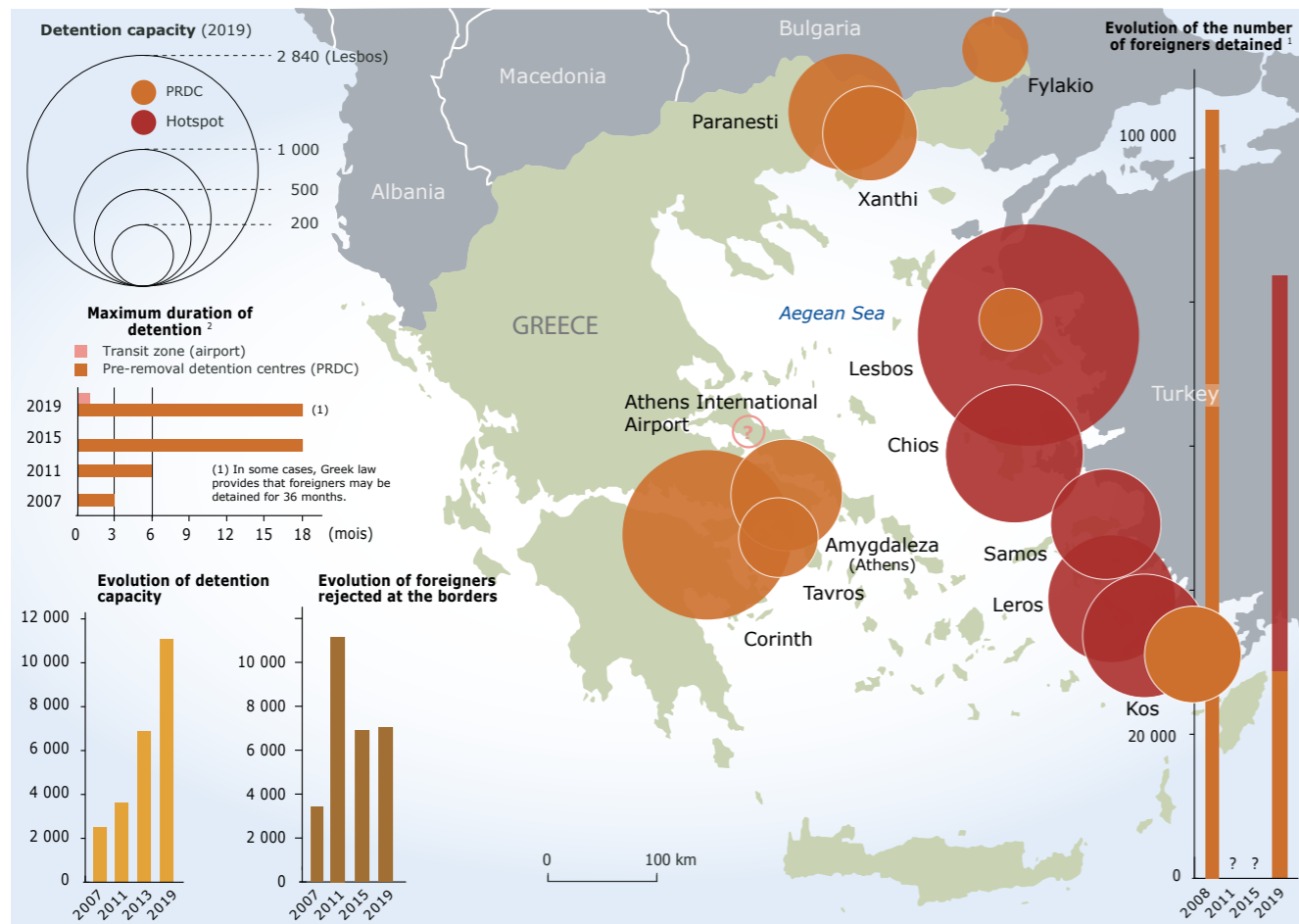
113 El Servicio Jesuita a Migrantes (SJM), Informe CIE 2019, 2020, available in Spanish at: https://sjme.org/wp-content/uploads/2020/06/Informe-CIE-2019-SJM_Diez-a%C3%B1os-mirando-a-otro-lado.pdf, p. 26

114 La Vanguardia, "Ciudadanos Pide Privatizar la Gestión y la Seguridad de los Centros de Internamiento de Extranjeros," 30 September 2016, available in Spanish at: <https://bit.ly/3dLMiuY>

115 Defensor del Pueblo, "Informe anual 2019 Mecanismo Nacional de Prevención", 2020, available in Spanish at: https://www.defensordelpueblo.es/wp-content/uploads/2020/06/Informe_2019_MNP-1.pdf, pp. 77-78

116 PorCausa, "La industria del control migratorio. ¿Quién gana en España con las políticas fronterizas de la Unión Europea?", October 2017, available in Spanish at: http://congdxtrmadura.org/wp-content/uploads/2018/11/Informe_La-Industria-del-control-migratorio_PORCAUSA.pdf, p. 40

GREECE



(1) The number of foreigners detained in 2019 is underestimated because it doesn't take into account all those detained in police stations, many places that are not mapped.
 (2) The maximum duration of detention in hotspots is not known.
 Sources : Eurostat ; Country Report: Greece, European Council on Refugees and Exiles (ECRE), (page: 44), https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf ; COM(2011) 248 final, Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, Communication on migration.

A. KEY FIGURES AT A GLANCE

08 Pre-removal detention centres (PRDCs)

4,683 total capacity
 30,007 people detained in 2019, including
 23,348 asylum seekers
 Average length of detention: N/A

05 Hotspots - Reception and Identification Centres (RICs) on Eastern Aegean islands

6,178 total capacity
 38,423 occupancy at the end of 2019
 Number of people detained through 2019: N/A
 Average length of detention: N/A

01 Reception and Identification Centre (RIC) on the mainland

240 total capacity
 391 occupancy at the end of 2019
 14,257 people detained in 2019
 Average length of detention: N/A

De facto detention

1 transit zone at Athens International Airport (detention up to 28 days)
 1,021 persons detained in police stations and border guard stations at the end of 2019
 Average length of detention: N/A

At the end of 2019:

195 unaccompanied children in detention (“protective custody”)
 391 persons in *de facto* detention at the Turkish border

7,015 Cases of non-admission at border

B. GENERAL TRENDS

Administrative detention in Greece has been increasing over the last few years and the authorities are planning to further expand capacity. It has been characterised by the multiplication of the sites and grounds for detention but also by extreme forms of informality and precarity.

While the situation in official pre-removal centres is absolutely deplorable and considered as inhuman by Greek civil society organisations, this more traditional form of detention has been complemented in recent years with the use of detention upon arrival in the country's five hotspots. This form of detention has been implemented in the stated goal of fast-tracking the identification, registration and fingerprinting of migrants, supposedly allowing the quick treatment of their case either via returning them to Turkey or allowing them access to mainland Greece. As in Italy, though for different reasons, the hotspot approach has proven absolutely impracticable. In the case of Greece, people have found themselves in detention-like circumstances for prolonged periods of time in hotspots running way beyond capacity and turning into hellish places, where people's mental and physical health is seriously affected.

In addition, other forms of not-even legalised detention upon arrival take place with the use of police stations as site for sometimes prolonged detention. The issue of people being pushed-back at sea has also been reported on numerous occasions, including by UN agencies such as the UNHCR.¹¹⁷ All in all, the situation can be said to feature both extended grounds for the detention of migrants in extremely precarious conditions and the multiplication of informal detention and deportation practices, which converge to make migrants' lives unliveable in the country.

C. GROUNDS FOR DETENTION

Immigration detention in Greece is regulated through several laws. The first regulation on immigration detention dates from 2005 with Law 3386/2005 on the Entry, Residence and Social Integration of Third-Country Nationals on Greek Territory.¹¹⁸ It was followed by Law 3907/2011 on the Establishment of an Asylum Service and a First Reception Service in 2011, establishing the framework for pre-removal detention.¹¹⁹ Finally, following the EU-Turkey deal in 2016, the country adopted Law 4375/2016 on the organisation and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, introducing the detention of asylum seekers.¹²⁰ In November 2019, a new law was also adopted calling for the systematic detention of asylum seekers as of January 2020 (International Protection Act 4636/2019).

In 2019, Greek law establishes **three grounds for pre-removal detention**:

- A. There is a risk of absconding;
- B. If the person avoids or hampers the preparation of the return or removal process;
- C. If the person presents a threat to public order or national security (Law 3386/2005, Article 76(3); Law 3907/2011, Article 30(1))

Article 46(2) of Law 4375/2016 provides **five grounds for the detention of asylum seekers**:

1. There is a need to determine the person's identity or nationality;
2. Authorities need to determine those elements of the asylum application which could not be otherwise obtained, in particular when there is a risk of absconding;
3. On the basis of objective criteria, it is ascertained that there are reasonable grounds to believe that the individual applied for international protection purely in order to delay or hinder the enforcement of a return decision;
4. The person constitutes a danger to national security or public order;
5. There is a serious risk of the applicant absconding, in order to ensure the enforcement of a transfer according to the EU Dublin III Regulation;

According to Article 46 (5) of Law 4375/2016, the detention of an asylum seeker can be imposed for an initial period **up to 50 days** and it may be successively prolonged up to a **maximum time period of 18 months**. Furthermore, according to Article 46(5), the detention period in view of removal (return/deportation etc) is not calculated in the total time, and thus the total detention period of a third country national within the migration context **may reach 36 months** (18 months during the asylum procedure + 18 months in view of removal).¹²¹

Additionally, migrants can **be de facto detained** while waiting for a transfer to a Reception and Identification Centre (RIC), which is often the case at the Greece-Turkey border. According to Article 14 (1) of Law 4375/2016, newly arrived persons shall be directly led, under the responsibility of the police, to an RIC. However, due to the limited capacity of the only RIC in mainland Greece (Fylakio RIC), delays occurred and migrants remained in **police detention** while awaiting their transfer, in some cases this period exceeded one month.¹²²

Throughout 2019, **de facto detention was also the norm** in the RICs. According to Article 14 of Law 4375/2016, new arrivals can be subject to a restriction on freedom of movement within the premises of the Centres for the purpose of reception and identification procedure for a period of 72 hours that can be extended to a maximum of 25 days.¹²³ The maximum length of detention is systematically applied at the RIC in Fylako, where people are deprived of their liberty in practice. On the Eastern Aegean islands, it was common for entire asylum procedures to be conducted within the Centres, and asylum seekers were subject to a geographical restriction and detained as a rule if arrested outside the assigned area, in order to be transferred back to the island. In these cases, a **detention order was imposed contrary to the guarantees provided by law** for administrative detention and without their asylum seeker legal status being taken into consideration.¹²⁴

Non-citizens entering Greece without authorisation and submitting an asylum request at the Athens International Airport can also be **de facto detained at the Police Directorate of the Airport** for a period of up to **28 days**¹²⁵, while their application is examined under the Border Procedure.¹²⁶

Detention orders are issued by the relevant Police Director. The Hellenic Police, which falls under the authority of the Ministry of Public Order and Citizen Protection, is responsible for implementing immigration detention.¹²⁷

D. DETENTION INFRASTRUCTURE

During 2019, **eight pre-removal detention centres (PRDCs)** were active: Amygdaleza, Tavros, Corinth, Paranesti, Xanthi, Fylakio, Lesbos and Kos. The pre-removal detention facility in Samos was not used. Their total **capacity was 4,683** (including Samos: 4,983).

Location	Capacity ¹²⁸
Amygdaleza	667
Tavros	340
Corinth.	1,536
Paranesti	720
Xanthi	480
Fylakio	230
Lesbos	210
Kos	500
Total	4,683

In 2019 there were no private companies involved in providing guarding services in PRDCs.¹²⁹

There were six operational **Reception and Identification Centres (RICs)**: **five** on the Eastern Aegean Islands of Lesbos, Chios, Samos, Leros, Kos – also known as **hotspots** – and **one** in mainland Greece in Fylakio near the Turkish border.

Officially, the purpose of the five hotspots is to perform a fast-track procedure and swiftly identify, register and fingerprint incoming migrants, channel asylum seekers into asylum procedures, implement the relocation scheme and conduct return operations. The **total capacity of these facilities in 2019 was 6,178** but the hotspots have been heavily criticised since their opening for significant overcrowding. **NGOs are heavily involved** in the provision of services in and around the hotspots.

Location	Capacity ¹³⁰	Occupancy *
Lesbos	2,840	18,615
Chios.	1,014.	5,782
Samos	648	7,765
Leros.	860	2,496
Kos	816.	3,765
Total	6,178.	38,423

*end of 2019

The RIC in Fylakio, in Eastern Thrace is not a part of the same fast-track scheme than that applied on the islands. The RIC in Fylakio has a **total capacity of 240**.

Additionally, **police stations and border guard stations** were used to detain people upon arrivals, often due to a lack of space in official RICs. The **Police Directorate of the Athens International airport** also operated as a *de facto* detention facility for people attempting to claim asylum upon arrival.

In late November 2019, the Greek authorities announced their intention to **dramatically increase the country's detention capacity**, by creating more than **18,000 detention places** on the islands.¹³¹

E. NUMBER OF DETAINEES AND EFFECTIVE LENGTH OF DETENTION

In total **30,007 people were detained in pre-removal facilities** during 2019, including **23,348** asylum seekers.¹³²

At the time of writing, the total number of people detained in the hotspots over the course of 2019 had not been obtained – official yearly data has not been published while a request for public information was left without answer.¹³³

However, to give an indication of the situation in the hotspots, the overall occupancy rate at the end of 2019 was **38,423**, for an official capacity of **6,178**.

Regarding the RIC in Fylakio, **14,257 persons were detained** in the facility during 2019.¹³⁴

Numbers could not be obtained either for the number of people who were detained in police stations and at the transit zone in the Athens international airport. However, we know that by the end of 2019, there were **1,021** persons detained in police stations and border zones.¹³⁵ It is also suspected that detention taking place in police stations is extensively used, often with little respect to the relevant legal provisions and as an informal substitute for more formal forms of detention.

F. DETENTION CONDITIONS IN PRDCs

The Ombudsperson and other national and international bodies performed numerous visits to detention facilities during 2019. They concluded that while conditions in detention centres varied greatly, they shared **important deficiencies** in the provision of medical, supportive and administrative services as well as an inadequacy regarding accommodation conditions.¹³⁶ Moreover, problems already recognised in previous years, such as no access to courtyard, inadequate guarding, limited capacity and poor sanitary conditions increased during 2019.¹³⁷ Poor living conditions are accompanied by frequent cases of **violence and harassment** by the guards¹³⁸ PRDCs are also sometimes part of (or attached) to hotspots/ RICs. For example, the Lesbos PRDC is located inside the infamous RIC in Moria, and thereby defined by detainees and civil society as "a prison within the prison".¹³⁹

Overall conditions: Detention conditions in PRDCs for third-country nationals, including asylum seekers, do not meet basic standards in Greece: the combination between extremely precarious conditions and complete lack of freedom makes PRDCs appalling places. Facilities follow carceral designs, involving prison-like cells, razor blade wire and high fences. Visits in previous years (which were confirmed in 2019) stated that the PRDC in **Tavros** was inadequate for holding people for short periods of time, let alone weeks or months.¹⁴⁰ The PRDC in **Amygdaleza** presented overcrowding and no leisure or education activities (including for children who are denied access to the existing playground), while detainees usually complain about shortages in hygiene and non-food items. In **Corinth**, 12 people are routinely detained in communal dor-

mitories of about 33-35 m². The PRDC **Xanthi** was one of the worse, with most toilets being out of use, detainees complaining about the lack of hygiene and non-food items including mattresses, clean blankets, clothes and shoes.¹⁴¹ Similar issues were reported in **Paranesti**. In 2018, conditions at the **Fylakio** Pre-departure Centre had been described as unacceptable and potentially amounting to inhuman and degrading treatment, with people being detained in about 1m² per person in filthy and malodorous cells. Hygiene was described as extremely poor. Provisions for children were seen as insufficient. Access to outdoor exercise was only granted for 10 to 20 minutes per day.¹⁴² Reports by ECRE and the UNHCR stated that the conditions in the PRDC remained comparable in 2019.¹⁴³

Healthcare access: One of the biggest issues in detention facilities is the inability to effectively access medical services – the most extreme case being the Moria-Lesbos PRDC.¹⁴⁴ This problem is permanent and was pointed out years ago, yet the situation did not improve. In some PRDCs, there is no doctor for extended periods of time. There is also a lack of medical screening of new arrivals.¹⁴⁵ Provision of medical services is the responsibility of MoH and has been entrusted to *AEMY SA*, a legal entity of private law with the Greek state as its sole shareholder.¹⁴⁶ At the end of 2019, staff provided by *AEMY* across all PRDCs consisted of: four doctors, one psychiatrist, twenty-three nurses, five interpreters, eight psychologists, seven social workers, three health visitors and seven administrators. There were no doctors present in Tavros, Paranesti, Lesbos and Kos PRDCs. The only psychiatrist was stationed in Tavros and the medical staff of Lesbos PRDC consisted of one psychologist and one administrator.¹⁴⁷ According to official data, provided by the Directorate of the Hellenic Police, the coverage (in percentage) of the required staff in 2019 was: 22% for doctors, 12.50% for psychiatrists, 57.50% for nurses and 19% for interpreters.¹⁴⁸

Detention of asylum seekers: While reported conditions in Greece's pre-removal detentions are condemnable per se, the fact that Greece has been almost systematically detaining asylum seekers during their procedure throughout 2019 means that it is in additional breach of the law, which sets out certain special guarantees on detention conditions for asylum seekers. In 2019, the Greek authorities were also implementing a pilot project called the "low-profile scheme", initiated in 2017, which consists in immediately detaining (upon arrival) newly arrived persons of particular nationalities with low recognition rates (below 25%): these people remain in detention for the entire asylum procedure. This scheme is implemented in Lesbos and Kos.¹⁴⁹ It amounts to discrimination based on nationality, which is contrary to Greek law. The practice also constitutes arbitrary detention under the Article 9 of the International Covenant on Civil and Political Rights.¹⁵⁰

The fact that children are routinely detained raises further concerns regarding the country's abidance to its responsibility regarding the rights and protection of minors.

For instance, according to the law, detained asylum seekers shall have outdoor access. Women and men shall be detained separately, unaccompanied children shall be held separately from adults, and families shall be held together to ensure family unity. The possibility to engage in leisure activities shall be granted to children.¹⁵¹

G. DETENTION CONDITIONS IN POLICE STATIONS AND ATHENS AIRPORT

General conditions are even worse in police stations. While it has been repetitively stated that these facilities are not suitable for detention exceeding 24 hours,¹⁵² they have been used extensively for sometimes lengthy detention. For instance, a citizen of Pakistan was held in detention in the Piraeus police station for two months, while two Palestinian nationals were detained in Aghios Panteleimonas and Kallithea police stations for one and a half month.¹⁵³ Other similar reports also mention that police stations are actively being used for prolonged detention, and that such forms of imprisonment is made invisible as they do not enter into official detention statistics. For instance, someone reported the case of an Afghan national held across several police stations for a total of seven months before he could submit his asylum application.¹⁵⁴

Detainees in police stations are kept in **substandard conditions**, without outdoor access and sufficient natural light, with poor sanitary conditions, no provision of clothing or sanitary products. Food is insufficient and there is no interpretation and medical services. *AEMY* does not cover persons detained in police stations. Mobile phones are banned and opportunities to communicate with the outside world are very limited.¹⁵⁵

The detention facility at the Athens International Airport consists of units with multi-occupational cells. Women and men units are separated. In the part reserved to men, detainees are kept locked, while in the women's unit cells are open and detainees have free access to corridors and toilets. Conditions are generally scarce and not suitable for long stays.¹⁵⁶

H. DETENTION CONDITIONS IN RICs

Hotspots

Overview of living conditions: Technically, people staying in the hotspots are not submitted to closed detention insofar as they can come in and out of the facilities. However, the geographical restrictions applied to these persons – who are not allowed to leave the islands on which such hotspots are located – amounts to a situation of closure, whereby only very limited mobility is possible. The living conditions in the five hotspots of the Eastern Aegean islands are described by numerous reports as appalling, and further deterioration was noted in 2019. People face extreme overcrowding and a lack of space, basic services and security.

The number of people on the islands severely exceeded the official capacities of hotspots, with occupancy rates at the end of 2019 ranging from 290% in Leros to 1200% in Samos. Such overcrowding, in turn, forces people to live in makeshift shelters and tents in areas attached to the hotspots.¹⁵⁷ Access to basics such as food, water, sanitation and healthcare is precarious and sometimes inexistent. Especially in the informal slum-like parts of the hotspots, there is no effective waste management system, turning these camps into open-air dumps infected with rats and pests.¹⁵⁸ Such living conditions have extremely serious impacts of people's health – both physical and mental – sometimes including death: in November 2019, in the Moria camp on Lesbos,

a nine-month-old infant dies of dehydration, while a few days later, a Syrian man in his forties dies from lack of medical treatment in the Vial camp, on the island of Chios. In early December 2019, a fire started by a gas cylinder in the Karatepe camp (Lesbos) causes the death of an Afghan woman and at the end of December, a 31-year-old Iranian man hang himself in the RIC in Moria hotspot.¹⁵⁹

Following her October 2019 visit to the hotspots of Lesbos and Samos, the CoE Commissioner for Human Rights also stressed the vastly unhygienic conditions in which migrants are kept. She concluded: “this no longer has anything to do with the reception of asylum seekers. This has become a struggle for survival”.¹⁶⁰

Understaffed and inadequate reception system: In 2019, hotspots were severely understaffed which led to a severe lack in basic services, such as health care and mental health support. During an October 2019 visit to the hotspot in Lesbos, the *Greek Refugee Council* recorded the presence of 8 psychologists, 4 social workers, 4 midwives, 3 doctors (paediatrician, urologist, surgeon), 7 nurses, 1 facilitator and 5 interpreters (Farsi, Arabic and Urdu) for a total of 14,000 residents. In spite of concerns regarding violent incidents and lack of safety in and around the hotspots, only two police officers were available per shift to surveil the entire hotspot and surrounding area.¹⁶¹ Similarly, members of the *GISTI* and a *Migreurop* volunteer who conducted monitoring visits to the Vathy hotspot in Samos, noted that there were also only two available doctors, only one of whom was qualified to provide the so-called vulnerability assessments on the basis of which certain people may be allowed to leave the hotspot.

Understaffing affects other aspects as well, especially asylum procedures which are overly extended. Similarly, access to food is affected by the lack of staff: on both Lesbos and Samos, reports noted that people were routinely forced to queue three or four hours in order to receive insufficient servings – and sometimes to be told that food had run out.¹⁶² A *GISTI-Migreurop* report on the Vathy hotspot in Samos also noted that food distribution was carried out by militaries.¹⁶³

Women and girls: Women and girls were particularly vulnerable in the hotspots.¹⁶⁴ In 2019, *Human Rights Watch* found that women and girls in and around the hotspot in Lesbos lacked safe access to essential resources and services including shelter, food, water and sanitation, and medical care.¹⁶⁵ The environment was described as threatening, with few protections from sexual harassment and gender-based violence. As in previous years, issues such as the lack of functional locks and privacy in toilets, bathing facilities, and shelters, as well as poor lighting, were key causes of concern. No adequate reporting systems to monitor and respond to gender-based violence exist and women who try to report problems are often deterred by the authorities.

Minors: Minors are living in all five hotspots. While there exist “safe areas” for unaccompanied minors within RICs, the lack of capacity means many children stranded on the Eastern Aegean Islands live in makeshift camps. For instance, the *Greek Refugee Council* estimated the number of unaccompanied minors residing in Lesbos to be over 1,000, with only 342 accommodated inside the designated area within the RIC.¹⁶⁶

RIC in Fylakio

The maximum length of detention of 25 days is applied systematically in the RIC in Fylakio. At the end of the period, people are either released or transferred to a

PRDC. However, unaccompanied children can remain in the RIC of Fylakio for a period exceeding 25 days on the ground of so-called “protective custody”. As stated by UNHRC in 2019, children often stay in the RIC around 3 to 5 months, during which they lack adequate medical and psychosocial services, as well as access to educational and recreational activities. Due to overcrowding, they stay with unrelated adults. The application of the age assessment procedure was also found to be inadequate by UNHCR. In 2019, 371 unaccompanied children were registered in the RIC of Fylakio, while the average waiting period to be transferred to appropriate accommodation was six months.¹⁶⁷

In a report based on a 2018 visit by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT),¹⁶⁸ cells were described as filthy, sanitary conditions as poor and ventilation as insufficient. The situation is believed to have stayed the same in 2019. Detainees’ outdoor time was limited, partly due to the extremely low number of staff (5 officers for more than 400 detainees). Doctors and nurses were insufficiently available. Detainees made credible allegations of physical ill-treatment by the police mainly consisting of slaps, punches, and kicks as well as baton blows. Due to overcrowding, many detainees had to share mattresses. Common room with a television, tables and chairs, laundry room and a prayer room were all used to accommodate detainees who slept on additional mattresses placed on the floor. With the exception of language courses, no recreational or other organised activities were provided in the RIC. New arrivals were mainly placed according to nationalities and available space, which resulted in some girls, women, and unaccompanied children being held together in a section with unrelated boys or men, with whom they had to share toilets and sanitary facilities.

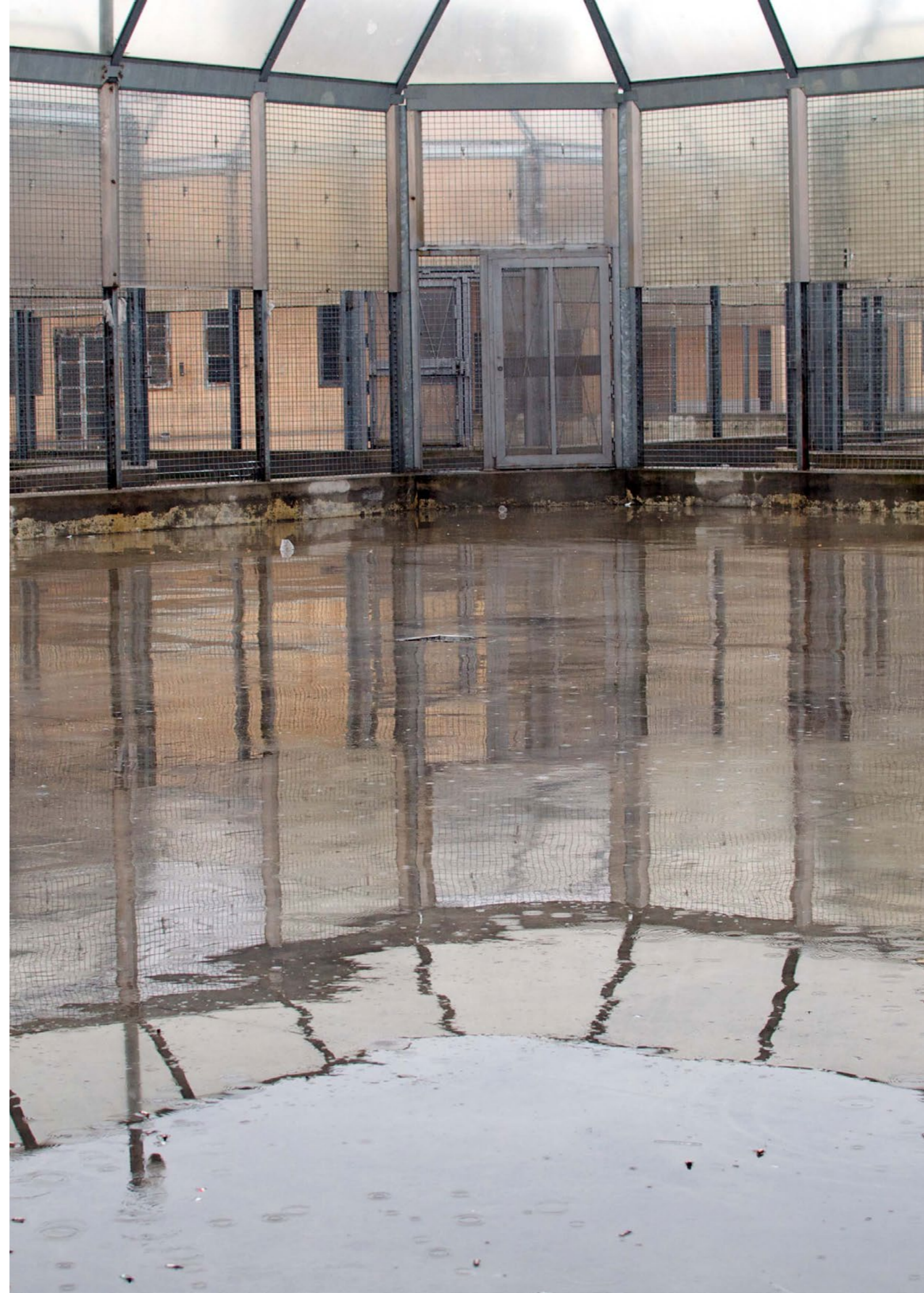
I. PRIVATISATION

As detailed in a *Migreurop* report on the privatisation of detention, the Greek government created the possibility to transfer the responsibility for the surveillance of migrant camps from the Greek police to private companies. As of 2013, the private company *G4S* started providing security in a number of migrant detention centres.¹⁶⁹

Furthermore, since 2015, the Greek government has been in receipt of EU aid to run the hotspots through NGOs or international organisations such as the UNHCR or IOM. Certain Greek coordinators nominated as camp managers by the Ministry are sometimes paid by these organisations. UNHCR and IOM were present in all six RICs. The only other organisation present in all RICs is the Greek NGO *Metadras*, with the stated mission of “facilitating the reception and integration of refugees and migrants in Greece”.¹⁷⁰ Another Greek NGO, *PRAKSIS* is present in three RICs (Chios, Samos, Lesbos). *PRAKSIS* is specialised in planning and implementing development, humanitarian and medical projects.¹⁷¹ The *Greek Refugee Council* is present in Chios and Fylakio. In 2019, Lesbos received the highest number of NGOs and UN agencies (over twenty).¹⁷²

Additionally, since 2016, the European Asylum Support Office (EASO) has a contract with *G4S* for the security of its staff in the Moria hotspot on Lesbos.¹⁷³

- 117 Communication from the United Nations High Commissioner for Refugees (UNHCR) (15/05/2019) in the M.S.S. and Rahimi groups v. Greece (Applications No. 30696/09, 8687/08): <https://www.refworld.org/docid/5cfcceb04.html>
- 118 Law 3386/2005, https://www.mfa.gr/images/docs/ethnikes_theoriseis/codification_of_legislation_en.pdf
- 119 Law 3907/2011, <https://www.refworld.org/docid/4da6ee7e2.html>
- 120 Law 4375/2016, <https://www.refworld.org/docid/573ad4cb4.html>
- 121 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 175
- 122 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 185
- 123 Ibid, p. 39
- 124 Ibid, p. 183
- 125 Ibid, p. 186
- 126 Article 60, Law 4375/2016
- 127 Article 46, Law 4375/2016
- 128 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 195
- 129 Global Detention Project, Greece Immigration Detention, Country Report, 2020, <https://www.globaldetentionproject.org/countries/europe/greece#country-report>, point 2.15
- 130 Ministry of Citizen Protection, National Situational Picture Regarding the Islands at Eastern Aegean Sea, 2 January 2020, <https://infocrisis.gov.gr/7363/national-situational-picture-regarding-the-islands-at-eastern-aegean-sea-31-12-2019/?lang=en>
- 131 Greek Council for Refugees, The announcements of the Greek Authorities are contrary to Greek and international law on refugees, 21 November 2019, available in Greek at: <https://bit.ly/32PCmfQ>
- 132 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 177
- 133 The Ministry of Citizen Protection is publishing daily figures of total number of people detained in the RICs on the islands (not for the RIC in Fylakio), however it is not possible to extract data from this source on a yearly basis.
- 134 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 33
- 135 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 22
- 136 Ombudsperson Report 2019, March 2020, available in Greek at: <https://www.synigoros.gr/resources/ee2019-p00-plires-keimeno.pdf>, pp. 135-144
- 137 Ibid, pp. 135-144
- 138 Ibid, pp. 135-144
- 139 Deportation Monitoring Aegean, The prison within the prison within the prison: The detention complex of Moria Camp, 23 September 2018, <https://dm-aegean.bordermonitoring.eu/2018/09/23/the-prison-within-the-prison-within-the-prison-the-detention-complex-of-moria-camp/>
- 140 CPT, Report on the visit to Greece from 14 to 23 April 2015, CPT/Inf (2016) 4, 1 March 2016, available at: <https://bit.ly/2l0Jtjc>, para 56. Reconfirmed in 2019 by ECRE.
- 141 Ombudsperson, Report 2019, March 2020, available in Greek at: <https://www.synigoros.gr/resources/ee2019-p00-plires-keimeno.pdf>, pp. 135-144
- 142 CPT, Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018, CPT/Inf (2018) 20, 1 June 2018, para 16.
- 143 UNHCR, "Recommendations by the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the execution of judgments by the European Court of Human Rights (ECtHR) in the cases of M.S.S. v. Belgium and Greece (Application No. 30696/09, Grand Chamber judgment of 21 January 2011) and of Rahimi v. Greece (Application No. 8687/08, Chamber judgment of 05 April 2011)", 15 May 2019, p. 6.
- 144 Ombudsperson Report 2019, March 2020, available in Greek at: <https://www.synigoros.gr/resources/ee2019-p00-plires-keimeno.pdf>, pp. 135-144
- 145 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Greek Government on the visit to Greece (10 to 19 April 2018), 19 February 2019, <https://rm.coe.int/1680930c9a>
- 146 See their website: <http://www.aemy.gr/en/>
- 147 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 198
- 148 Ibid, p. 198
- 149 Ibid, p. 179
- 150 International Covenant on Civil and Political Rights, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- 151 See Art 46(10A)(b) (c) (e) and Art 47(5)(a) L 4375/2016, inserted by Article 10 L 4540/2018
- 152 Greek Council for Refugees, Report to the UN Committee Against Torture in view of its 67th Session, February 2019, https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/GRC/INT_CAT_CSS_GRC_35375_E.pdf, p. 10
- 153 European Council on Refugees and Exiles (ECRE), Country Report: Greece, 2020 https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf, p. 199
- 154 Information provided by a lawyer with the Greek Refugee Council.
- 155 Ibid
- 156 ESRC, Monitoring Immigration Detention at the Borders of Europe, September 2019, https://borderlandscapes.law.ox.ac.uk/sites/default/files/2019-11/Monitoring%20Immigration%20Detention%20at%20the%20Borders%20of%20Europe_compressed.pdf
- 157 Ministry of Citizen Protection, National Situational Picture Regarding the Islands at Eastern Aegean Sea, 2 January 2020, <https://infocrisis.gov.gr/7363/national-situational-picture-regarding-the-islands-at-eastern-aegean-sea-31-12-2019/?lang=en>
- 158 GISTI-Migreurop, Hotspot de Samos, l'enfer à la frontière gréco-turque. Rapport de missions, 2019, pp. 14-15.
- 159 Ibid, p. 5.
- 160 Council of Europe, Greece must urgently transfer asylum seekers from the Aegean islands and improve living conditions in reception facilities, 31 October 2019, <https://www.coe.int/en/web/commissioner/-/greece-must-urgently-transfer-asylum-seekers-from-the-aegean-islands-and-improve-living-conditions-in-reception-facilities>
- 161 Greek Council for Refugees, Report on the conditions in RIC Lesbos, 2019 (in Greek), available at: https://www.gcr.gr/en/ekdoseis-media/reports/reports/item/download/629_ca1e41bc7cc11523816a077b40515a4f
- 162 Ibid
- 163 GISTI-Migreurop, Hotspot de Samos, l'enfer à la frontière gréco-turque. Rapport de missions, 2019, p. 11
- 164 Migreurop, Brief #8 - November 2018: Women at the external borders of the European Union, 2019, <http://www.migreurop.org/article2910.html?lang=en>
- 165 Human Rights Watch, Greece: Camp Conditions Endanger Women, Girls, 4 December 2019, <https://www.hrw.org/news/2019/12/04/greece-camp-conditions-endanger-women-girls>
- 166 Greek Council for Refugees, Report on the conditions in RIC Lesbos, 2019 (in Greek) at: https://www.gcr.gr/en/ekdoseis-media/reports/reports/item/download/629_ca1e41bc7cc11523816a077b40515a4f
- 167 Submission by the Office of the UNHCR in the case of International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece (Complaint No. 173/2018) before the European Committee of Social Rights, 16 August 2019, <https://rm.coe.int/cc173casedoc5-en-observations-by-the-unhcr/168096c416>
- 168 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Greek Government on the visit to Greece (10 to 19 April 2018), 19 February 2019, <https://rm.coe.int/1680930c9a>
- 169 Migreurop, Migrant detention in the European Union: a thriving business, 2016, <http://www.migreurop.org/IMG/pdf/migrant-detention-eu-en.pdf>
- 170 See their website: <https://metadrasi.org/en/metadrasi/>
- 171 See their website: <https://praxis.gr/en/about/>
- 172 Ministry of Migration and Asylum, <https://migration.gov.gr/en/ris/perifereiakes-monades/kyt-domes/>
- 173 See <https://legalcentrelesvos.org/2019/10/17/report-on-rights-violations-resistance-in-lesvos-october-2019/>



GERMANY

A. KEY FIGURES AT A GLANCE

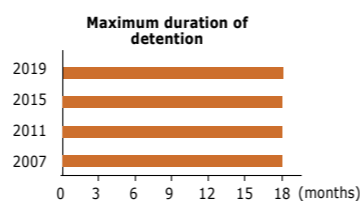
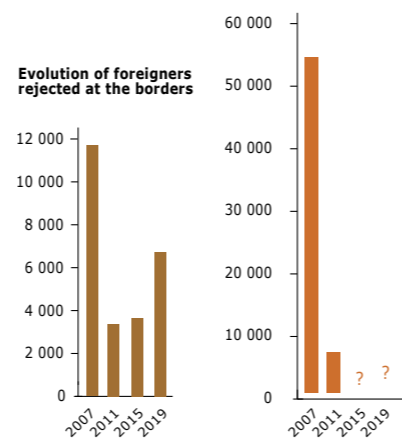
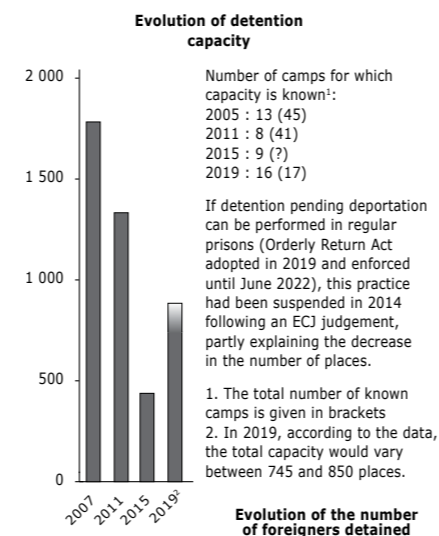
17 Sites for pre-removal detention

At least **745** total capacity
 People detained in 2019: **N/A**
 Average length of detention in 2019: **N/A**

05 De facto detention facilities in airport

Overall capacity: **N/A**
 Number of people *de facto* detained in 2019: **N/A**
 Maximum length of *de facto* detention: **19 days**

6,730 Cases of non-admission at border



Sources : Eurostat ; Country Report: Germany, European Council on Refugees and Exiles (ECRE), https://www.asylumineurope.org/sites/default/files/report-download/aida_de_2019update.pdf ; Entwurf eines Zweiten Gesetzes zur besseren Durchsetzung der Ausreisepflicht, (page: 45) <https://dip21.bundestag.de/dip21/btd/19/100/1910047.pdf>

B. GENERAL TRENDS

Over the last five years, there has been an increase in the number of deportation orders and related detention in Germany. The number of deportations performed annually from Germany is significant (22,097 deportations in 2019).¹⁷⁴ Many took place without official pre-removal detention (especially in the case of deportations based on Dublin procedures).¹⁷⁵

In spite of this high number of deportations, the idea that the authorities were not efficient enough in enforcing deportations entered the public and political debate in 2018. As a result, the Orderly Return Act¹⁷⁶ was adopted in 2019. It introduced new grounds and powers for authorities to arrest and detain people in the view of deportation. The Orderly Return Act also introduced a series of measures to respond to “an exceptional large numbers of third-country nationals whose return must be ensured”: those allow federal authorities to detain people in prisons (a practice that had been suspended in 2014 following an ECJ judgement).

Therefore, in 2019, the trend in Germany was towards an increased use of detention and a multiplication of its legal grounds and modalities. This trend is ongoing: in early February 2020, the government released a policy paper in which it does not rule out further “measures restricting freedom” in the course of the asylum procedure, which if implemented, will lead to a rise in migration-related detention.¹⁷⁷ This indicates a legalisation of hitherto illegal detention practices that leads to believe those could become routinised.

C. GROUNDS FOR DETENTION

The legal framework for immigration detention operates at the federal level, and responsibility for detention lies with the Federal States. As an effect the pre-removal detention system **is not unified**, using different vocabulary, procedures, facilities and regimes depending on state.¹⁷⁸ Broadly speaking however, the German Constitution provides that detention may only be ordered by a judge.

The detention of migrants is regulated by The Residence Act¹⁷⁹ and the Asylum Act¹⁸⁰, providing several grounds for immigration detention. In 2019, the **Orderly Return Act (Geordnete-Rückkehr-Gesetz) (2019) introduced the following changes regarding the arrest and detention of persons to be deported:**

- The authorities were granted new powers to access and enter private apartments in order to search for persons to be deported (Article 58 Residence Act)
- The authorities carrying out a deportation are entitled to arrest the person concerned: this short-term custody (Festhalten) is legally distinguished from “detention” and is not subject to a court order. It has to be limited to short period of time, necessary to transport the persons to be deported to the airport or to a border point (Article 58 IV Residence Act)
- The grounds for detention pending deportation were expanded in the text of the law, in particular by adding new criteria to the definition of “risk of absconding” (Article 62 Residence Act)

- A new ground for detention was established with a form of “detention to enforce the obligation to cooperate” with authorities (Mitwirkungshaft, Article 62 VI Residence Act).
- The law allows for the execution of detention pending deportation in **regular prisons** (limited to a transition period until June 2022). This is particularly important as, according to EU law, deportation detainees may not be held together with regular prisoners.¹⁸¹ Before the ruling, the majority of German states did not have such special facilities thereby limiting detention. The law thus considerably expands the scope of detention.

As a result of these legislative changes, pre-removal detention (Abschiebungshaft) now includes:

“Preparation of deportation” (Vorbereitungshaft) (for six weeks maximum, extendable if the expulsion is delayed due to circumstances provoked by the detainee).

Applicable:

- In cases when a decision on deportation cannot be reached immediately and deportation is deemed difficult or impossible without detention
- If the adoption of an expulsion order is legally possible and highly probable, yet the expulsion cannot be decided immediately

“Safeguarding the deportation” (Sicherungshaft)¹⁸² (for six months; extendable by another 12 months under specific conditions e.g. if an immigration detainee hinders the deportation, detention). Applicable:

- If there is a risk of absconding (expended with Orderly Return Act)
- If the foreigner is required to leave the country on account that s/he entered the territory unlawfully
- A deportation order has been issued pursuant to Article 58a of Residence Act (person poses a threat to state security or terrorist threat)

With the Orderly Return Act, two new sub-paragraphs 62(3a) and 62(3b) of Residence Act were introduced which contain an extensive definition of the grounds which may lead to the assumption of the risk of absconding (*Fluchtgefahr*). These grounds are set as “refutable assumptions” placing the full burden of proof on the individual who has to provide evidence that he/she is not trying to evade deportation.¹⁸³

Custody pending departure (Ausreisegewahrsam)¹⁸⁴ (ten days maximum)

- Custody pending departure takes place if the date of deportation is fixed and the Immigration Office has successfully concluded the necessary preparations.
- Can be carried out in the transit zones of airports or in other facilities from where a direct departure is possible, limited to a period of 10 days and shall apply in cases in which a deadline for leaving the country has expired and in which an immediate deportation (i.e. a deportation within the time-limit of 10 days) is feasible.

Detention to enforce cooperation (*Mitwirkungshaft*)¹⁸⁵ (up to 14-day e.g. if appointments at the embassy to procure papers are cancelled, etc. Not necessarily associated with a deportation)

- In case of failure to appear in person at the diplomatic mission or at a meeting with authorised officials of the foreigner's assumed state of origin
- In case of failure to appear in person for a medical examination for the purpose of establishing the foreigner's ability to travel.
- The maximum period foreseen for this detention ground is 14 days and is subject to a court order.

De facto detention at airports: In cases of entry by air, non-citizens who apply for asylum with the border authority may be kept in custody at airport premises during the asylum **procedure for up to 19 days** (Asylum Act, Article 18) This is *de facto* detention, as the German Federal Constitutional Court ruled that the placement of foreigners in airport transit zone premises does not constitute detention since, as by the court's reasoning, such persons have the option to leave by plane.¹⁸⁶

D. DETENTION INFRASTRUCTURE

The pre-removal detention system in Germany is characterised by relatively small detention capacity. Despite the newly introduced legal possibility to use prisons for pre-removal detention, in 2019, it was usually carried out in specialised detention facilities. In 2019, the following facilities were used for pre-removal detention:

Locations and capacities¹⁸⁷

Location	Capacity
Pforzheim	80
Eichstätt	88
Erding	24
Munich Airport (Hangar 3)	30
Bremen	20
Hamburg Airport	20
Dusseldorf Airport	50
Munich Airport	20
Hamburg	20
Darmstadt-Eberstadt	20
Frankfurt Airport*	N/A*
Hannover (Langenhagen)	68
Büren	175
Ingelheim am Rhein.	32
Dresden	58
Berlin	10
Berlin-Schönefeld	30
Total	At least 745

* Some reports state the capacity of the detention room at Frankfurt airport at 105 places for *de facto* holdings. However, it is not entirely clear whether those 105 places are solely for *de facto* detention (and there are additional places for pre-removal

detention of an unknown capacity) or if 105 is the overall capacity of the transit zone including both pre-removal and *de facto* detention. To not risk overstating capacity, the report has indicated a capacity of 105 in the point below that refers to *de facto* capacity.¹⁸⁸

Authorities in several states have announced **the opening of new pre-removal centres** in the near future, which will expand detention capacities (Hof, Passau, Glückstadt).¹⁸⁹

Asylum seekers subject to airport procedures **are *de facto* detained** in facilities in/near the airport, as their stay is not legally considered to be a deprivation of liberty. Since such facilities are managed by the different Federal States, they can differ in typology and even in name. In 2019 detention facilities were used in the following airports: Berlin (Schönefeld), Düsseldorf, Frankfurt/Main, Hamburg and Munich.¹⁹⁰ Capacities are N/A beside in Frankfurt (105).

E. NUMBER OF DETAINEES AND EFFECTIVE LENGTH OF DETENTION

This information is N/A: a request for public information has been filed with relevant authorities, yet no answer was received. On average however, detention often lasts for less than six weeks and rarely exceeds six months.¹⁹¹

F. DETENTION CONDITIONS

National law only provides basic rules for detention centres and the Federal States are responsible for organising detention facilities within their territories, as they are in charge of implementing detention orders. Only a few states have adopted specific laws regulating the enforcement of detention, while the remaining states use the Prison Act (*Strafvollzugsgesetz*), complemented by non-binding federal states' standards to regulate detention regimes.¹⁹²

The competent authorities for the management of the centres are the prison authorities under the Ministry of Justice or the regional police authorities.

G. PRIVATISATION

In 2015, following an increased in the number of asylum application resulting in a backlog of asylum requests, German authorities turned to management consulting firms to streamline its asylum procedures. One key such partner was multinational company *McKinsey*, which received 29,3 million euros to work with the federal migration office.¹⁹³ While *McKinsey* is not directly involved in running detention, since its involvement in the asylum process, there was a sharp rise in deportation orders resulting in an increased use of pre-removal detention.¹⁹⁴

Additionally, authorities outsource certain tasks related to detention to private security companies.¹⁹⁵ Private companies are contracted to provide services such as security, catering, social services, psychological and medical assistance in various facilities. One of these companies is "*European Homecare*", involved in numerous scandals, including mistreatment of detainees.¹⁹⁶ Several *European Homecare* employees were charged by prosecutor, and court proceedings were still on-going as of 2019.¹⁹⁷

Based on numerous reports, the general conditions in detention are **relatively sound**.¹⁹⁸ Facilities are well-equipped and provide decent living conditions. The main complaints concerned the prison-like appearance of facilities. It should be pointed out that several facilities **are former prisons** converted into pre-removal detention facilities (Büren, Eichstätt, Erding, Darmstadt-Eberstadt).¹⁹⁹

Another issue concerns the imposition of **strict and restrictive regimes** within facilities, including constricting rules limiting the usage of common rooms and courtyard areas, and long hours spent inside the cells in some of the facilities.

Access to pre-removal detention of relevant support and assistance organisations is allowed, upon application, yet access of NGOs to detention centres varies in practice, with cases of rejection of requests for access.²⁰⁰

H. CRIMINALISATION

The Residence Act provides specific criminal penalties for immigration-related violations. Under Article 95, an individual may face a one-year prison sentence or a fine if s/he resides in the federal territory without a recognised and valid identification document or without a necessary residence title; has failed to depart despite being ordered to do so; has unlawfully entered German territory; does not collaborate during identification procedures; repeatedly fails to meet reporting and geographic restrictions obligations.²⁰¹

Additional burden regarding migrants' detention is that **detainees are required to pay for their detention** in order to be able to re-enter the country at a later stage. The Residence Act, Article 66 and 67, stipulate that costs relating to deportation, including the costs of detention, are to be borne and paid by the non-citizen, in order to be permitted to re-enter Germany, even after the ban on re-entry has expired.²⁰²

¹⁷⁴ European Council on Refugees and Exiles (ECRE), Country Report: Germany, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_de_2019update.pdf, p. 105

¹⁷⁵ Ibid, p. 104

¹⁷⁶ Entwurf eines Zweiten Gesetzes zur besseren Durchsetzung der Ausreisepflicht, available in German at: <https://dip21.bundestag.de/dip21/btd/19/100/1910047.pdf>

¹⁷⁷ Euractiv, "A migration pact in the spirit of the German government?", 2 July 2020, <https://www.euractiv.com/section/justice-home-affairs/news/a-migration-pact-in-the-spirit-of-the-german-government/>

¹⁷⁸ European Council on Refugees and Exiles (ECRE), Country Report: Germany, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_de_2019update.pdf, p. 104

¹⁷⁹ Residence Act, <https://germanlawarchive.iuscomp.org/?p=1464>

¹⁸⁰ Asylum Act, available in German at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/30186/122520/F-643938179/AsylG.pdf>

¹⁸¹ The European Court of Justice (ECJ) had affirmed this in a ruling from 2014, which mandated that those in deportation detention must be accommodated in special facilities, separate from other prisoners.

¹⁸² Article 62(3) Residence Act

¹⁸³ European Council on Refugees and Exiles (ECRE), Country Report: Germany, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_de_2019update.pdf, p. 109

¹⁸⁴ Article 62b, Residence Act

¹⁸⁵ Article 62 (6), Residence Act

¹⁸⁶ Global Detention Project, Immigration Detention in Germany: From Open Arms to Public Backlash, 31 August 2020, <https://www.globaldetentionproject.org/immigration-detention-in-germany-from-open-arms-to-public-backlash>, p. 16

¹⁸⁷ Ibid, p. 38

¹⁸⁸ European Council on Refugees and Exiles (ECRE), Country Report: Germany, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_de_2019update.pdf, p. 120

¹⁸⁹ Ibid, p. 119

¹⁹⁰ Ibid, p. 47

¹⁹¹ Global Detention Project, Immigration Detention in Germany: From Open Arms to Public Backlash, 31 August 2020, <https://www.globaldetentionproject.org/immigration-detention-in-germany-from-open-arms-to-public-backlash>, p. 22

¹⁹² Ibid, p. 10

¹⁹³ Washington Post, "How McKinsey Quietly Shaped Europe's Response to Refugee Crisis", 24 July 2017, https://www.washingtonpost.com/world/europe/how-mckinsey-quietly-shaped-europes-response-to-the-refugee-crisis/2017/07/23/2cccb616-6c80-11e7-b9e2-2056e768a7e5_story.html

¹⁹⁴ Info Migrants, "Germany: The numbers of migrants in the country with orders to leave has risen", 11 November 2019, <https://www.infomigrants.net/en/post/20735/germany-the-numbers-of-migrants-in-the-country-with-orders-to-leave-has-risen>

¹⁹⁵ European Council on Refugees and Exiles (ECRE), Country Report: Germany, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_de_2019update.pdf, p. 120

¹⁹⁶ Global Detention Project, Immigration Detention in Germany: From Open Arms to Public Backlash, 31 August 2020, <https://www.globaldetentionproject.org/immigration-detention-in-germany-from-open-arms-to-public-backlash>, p. 32

¹⁹⁷ Westfalenpost, "Fall Burbach: Bewährungsstrafe für ehemaligen Heimleiter.", 22 January 2019, available in German at: <https://www.wp.de/region/sauer-und-siegerland/fall-burbach-be-waehrungsstrafe-fuer-ehemaligen-heimleiter-id216268943.html>

¹⁹⁸ European Council on Refugees and Exiles (ECRE), Country Report: Germany, 2020, https://www.asylumineurope.org/sites/default/files/report-download/aida_de_2019update.pdf, pp. 120-124

¹⁹⁹ Ibid, p. 118

²⁰⁰ Ibid, p. 124

²⁰¹ Global Detention Project, Immigration Detention in Germany: From Open Arms to Public Backlash, 31 August 2020, <https://www.globaldetentionproject.org/immigration-detention-in-germany-from-open-arms-to-public-backlash>, p. 15

²⁰² Ibid, p. 34



migreurop
_ _ _ | _

www.migreurop.org

Follow migreurop on  and  @migreurop