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Monitoring Immigration Detention at the Borders of Europe

Report on a pilot project in Greece, Hungary, Turkey and Italy, 2016-2017

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1. Introduction

Many countries in and around Europe have been deeply affected by high levels of migration since 2015. Greece and Italy have been the initial points of arrival for people coming through North African routes, while others have sought to enter Europe through Hungary, going overland via the 'Balkan route'. Turkey has sheltered millions of people fleeing the war in Syria¹, alongside migrants from a host of countries passing onwards to Europe.

Under pressure from the EU to stop the onward flows of people into central and northern Europe, Greece, Turkey and Italy have opened numerous detention centres and camps to restrict the liberty of migrants and refugees while they undergo identification and removal procedures. There, and in Hungary, states have constructed physical barriers, and introduced new legislation excising certain border spaces or islands as sites of immigration control. Since 20 March 2016, the so-called EU-Turkey deal has incentivised returns to Turkey from Greece, while, since it terminated the Mare Nostrum agreement in 2014, Italy has been forging arrangements with Libya over interceptions at sea (Cutitta 2018).

As a result of these policies and their uneven implementation, growing numbers of people have been stuck in large migrant camps in Greece and the Balkans, where they reportedly endure poor conditions, anxiety, depression and rising suicide rates (HRW 2016; Howden and Fotiadis 2017; Saoud and Welander 2017; Narang 2017; Minca et al. 2018; Zaragoza-Christiani 2017). The closure of migration routes has also led to people attempting more dangerous crossings towards Italy (Singleton et al 2016; IOM 2017).

This report discusses a pilot research project² undertaken during 2016 and 2017 in four countries particularly affected by the high levels of migration: Greece, Turkey and Italy as sites of first arrival, and Hungary as a place of onward migration flow. The project aimed to investigate the conditions in detention and the nature of human-rights based monitoring within detention centres. There has been limited and sporadic academic research on immigration detention in these countries³, while nothing at all has been published on the process of monitoring these sites. In drawing together evidence about conditions and monitoring, this project aimed to contribute directly to the development of research-informed monitoring that can more effectively protect the dignity and rights of detained migrants.

The principal responsibility for monitoring conditions in detention falls to the National Preventive Mechanisms (NPMs). These bodies, established pursuant to the 2002 UN Optional Protocol to the Convention against Torture (OPCAT), had been formed relatively recently in each country. OPCAT guarantees functional independence for NPMs. They should have a separate, guaranteed budget, and be able to appoint their own staff. They should be able to both make recommendations and comment on legislation. States must grant them access to information necessary to perform their role, such as numbers of people detained and locations, local establishment data that can help NPMs to judge how detainees are being treated, and unhindered, private access to detainees. If these criteria are fully adhered to, NPMs can provide a powerful safeguard. Indeed, even if they are only partially observed, they should still be able to make a positive difference.

¹ According to Turkey's 'Law on Foreigners and International Protection', only people from Europe can be granted refugee status and Syrians are not therefore considered to be refugees in legal terms.

² Funded by the UK's Economic and Social Research Council, the ESRC.

³ What little research there is has been mainly on Italy (e.g. Campesi 2014, 2015) and on Greece (e.g. see Fili 2013).

In addition to meeting with NPMs, we also spoke to NGOs and human rights organisations involved in supporting detainees or campaigning for migrant rights. Some of these organisations undertook forms of detention monitoring and often had considerable experience and valuable insights. Coordination and contact between these civil society organisations and the NPMs varied.

The core research team provided a combination of practical experience and academic understanding of immigration detention: it included a UK-based prison and immigration detention centre inspector, a UK-based criminology professor, and a researcher based in Greece⁴. We visited detention centres in Greece and Hungary but were unable to secure access to any in Italy or Turkey. We hope to rectify this as our research progresses into a second phase.

In each country, the research team explored the political and migration policy context, the structure of and conditions in detention, and the way that detention was being used. Most importantly, we sought to understand the structure and history of the NPMs, how they were monitoring immigration detention and what they felt would help to improve the impact and outcomes of their work.

The report draws out similarities and lessons across the different jurisdictions. The rapidly changing environment is reflected by the fact that some of the centres we visited have already closed and others have opened; there have also been some important legislative developments. We have provided the most up to date information possible in this report. In each of the four country specific chapters, we outline the current political and migration policy context, before discussing the use of and conditions in detention, and the operation of the NPM. The high level of access that we had in Greece means that we have provided more detail on that country than on any other. The concluding chapter considers comparative lessons.

The second phase of the project will develop this exploratory work. It will focus in more detail on Greece in particular, but also Turkey and Italy if a reasonable degree of access is permitted. The project will build on the work already done to foster direct engagement and exchange visits among practitioners and academics. In so doing, we hope not only to better understand what is happening, but also to contribute to evidence-based practice, drawing on best practice and encouraging critical reflection and development.

⁴ Respectively, Dr Hindpal Singh Bhui, Professor Mary Bosworth and Ms Andriani Fili. We were assisted by Mr Dominic Aitken and Dr Ines Hasselberg. In Italy, we also had assistance from Ms Valeria Verdolini. We are very grateful to the NPMs, NGOs and other individuals who participated in our research. In particular, we are grateful to HM Inspectorate of Prisons for England and Wales for supporting the project.

2 – Summary

Political context in the research countries

In Italy, Greece and Hungary, there has been growing evidence of intolerance towards migrants in recent years (Karamanidou 2016; Dempster and Hargrave 2017), while Turkey remains under a state of emergency and involved in complex international politics as a result of the EU-Turkey deal⁵ (Ineli-Ciger 2017). Support for populist anti-migrant policies has been especially strong in Hungary, where a recent large-scale survey showed that 58% of Hungarians thought of themselves as xenophobic (Tarki Institute 2016; Siminovits 2016). Such views exist despite historically and contemporary low numbers of foreign nationals in the country. Greece has, likewise, seen a resurgence in far-right activity and the economic situation has strained sympathy towards migrants (Karamanidou 2016). Finally, in Italy, support for anti-migrant political candidates and a more hard-line approach to rescue ships in the Mediterranean has been accompanied by a greater fear of migrants and association of them with disorder and terrorism (Cuttitta 2017). At times of emergency and greater intolerance, human rights are in most peril. This backdrop creates obvious challenges for those charged with protecting the rights of detainees

Detention in Hungary and Greece

In Hungary, we visited asylum and police detention centres in Kiskunhalas, near the Serbian border. We were able to speak to detainees only in the asylum centre, where just over 100 men were held in a centre with a capacity of 500. Detainees could go into the fresh air easily and the buildings were in generally reasonable physical order, but the occupied block felt neglected, with broken furniture in bare and depressing rooms. Men we spoke to alleged they had been assaulted or mistreated in other ways, but managers did not seem concerned. Self-harm was framed by officers and social workers primarily as a form of protest or manipulation; it was not seen as a manifestation of anxiety or deteriorating mental health, and there was a lack of psychiatric care. There was some input from social workers and from a local NGO, Menedék⁶, which provided activities and some other forms of support. We also saw internet rooms being used.

We were granted good access to detention in Greece. We visited the three main centres around Athens: Petrou Railli, Amygdaleza and Elliniko. In each one we were able to speak to detainees, although in some cases our conversations occurred through a fence or bars. Petrou Ralli detention centre held about 200 men and was dingy and poorly maintained. We saw little evidence of police officers speaking regularly to detainees or providing support. As in Hungary, detainees made allegations of being beaten and abused, and there was little concern expressed about this by managers. Detainees were able to spend some time outside in an enclosed area.

At the time of our visit, Amygdaleza detention centre held around 300 men in rows of shipping containers behind high fences. Those we spoke to were angry and frustrated. They complained about the cold, lack of hot water, poor access to their mobile phones and lack of understanding of their cases. Some looked very young and others were obviously mentally unwell. As in Hungary, the director described self-harm as a form of manipulation.

⁵ The deal was intended to ensure that all persons reaching Greece from Turkey after 20 March 2016 would be returned to Turkey immediately or after rejection of asylum claims.

⁶ See Menedék website at: <http://menedek.hu/en>

The nearby children's unit held 20 boys, usually until they could be moved to a hostel run by a Greek NGO – some had been there for several weeks. The Greek Red Cross provided some support for the boys and we were told there was sometimes psychological support and some use of interpreters. The sleeping areas were dirty and unhygienic. The shower and toilet areas were mouldy and clothes were washed with cold water in sinks. There was some outdoor space, which the boys told us was rarely open to them. Some still appeared traumatised, having been rescued from a sinking ship. While this unit stopped routinely holding children in 2017, it is still being used for the purposes of 'protective custody'⁷.

We saw very little of the women's centre at Elliniko. We were not permitted to enter the facility but the officers were willing to bring women to an interview room. We spoke privately to a few of them, and they were unhappy about conditions and separation from their families⁸.

Detention in Turkey and Italy

We did not succeed in visiting detention facilities in Turkey or Italy. Despite support from the NPMs, we were unable to obtain the requisite permissions from the relevant ministries. In the second phase of this work we hope to be more successful.

In December 2017, Turkey had 23 immigration removal centres with a capacity of 8,226. Another 16 centres were in planning, with an expected capacity of 7,350⁹. The new facilities were to be built using European funding. A report by the European Committee for the Prevention of Torture (CPT) was published in 2017 but based on a visit to Turkey in 2015. It praised some aspects of care for detainees, such as the absence of allegations of abuse and improved healthcare and psychological support, but also highlighted a number of concerns; these included a lack of basic personal hygiene products, overcrowding, and lack of access to natural light and outside exercise.

In Italy, the numbers held in immigration detention centres had dropped rapidly from about 8,000 in 2012 to 5,200 in 2015¹⁰. However, there were significant concerns over potentially arbitrary detention in the 'hotspots', which were not regulated by specific laws. During our research visit there were four hotspots, but it was announced in mid-2017 that a further six were to be created. The new NPM published its first report on immigration detention in June 2017. It highlighted concerns such as the lack of legal clarity around hotspots, poor

⁷ Law 4375/2016 regulates the detention of minors. Similar to previous laws, it does not prohibit the detention of minors but rather states that detention should only be employed as a measure of last resort and applied only in very exceptional cases, named as 'protective custody'. In case minors cannot be transferred to appropriate accommodation, the law foresees the possibility of detaining them for up to 25 days pending referral to a shelter, a period that can be further prolonged for up to 20 days. The shortage of open accommodation facilities means that 'protective custody' often exceeds the maximum time-limit.

⁸ We also visited an open refugee camp at Elliniko, which was located in an old airport building and held an uncertain number of people, including children. It was not a site of detention and is not therefore reported on in detail here. Some NGOs, e.g. the Danish Refugee Council, provided food and helped to look after the children. We were not given permission to speak to people in the camp. Some charity workers provided play activities for children outside, and one worker told us that her organisation provided play therapy for traumatised children. She said they had attempted to provide education but eventually decided that the children were too traumatised to learn.

⁹ Dilek Ertürk (2017) 'Human Rights and Equality Institution of Turkey as National Preventive Mechanism', presentation by Member of the HREIT Board, 14.12.17, University of Oxford Centre for Criminology.

¹⁰ Global Detention Project Italy profile: <https://www.globaldetentionproject.org/countries/europe/italy> Last accessed 24.2.17.

maintenance of facilities, the lack of safety for pregnant women and children and the lack of recreational and religious activity.

Role of NPMs

None of the detention managers we spoke to in Greece or Hungary said they knew about the NPMs. Their facilities, they said, had never been visited by the NPM and they were unfamiliar with the organisation and their powers.

In Hungary, the NPM had been operational since 2015. The Ombudsman, under which the NPM sat, had decided not to give immigration detention priority in light of resource constraints. Only one monitoring visit to an immigration facility had been completed, two years previously; the subsequent report was incisive and clear about poor treatment of many detainees. The UNHCR had funded a translation and the centre was closed shortly after the NPM's visit. The ability of the NPM to work effectively in the current climate seemed very limited.

The Greek NPM was designated in 2014. It had regularly visited the hotspots but was frustrated that most recommendations were not implemented, apparently because of a lack of resources and lack of interagency cooperation. The Greek Ombudsman, under which the NPM sits, was routinely monitoring removal flights, and detention staff were aware of them and their findings.

The Turkish NPM, the Human Rights Institution of Turkey, had been in place since 2013 and had published clear, useful and critical reports about detention. However, it had ceased to undertake monitoring visits in 2016 and was in a moment of transition. In its proposed new guise, it appeared less functionally independent and there was a possibility that preventive monitoring would be given little political priority as it had taken on wide additional responsibilities for promoting equality. It was reformed as the Human Rights and Equality Institution of Turkey and became legally operational on 24 November 2017. It was, at time of writing, in the process of agreeing a methodology and a programme of detention visits was due to resume¹¹.

The Italian NPM had been formed in 2016. It had already conducted several monitoring visits to migrant detention facilities and hotspots, and published a report detailing these visits in June 2017¹². It specifically highlighted issues such as the lack of legal clarity around hotspots, and concerns including the lack of safety for pregnant women and children, the lack of recreational and religious activity and poor maintenance of facilities.

Conclusions and emerging themes

Immigration control in all four countries we visited is highly politicised. Economically, the four sites of analysis are also in flux, with Greece, for example, enduring many years of significant economic privation. Politically, the sites of analysis offer specific challenges. The governments in Hungary and Turkey have shown little sympathy for human rights

¹¹ Dilek Ertürk (2017) 'Human Rights and Equality Institution of Turkey as National Preventive Mechanism', presentation by Member of the HREIT Board, 14.12.17, University of Oxford Centre for Criminology.

¹² See 'Report on Identification and Expulsion Centres 2016-17', last accessed 1.6.18 and available at: <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/6f1e672a7da965c06482090d4dca4f9c.pdf>

organisations (e.g. see OHCHR 2016, 2017a and 2017b), while political volatility and instability in Italy and Greece are also undermine the focus on human rights.

Under these conditions, it was not surprising to find generally poor conditions in detention. There was a lack of overall ownership of the task of detention. There were no professional detention trained staff and lines of accountability were unclear. Allegations of physical abuses in the centres we saw were not taken seriously. We saw poor conditions for children in Greece, and specific concerns about the treatment of children were also raised by Turkish and Italian NPM reports. The definition of detention had become blurred in the Hungarian 'transit zones' and Greek and Italian 'hotspots', although migrants could not leave or could only go back if they did.

The NPMs in all four sites were relatively new and in the process of becoming established. There was strong commitment and concern from them but they were not yet able to fulfil their mandates, albeit that this was improving in most countries. There was a great need for NPMs to be active and supported. Where they could not do the work, the gap had been filled to some extent by NGOs and the UNHCR, although the Hungary Helsinki Committee's long-standing work in detention was subsequently stopped by the government. These organisations were keen for the NPMs to use their powers. They generally understood that NPMs were trying hard to establish an effective way forward, often in a difficult political climate.

3 - Greece

The research visits to Greece took place in October and December 2016. Main activities:

- i) Meeting with the NPM, including the head of the NPM, followed by a presentation and discussion about the UK NPM and HMIP in particular. (October 2016)
- ii) Visit to Petrou Ralli detention centre in Athens. After a tour around the centre, we met with the director of that centre, the senior director of all Athens immigration detention facilities (both police officers), and the deputy head of returns, who worked for the immigration department. (October 2016)
- iii) Visit to Amygdaleza adult and minors' detention facilities in Athens. We saw the adult detainee enclosures, spoke to the men through the fence and had a meeting with the director. We were not permitted to go into the secure area where detainees were held. However, we were given full access to the minors' detention unit, spoke with the boys there and to both detention and visiting NGO staff.
- iv) Visit to Elliniko detention centre holding women. We were not permitted inside the main detention area but spoke with women through the bars, and were also allowed to interview some of them in a separate room.
- v) Visit to the open camp set up at Elliniko airport. We briefly went inside and spoke to NGOs providing support services, but were not permitted to tour the facility.
- vi) Meeting with the ICRC representative in Athens. (October 2016)
- vii) Meeting with Aitima, NGO.
- viii) Meeting with UNHCR.

1. Political and current migration policy context

In 2015, over 850,000 refugees and migrants arrived in Greece.¹³ Usually, they had travelled by boat from Turkey, and, reflecting regional conflict, were from Syria, Afghanistan and Iraq (UNHCR 2017; CPT 2017a). Nearly all hoped to travel onwards; for them Greece was a transit country, not a destination. In 2016, their numbers reduced substantially but were still high at 173,000. By 2017, official figures had fallen below 30,000.¹⁴

In contrast to the 1990s, when Greece hosted half a million Albanians who became reasonably well-integrated into the population and economy (Adamczyk 2016), these recent arrivals have faced growing xenophobia amid widespread anxiety about the impact of migration on European society and security. National and international responses have been multiple, and often harsh.

In particular, the EU promoted the 'hotspot' approach to managing migration¹⁵. The objective was to swiftly identify, register and process new arrivals at key arrival points in Greece and Italy, and slow the northward flow of migrants. 'Hotspots' intended to achieve

¹³ European Commission (2017) 'EU Turkey Statement: One Year On', accessed 23.2.18: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu_turkey_statement_17032017_en.pdf

¹⁴ Source: UNHCR Mediterranean Situation Report, Greece: <https://data2.unhcr.org/en/situations/mediterranean/location/5179>

¹⁵ European Commission, Fact Sheet 'The hotspot approach to managing exceptional migratory flows', 8.9.15. Last accessed 23.2.18 and available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/2_hotspots_en.pdf

this goal were identified by the Greek authorities on five Aegean Islands - Lesbos, Chios, Leros, Samos, and Kos. These hotspots were established between October 2015 and March 2016.

Under the EU-Turkey deal, which came into force on 20 March 2016, people arriving on the Greek islands were immediately detained for 20 days in the hotspots in order to be individually assessed by the Greek authorities. Following the 20 days' period, they were to be released but had to remain on the island, thus further restricting their movement¹⁶. Anyone who did not apply for asylum was to be sent back to Turkey, as was anyone whose claim was rejected. Yet between 20 March 2016 to 6 September 2017, only 1,898 people had been readmitted to Turkey, raising questions about the effectiveness of the system of forced returns¹⁷. The rapid application of the agreement between the European Union and Turkey did not allow sufficient time to build the necessary capacity and infrastructure for its proper implementation (CPT 2017a). As a result, the CPT considered that the conditions in the 'hotspots' were, in many respects, unacceptable.

These events occurred in an unusual political environment. In February 2015, in line with an election pledge to reverse the anti-immigration policies of the previous administration, the new left-wing Greek government announced that immigration detention centres were to be phased out.¹⁸ The government also announced a range of other measures, including the end to a recent policy allowing indefinite detention for people considered to be uncooperative, the use of alternatives to detention¹⁹, and open reception centres to replace closed detention facilities (Ministry of Citizen Protection 2015). In the following months, the detained population reduced from around 7,000 to a few hundred (Aitima, 2016).

However, as the main European destination for asylum seekers and undocumented migrants crossing the Mediterranean by boat, Greece confronted considerable migration challenges at the end of 2015, which led to a wave-through approach. In a state of legal limbo and with severe staff shortages, overwhelmed Greek officials neither registered nor fingerprinted most of the new arrivals (Greek Council for Refugees 2015). The focus of officials was now on speeding up the flow of migrants through and out of Greece to avoid congestion on the islands. The idea was that they would eventually leave Greece to reach their desired destinations. Although many ended up sleeping rough in Athens for a period of time, many did indeed move out of Greece and into other parts of the EU. While Europe's states were in

¹⁶ According to a Police Circular of June 2016, anyone violating the geographical restriction and found on the mainland, was to be immediately detained and returned to the island without consideration of individual circumstances. On 17 April 2016, the Supreme Administrative Tribunal (SAT) of Greece ruled (No 805/2018) that the decision of the Asylum Service (No 10464/31.5.2016) restricting migrants to the Aegean islands should be annulled given that it did not set out the legal grounds for imposing such restrictions. The ruling further highlighted that the contested decision had resulted in the unequal distribution of asylum seekers across the country. On April 20 2016, the new Director of the Asylum Service issued an administrative order, his first one, re-imposing the geographical restrictions and providing additional justification (including a reference to the EU/Turkey statement and issues of public order).

¹⁷ Nikolopoulos, G. (2017) 'Monitoring Human Rights in Immigration Detention', presentation by Deputy Ombudsman for Human Rights at the Greek Ombudsman's Office, 14.12.17, University of Oxford Centre for Criminology

¹⁸ See Asylum Information Database (AIDA), 'An end to indefinite immigration detention in Greece?' Accessed 17.2.18 and available at: <http://www.asylumineurope.org/news/15-06-2016/end-indefinite-immigration-detention-greece>

¹⁹ A non-exhaustive list of alternatives is provided in Article 46(2) L 4375/2016, and includes regular reporting to the authorities, an obligation to reside at a specific area and allows for the possibility of a financial guarantee. In practice, alternatives have not been systematically used. See: Greek Council for Refugees (December 2016) 'Country Report: Greece', Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE): <http://www.asylumineurope.org/reports/country/greece>

conflict over a coordinated quota system for receiving refugees, their cooperation on boosting 'Fortress Europe' was running more and more smoothly. In building this imagined Europe, the Greek 'wave through' approach was not welcomed by the countries receiving the onward flow.

The message was clear: Greece was responsible for stopping the flow of migrants and the Balkan route into the EU had to be closed. In late January 2016, the EU gave Greece a three-month ultimatum to stop migrants crossing from Turkey, or face being banned from the borderless Schengen area (European Commission, 2016). Austria and several Balkan countries built rows of fences, and Croatia, Serbia and Macedonia closed their borders, resulting in thousands of migrants being stranded in Greece (CPT 2017a).

In its May 2015 European Agenda on Migration, the European Commission rolled out the 'hotspot approach' to manage the so-called refugee crisis and assist frontline member states facing disproportionate migratory pressure at their external borders. At the outset, hotspots in Greece functioned as open facilities to register, screen, and assist arriving migrants and asylum seekers before their swift transfer to the Greek mainland. With the March 2016 EU-Turkey deal their role changed. They quickly became the cornerstone of the enforcement of the agreement, under which all people arriving after 20 March 2016 are liable to be returned to Turkey.

In line with the Joint Action Plan on the implementation of the EU-Turkey statement, which recommended an increase in detention capacity on the islands, three pre-removal detention centres were opened on the islands of Lesbos, Kos and Samos.²⁰

By November 2016, the number of detainees in pre-removal detention centres had risen to over 1,500 and a year later in November 2017, it exceeded 2,500²¹. Over the entirety of 2016, 14,864 people were detained in pre-removal centres, including just over 4,000 asylum-seekers²². On 11 December 2017, 14,810 migrants were also confined to the Aegean islands²³. An uncertain number of people were also detained in police cells, often for 2-3 months. A government snapshot figure in 2014 showed about 1,000 detainees were in police cells but these data were no longer disclosed²⁴. In 2017, the Greek NPM conducted on-site inspections showing the 'systematic detention of third country nationals ... in police stations ... [which] do not ensure decent living conditions and basic rights'²⁵. Furthermore, a 'pilot project' started being implemented on Lesbos in 2017, under which newly arrived persons belonging to nationalities with low recognition rates were immediately placed in detention²⁶ (ECRE 2018). A similar pilot scheme has been extended to Syrian new arrivals on

²⁰ The one on Lesbos was established in 2015 but reopened in 2017. The centre on Samos has not yet become operational.

²¹ Nikolopoulos, G. (2017) 'Monitoring Human Rights in Immigration Detention', presentation by Deputy Ombudsman for Human Rights at the Greek Ombudsman's Office, 14.12.17, University of Oxford Centre for Criminology.

²² Greek Council for Refugees (December 2016) 'Country Report: Greece', Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE): <http://www.asylumineurope.org/reports/country/greece>

²³ Nikolopoulos, G. (2017) 'Monitoring Human Rights in Immigration Detention', presentation by Deputy Ombudsman for Human Rights at the Greek Ombudsman's Office, 14.12.17, University of Oxford Centre for Criminology.

²⁴ Discussion with Greek Ombudsman staff, October 2016.

²⁵ Nikolopoulos, G. (2017) 'Monitoring Human Rights in Immigration Detention', presentation by Deputy Ombudsman for Human Rights at the Greek Ombudsman's Office, 14.12.17, University of Oxford Centre for Criminology.

²⁶ As of March 2017 the list includes 28 countries. See also ECRE, 'Asylum procedure based on nationality rather than on merit – the situation of Pakistani asylum applicants under the EU Turkey Deal', 8 December 2017, available at: <http://bit.ly/2keJTk1>

Lesvos and Chios, despite their high recognition rates (Malafeka 2018). In this context, the number of third-country nationals detained in pre-removal centres in 2017 was 25,810 compared to 14,864 in 2016, while the increase in detained asylum seekers is higher, at 9,534 in 2017 compared to 4,072 in 2016.

Reflecting in part the scale of the issue, there is little official clarity over how many people are detained in Greece. It is also difficult to demarcate the detention 'estate'. At the time of writing (February 2018), there are around 30 refugee camps and five hotspots, as well as informal sites spread all over Greece. In addition to these new facilities, Greece continues to use pre-removal detention centres, older dedicated detention facilities, and numerous border guard and police stations. Previously closed pre-removal detention centres, such as Amygdaleza and Corinth, have been re-opened (Aitima 2016).

Hotspots hold some migrants in detention facilities, while others are subject to a restriction on their freedom of movement as they cannot leave the island, with some moving between the different statuses (Majcher, 2018). Detention is systematically used to process detainees on hotspots, despite the fact that in domestic law hotspots are considered only a 'restriction of liberty' (ECRE 2016). The basis on which hotspots operate therefore lacks transparency and, potentially, legality.

While not all facilities used to confine people at the moment are detention centres per se, the line between open accommodation and confinement often becomes difficult to draw in practice. As a recent report by the European Council on Refugees and Exiles argues, there is little official clarity as to what can be presented as detention facilities or reception structures in Greece (ECRE 2016). The misleading representation of the country's reception capacity, including detention places, could be attributed to the effort to reach the EU target of 30,000 reception places and satisfy other member states. At the same time, the number of detainees is wrongly presented as smaller than the reality, failing to include the number of people detained in hotspots. In effect, Greece's detained migrants are often not counted and hence unaccounted for (Fili 2018 forthcoming).

2. Immigration detention in Greece

We visited the three main centres around Athens: we spent most time in Petrou Ralli, which held men only at the time of our visit; the Amygdaleza centre detained adult men but also had a separate unit holding about 20 unaccompanied minors; and Elliniko was a small unit holding up to 100 women²⁷.

i) Petrou Ralli pre-removal detention centre

Petrou Ralli detention centre held 228 men on two floors above immigration administration offices of the 'Central Aliens Division' in Athens. At the time of our visit, Petrou Ralli had 350 spaces. It had previously also held women and children. Women had not been held there for about two years when we visited. However, after our visit, following the closure of the Elliniko women's facility in January 2017, women detainees were once more located on the top floor. We were told that children had been transferred to the minors' detention centre in Amygdaleza four years previously in 2012, but the use of the facility for children had occasionally resumed when there was no other accommodation available for those

²⁷ The women's facility was closed in January 2017. Following a protest rally outside the centre, the police evacuated the centre the same night, and transferred women to Petrou Ralli detention facility, ostensibly for their security.

transferred from the islands. The CPT (2017a) referred to children still being held there as recently as mid-2016, and heavily criticised the conditions in the centre, especially for children.

We met the Petrou Ralli director, the overall director of all detention facilities in Athens, and an immigration official, the deputy head of the returns department. All were based in the same building. The cases of detainees held in all of the nearby detention facilities were administered from Petrou Ralli and there were no immigration staff at the other facilities we visited.

The Petrou Ralli and Athens area directors described at length how their work was made difficult by the charged politics surrounding detention. The overall director felt that there was an ongoing lack of understanding in the EU about the nature of the problem. He said that most migrants wanted to move on to Europe, not be sent back to Turkey or stay in Greece, and that it was therefore not surprising that they were unhappy in Greek detention centres. He was uncertain about the safety of migrants sent back to Turkey and felt that the police were left to manage the consequences of political confusion.

We were told that if detainees wanted to know about their immigration cases, police detention staff would write down their names and pass them on to the immigration returns department for action. He said that most people were detained for 6-18 months but that there was only one person currently at the centre who had been there for 18 months – a man with HIV (see below). We met the head of the returns department who was responsible for managing cases from the three detention facilities in Athens. She said the average length of detention was about three months, and most of those detained were released into Greece. The main reason she gave for failed removals was the lack of cooperation from embassies. They had regular charter flight removals with Frontex²⁸ funding, mainly to Pakistan, Nigeria and Georgia. A large number of removals took place to Albania but these were relatively simple as they were overland bus journeys.

Layout and staffing

The facility consisted of a lengthy corridor with detainee wings on one side and a few rooms on the other. We were not allowed onto the wings and could see little of them. We saw a visits area and a small outside area. We were shown the outside of the healthcare rooms but did not go inside. We were told there was no detainee isolation/segregation unit and that ‘The best way to work is to persuade, not to force’ and that isolation was counter-productive. The facility director said that detainee-on-detainee violence or staff-on-detainee violence was rare, and that the most common, but still rare problem, was detainees attacking staff.

The lower floor of the detention facility held the majority of men. The upper floor was where women and children had been held previously but now held 20 detainees with ‘special needs’, including mental and physical health problems. It felt like an impoverished and depressing environment. Staff revealed – without prompting and with no obvious sense of the impropriety of breaching confidentiality – that one of the men had HIV. He had some deep cuts and scratches on his arms indicative of self harm.

The director told us that there were 13 police officers currently allocated to manage the facility and, of these, seven were permanent staff and the others were seconded from other police units for 1-2 months. He said he did not know of any specific training for police

²⁸ The European Border and Coastguard Agency. See: <http://frontex.europa.eu/>

officers working in detention and relied on experienced officers guiding the others. All the officers were male and the director said women were not employed in detainee contact roles in male centres.

Physical environment

The facility was dingy and poorly maintained, with damaged floors, walls and ceilings. There were 5-6 police officers in uniform walking around the corridor but none on the detainee units. While there were cameras in the corridors, it was unclear how effective they would have been in monitoring what was happening on the wings. Detainees flocked to the gates as we walked down the corridor of the centre and one alleged that he had been beaten and abused by the police, that he was not illegal and he wanted help. He said many outside people came around the centre but no one made a difference to how they were treated. He spoke loudly and in the hearing of staff. It did not appear that anything had been done to investigate his allegations of abuse. We asked staff about investigations or complaints procedures but they were unable to tell us of one. The general attitude of detention staff towards detainees appeared to be one of suspicion; we were even told that the most important point to bear in mind following our visit was that 'most detainees lie'. We did not speak to any other detainees and were moved fairly quickly away from the main corridor.

There was an enclosed outside area where detainees could exercise or play ball games. A few of them were walking about in a fairly relaxed manner with staff standing near the door. There was one doctor and two nurses for the facility. Centre staff took people to outside hospital for any serious conditions. We were told that a detainee had tried to harm himself 10 days earlier by cutting himself superficially. A member of staff told us, 'They are not deep cuts. They aren't fake. But they are trying to take advantage of us.' We asked if there was any system of oversight or enhanced care for those who were at greater risk of self harm. We were told there was none.

Visits were between 1600 and 1800 Monday-Saturday. Legal visits were from 0800-1300 and then from 1300 to 2100. All visits booths were divided by glass and no contact at all was possible with visitors. We were told this was because of concerns about passing over of drugs or weapons. It appeared disproportionate to the risks presented by a detainee population.

The director told us that the priority areas that could help him to improve the treatment and conditions for detainees would be on-site interpretation, a psychologist to work with detainees and doctors and nurses being available until later at night.

The overall impression we had was of a procedurally lax detention centre with somewhat tired and dispirited managers. The police officers in the facility appeared to have very little relationship with the detainees. We had a limited sense of the detainees themselves, but what we saw suggested that they were angry, unhappy and/or disengaged. Some said to us that they thought another group of official visitors was not likely to make any difference to their experiences.

ii) Amygdaleza pre-removal detention centre

The living accommodation at Amygdaleza consisted of rows of shipping containers behind high fences (see pictures in Appendix one). The centre's deputy director told us that in 2015, when the levels of migration were at their highest, it held up to 2,000 men in two large subdivided units. However, at the time of our visit, it held around 300 men in one unit, with an uncrowded capacity of about 250. The deputy director told us that the overcrowding was

due to detainees damaging some units. There were five shifts of 15 officers to manage the centre.

We spoke to a number of men through the fences but were not permitted to enter the detainee compounds. Many of the men were angry and frustrated. They complained about the lack of hot water, poor access to their mobile phones, lack of understanding of their cases and, in particular, the cold. One man said 'I wear all my clothes at night and still I am cold'. The lack of well-maintained modern facilities was identified by the deputy director as a major problem, which frustrated detainees and made it difficult to manage them. She mentioned 80 broken air conditioner units, and was hoping that the ICRC would pay for repairs.

One of the officers we spoke to had told us that the men could use their mobile phones in the afternoons, but none of the men we spoke to said this was possible. There were payphones in the compounds but the men said they were expensive. Some detainees looked very young. One man was shouting incoherently and looked mentally unwell.

The deputy centre manager said that it was not unusual for men to be held there for around six months, but that 17 men had been detained in the centre for over a year. She felt length of stay was the biggest problem managers faced, leading to frustration and sometimes violence. Anyone who was considered a control problem was transferred to the Petrou Ralli facility. Many detainees also had health problems, which were difficult to manage because there were few doctors at the centre and to take them to a hospital meant losing officers to escort duties. There were no activities to keep men occupied and promote mental and physical health. A few men received visits and could have these daily from 1500-1800.

The staff seemed to view the men as problems. They had no particular detention training, for example in managing self-harm, recognising mental health problems, or understanding and implementing dynamic security, which is based on good relationships and information flow between detainees and staff. We saw no engagement between the police officers and detainees. The deputy director described self harm as being a form of manipulation. She said there were no serious complaints or allegations against the police.

Detainees whose age was inconclusive were subject to teeth and even bone analysis by doctors, despite such testing being widely considered by experts as unreliable as well as invasive (Sauer et al 2016; Feltz 2015).

iii) Amygdaleza Minor's unit

Once they were identified as under 18, boys were sent to a minor's unit near the male centre, usually until they could be allocated to proper accommodation facilities around Greece by the National Centre for Social Solidarity, which is the managing body for housing requests. We spoke to one of the managers and some of the staff of the unit. The manager told us that the boys had medical check before being transferred to ensure that they did not carry disease into the open accommodation.

We were also allowed to go into the unit itself. The boys were generally lively and many tried to talk to us. Some had broken English and no Greek, but the research team were able to speak to some of them in their own languages. One boy stayed in his bed during our walk around the facility.

There were 14 boys in total. The unit had four dormitories with 10-12 concrete plinths in each, topped with dirty and very stained mattresses. They also had blankets, sleeping bags and pillows. Next to the beds, the boys had an alcove where they could store their possessions. The blue painted rooms were cold and covered in graffiti.

The boys said they were bitten by insects during the night and we could see insects moving on their mattresses. The shower and toilet areas were dirty and mouldy. The boys said they washed clothes with cold water in sinks and left them out to dry in the washroom and we could see clothes put out to dry. There was some outdoor space, but it was locked off during our visit. An officer said the boys were allowed out every day but the boys themselves told us it was rare for the gate to be opened. We established from other staff that the gate had not been opened for several days. There was a dining area with a television. Staff told us that the boys sometimes slept on the tables so that they could watch it.

A group of Pakistani boys spoke to us at length and the conversations were troubling. Some had been rescued from a sinking ship and still appeared to be traumatised. A manager told us that some of the boys were depressed or anxious, and that a psychologist usually came twice a week. The Greek Red Cross provided some activities for the children (e.g. drawing materials, puzzles, etc.) and phone cards.

The manager said the children were normally held for around 10 days, although we spoke to a boy who said he'd been held for 45 days. The legal maximum length of detention for unaccompanied minors is 25 days extendable by another 20 days (GDP 2017)²⁹. However, according to the Special Rapporteur on the Human Rights of Migrants, unaccompanied asylum-seeking children are frequently detained for longer³⁰ and he expressed concern that they were detained at all. The CPT had recommended that both Amygdaleza and Petrou Ralli not be used for detaining children, commenting that 'Placing UASC, many of whom have undergone traumatic journeys and experiences, in these detention facilities for several weeks or months is difficult to comprehend' (CPT 2017a: 5). The Greek NPM also told us that unaccompanied children often claimed they were with an adult because they did not want to go into detention, creating a perverse incentive to lie about their status and to place their trust in unrelated adults and traffickers.

iv) Elliniko women's centre

We saw very little of the women's centre at Elliniko, which was located on one corridor of an operational police station. We spoke to the director of the centre who told us that there were 33 women in the centre and that there were usually 30-60 people held there. The capacity was 100. The director told us that the average stay was around three months but

²⁹ Law 4375/2016 regulates the case of detention of minors. Similar to previous laws, it does not prohibit the detention of minors but rather states that detention should only be employed as a measure of last resort and applied only in very exceptional cases, echoing the principles of the UN Convention on the Rights of the Child. In case minors cannot be transferred to appropriate accommodation, the law foresees the possibility of detaining them for up to 25 days pending referral to a shelter, a period that can be further prolonged for up to twenty (20) days more. Indeed, due to the shortage of open accommodation facilities, their 'protective custody', as it is labelled, often exceeds the maximum time-limit (Fili and Xythali forthcoming). In November 2016, 344 UASC were held in detention centres under this condition (Human Rights Watch, 2016). The vast majority of those detained in the hotspot in Moria, as well as in centres in Samos and Chios, islands which have been mostly affected by the current humanitarian crisis, were there for more than three months. As of 28th February 2018, 58 unaccompanied minors are in protective custody, in detention centres or police stations around Greece and 159 are in unsafe conditions in hotspots (<https://data2.unhcr.org/en/documents/download/62344>).

³⁰ Special Rapporteur on the human rights of migrants, 'Report of the Special Rapporteur on the human rights of migrants on his mission to Greece', A/HRC/35/25/Add.2, 24 April 2017: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/098/46/PDF/G1709846.pdf?OpenElement> Last accessed 24.2.18

that some stayed for up to six. Most were undocumented and picked up doing jobs in bars and restaurants. We were told that the unit sometimes held children when other accommodation in the community was full, for a maximum stay of a week. The unit also regularly had women with children 'because there is no place elsewhere to put them. We currently have a woman with children.'

There were 30 police officers in total working in the centre, six people per eight-hour shift. It was not clear if the officers worked across the station as a whole but we were told that half of those working in the women's centre were women. The detained women were allowed four visits a week.

All women went to the Petrou Ralli centre before they came to Elliniko, where their immigration files were held and initial reception procedures were completed. They did not stay overnight at Petrou Ralli. However, about a month after our visit, the Elliniko centre was closed and all women were once again held in a unit at Petrou Ralli³¹.

The director said the women were generally very anxious and this was not helped by the lack of activities and outdoor space. 'Currently there is nothing.' A woman later told us that all they did was play cards. They had made a football out of tape. There was some support from the Greek Council for Refugees and the ICRC, but an NGO that was formerly based there and offered medical and psychological support had left because funding had expired.

We could not go into the detention area but were able to speak privately to a few of the women. They were unhappy about conditions and separation from their families. They told us of minimal interaction with the officers, and limited access to healthy fresh food and little outdoor space, although women could go out from 10.00-20.30. One woman told us that a woman had been separated from her unwell child, and was desperate for information.

One multi-lingual Iraqi woman in her 20s had been detained for two and a half months. She said there were fights between women over scarce basic items such as toilet paper, shampoo or sanitary pads. She said that the police did not always intervene.

She said she had a bad kidney infection and it took three days for her to be taken to hospital and another day to receive the appropriate medicine. She said many women had mental health problems. Many could not explain to the doctor what was wrong with them as there was no interpretation.

She said the police did not abuse the women, 'but they also don't help' and did shout at them. She said they came onto the unit three times a day to count but had little interaction with them. This was in contrast to the manager's account, who said that staff kept a careful watch on women. The woman told us that she had spent 300 euros over the two and a half months of her detention on phone calls to Iraq, and that it was hard to maintain contact with her family.

3. Monitoring immigration detention and the work of the NPM

There were several groups involved in regular detention monitoring: the NPM, the ICRC and the Greek Council for Refugees (GCR). In addition, Aitima, an NGO providing advice and support to refugees and asylum-seekers, had undertaken a detention monitoring project

³¹ <https://allilegioikratoumenonstanotia.wordpress.com/>

between September 2015 and September 2016. It completed 31 monitoring visits and published a series of critical findings and recommendations (Aitima 2016). They had good cooperation from the police and immigration authorities but had no confidence or assurances that the failings they discovered would be addressed³².

Local members of the UNHCR also conduct site visits during which they monitor treatment, needs and conditions. During our visit we discussed with them conditions in the Women's unit, Elliniko, and reported the case of a Syrian woman who had been separated from her unwell child who was placed in hospital.

The ICRC's office in Athens had opened in March 2016, but they had been visiting detention centres since 2012. Until recently they had been conducting 1-2 visits of up to a week in length. Since December 2015, they had scaled up their activities significantly. They had undertaken 42 visits in the previous 12 months, visiting 13,000 migrants. ICRC teams generally included 1-2 delegates, 1-2 expert specialists and an interpreter. They had two teams visiting the hotspots and the pre-removal detention facilities. They had one acting detention specialist. The ICRC's reports are not public.

The Greek NPM

The Greek Ombudsman's office has existed since 1998 but the NPM, which is a sub-function of the Ombudsman's role, was only formed in 2014. The NPM was therefore still fairly new and in the process of developing its methodology and protocols.

The work of immigration detention monitoring was split between the main Ombudsman's office and the NPM. This was not considered ideal but necessary, at least temporarily, because of financial constraints. The Ombudsman monitored returns, while the NPM covered detention facilities. However, the latter had undertaken few detention centre inspections and had focused instead on the hot spots, which they visited very regularly. A total of 20-30 staff participated in both immigration and prison monitoring and were supported by a bank of around 120 'experts', including clinical psychologists, doctors and human rights lawyers, who helped with particular types of inspection. There was also a children's deputy ombudsman. Ombudsman staff also dealt with large numbers of complaints, their primary role, which had detracted to some extent from the work of preventive inspection.

Ombudsman staff told us that prisons were much more effectively monitored than immigration detention centres. By comparison, administrative detention was a 'black hole' and only had more attention since mass detention had started in 2015. Ombudsmen staff felt that their work in prisons had also been supported by an established prisoners' rights movement.

Perceptions of the NPM

The Ombudsman's office was well known in the detention centres we visited, but the NPM was not yet widely recognised. NPM staff felt they would have faced problems with access and credibility if they had announced themselves as the NPM and tried to inspect. Independent monitoring also had a low profile among detention staff and immigration officials, and was little understood by them. For example, the director of Petrou Ralli pre-removal detention centre knew that Ombudsman staff inspected every return operation,

³² Speech by Spyros Rizakos, co-author of Aitima (2016), to meeting at Oxford Centre for Criminology, 14 December 2017.

whether it was by air or bus, but he was not aware of them having oversight of any immigration detention facilities. Both he and the overall director of Athens detention facilities were unaware of any work done specifically by the NPM.

There was in any event little sense of the contribution that independent monitoring could make to protection of human rights, transparency or practical improvements in detention. The director of the Athens detention centres was especially critical of monitoring bodies, and felt that the objective was too often 'to find out what the police are doing wrong'. He saw the work of monitors and others who exercised oversight of detention as actively creating problems. The example he gave was that NGOs and monitors often informed migrants of their right to apply for asylum and sometimes helped them to initiate asylum claims. He thought this was unhelpful because migrants did not realise they would be 'stranded' in Greece if they applied for asylum when most wanted to move on.

Immigration officials based at Petrou Ralli also had little understanding of the NPM, but were aware of the Ombudsman's reports on forced returns. The deputy head of returns in the immigration department said the Ombudsman had criticised the length of time that people spent on buses when being removed overland; but overall she thought the judgement was that returns were managed in a smooth and efficient way. Yet the Ombudsman identifies two main problems in its report based on monitors of forced removal operations (The Greek Ombudsman, 2017). First, the lack of timely notification of returns and second the uniform constraint by means of handcuffs.

Immigration detention inspections

The Ombudsman first conducted inspections of immigration detention in 2010, but at that time it was considered low priority work. The Ombudsman's office had developed good relationships with detention administration staff. While immigration staff were not obstructive, there was a perception that they were tired and cynical, and lacked motivation to provide the fullest cooperation to monitors. The Ombudsman/NPM staff thought that one reason for this was that detention officers felt underpaid and were affected by working in poor conditions with distressed and unhappy foreign nationals. They were also asked to do things 'beyond their competence', such as administer first aid. The NPM was keen to be constructive and encouraging in light of this. They did not press release all of their reports.

We were told that the acceptance of recommendations by the government was dictated by three main factors: the number of detainees and capacity in detention centres and camps; the level of cooperation between all the different agencies involved (especially in the hotspots); and the amount of funding available. We were told that for a lack of resources had for some time been the reason given for a lack of action on recommendations. The NPM considered that government and responsible agencies understood the problems but did not think they could do anything about them. This resonated with the conclusions of Aitima³³.

Although some sympathetic detention managers tried to implement recommendations where possible, most recommendations were not accepted or implemented. For example, in one facility, detainees could not get into the open air enough because the physical capacity was so limited. As there were no funds to rebuild it, no action was to be taken on the recommendation. Where recommendations were implemented, we were told it was because they happened to fit with government priorities. For example, a recommendation

³³ Speech by Spyros Rizakos, co-author of Aitima (2016), to meeting at Oxford Centre for Criminology, 14 December 2017.

to dispense with mandatory 25 day detention in hotspots was accepted, but there was a perception that this was because there was a need to free up space in any event.

In 2016, all prison and police cell inspections were unannounced. However, all detention centre inspections were announced but usually with a day's notice. It was unclear why they were announced at all. NPM staff usually spent one day inspecting prisons and detention centres and 2-3 days in the island hot spots. They looked at all stages of the detention experience to understand procedures, focusing in particular on vulnerable groups such as pregnant women. They felt it was very important to have the right staff to provide expertise, and drew on Ombudsman permanent and expert staff where necessary. They used a clinical psychologist and doctor who normally worked for the Ombudsman, and they were considering collaboration with NGOs such as Médecins Sans Frontières (MSF) because of the problems they had in finding medically qualified staff.

The NPM considered that conditions in the longer term centres had improved over time, partly in response to their reports, pressure from other groups and public/media opinion. However, the conditions at the initial reception points on the island hotspots had improved little and were often poor.

4 – Hungary

The research visits to Hungary took place from 6-8 December 2016 and 5-7 February 2017.

Main activities:

- Meeting with the UNHCR. (December 2016)
- Meeting with Hungarian Helsinki Committee. (December 2016)
- Meeting with head of the NPM function of the Ombudsman's³⁴ office and a member of the team. (December 2016)
- Meeting with British Embassy. (December 2016)
- Visit to Kiskunhalas asylum detention centre. (February 2017)
- Visit to Kiskunhalas police detention centre. (February 2017)
- Meeting with 'Menedék, the Hungarian Association for Migrants'. (February 2017)

1) Political and current migration policy context

In 2015, Hungary received 390,000 migrants, including 177,000 asylum-seekers (UNHCR, 2016). Most were not detained and they moved through the country relatively quickly. By the time of our first visit in late 2016, the number of migrants entering Hungary had dropped dramatically, largely as a result of the fences erected on its borders with Serbia and Croatia since October 2015. The number of asylum seekers in detention had also fallen. In 2014, there were nearly 5,000 asylum-seekers in detention, but this dropped to around 2,500 in the following two years. In 2017 only 391 asylum seekers were recorded as having been in detention³⁵, although over 2,000 were now held in the two 'transit zones', Röszke (capacity 450) and Tompa (capacity 205)³⁶.

These zones are not considered to be detention by the Hungarian government, which argues that those held there can leave at any time as long as they go back towards the countries they arrived from. Others argue that this is not a legitimate choice for many and they are therefore in de facto detention. On 14 March 2017, the ECHR issued a judgement stating that confinement in the transit zones amounted to unlawful detention; the Hungarian government appealed, with the outcome still awaited³⁷. The trend towards holding migrants in camps, also seen in Greece and Italy, means that they are in a less visible and scrutinised form of confinement. The UNHCR has stated that measures taken by the Hungarian government have effectively limited the right of asylum-seekers to seek international protection in Hungary (UNHCR 2016).

An amendment to the Asylum Act that entered into force on 28 March 2017 introduced the mandatory requirement that all asylum seekers stay in the transit zone for the whole duration of the asylum procedure, with the exception of unaccompanied children below the

³⁴ The Ombudsman is also known as the Commissioner for Fundamental Rights (CFR).

³⁵ The exact numbers are 4,829 in 2014, 2,393 in 2015 and 2,621 in 2016. Source: AIDA: Asylum Information Database, Hungary. Last accessed 28.2.18 and available at: <http://www.asylumineurope.org/reports/country/hungary/detention-asylum-seekers/general>

³⁶ Source: AIDA: Asylum Information Database, Hungary. Last accessed 28.2.18 and available at: <http://www.asylumineurope.org/reports/country/hungary/detention-asylum-seekers/general>

³⁷ See Hungary Helsinki Committee update 30 August 2017: <http://www.asylumineurope.org/sites/default/files/resources/hhc-background-note-minimum-standards-in-transit-zones.pdf>

age of 14. In early 2018, there was only one asylum detention facility in operation (Nyírbátor). The one that we visited, Kiskunhalas, had closed (see below).

The Hungarian government is following a popular anti-migration and, in particular, anti-Muslim policy that has boosted its popularity and is supported by most Hungarians. Part of what Lynne Haney (2016) has referred to as 'penal nationalism', increasingly tough rhetoric over migration control has been compounded by the passage of restrictive legislation that has not only sought to close the border but to reduce the human rights based work of civil society organisations.

In 2016, for instance, a referendum on whether to accept EU migrant quotas was accompanied by a campaign condemned by many observers as xenophobic³⁸. The Hungarian prime minister has openly claimed that he is defending European Christianity against a Muslim influx that threatens the continent's identity³⁹. Despite low numbers of foreign nationals in the country as the result of the southern border fence, and a very small Muslim population, a large-scale survey by a well-known research organisation showed that 58% of Hungarians thought of themselves as xenophobic (Tarki Institute 2016; Siminovits 2016)⁴⁰.

Additional measure taken to reduce numbers of asylum seekers include the criminalisation of irregular entry into the country in 2015 and the policy of returning any irregular migrant found in Hungary to the other side of the fence. This law entered into force on 28 March 2017 and extended the scope of the previous legislation, which had allowed the return to the border of any irregular migrant found within 8km of the border since 5 July 2016. The fence is entirely in Hungary and situated a few metres from the border. Migrants are therefore technically not removed from the country, just put in a position that leaves them little alternative but to go back the way they came.

2. Immigration detention in Hungary

At the time of our visits, there were three asylum detention centres, two transit zones and a further four police run migrant detention centres for those who were to be removed. We visited the asylum and one of two police detention centres in Kiskunhalas, near the Serbian border. The maximum detention period in the immigration detention centres was 12 months and in the asylum centres it was 6 months, but in both the period could be extended by 60 days. In the police run detention centre, about 20 men were held⁴¹.

³⁸ See Lydia Gall, 'Hungary's xenophobic anti-migrant campaign, Human Rights Watch, accessed 1.3.18 and available at: <https://www.hrw.org/news/2016/09/13/hungarys-xenophobic-anti-migrant-campaign>

³⁹ Washington Post, 3.9.15, accessed 15.9.16: 'Muslims threaten Europe's Christian identity Hungary's Leader says: https://www.washingtonpost.com/news/worldviews/wp/2015/09/03/muslims-threaten-europes-christian-identity-hungarys-leader-says/?utm_term=.20e150810aa8

⁴⁰ An example of anti-Muslim feeling is the decree issued by the town of Ásothalom banning the construction of mosques as well as the wearing of Islamic clothing such as burqas, niqabs, chadors or burkinis. The decree also banned any public expression of homosexuality. See: <http://hungarianfreepress.com/2016/11/29/asothalom-the-hungarian-town-that-banned-muslims-and-gays-in-public/>

⁴¹ Statistics obtained from the UNHCR showed that in on 5 December 2016, Office of Immigration and Nationality (OIN) facilities 'hosted 605 asylum-seekers and beneficiaries of international protection. 278 people were in open centres (incl. 63 in tents and pre-fab houses) and 327 in detention (incl. 43 in transit zones). 57% of asylum-seekers were in administrative detention.' Asylum detention facilities run by OIN were as follows: Békéscsaba: capacity: 159, it hosted 71 asylum-seekers on 5 December. Nyírbátor: 105/81. Kiskunhalas: 500/132. Röske transit zone: 50/20. Tompa transit zone: 50/23. On 5 December, a total of 146 foreigners were in police detention pending deportation. Police detention facilities were as follows: Budapest: 23/16. Győr: 36/27.

i) Kiskunhalas asylum detention centre

The centre's capacity was 500 but there were only 107 held on the day of our visit, most of whom were from Afghanistan, Pakistan and countries in North Africa (e.g. Libya and Morocco). The director, an employee of the Office of Immigration and Nationality (OIN), said that the centre was near capacity the previous summer when there were far more people arriving from the Balkan border. The centre, an ex-military camp holding adult men, had only opened in April 2016. It had replaced the Debrecen centre, which closed in 2015. Adult families were taken to Békéscsaba detention centre, where they could be separated from single men. While the maximum detention was for six months, the director told us that the average stay was around 50 days.

There were two identical residential blocks, each holding 250 people. Only one was occupied during our visit. We saw an occupied block, which smelled musty and had a general air of neglect. The rooms were built to specifications allowing 5m squared for each person and most housed 3-5 people. The biggest rooms could hold 15. The rooms we saw had a lot of broken furniture and some seemed to be used as storage areas with furniture piled up around the sides. Living areas were bare and depressing, with no decoration on the white walls.

Outside, there was a substantial 'outdoor gym' which had been recently built using EU funds. However, we saw nobody using it. Indeed, it was unclear how much time men had access to the free air. In terms of security, the facility was hemmed in by internal and perimeter fences topped with razor wire. Guards patrolled the substantial sterile zone in-between.

The director reported that the biggest challenge he faced was 'the lack of acceptance of detention' by the men in the centre. Vandalism was another major difficulty he mentioned, and we saw a number of damaged televisions and telephones in the living quarters. The director claimed that conflict between detainees was relatively common, ascribing it to old conflicts between different ethnic groups, that the men brought with them, rather than to any aspect of their life in Kiskunhalas. In 2016, he said some detainees had mounted a protest in the centre which had lasted three days. They had shouted things to the press and some had climbed the trees and pipes in the centre. The centre had responded by covering these vertical structures and trees in razor wire.

According to the centre manager, new arrivals at the centre would be given a routine medical check-up, and a doctor was available for three hours a day. Nurses were on site 24 hours a day. The stated aim of this provision was to make available the same treatment for detainees as a Hungarian citizen would receive. Detainees could also be transferred to out-patients departments. The director told us that detainees were assessed on arrival for signs of torture or trauma. This appeared to entail healthcare staff being alert to obvious signs rather than a structured formal assessment. They had help from the Cordelia Foundation⁴².

Kiskunhalas: 76/45. Nyirbátor: 160/58. <https://www.helsinki.hu/wp-content/uploads/HHC-Hungary-asylum-figures-1-January-2018.pdf> and <http://www.asylumineurope.org/reports/country/hungary/detention-asylum-seekers/general>

⁴² The Cordelia Foundation was established in 1996 '...with the aim to assist torture survivors and severely traumatized asylum seekers, refugees and their family members arriving in Hungary through psychiatric, psychotherapeutic, psychological treatment, psycho-social counseling.' Website last accessed 2.3.18, see: <http://www.cordelia.hu/index.php/en/>

The director said there was a significant amount of self-harm which, he believed, was a form of protest.

Social workers were present in the centre. These civilian employees, who were marked out by their red shirts, offered therapeutic and recreational activity. They planned activities for detainees, including sport and language teaching. None of the current detainees were receiving therapeutic interventions as a result of trauma or other psychological problems.

The director said he was trying to obtain more funding to improve the facility and to have psychiatric specialists every day, as well as to get more computers. He also mentioned they had applied for EU funds to pay for two gym staff. They planned to build a handball court. The indoor sports hall seemed of a reasonable size and we were told it was open all day except for lunchtimes, but was not used much (see also CPT 2016a).

Each building had three telephones on each level, a computer and an internet room. The internet room was funded at least partly by EU money. Detainees could use the internet for 25 minutes a day minimum, and the manager said it could be more depending on the number of people. He thought that most detainees were most interested in spending time on the internet. They could use email and no sites are blocked. They could use telephones at their own cost.

It was difficult to have any meaningful discussion with detainees during our visit as we had several police guards around us at all times. The police appeared to consider us to be at risk, although there was no indication of danger from any detainees we saw. A number of men gathered around us as we continued to walk around. One detainee alleged that he had been assaulted by staff; he said his finger had been shut in a door by a guard and that he wanted to complain. This man said he had already written to the manager but not received a helpful reply and so planned to talk to him again. The manager was listening to all this but did not make a comment. He said later there were procedures for making complaints and that he followed them. Another detainee told us that he had worked with the Americans for four years in Afghanistan and could not return without being at risk. He had expected to be recognised for his assistance to the occupying forces and was very angry at the way he had been treated in Hungary. He said he had no lawyer and was not getting information⁴³.

Visitors could come any day as long as they booked in advance. In practice, there were no visitors. Lawyers from the Helsinki Committee were in the centre on most days, and the UNHCR and Cordelia Foundation attended monthly. The Attorney General visited to provide some oversight but the NPM had not visited. The director knew very little about them.

ii) Alien policing detention centre

This centre was under the control of the Department of Border Policing and run directly by the police. The deputy director and the Chief of the Asylum Policing Division met us. They were friendly and open, and seemed at ease with their roles. They did not let us see the sections of the centre housing detainees on the first floor, but were happy to walk us around the ground floor rooms, which were empty. They also let us photograph the areas to which we had access.

⁴³ This information was passed on to the Hungarian Helsinki Committee and NPM.

The chief was keen to stress the important of treating detainees with decency and humanity. He said that detainees are not serving a sentence and 'cannot be treated as criminals.' He described the centre as being 'like a dormitory with bars'; it was 'half-way between a prison and a dormitory'. He said he was committed to picking up good practices.

His officers, too, he claimed, were sympathetic. Their job, he made clear, was complex, as many also operated at the border, preventing or forcing removal. Conditions at the border, he said, were tough, and his men sometimes struggled with that. He told one story to illustrate their empathy, when they brought back a sick child, who had been in a tent, to recover for a few days in the aliens unit. The child's parents, however, were left in the tent.

The directors of both centres explained that there was a large amount of bureaucracy involved in managing migrant detention as a result of complex regulations. This bureaucracy, rather like the hotspots in Greece and Italy, blurred the boundaries between the different types of detention, and obscured people's legal status. Thus, for example, the chief told us that while alien policing and OIN detainees were normally dealt with separately, sometimes two files were opened for both. The police would open a criminal file when someone could not be removed from the country for any reason, and an OIN agent would open an asylum file for the person who was seeking refugee status either in Hungary or elsewhere. If migrants did not apply for asylum, the chief explained, they would fall simply the authority of the police. However, the vast majority of people did claim asylum.

There were four buildings in the complex. Two were in use and on the day we visited (7 February, 2017) held 82 detainees. Detainees were held for 28-30 days on average. The chief said this was a long time. Previously, he said, 4-5 days at the centre had been the norm.

Layout and physical environment

The building in which we met the chief had a capacity of 36 and there were 20 men in it at the time. The capacity of the next building was 102 and currently there were 62 people in it. A third building with a capacity of 46 was set aside for families, women or vulnerable people, e.g. older people. It had not been used, we were told, since the border had been closed. The fourth building was for single men but was being renovated and therefore was also empty. He told us that all rooms had four or six beds. They did not allow detainees water over 40 degrees but let them have hot water to make coffee. Chaplains, including Imams, came to the centre regularly.

On arrival, the chief said that detainees are given information about rules, regulations and routines. They were given copies in 5-6 languages, including Urdu, Farsi and Arabic. We were shown an English version that had been hanging on the wall. It was poorly translated (see Appendix One). They also had a booklet of symbols to help communicate with detainees, which all staff were given; some of the symbols were likely to cause fear rather than provide reassurance (see pictures in Appendix One).

Detainees then had a medical check up to see if they were fit to enter the detention community or needed to be isolated for any reason. Dietary requirements were also established. We saw some medical staff; they said they had not come across issues of torture or trauma. Medication was not allowed in possession. Detainees could make a phone call at the state's expense. They then went up to their rooms, where staff tried to place them with the same nationalities. Detainees could apply to change their rooms.

The isolation room was, the chief said, the same design as the other living accommodation and used for people who were being violent or non-compliant. He said that the amount of time people could be held there was not regulated by law, but most only stayed for 1-2 days. More than one detainee could be held there at the same time and he gave the example of using it for two disruptive brothers whom they did not want to separate. Isolated detainees were allowed out when they agreed to behave; he said staff would try to reason with them and social workers came down daily to speak to them. The isolated detainee/s could come out for an hour a day. The room was reasonably bright but quite bare and bleak. It had four beds, a desk, chair and a toilet / wash area. All furniture was fixed to the floor. There was graffiti on the furniture (see pictures in Appendix One).

The 'sensitive' room was intended to create a more welcoming atmosphere for detainees who were vulnerable in any way, e.g. as a result of mental health problems, and needed to be calmed down. They were kept there only for 4-6 hours. The room was more pleasant than the isolation room, with some artwork and softer furnishings (see pictures in Appendix One).

Like the director of the asylum centre, the police chief said one of the biggest challenges he faced was the need to renovate vandalised buildings. The chief acknowledged some hostility towards the officers from the detainees. The police were considered an obstacle for those who wanted to travel onto Germany or the UK. However, he said there had been no fights or riots. He felt his staff team were capable and assisted well by the social workers.

Detainees could use phones using cards/tokens. They had unrestricted access to the internet, including Skype and email, but for a limited period each day. Staff did not check what they were viewing and deliberately placed themselves out of sight of the terminal screens. The internet room we saw were also part of the visits area. Detainees sat on the side where the terminals were and visitors on the other side. We asked if this disrupted use of the internet, but visitors were very rare so this did not seem to be an issue. No contact was allowed and they spoke through glass panels (see picture in Appendix One). A hatch allowed packages to be passed through.

Detainees were often very bored but 'Menedék'⁴⁴ staff helped to keep them busy. They ran the internet room and sports activities. Menedék described the aim of their project in police detention, headed 'Supportive services for third country nationals under alien policing procedure', as being 'to mitigate the effects of the conditions in removal centres' during detention when 'the physical and mental condition of the detainees is deteriorating continuously.' Menedék is clear that their aim is to support the removal process:

'Social workers provide information and individual counselling to foreigners with the aim of encouraging sustainable return to the country of origin. We are trying to reduce the stress, minimize the psychological deterioration, provide authentic and client-focused information on return procedures, to represent our clients' interests during the immigration process and identify vulnerable people and provide them with proper treatment. We also facilitate community activities for detainees (sic) with the aim of structuring their time, and making confinement more bearable. Psychologists provide psychological counseling to traumatized individuals, give them advice, in order to reduce psychological and physical deterioration. The necessary

⁴⁴ See Menedék website, accessed 3.3.18 at: <http://menedek.hu/en>

medication is provided by psychiatrists. The project is carried out in partnership with the Hungarian National Police.'

Menedék started this work in 2010. They did not operate in the asylum centre because they did not agree with the detention of asylum-seekers. They appeared to have drawn the line at people who were actively seeking asylum, and believed that it was more appropriate to work with people who were detained after a rejected asylum claim and were in contravention of immigration law. However, the level of need in the asylum centre was probably greater than in the police centre and, as the asylum detention chief told us, there were some people there who were the responsibility of both the OIN and the border police. Some were also transferred between centres.

The police praised Menedék for their work with detainees, and also for their role in multi-cultural training for staff, which was undertaken by nearly all of the police officers. The training was considered by the chief to be very helpful in promoting humane treatment of detainees.

Views on monitoring

Like the asylum centre director, the chief had no experience of the NPM. He said the Helsinki Committee monitored the centre regularly and that there was an agreement that they would present their findings to the police before publication. Their report went to the central police unit in Budapest and the local police had to explain why the identified problems existed. He gave an example of a complaint from the Helsinki Committee that everyone was routinely handcuffed to court despite risk. The police response was that this was the regulation and they had to follow it. He said the Helsinki Committee was useful, except when they just complained about things that the police were required to do and things that were outside of the police's ability to remedy. Another example given was their complaints about 'chain refolement', i.e. when the police return someone to a country that does not abide by the requirements of non-refoulement. He said:

'As a human being I understand their complaint, but I am a policeman and if the office of immigration and nationality decides that the person can be removed and non-refoulement does not exist, as a policeman I cannot contradict this view.'

He went on to say that 'life resolves everything' and such persons may apply for asylum in another country. He did not believe the police and Helsinki Committee had a common starting point on what could be improved. Helsinki Committee lawyers had been helpful in reuniting detainees with family members. In addition to Helsinki, the UNHCR visited regularly to monitor them, as well as MSF, the Hungarian Red Cross and the CPT.

3. Monitoring immigration detention and the work of the NPM

Monitoring of detention

There were four bodies in Hungary that monitored detention: the NPM, the Hungarian Helsinki Committee (HHC), the UNHCR, and public prosecutors. The prosecutors went into the facilities every couple of weeks; they spoke to staff and not the detainees, and reports were not published. The Helsinki Committee visited each detention facility 1-2 times a year. The UNHCR visited the transit zones daily. They monitored them using UNHCR detention monitoring guidelines and also took on some legal cases. They occasionally visited other detention facilities.

The HHC had been the most regular monitors. They were required to announce their visits three days in advance. They normally spent a full day in each facility and felt this was sufficient given the small size of the facilities, which normally held 50-100 detainees. Before monitoring visits, they spoke to lawyers appointed by the HHC, who visited the facilities regularly. They met the head of the facility on arrival before splitting into two groups and walking around. They were able to speak to detainees out of the earshot of guards but not out of their sight. They spoke to any detainees who wished to speak to them and take down names and issues. They also had access to documents if authorised to see them by detainees. They reported any urgent issues to the head of the facility, who they met immediately after the visit to present key findings. They sometimes did joint monitoring visits with the Cordelia Foundation. They estimated that only 10-15% of their recommendations were implemented and these were the 'easy' ones, e.g. to provide more cutlery.

During both of our visits, we found that the regular monitoring undertaken by the HHC was not considered to be under threat. The HHC had undertaken 21 visits to asylum detention facilities from 2015 to June 2017, and 6 visits to police immigration detention facilities. However, in June 2017, the HHC was barred from monitoring activities that had been established over a period of 20 years after the police and immigration and asylum departments terminated cooperation agreements⁴⁵. The agreements had entitled the HHC to enter facilities and conduct monitoring visits, provide free legal counselling and request statistical data.

The work of the NPM

Hungary ratified OPCAT in 2012 and the NPM was formed in January 2015. It comes under the Commissioner for Fundamental Rights (CFR), a role that has been in existence since 1995. There were three departments working under the CFR:

- i) Police, prisons and migration. This department's main function was to receive complaints, although they could look at documents and speak to detainees.
- ii) Social care facilities such as care homes and psychiatric facilities, and duties emanating from the Convention on the Rights of People with Disabilities.
- iii) The NPM.

There were eight staff in the NPM during our visit to them in 2016, although there should have been at least 11, including two lawyers, two medical doctors and two psychologists – this was specified in legislation but recruitment and resources had been difficult.

The Ombudsman was also known as the Commissioner for Fundamental Rights. He was appointed in 2013 for a six year term by the current government. Before the Ombudsman's appointment, his predecessor had regularly issued reports on immigration detention. Since then, the only report, at a time of an unprecedented flow of migration into Hungary and regular use of detention, had been the one on the GRRC at Debrecen. The report was powerful and had highlighted important concerns, such as some humiliating treatment of detainees and lack of mental health support. The UNHCR provided funding for it to be translated as they found it particularly thorough. The centre was closed shortly after the NPM's visit. The head of the NPM said that very little attention had been given to immigration detention since then.

⁴⁵ See: 'National authorities terminated cooperation agreements with the Hungarian Helsinki Committee', last accessed 28.2.18:
<https://www.helsinki.hu/wp-content/uploads/termination-of-agreements-summary.pdf>

It appeared that the head of the NPM's ability to monitor immigration detention in the current climate was very limited. The current role of the NPM was described mainly in terms of scrutinisation of international treaties and understanding of legislation, rather than actual monitoring.

We were frequently told by others that as the Ombudsman had powers of entry, he could do a lot to protect detainees' rights. However, he was not using his power. The situation in Hungary was so highly politicised that there was no obvious way to improve the situation of asylum-seekers and others in detention. The HHC had asked the Ombudsman to visit the transit zones. However, their request was denied. According to the HHC such a visit would have been seen as an overt political statement.

Immigration detention inspections

In 2015, the NPM completed 15 monitoring visits but only 10 reports. In 2016, they had undertaken 10 visits and produced 9 reports. The decision to not complete some reports was based on prioritisation of resources. In the tenure of the former Ombudsman, there had been regular inspections of immigration detention. Since the new Ombudsman had been appointed, only one had taken place, in early 2015, at the Debrecen Guarded Refugee Reception Centre (GRRC) (see below and CFR 2015).

There was no deadline for completion of reports but on average it took six months to finish a report. The inspection of the GRRC took 1.5 days and was conducted by five people, four from the NPM and one from another department under the CFR. The GRRC report was thorough and critical. It highlighted a number of concerns, including:

- Male detainees required to strip for medical examinations in front of their children.
- Female detainees required to strip in front of male guards and men in front of female guards
- Families with small children being placed in shared rooms with adult couples and therefore unable to create a family environment
- Armed guards supervising children's activities
- Almost half the detainees were women, but 95% of the guards were men.
- Insufficient activities, and
- Lack of treatment for detainees with symptoms of post-traumatic stress.

The report was issued in Hungarian but the UNHCR provided funding for it to be translated (CFR 2015). The centre was closed down shortly after their visit along with the whole of the camp in which it was located. This decision was probably taken independently of the report's findings. There had already been a number of public protests against the centre.

5 - Turkey

The research visit to Turkey took place in October 2016. We were unable to access any detention facilities and we were told that no monitoring activity in detention by the NPM was taking place. Although we understand that prosecutors may have access to these sites and, therefore, may be monitoring aspects of them, we have been unable to identify any accounts. We therefore report only brief background information below in advance of potential future field research. Main activities:

- i) Meeting with several officials in the NPM, which was part of the Human Rights and Equality Institution of Turkey (HREIT). The HREIT had recently replaced its predecessor body, the Human Rights Institution of Turkey (HRIT).
- ii) Meeting with the Turkish Centre for Prison Studies (TCPS) to discuss monitoring and the situation of foreign prisoners in Turkey. The TCPS was not directly involved with immigration detention and our discussions were therefore limited in scope.
- iii) Discussion with human rights scholars outside Turkey.

1. Political and current migration policy context

Our visit to Turkey took place at a time of political upheaval and tension. The country was subject to a state of emergency following a coup attempt in July 2016. At time of writing, in early 2018, emergency powers were still in place and many thousands of people had been arrested. We were unable to establish significant contacts with NGOs and international organisations during our short visit. Discussions with colleagues in other universities have suggested that research with civil society organisations may place them at risk of government intervention or surveillance. It is unclear whether work that could be construed as critical of the current government is permissible.

There was little evidence of the hostile attitude towards migrants that we found in the other research countries. Most were Syrian refugees with strong cultural ties and religious affinity to the Turkish population, and social friction was therefore relatively limited. In November 2017, there were approximately 3.3 million Syrian refugees in Turkey⁴⁶. They were given 'temporary protection status', with limited rights including regulated access to the labor market; all other nationalities had a right to international protection under the Law on Foreigners and International Protection 2014⁴⁷.

Turkey occupies a strategically important location between the Middle East and Europe, and, as such, had been strongly lobbied by EU states to prevent irregular movements of people into Europe and limit the number of people making dangerous sea crossings to the Greek islands. The EU-Turkey deal, which came into force on 20 March 2016, is the most prominent manifestation of these diplomatic efforts.

Under the deal, any irregular migrants or asylum seekers who reached the Greek islands from Turkey were to be returned after an assessment of their asylum claims. Anyone who did not apply for asylum in EU countries was also to be sent back to Turkey, as was anyone whose claim was rejected. For every Syrian returned to Turkey, another was to be resettled in the EU, in a 'one in, one out' arrangement. The EU also agreed to speed up an initially

⁴⁶ Dilek Ertürk (2017) 'Human Rights and Equality Institution of Turkey as National Preventive Mechanism', presentation by Member of the HREIT Board, 14.12.17, University of Oxford Centre for Criminology.

⁴⁷ See Migration Policy Institute, 'The Paradox of the EU-Turkey Deal', accessed 5.4.18: <https://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal>

allocated €3bn under the EU Facility for Refugees in Turkey⁴⁸ and, when this was disbursed, a further €3bn was to be added to the Facility. Implementation of the deal has proved troublesome with the return of refugees hampered by a cumbersome judicial processing of cases. It has also been questioned whether Turkey can be considered a safe country for returns; for example, international NGOs and other commentators have highlighted the strain on Turkey's asylum system and suggested that Turkey may not have sufficient capacity or safeguards in place to meet the needs of returned migrants to EU standards⁴⁹. In any event, between 20 March 2016 and 6 September 2017, only 1,898 people had been readmitted to Turkey, raising questions about the effectiveness of the system of forced returns, although the flow of new migrants through Turkey to the EU has certainly been very substantially reduced⁵⁰.

Immigration detention in Turkey

In March 2015, there were 15 removal centres with a total detention capacity of 2,980⁵¹. At the time of our visit in October 2016, we were told by the NPM that there were 18 immigration removal centres with a capacity of 6,670. By December 2017, according to the NPM, Turkey had 23 immigration removal centres with a capacity of 8,226. Another 16 centres were in planning, with an expected additional capacity of 7,350. The new facilities were to be built using European funding. The capacity of existing detention centres varied from 50-750, with plans to construct another centre in Istanbul with a capacity of 1,200⁵².

Immigration removal centres are under the control of the Directorate General for Migration Management (DGMM). They are no longer run by the police but by DGMM staff or private contractors. Detention can be for six months plus a maximum of an additional six months, although some have been detained for up to two years (GDP 2016). Women and men are held in the same centres but in separate areas, and families are likely to be separated. A report by the European Committee for the Prevention of Torture was published in 2017, but based on a visit to Turkey in 2015 (CPT 2017b). It praised some aspects of care for detainees, especially the notable absence of allegations of abuse, improved healthcare and psychological support. It also highlighted a number of concerns; these included a lack of basic personal hygiene products, overcrowding, and lack of access to natural light and outside exercise. While the CPT reported very good cooperation from the authorities and staff in the visited establishments, it expressed 'serious concern about the total lack of action to implement longstanding recommendations regarding the provision of outdoor exercise' (CPT 2017b:4).

⁴⁸ See 'The EU Facility for Refugees in Turkey', accessed 5.6.18 and available at: https://ec.europa.eu/neighbourhood-enlargement/news_corner/migration_en

⁴⁹ E.g. see Migration Policy Institute, 'The Paradox of the EU-Turkey Deal', accessed 5.4.18: <https://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal>

Also Amnesty International (2016) *No safe refuge: Asylum-seekers and refugees denied effective protection in Turkey*. Available at: <https://www.amnesty.org/download/Documents/EUR4438252016ENGLISH.pdf>

And, *Orçun Ulusoy* (2016) 'Turkey as a safe country?' *Border Criminologies*. Accessed 4.6.18 and available at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/03/turkey-safe-third>

⁵⁰ See European Commission, 'European Agenda on Migration: Good progress in managing migration flows needs to be sustained', 6 September 2017, accessed 6.4.17 and available at: http://europa.eu/rapid/press-release_IP-17-3081_en.htm

Nikolopoulos, G. (2017) 'Monitoring Human Rights in Immigration Detention', presentation by Deputy Ombudsman for Human Rights at the Greek Ombudsman's Office, 14.12.17, University of Oxford Centre for Criminology

⁵¹ AIDA, Asylum Information Database, Country Report on Turkey, December 2015, accessed 5.4.18 and available at: <http://www.mhd.org.tr/images/yayinlar/MHM-48.pdf>

⁵² Dilek Ertürk (2017) 'Human Rights and Equality Institution of Turkey as National Preventive Mechanism', presentation by Member of the HREIT Board, 14.12.17, University of Oxford Centre for Criminology.

The Turkish NPM

The HREIT was in transition and not operational during our visit in 2016. Its predecessor, the HRIT, had been operating only since 2013 when it was designated as the NPM. OPCAT was signed in 2005 and was ratified in 2011. A new law was passed on 20 April 2016, which added the strand of equality to the human rights role of the new monitoring body⁵³. It also required inspections of psychiatric hospitals, children's homes and nursing homes. The head of the HREIT is now appointed by the members of the Board on Human Rights and Equality, which is the decision-making body of the HREIT. The Board consists of 11 members, including a head and deputy head; three members of the board are selected by the President and eight by the Cabinet. According to the previous law, two members were appointed by the President, 7 members by the Cabinet, 1 member by the Higher Education Council and 1 by the Bar Association. Under the new arrangements, the other bodies no longer have a say in its composition⁵⁴.

Contrary to OPCAT, there is to be no dedicated budget or staff for the HREIT. It will do a range of work and the distinct monitoring role of an NPM is not guaranteed resource, although the HREIT has stated its commitment to undertaking such work⁵⁵. It became legally operational on 24 November 2017. It was, at time of writing, in the process of agreeing a methodology and a programme of detention visits⁵⁶.

The HREIT is able to employ up to 150 staff, and use 10 experts from other bodies to assist them, with 10 additional contracted staff. Most staff are trained in-house and no one may conduct a monitoring visit without experience and training. When selected, monitors have to pass an exam, then spend time with an expert in the field before becoming inspectors. There are other bodies that are able to conduct inspections; for example, each province and sub-province has a human rights board that can undertake inspections.

By the time that it stopped operating in 2015, the HRIT had conducted 13 inspections, four of which were on immigration detention centres. All visits took place over the course of one day and were announced 3-7 days beforehand. The NPM told us their staff were escorted around facilities but could speak to any detainees in private in their rooms. They always asked detainees if they knew why they were in detention and many were unsure. They did not have their own standards but made use of CPT and SPT guidance.

The HRIT felt that their visits were inadequate because of a lack of time and a lack of standards⁵⁷. They only completed reports on two centres (Kumkapi and Van), which were published on their website and sent to the centres. In Kumkapi removal centre, the HRIT told us they had found a number of concerns, including overcrowding (the population was 400

⁵³ See Report on Law no.6701 on Human Rights and Equality Institution of Turkey, 'European network of legal experts in gender equality and non-discrimination', European Commission, accessed 5.4.18, available at: <https://www.equalitylaw.eu/downloads/3931-turkey-law-no-6701-on-human-rights-and-equality-institution-of-turkey-pdf-177-kb>

⁵⁴ See Report on Law no.6701 on Human Rights and Equality Institution of Turkey, 'European network of legal experts in gender equality and non-discrimination', European Commission, accessed 5.4.18, available at: <https://www.equalitylaw.eu/downloads/3931-turkey-law-no-6701-on-human-rights-and-equality-institution-of-turkey-pdf-177-kb>

⁵⁵ Dilek Ertürk (2017) 'Human Rights and Equality Institution of Turkey as National Preventive Mechanism', presentation by Member of the HREIT Board, 14.12.17, University of Oxford Centre for Criminology.

⁵⁶ Dilek Ertürk (2017) 'Human Rights and Equality Institution of Turkey as National Preventive Mechanism', presentation by Member of the HREIT Board, 14.12.17, University of Oxford Centre for Criminology.

⁵⁷ See also the Human Rights Foundation of Turkey (2017), which has issued a critical evaluation of the monitoring visits conducted by the HRIT.

against a capacity of 300), poor ventilation and heating, and a lack of activities, legal advice, interpretation and contact with outside world. At Van detention centre, they were particularly concerned about the treatment of children, lack of fresh air or education for young people.

Some of the HRIT's staff have transferred over to the newly formed HREIT, and immigration detention centres are integral to their plans for future inspections.

6 – Italy

The research visit to Italy took place from 15-17 May 2017. We did not receive permission to visit a detention facility and little monitoring activity had yet taken place. We therefore report only brief background information below in advance of potential future field research. Main activities:

Main activities:

- Meeting with the NPM.
- Meeting with the prison monitoring NGO, Antigone.
- Meeting with Professor of Philosophy of Law and migrant rights activist, University of Rome.
- Meeting with the UNHCR.
- Discussion with Italian legal academics.

Political and migration context

Italy, like Greece, has witnessed a surge of arrivals of undocumented migrants, looking for refuge and employment. Like Greece, Italy is primarily a transit zone, as people wish to move further north to Germany, Sweden and the UK. Most arrive by boat.

In 2016, approximately 180,000 people reached Italy this way including 25,000 unaccompanied children. In the same year, more than 5,022 people died or went missing, compared to 3,771 in 2015 (GDP 2018). Italy has supported European Union (EU) programmes to equip and train the Libyan coastguard to intercept trafficking boats; it has also supported International Organisation for Migration (IOM) efforts to return migrants from detention centres in Libya to their home countries, while relocating some vulnerable individuals to Italy (GDP 2018). Although numbers arriving by sea are still considerable, they have been falling and, in 2017 dropped to 119,000. This decline was attributed by the Italian government largely to their controversial and legally contested cooperation with the Libyans⁵⁸.

As in Greece and Hungary, Italy has been marked by a rise in xenophobic and anti-migrant discourse and political activity. Support for anti-migrant political candidates and a more hard-line approach to rescue ships in the Mediterranean has been accompanied by a greater fear of migrants and association of them with disorder and terrorism. For example, in the March 2018 Italian election campaign, one of the leaders of the right-wing coalition that has become the largest group in the Italian parliament, stated that, 'It's better to take immigrants from Ukraine... they are Christians, or from Belarus, they are not Muslims and they cannot be terrorists ... I think in this moment, we don't need immigrants'.⁵⁹ Italian politics is likely to be dominated by such politicians at least in the near future.

Immigration detention

⁵⁸ 'Migrant Arrivals to Italy by Sea Fall by a Third in 2017', Reuters News report, 31.12.17, accessed 6.4.17 and available at: <https://uk.reuters.com/article/uk-europe-migrants-italy/migrant-arrivals-to-italy-by-sea-fall-by-a-third-in-2017-idUKKBN1EPOG1>

⁵⁹ 'Italian Election Dominated by Immigration Debate', 26.2.18, BBC News website, accessed 6.4.18, available at: <http://www.bbc.co.uk/news/world-europe-43167699>

The numbers held in immigration detention centres had dropped rapidly from about 8,000 in 2012 to 5,200 in 2015⁶⁰. At the end of 2014, the Italian Parliament approved Law no. 161, which reduced the maximum period someone could be detained in Identification and Expulsion Centres (CIEs) from 18 months to three months. For those who had spent three months or more in prison, detention was restricted to 30 days. These changes, which were brought about through the concerted actions of civil society actors and legal academics led to the closure of numerous detention sites⁶¹.

However, just two years later, by the end of 2016, the situation had reversed. The new Interior Minister announced plans to open a series of new CIEs (which have been renamed Return Detention Centres or CPRs⁶²) in every region of the country. During our research visit, we also heard from NGOs and the NPM about significant concerns over potentially arbitrary detention in the ‘hotspots’ (see section on Greece). There were five hotspots in February 2018⁶³. Unlike in Greece, Italian hotspots are not regulated by specific laws but instead run according to internal guidelines. The grand Chamber of the European Court of Human Rights found in *Khlaifia vs. Italy*, ‘that Italy violated article 5 of the European Convention on Human Rights, which protects the right to liberty and security, in relation to its detention of four Tunisian migrants at a “first aid and reception centre” in Lampedusa (the centre was later converted into a “hotspot”)’ (Global Detention Project 2018: 2).

The new NPM had already conducted many visits to CIEs and hotspots and published their findings in a report on immigration detention in June 2017⁶⁴. It highlighted concerns such as the lack of legal clarity around hotspots, poor maintenance of facilities, the lack of safety for pregnant women and children and the lack of recreational and religious activity. It made a clear statement about the responsibilities that the government needed to accept in dealing with the migration crisis, to protect rights and avoid arbitrary detention.

Monitoring

There were four different groups monitoring immigration detention in Italy: the IOM, the UNHCR, a considerable network of regional and city Ombudsmen, and the NPM, which coordinated the regional bodies. These actors had varied methodologies and interests, and were subject to very different rules; only the NPM had independent authority to monitor facilities without hindrance or permission from the authorities. There is also a well-developed network of legal academics and social scientists in Italy, who publish on immigration detention and migration control and who often work in concert with the civil society organisations (see, for example, Campesi 2015, 2014). We spoke with the NPM and

⁶⁰ Global Detention Project Italy profile: <https://www.globaldetentionproject.org/countries/europe/italy> Last accessed 24.2.17.

⁶¹ The decision appeared to have been particularly affected by a Senate Human Rights report on deportation which found that individuals who were not deported within 30 to 60 days were unlikely to be forced to leave (Commissione Straordinaria per la tutela e la promozione dei diritti umani, 2014).

⁶² CPR stands for, ‘Centri di Permanenza per i Rimpatri’.

⁶³ AIDA – Asylum Information Database, last accessed 6.4.18 and available at: <http://www.asylumineurope.org/reports/country/italy/asylum-procedure/access-procedure-and-registration/hotspots>

⁶⁴ The CIEs visited were: Brindisi, Caltanissetta, Turin, Rome Ponte Galeria; and the hotspots were: Taranto, Lampedusa, Trapani, Pozzallo (Ragusa) and ‘Villa Sikanìa’ in Siciliana. See full report at: <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/6f1e672a7da965c06482090d4dca4f9c.pdf>

the UNHCR. The UNHCR had staff present at every boat landing and had been monitoring both reception and detention facilities since 2005.

Italy ratified OPCAT in April 2013 and the Italian NPM, which is known as 'The National Guarantor for the Rights of Persons Detained or Deprived of their Liberty', became operational in April 2016. The situation appeared promising. It had the advantage of being led by a former CPT president; there were two other members of the NPM's board, one a journalist and one a lawyer, both with considerable experience of prison sector NGOs. There was functional separation from the Ministry of Justice (CPT 2016b) and a dedicated budget. The Head of the NPM was appointed for five years and could not be removed by any authority unless he committed a criminal offence. The NPM's staff were appointed directly by the board from the permanent staff of the Justice and Interior Ministries; 16 had been appointed by October 2017. The NPM was to report to parliament on an annual basis⁶⁵.

During our visit, the NPM felt that there was not a lack of will by the government to improve conditions in detention, but that they were still in 'emergency mode', which meant they gave their recommendations little priority. However, they were optimistic that their good working relationships with the Ministry of the Interior would be fruitful in future.

⁶⁵ This information was provided in a written communication by the Head of the Italian NPM, Mauro Palma, dated 12 October 2017.

6 – Conclusions

All of the research countries had experienced substantial numbers of mass arrivals of undocumented foreign nationals from 2015 onwards. By 2018, however, the EU countries had substantially reduced the numbers entering their countries, by hardening their borders, and by pushing back border control initiatives outside the EU. While Hungary had built a fence to divert people from its borders, Italy had developed its cooperation with Libya to reduce the numbers arriving by sea, and both Italy and Greece had benefited from the EU-Turkey deal. Turkey has sheltered an extraordinary number of people fleeing the war in Syria, albeit under contested conditions. There is not the same toxic anti-migrant atmosphere that has developed in the other EU countries in the study. Significant questions remain, however, about the extent to which the agreements with Turkey and Libya are in line with the EU's human rights commitments, and legislative protections. So, too, the EU's funding of detention facilities in Greece and Hungary has also been criticised on human rights grounds.

The definition of detention has become contested in the Hungarian transit zones and Greek and Italian hotspots. Although governments claim that those within can leave at any time, they are only able to travel in one direction. Such immobilisation seems indistinguishable from a deprivation of liberty.

We only spoke with detainees in Greece and Hungary; there was evidence among them of despair and frustration, manifested in behaviours such as self-harm and vandalism. Both could be seen as acts of protest and resistance, as well as expressions of despair and frustration. In either case, the seriousness of self-harm and appreciation of the human impact of detention did not appear to be well understood. Managers blamed detainees for the situation in which they found themselves. Such intransigence helped them to justify inadequate conditions and/or treatment, operating as powerful means of denial. Many focused on regulations and bureaucracy, rather than on care for detainees.

There was a lack of overall ownership of the task of detention, with an air of neglect in the centres we went to. There were no professional detention trained staff among the police officers who ran all the facilities we saw. There were allegations of abuses in the centres we visited but little assurance that they were taken seriously by the authorities. It was difficult to see who was challenging the managers to improve conditions and treatment, or holding them to account.

The treatment of children was also a specific concern: in Greece, we were told about bone and teeth analysis, which are both invasive and widely discredited means of establishing age. The minors' unit was filthy and unsuitable. The Turkish and Italian NPM reports also raised specific concerns about children. We saw little evidence of therapeutic interventions although there was some social work support in Hungary and Greece. There was limited access to legal support, which came mainly through the NGOs.

In all these examples, we saw that there was a great need for NPMs, as envisaged by OPCAT, to be active and supported. Where they could not do the work, the gap had been filled to some extent by NGOs such as the Helsinki Committee and Aitima, as well as the UNHCR and ICRC. However, these organisations were keen for the NPMs to use their powers. In Hungary, the Helsinki Committee is no longer allowed to operate, making it particularly important for the NPM to be sufficiently resourced and enabled to do this work.

There was strong commitment and concern from NPMs, but they were not always able to fulfil their mandate. They were all relatively new and in the process of becoming established. The NGOs and international organisations generally understood that they were trying hard to establish an effective way forward.

The research made it clear that NPMs tread fine lines. They occupy a delicate space between NGOs and government, and sometimes struggle to find ways of working within those lines without losing credibility and relevance. NPMs are funded by the state but may have to challenge the government where conditions are poor and protections weak. Too much challenge may be counter-productive or even result in personal risk where governments are strongly authoritarian. In Turkey and Hungary, it appeared that the government had at times tolerated but not supported the NPMs. In Turkey, legislative changes had prevented the NPM from operating for a period and it had done no recent inspections, although the situation now looked more promising. The Italian and Greek NPMs were also developing their work in a promising way.

This exploratory study described in this report is now entering a second phase. The next phase of the project will seek to understand more about how, despite these difficult challenges, NPMs can increase their effectiveness in protecting the rights of detainees. Our preliminary findings in this report suggest that while NPMs need to be more independent of the government, they may benefit from greater engagement with civil society actors and academics. Particularly under conditions of economic and political instability, and in the face of considerable anti-immigrant sentiment, safeguarding human rights is a collective issue, that is best done together.

Appendix One – Photographs

Amygdaleza Detention Centre in Greece



Minors Unit in Greece



Elliniko Women's facility in Greece



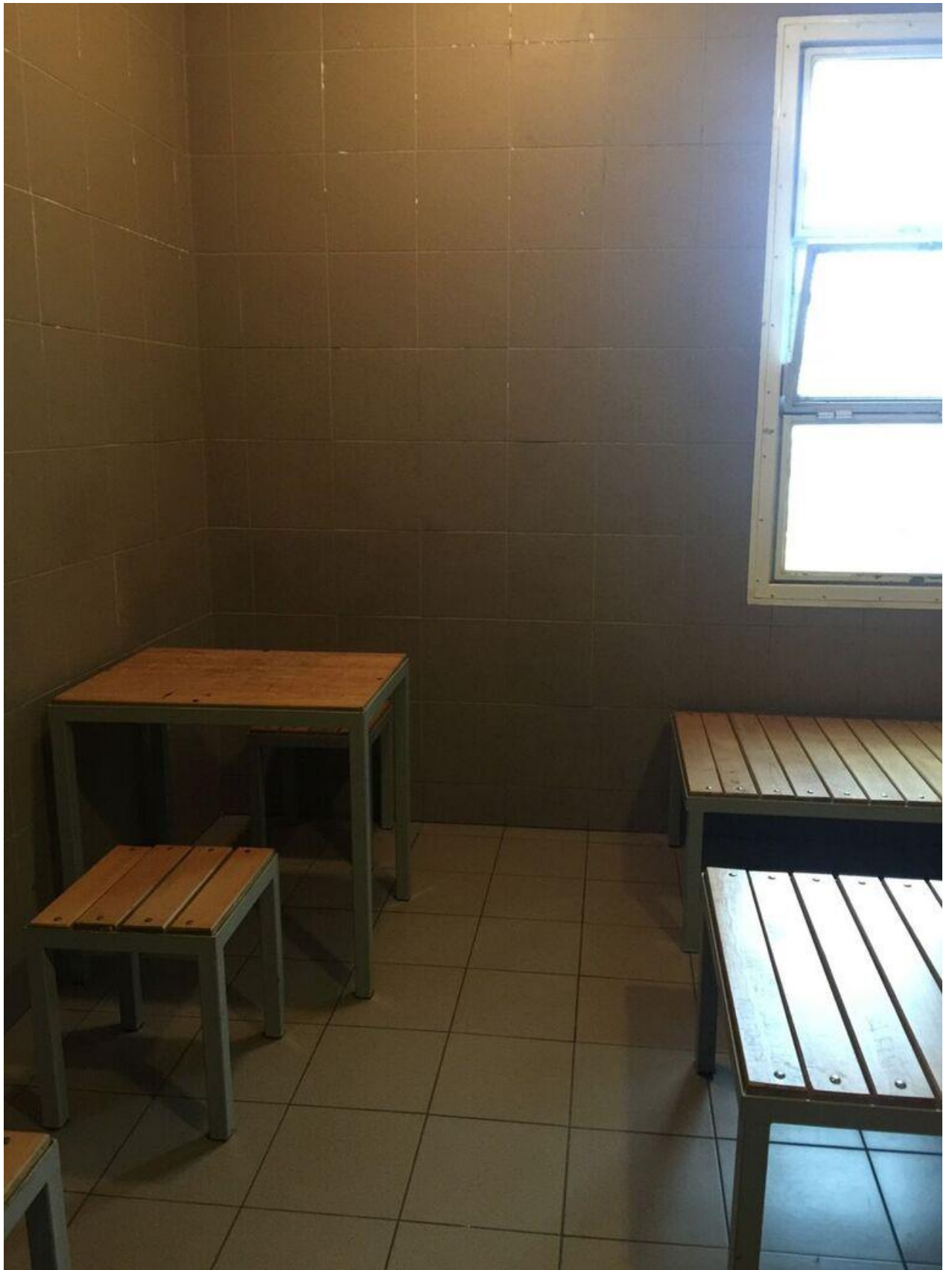
'Sensitive' room, Alien Policing Detention Centre, Hungary



Visits area, Alien Policing Detention Centre, Hungary



Isolation room, Alien Policing Detention Centre, Hungary



Exercise yard, Alien Policing Detention Centre, Hungary



Symbols booklet to communicate with detainees, Hungary



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