



Legal Framework for Communication with the Third-Country Nationals: Current Situation in Slovakia and Italy

Právny rámec komunikácie so štátnymi príslušníkmi tretích krajín: Situácia na Slovensku a v Taliansku

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Abstract:

The current study offers an introduction into the legal framework for the communication between the third-country nationals detained in the detention centres across the Member States of the European Union and the members of the Police Force. The special focus is laid on differences in legal framework and interpreting/translation services in relation to migration issues in selected countries, i.e. Slovakia as a transit country with a very few migrants arriving in the country that is in vivid contrast to the countries where the system of hotspots was implemented, i.e. Italy. As the result of the respective comparison, two layers of communication are revealed and the status of interpreters/translators are presented in the context of asylum procedure.

Keywords: migration, third-country nationals, EU, asylum seekers, asylum procedure, intercultural communication, interpretation/translation services, detention centres, police, members of the Police Force, hotspots, illegal migrants.

Abstrakt:

Predkladaná štúdia sa zaoberá otázkou komunikácie medzi štátnymi príslušníkmi tretích krajín a príslušníkmi Policajného zboru na Slovensku a v krajinách tzv. hotspotoch, konkrétne v Taliansku a jej právnej úpravy v rámci predmetných krajín, pričom východiskom je sekundárna legislatíva Európskej únie (EÚ), keďže Slovensko aj Taliansko sú primárne členskými krajinami EÚ, a teda právne predpisy EÚ sú pre všetky členské krajiny záväznými dokumentmi. Slovensko však napriek členstvu v EÚ patrí medzi tzv. tranzitné krajiny, ktoré sa nemusia vysporiadať s výrazne vysokým počtom prichádzajúcich štátnych príslušníkov tretích krajín na ich územie.



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V Taliansku, ktoré je tzv. krajinou hotspotov je však situácia diametrálne odlišná, napriek skutočnosti, že jej vnútroštátne predpisy vychádzajú z legislatívy EÚ. Štúdiu venuje pozornosť zjednocujúcim, ale taktiež diferencujúcim faktorom, ktoré ovplyvňujú aktuálnu situáciu v týchto krajinách, a to so zreteľom na komunikáciu v rámci azylového procesu a postavenie tlmočníka/prekladateľa ako ústredného subjektu, ktorý je sprostredkovateľom komunikácie.

Kľúčové slová: migrácia, štátni príslušníci tretích krajín, polícia, azylový proces, detenčné centrá, interkultúrna komunikácia, tlmočnicke/prekladateľské služby, príslušníci Policajného zboru, hotspoty, nelegálni migranti.

Introduction

Slovakia, as a country located in the heart of Europe and in its size not larger than some European cities, is currently considered a transit country, although as a Member State of the European Union (EU) is, compared to the past, certainly an attractive place to live, especially from the migrants' perspective arriving from the third countries. Political unrest, long-term conflicts, a significant increase in the so-called *emergency migration*, the economic crisis and the unstable labor market, negatively affect the difficult situation within the whole of Europe, and consequently also Slovakia that has become a kind of temporary springboard into the future for migrants as they, in most cases, usually head to the more attractive Member States (MS) of the EU. Migration is a very up-to-date topic sparking heated debates and seems to attract the world of the media. It is the media that is responsible for making migration a major topic in recent times. Above all, the number of foreigners being received in the Member States attracts not only the media attention, but also the public. The illegal crossing of state borders is perceived particularly negatively, despite the fact that in some of the MS the inflows of foreign population is actually decreasing (see Table 1) [1]. Italy as a country of the so-called first line is forced to tackle the arrival of foreigners differently as the system of hotspots was implemented in its territory with the primary intention to address migration. However, the migration issues require from the MS to provide the funding of adequate housing, health care, education, legal aid, employment and, last but not least, language assistance. Language assistance means the provision of translation and interpretation services which are necessary not only to ensure basic communication by the MS in official communication with the competent authorities, but also to ensure communication for everyday communication between members of the Police Force and third-country nationals placed in detention facilities in the territory of the State in which the third-country nationals are detained. In the conditions of the Slovak Republic, these are police detention units for foreigners (ÚPZC). An important aspect that affects the overall framework for foreign language communication with foreigners in the territory of all Member States, including Slovakia, is the fact that they are bound by European legislation, which is subsequently implemented to varying degrees into the national law. With regard to the above-mentioned facts, it is necessary to perceive the issue of migration and subsequently also foreign language communication in the context of the legislation at three levels: national, European and international.

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Table 1 Inflows of foreign population into selected OECD countries

Table 1. Inflows of foreign population into selected OECD countries					
Thousands					
	2013	2014	2015	2016	2017
Austria	135,2	154,3	198,7	158,7	139,3
Belgium	117,6	106,3	128,8	103,2	109,5
Czech Republic	27,8	38,5	31,6	34,8	43,5
Denmark	41,3	49,0	58,7	54,6	49,0
Estonia	1,6	1,3	7,4	7,7	9,1
Finland	23,9	23,6	21,4	27,3	23,7
France	251,3	251,8	242,7	245,7	245,9
Germany	1 108,1	1 342,5	2 016,2	1 719,1	1 384,0
Greece	32,0	31,3	29,5	34,0	86,1
Hungary	21,3	26,0	25,8	23,8	36,5
Iceland	3,9	4,3	5,0	7,9	11,8
Ireland	41,0	43,7	49,3	53,9	57,2
Italy	279,0	248,4	250,5	262,9	301,1
Latvia	3,5	4,5	4,5	3,4	5,1
Lithuania	3,0	4,8	3,7	6,0	10,2
Luxembourg	19,8	21,0	22,6	21,6	23,1
Netherlands	122,3	139,3	159,5	182,2	183,9
Norway	66,9	61,4	59,1	58,5	49,8
Poland	46,6	32,0	86,1	107,0	128,0
Portugal	33,2	35,3	37,9	46,9	61,4
Slovak Republic	2,5	2,4	3,8	3,6	2,9
Slovenia	15,7	18,4	19,9	20,0	27,7
Spain	248,4	264,5	290,0	352,2	454,4
Sweden	95,4	106,1	113,9	143,0	125,0
Switzerland	155,4	152,1	150,4	143,1	137,8
United Kingdom	406,0	504,0	481,0	455,0	520,0

Source: Author's work compiled from the OECD data available online at: <https://www.oecd.org/els/mig/keystat.htm>.

1. Legal Framework for the Communication with the Third-Country Nationals in the Context of the European and International Legislation

The common framework for all EU Member States is primarily EU legislation, through which the EU seeks to address current issues concerning the stay of third-country nationals in the territory of the Member States and the establishment of rules for communication with them. In order to ensure respect for human rights and freedoms while providing guarantees for their observance, the EU has reflected Member States' efforts to improve the return management of illegally staying third-country nationals, in all its dimensions, with a view to lasting, fair and effective implementation of common standards on return and developed Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, so-called "*Return directive*". The Return Directive is a key

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document in the field of migration, providing a single framework for all EU Member States. Defining an effective return policy is crucial to gaining support for elements such as legal migration and asylum.

In case of detention of third-country nationals in detention facilities, in accordance with Article 5 of the European Convention on Human Rights (ECHR) para. 2, "anyone arrested shall be informed without delay and in a language he understands of the reasons for his arrest and of any charge against him" [2]. Each third-country national detained in a detention facility shall have the right to communicate in official communication with the competent authorities in a language which he/she understands. The Member State is therefore required to provide an interpreter in order to ensure a standard procedure, i.e. the third-country national can understand and communicate in the interpreted language in all procedural proceedings. The legal regulation concerning standards and procedures in the field of communication in the framework of official contact with third-country nationals in all EU member states, including Slovakia, is similar, as they are governed by common European legislation. In practice, however, the legislation in question is implemented with regard to specific conditions in individual countries.

The rules for communication within official contact with respective authorities form part of the following documents:

- Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection;
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals;
- Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings;
- Regulation (EU) No 182/2011 of the European Parliament and of the Council 439/2010 of 19 May 2010 establishing a European Asylum Support Office;
- Regulation (EU) No 182/2011 of the European Parliament and of the Council Regulation (EC) No 640/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person;
- Commission Recommendation (EU) 2017/432 of 7 March 2017 on ensuring more effective returns in the implementation of Directive 2008/115/EC;
- Commission Recommendation of 1 October 2015 establishing a common "Handbook on Return" to be used by the competent authorities of the Member States in carrying out return tasks (C (2015) 6250 final).

The documents themselves clearly define the requirements to ensure proper communication with the competent authorities through an interpreter. "(...) Within the meaning of Article 1 of the Geneva Convention or as beneficiaries of subsidiary protection, each applicant should have effective access to proceedings, cooperation and proper communication with the competent authorities in order to be able to

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provide relevant evidence concerning his case, (...) In addition, the procedure for examining an application for international protection should normally give the asylum seeker at least: the right to remain in the Member State pending a decision by the determining authority; access to the interpretation service when submitting your case in case of an interview with the authorities; (...) The right to be informed at crucial moments during the proceedings of his legal position in a language he/she understands; and the right to an effective remedy before a court in the event of a negative decision [3]. At the same time, according to par. 28 of this Directive, it is also necessary to ensure that "the basic communication necessary for the competent authorities to be able to understand whether persons wish to apply for international protection should be provided through interpretation." Also in the context of the provision of information and advice in detention facilities and border crossing points, individual Member States are obliged to provide "(...) interpretation to the extent necessary to facilitate access to the asylum procedure" [4]. As regards the procedure itself, all Member States are obliged to provide the same guarantees for applicants. Among the procedural guarantees mentioned under Article 12 para. 1 item (a) includes the need to inform applicants "(...) in a language that they understand or may reasonably be presumed to understand, (...)" [5] and subsequently, in accordance with Article 12 (2); 1 item (b) of Directive 2013/32/EU, it is important that applicants are provided with the services of an interpreter whenever necessary so that they can submit their case to the competent authorities.

2. Legal Framework for the Communication with the Third-Country Nationals in the Slovak Republic

The Border and Alien Police Office of the Presidium of the Police Force (ÚHCP P PZ) is a body with nationwide competence in the area of border control in the Slovak Republic. ÚHCP P PZ is a unit of the Presidium of the Police Force, which directly manages, methodically directs and controls the activities of its organizational units in the performance of tasks in the following fields: border control, fight against illegal migration and smuggling, risk analysis, cooperation with the European Border and Coast Guard Agency (Frontex), analysis of travel documents, residence regime for aliens, return of aliens, expulsion of aliens, visa and, to a limited extent, in the area of asylum procedures and implementation of the Dublin Regulation. At the same time, ÚHCP P PZ governs (in accordance with the national legislation) the entry of aliens into the territory of the Slovak Republic, the visa and procedures in the event of unauthorized stay of aliens in our territory. The following are the legal documents currently in force in the territory of the Slovak Republic:

- The Constitution of the Slovak Republic;
- Act No. 480/2002 Coll. on Asylum;
- Act No. 71/1967 Coll. on Administrative Proceedings;
- Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Force;

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- Act No. 404/2011 Coll. on the Stay of Foreigners and on the Amendment of certain laws as amended, which stipulates, among other things, that the official agenda related to the stay of foreigners is kept in the state language.

Police detention units for foreigners are detention facilities that are primarily used for the temporary detention of third-country nationals who are deprived of their liberty, while the detention of third-country nationals is applied to foreigners who are in the territory of the Slovak Republic without a residence permit. At this point, it is important to note that migration without a permit is not considered a criminal offense in the territory of the Slovak Republic, but as an infringement. In the conditions of the Slovak Republic, this is the only offense for which a foreigner can be placed (detained) in ÚPZC, while the primary goal of detention is the preparation and implementation of deportation of a foreigner to the country of origin or transit to a country Dublin system appointed as responsible for examining the application for asylum. Asylum seekers may be detained until the main reasons for their application for asylum have been established or to prevent absconding if the asylum application appears to have been made only with the intention of preventing an imminent deportation. Detention is performed by members of the Police Force. The legal regulation of reinsurance in the Slovak Republic is contained in Part VI. § 62-74 of the Act on the Residence of Aliens. These provisions include the reasons for detention, adjustment of conditions in ÚPZC and placement of foreigners, adjustment of the regime in ÚPZC, provisions on health care of detained persons, rights of detained persons, duration of detention and reasons for release (for the purposes of the present study the terms foreigner and alien are considered synonyms). The stay in ÚPZC can last up to one and a half years, in case of families with children up to six months. In case of detention in ÚPZC, the detainee is obliged to comply with the regime specified by the ÚPZC rules.

"Communicating with people of other cultures presupposes an agreement on joint verbal and non-verbal expression. As such processes often take place on an unconscious level, misunderstandings occur" [6]. Communication with foreigners detained in ÚPZC has its specifics and with regard to the fact that they are usually foreigners who do not speak world-wide languages or they often speak only their mother tongue, misunderstandings occur quite often. However, we can conclude that the communication within the ÚPZC takes place on two levels. The first level covers communication for the official contact needs between detained foreigners and competent authorities and the second level covers daily communication between detained foreigners and members of the Police Force, or other persons who provide free social support or legal advice to foreigners.

As part of the administrative procedures and in the process of submitting and examining an asylum application, Member States are required to provide staff who are properly trained and receive appropriate training, which includes the elements referred to in Article 6 (2). 4 item a) to e) of the Regulation No. 439/2010 as amended. It follows from the above that members of the Police Force operating within the ÚPZC must have adequate knowledge or the necessary training in order to be able to fulfill their job duties. The demands of working with detained foreigners also include language competence, which is essential for ensuring everyday communication and formulation of instructions concerning the daily existence of both parties within the ÚPZC. A key communication aspect includes ensuring that all persons placed in the

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facility are instructed on the day's premises and, if possible, issue a translated copy of the day's schedule in the accommodation in the mother tongue of the detained aliens or at least in a language they understand.

English is one of the most widespread languages today. It is a language that is called *lingua franca*, a platform for communication between people around the world who have a mother tongue other than English. Despite the fact that English is currently an extremely widespread language and, from the point of view of members of the Police Force working in ÚPZC, it is often also a working tool, many third-country nationals have language competence only in their own mother tongue. To express their needs, they often try to use the interpreter, or other foreigners detained in the ÚPZC, if the interpreter is not present.

Member States are obliged to ensure basic communication between the alien and the competent authorities in official communication, in a language that the alien placed in detention understands, i.e. by providing an interpreter who is subject to specific requirements not only in the field of language and cultural competence, but also the gender aspect must be taken into account if requested by an alien placed in detention. In order to ensure effective communication between foreigners placed in detention and the competent authorities (in accordance with the above documents), interpreters and translators ensuring official communication with the competent authorities within individual procedural acts are selected from the list of forensic experts, translators and interpreters of the Ministry of Justice of the Slovak Republic. The translator, who ensures the translation of official documentation or information materials, is also selected from the list of forensic experts, translators and interpreters of the Ministry of Justice of the Slovak Republic. However, on the basis of the background documents, the interpretation request is formulated only for the purposes of procedural acts and official communication with the competent authorities.

The conditions for the performance of interpreting activities, as well as the rights and obligations of interpreters for the needs of official communication, are regulated in Slovakia by Act No. 382/2004 Coll. on experts, interpreters and translators. "The authorization or the translator's ability to act as an official translator is not the subject of a decision, the translator is not appointed, nor does he receive a certificate, but is entered in the list of experts, interpreters and translators after meeting precisely defined conditions. The 10 conditions, the applicant has to fulfill in order to obtain a legal right to be entered to the list, are set in the law (...)" (author's translation into EN) [7]. At the same time, enrollment is not necessarily conditioned by the current need for new translators. "The list is kept by the Ministry of Justice of the Slovak Republic especially for interpreters and translators, the registration department decides if there is a need for particular language. The Ministry is also entitled to make an entry in the list. The list is publicly and free of charge available on the Internet (...)" (author's translation into EN) [8]. In addition to Act no. 382/2004, a new international standard in the field of law, ISO 20228: 2019, which was published in April 2019 by the International Organization for Standardization (ISO) responsible for the development and publication of international standards, is also binding on official interpreters.

The standard specifies the competencies that official interpreters should have. These competencies are based on the basic skills and knowledge needed to perform

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interpreting activities as such, including language, intercultural, interpersonal and technical skills. These standards are supplemented by the competencies necessary for the performance of activities in the legal field, i.e. a thorough understanding of the roles of lawyers, judges, court clerks, prosecutors and the like. For the needs of ÚPZC, the interpreter becomes a mediator whose responsibility is not only to help the parties avoid potential misunderstandings and anticipate areas of conflict, but to become a person who actively contributes to building a common cultural-cognitive platform that facilitates and enables successful mutual understanding. In the context of ÚPZC, the work of an interpreter is extremely demanding, especially with regard to the psychological and emotional mood of placed foreigners, who often suffer from feelings of helplessness, frustration and crippling fear of the future.

Due to the fact that in other periods, foreigners whose mother tongue does not belong to the widespread languages (e.g. third-country nationals from Afghanistan, Pakistan, Bangladesh, Morocco, Sudan, Turkey, etc.) were usually placed in the ÚPZC, communication without the participation of an interpreter is usually very difficult. At the same time, it is not possible to require members of the Police Force to speak the language of every foreigner who is detained in the ÚPZC. One of the no less important aspects that significantly affects communication with detained foreigners is the fact that they are usually people with a lower level of education. It follows from the above that a member of the Police Force, as well as an interpreter or representatives of non-profit organizations (in Slovakia e.g. League for Human Rights), who voluntarily provide primarily legal advice for foreigners detained in ÚPZC and also communicate their needs, and in intercultural communication mediator and within the boundaries of a proactive approach from the above-mentioned parties, we can conclude that a wide range of activities go beyond their competencies stipulated by law. Legislative anchoring of communication between members of the Police Force and foreigners placed in the ÚPZC at a time when it is necessary to communicate daily requirements, whether by members of the Police or foreigners themselves (that can be perceived as type of irregular communication), remains open in Slovakia as this particular type of communication is not covered by legislation.

3. Legal Framework for the Communication with the Third-Country Nationals in Italy

The perception of migration and residence of third-country nationals in Italy changed significantly during 2018, and political rhetoric and public opinion do not currently coincide with the EU's efforts to integrate foreigners into the economic and social space of individual Member States. Italy is one of the countries that were most affected by migratory waves. In an effort to mitigate the consequences of the migration crisis, the EU implemented in Italy a system of so-called *hotspots*. The primary aim of the hotspots was to facilitate the work of incoming migrants, especially during registration, and to help Italy, as the Member State, which due to its geographical location and accessibility from the sea, is most exposed to torrential migration waves. However, the introduction of the hotspots system has achieved the exact opposite, as the number of migrants has risen sharply and the situation has become unbearable for Italy. As a result, Italy's migration policy has changed. More effective restrictive measures have become a priority and have also contributed to the revision of the Common European Asylum System.

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The following legislation is currently in force within the legislative framework for migration in Italy, which reflects the ever-changing requirements of Italy in the process of admitting third-country nationals and reflects in particular the effort to protect national interests:

- Legislative Decree No. 286/1998 "Consolidated Act on Provisions Relating to Immigration Regulations and Standards on Foreign Conditions" (Decreto legislativo 25 luglio 1998, n. 286);
- Legal Decree No. 13/2017, implemented by Act No. 46/2017 (Modified: Legislative Decree 17 February 2017, n. 13, Conversion in Legge di 13 aprile 2017, n. 46);
- Legal Decree No. 113/2018, implemented by Act No. 132/2018 (Modified: Decree Law 4 October 2018, n. 113, conversion in Legge di 1 dicembre 2018, n. 132);
- Legislative Decree No. 251/2007 "Implementation of Directive 2004/83/EC on minimum standards on the qualifications and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted" (Decreto legislativo 19 November 2007, n. 251 "Implementation of Directive 2004/83/EC on minimum standards for the introduction of third-country nationals of apolites, the quality of a refugee or other persons with international protection, as well as minimum standards of protection);
- Legislative Decree No. 18/2014 of 21 February 2014 (Modificato: Decreto Legislativo 21 febbraio 2014, n. 18);
- Legislative Decree No. 25/2008 "Implementation of Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status" (Legislative Decree 28 June 2008, n. 25) procedure applicable to Member States to the end of the recognition and review of the status of the refugees);
- Legislative Decree No. 142/2015 (Modified: Legislative Decree No. 142/2015);
- Legal Decree No. 13/2017, implemented by Act No. 46/2017 (Modified: Legislative Decree 17 February 2017, n. 13, conversion in Legge di 13 aprile 2017, n. 46);
- Legal Decree No. 113/2018, implemented by Act No. 132/2018 (Modified: Decree Law 4 October 2018, n. 113, conversion in Legge di 1 dicembre 2018, n. 132);
- Legislative Decree No. 142/2015 "Implementation of Directive 2013/33/EU on standards for the reception of asylum seekers and Directive 2013/32/EU on common procedures for recognition and withdrawal of international protection". (Legislative Decree 18 August 2015, n 142 "Implementation of Directive 2013/33/EU in relation to the relative standards of international protection, non-compliance with Directive 2013/32/EU, common procedure for finalizing and revising the status of the status of international protection);

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- Legislative Decree No. 220/2017 (Modified: Legislative Decree 22 December 2017, n. 220);
- Legislative Decree No. 150/2011 "Additional provisions of the Code of Civil Procedure concerning the restriction and simplification of civil court proceedings in accordance with Article 54 of the Act of 18 June 2009);
- Legislative Decree No. 24/2014 "Prevention and Suppression of Trafficking in Human Beings and Protection of Victims" implementing Directive 2011/36/EU (Legislative Decree 4 March 2014, n. 24 in the implementation of Directive 2011/36/EU, relating to the prevention and repression of human resources and the protection of life);
- Act No. 47/2017 "Provisions on the protection of foreign unaccompanied minors" (Legge di 7 aprile 2017, n. 47 Provisions in the field of protection of unaccompanied minors) [9].

The relatively frequent amendment of Italian national legislation by means of legislative decrees reflects the continuous development associated with migration, which brings new challenges to the country and which Italy necessarily has to deal with. It is a constant process that is not only related to the influx of migrants, asylum seekers, but also the subsequent inclusion of foreigners in society is taken into account.

The main goal of hotspots is the fast identification, registration and processing of migrants. In Italy, a third-country national is detained in hotspots for several days and then placed in a detention center. The stay in the detention center is significantly affected by the lack of cultural mediators, interpreters and translators into all languages. This is a persistent problem, in particular with interpretation/translation into the languages of sub-Saharan Africa remaining the most problematic. The third-country nationals coming to Italy come in most cases from Nigeria, Eritrea, The Gambia, Sudan, Senegal, Somalia, Mali, Bangladesh, Guinea and Côte d'Ivoire. Upon arrival in Italy, the hotspots provide information on the possibility to apply for asylum and individual types of stay in four world languages, i.e. Italian, English, French and Arabic. In view of the fact that the command of world languages is rather rare for incoming migrants, the information in question is provided by the European Asylum Support Office (EASO), as part of the ACCESS project, and by the Office of the United Nations High Commissioner (UNHCR) and in the framework of the ASSISTANCE project, the International Organization for Migration (IOM), assists in less widely used languages, i.e. Kurdish and its extended dialects – Kurmanji, Sorani and Tigrinya. In Italy, EASO also provides migrants with information in hotspots, assists in the registration of asylum applications and supports the National and Territorial Asylum Commissions and the Dublin Center. Migrants are also informed about the relocation to the detention center through a special leaflet. In general, it is a problem to find a qualified interpreter/translator into/from less widely used languages. However, it is also necessary to point out here that Italy does not have a national database of translators or interpreters. In Italy, there is the freedom to choose the translator or interpreter who best suits the needs of the individual or competent authorities, respectively. For this reason, the only way out is often the so-called double interpretation/translation. Frontex, which provides its interpreters for the process of verifying the nationality of third-country nationals arriving in Italy, is also

trying to help with a shortage of interpreters/translators or cultural mediators, mainly in the following languages: Persian, Arabic and its dialects. IOM provides its interpreters as part of the registration and identification process. At the EASO interpreters are available for admissibility interviews, interpreting mainly into/from Arabic, Persian, English, French, Kurdish, Urdu, Dari and Pashto.

In countries such as Italy, where immigration is an extremely topical issue and resources for institutional interpretation are insufficient even in a normal public context, professional interpreting services in environments such as detention centers are essentially non-existent. The constant lack of interpreters in the environment of detention facilities in Italy is constantly pointed out by the so-called *Guarantor of the rights of detainees*, who in his 2018 report expressed concern about the lack of interpreters who would be able to mediate day-to-day communication within detention facilities in Italy. Detained third-country nationals, as well as members of the Police Force, face problems in the field of intercultural communication on a substantially continuous basis. The starting point for both parties is therefore spontaneous forms of linguistic or cultural mediation, which usually take place with the help of detained foreigners who are fluent in Italian or one of the world's languages. Thus, *the cultural brokering* is currently a common form of *ad hoc* interpretation in detention centers, reflecting the needs of detained third-country nationals and detention center staff, i.e. members of the Police Force [10].

4. Peculiarities of Communication with the Third-Country Nationals in Detention Facilities

The provision of interpreting/translation services for the purposes of communication between members of the Police Force and detained third-country nationals in detention facilities do not have the same form in all EU Member States.

A. Official Communication

The unifying factor for both countries (Slovakia and Italy) remains a common framework based on secondary EU legislation, which is binding for all EU Member States and regulates communication with third-country nationals in the framework of official contacts with the competent authorities. Although EU secondary legislation is transposed differently into the national legislation of each Member State, especially if the specific conditions of first-line, transit or destination countries is taken into account, the fact that when communicating with third-country nationals in official communication the presence of an obligatory interpreter is enshrined in the legislation of all Member States mentioned and forms an integral part of a set of fundamental human rights. In official communication with the competent authorities, it is therefore necessary in the EU Member States to use the assistance of (in most cases a judicial/official) interpreter, whose job is to communicate information to both parties (to members of the Police Force and to third-country nationals). In case of cultural differences or ignorance of non-linguistic reality, the interpreter has the right to inform the parties about these problems or to give an explanation to the parties involved.

B. Day-to-day Communication

The day-to-day communication between members of the Police Force and third-country nationals detained in detention facilities in EU Member States is not regulated in any of the countries surveyed. In most cases, the fellow foreigners who speak the official language of the country in which they are detained or the volunteers working for the non-governmental organizations that send professional as well as amateur interpreters or cultural mediators to these facilities are used to mediate communication in detention facilities. Continuous interpretation service is not a reality in most Member States, including the Slovak Republic. Non-official communication in the conditions of the Slovak Republic takes place mainly between members of the Police Force and third-country nationals usually without the participation of an interpreter. Slovakia, as the so-called transit country does not have to deal with such an influx of foreigners as Italy, which is considered the destination country. However, the solution to the situation, at least in the conditions of the Slovak Republic, could be not only information material, but at least a multilingual communication manual in the languages of foreigners, whose nationalities most often found themselves in the premises of ÚPZC in Slovakia. As a suitable part of the communication guide, not only the conversational part with basic communication phrases, but also lexicon from areas such as eating, family or shopping would be beneficial for both parties involved in the daily communication. The section devoted to the history and culture of the Slovak nation may also be interesting for asylum seekers. In the conditions of Italy, the situation is somewhat more complicated, as other parties are also entering the process of communication between members of the Police Force and third-country nationals (e.g. Frontex, IOM, EASO, etc.).

We can consider the most difficult situation to be a situation where not only Italian interpreters, but also interpreters from individual European agencies and institutions provide communication in the framework of informal communication. However, the communication outside the official communication in the countries of hotspots is also influenced by many other factors, e.g. the informal policy of redistribution of foreigners and the relatively slow procedures applied to the placement of foreigners in hotspots, which significantly affect the mental and physical health of third-country nationals who are detained in overcrowded facilities for too long and are kept in poor hygienic conditions. Unsatisfactory living conditions and the frustration of third-country nationals detained in hotspots directly affects communication with the member of the Police Force, who often have no interpreter at their disposal. The starting point for both parties is therefore spontaneous forms of linguistic or cultural mediation, which is usually conducted with the help of detained foreigners who are fluent in Italian or in one of the world's languages. The cultural mediation or language and cultural brokering is currently a common form of *ad hoc* interpretation in detention facilities, reflecting the needs of both parties involved.

5. Conclusion

From the above-mentioned data it naturally follows that the current situation regarding intercultural communication outside official communication in detention facilities is frustrating for both parties, members of the Police Force and also third-country nationals. Ideally, both parties speak at least one of the world's languages and

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are able to communicate with each other. However, the ideal case is very rare. As the level of the language competence in third-country nationals is usually very low. At the same time, it is not possible to require from the members of the Police Force to speak the language of every foreigner detained in a detention center. In view of the fact that third-country nationals change in detention facilities, a permanent interpretation service would have to be provided in all languages of detained foreigners. The challenge therefore remains as the issue of ensuring communication not only in official communication with the competent authorities, but also in the context of day-to-day communication within detention facilities is not cover in legislation of the respective countries – Slovakia and Italy, not at the European level. Given the complexity of the issue and the diversity of conditions in the individual EU Member States, it is difficult to find a one-size-fits-all solution. The lack of qualified interpreters for the needs of the asylum procedure or communication within detention facilities also remains one of the burning but unresolved issues.

One of the main objectives of the European Migration Network (EMN) is to provide information on the current situation, outputs and statistics on migration, integration and international protection at EU and Member State level. In order to identify the challenges associated with migration, they encountered the following: "(...) ensuring adequate language transfer (interpretation), the implementation of coercive measures, and extensive reinsurance legislation and case law, the assistance in the field of interlingual and intercultural communication is one of the main priorities in addressing migration issues not only at European level. The police, courts and the Migration Office, as well as lawyers, are currently struggling with the current problem of securing official or non-official interpreters from the various languages spoken by foreigners"[11].

Interpretation from different languages (in particular in case of less used languages) is a serious problem in all EU Member States. Police authorities must currently look for appropriate measures to ensure adequate interpretation for foreigners, otherwise they run the risk that the detention order will be rejected on the grounds of a violation of the right to receive an interpreter in a language understood by the foreigner. In this situation, the police cannot evade their duty simply by pointing out that the relevant interpreters are not available. Complications with the provision of adequate interpretation in official acts do not contribute to facilitating the situation in everyday communication with foreigners. However, the obligation to allow a third-country national arriving into the territory of the Member State access to information in a language he or she understands is enshrined in law not only at European level but also within the national law of all EU Member States. To provide multilingual information materials, or compile information material that could be distributed in a uniform format in all languages of foreigners arriving in the EU, would facilitate and speed up the work of the police, the courts but also the migration authorities in all Member States.

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