

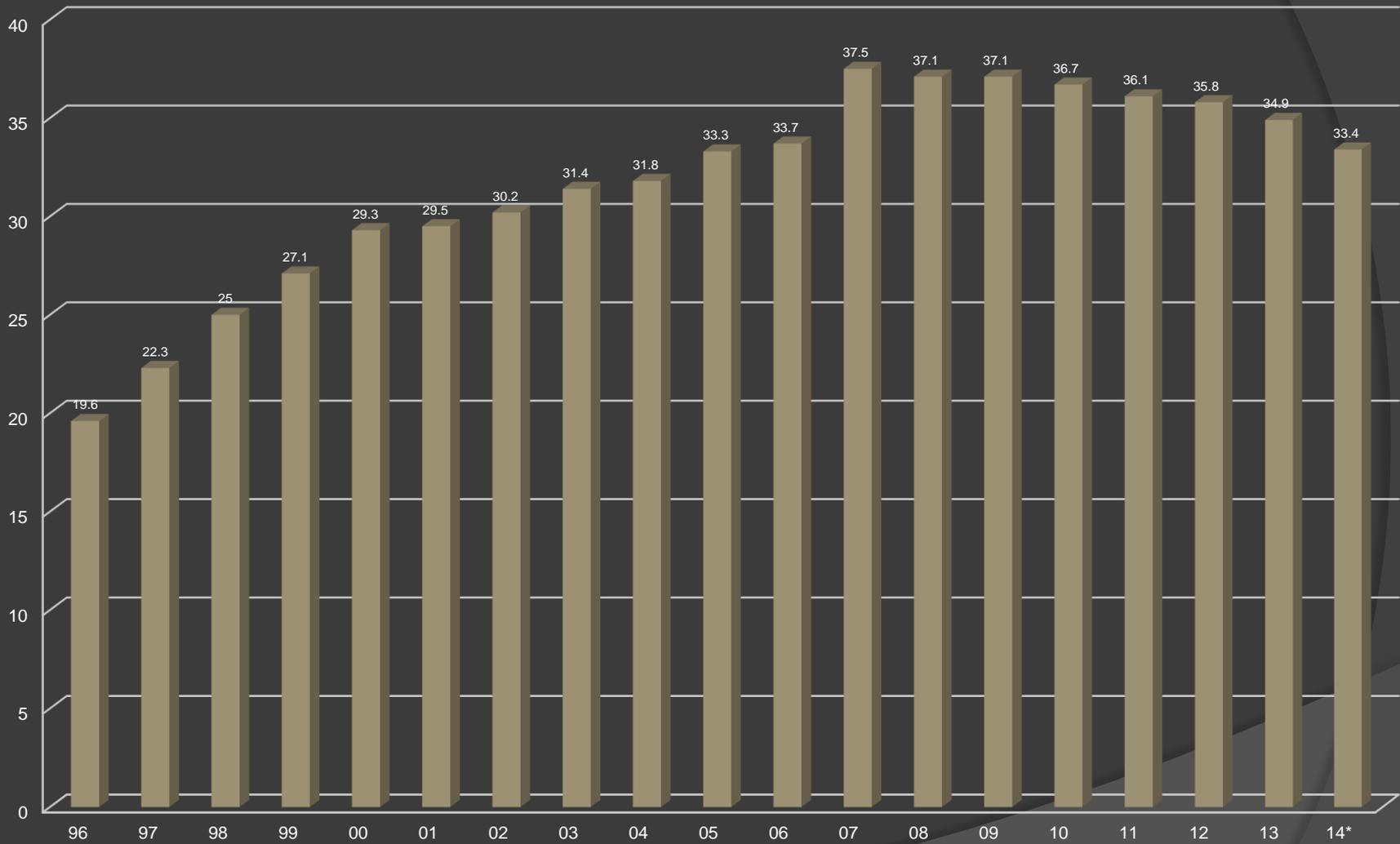


Workshop Foreign National in Prison
20-22 October 2014
London

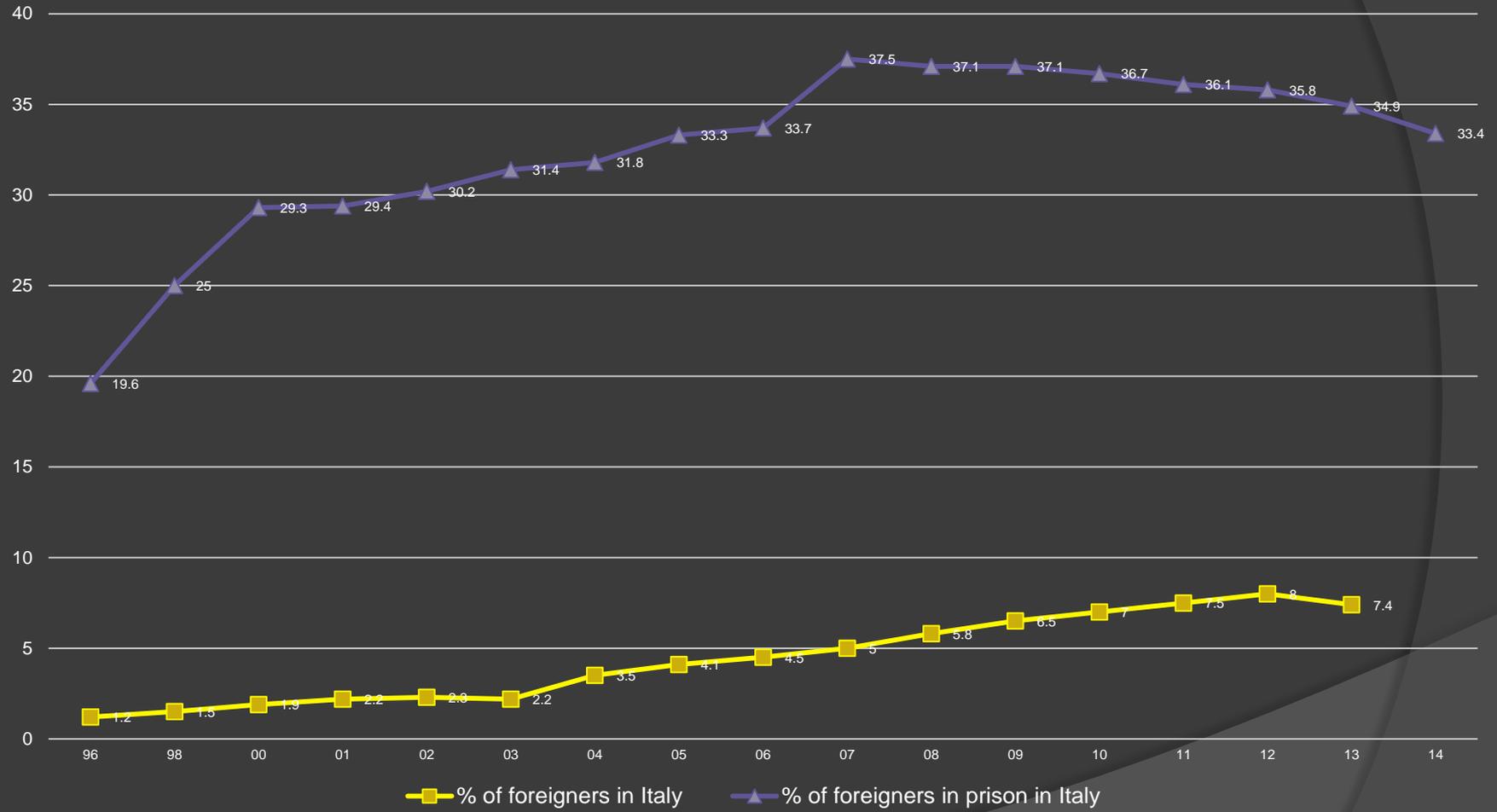
LACK OF INFORMATION IN PRISONS FOR FNPS: THE ITALIAN CASE

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% of foreigners on total prison population in Italy. 1996-2014

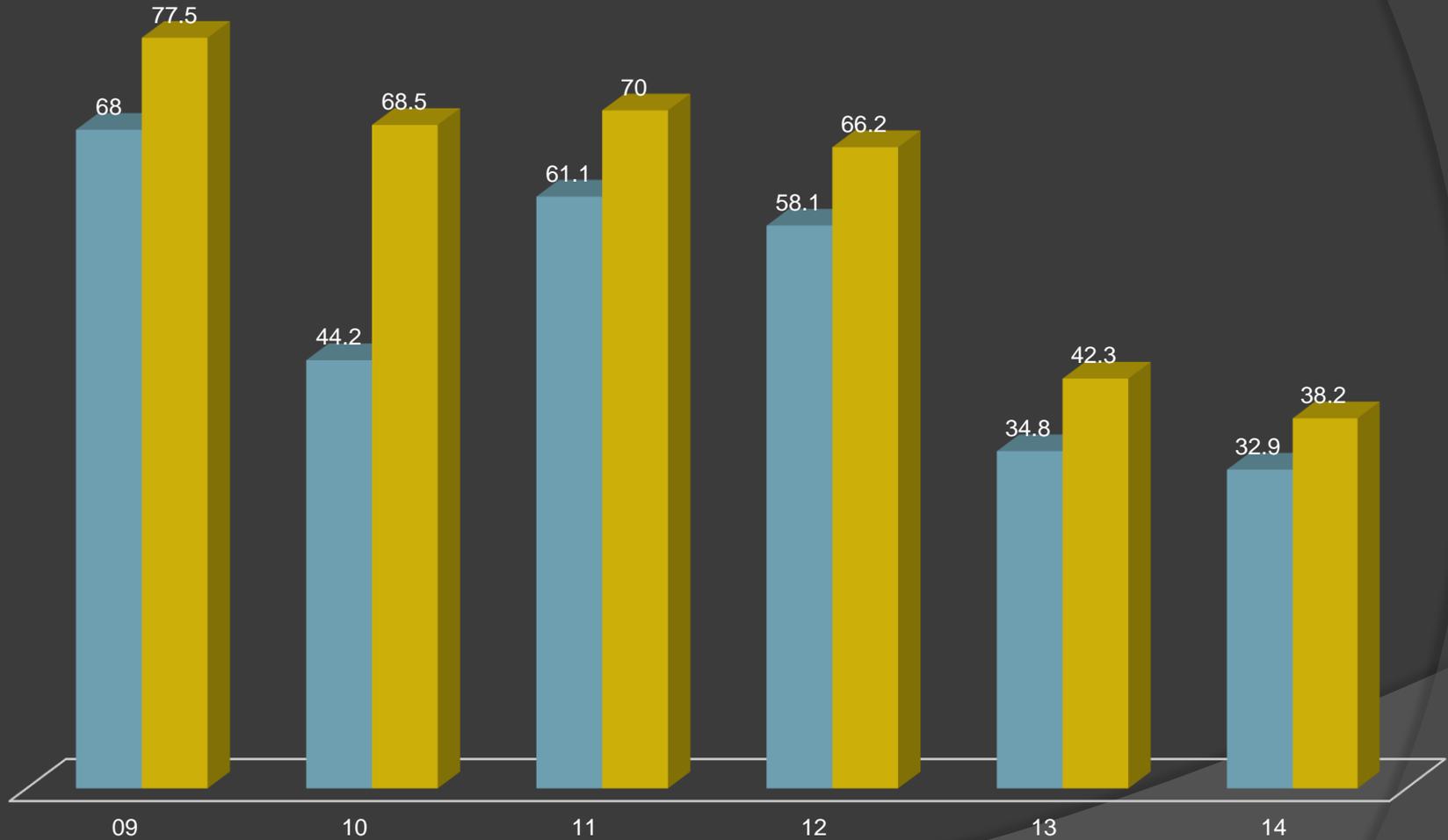


Foreigners in prison and in total pop. 1996-2014



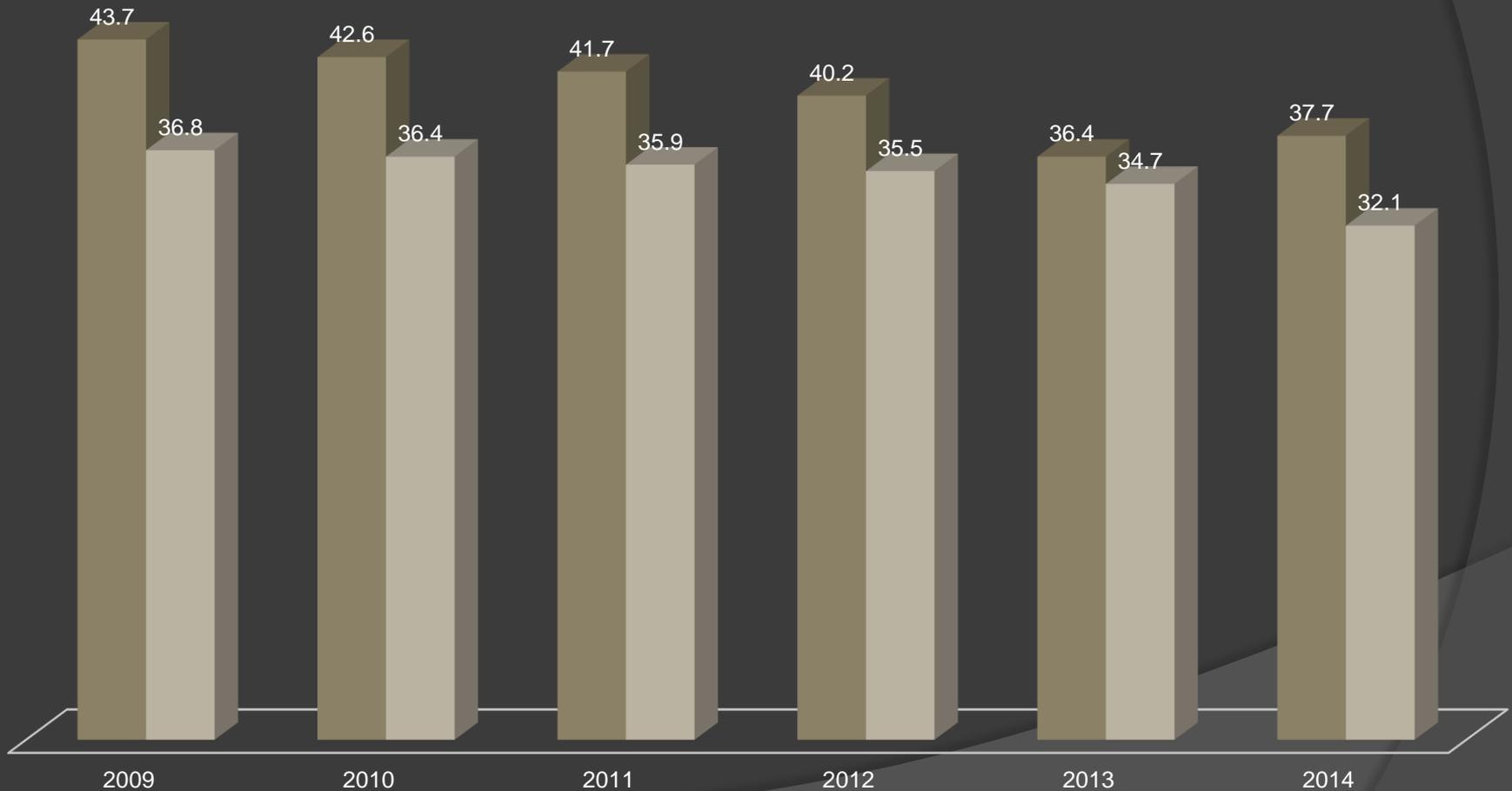
% of pre-trial population in Italy

■ Total pre-trial pop. ■ Foreign pre-trial pop

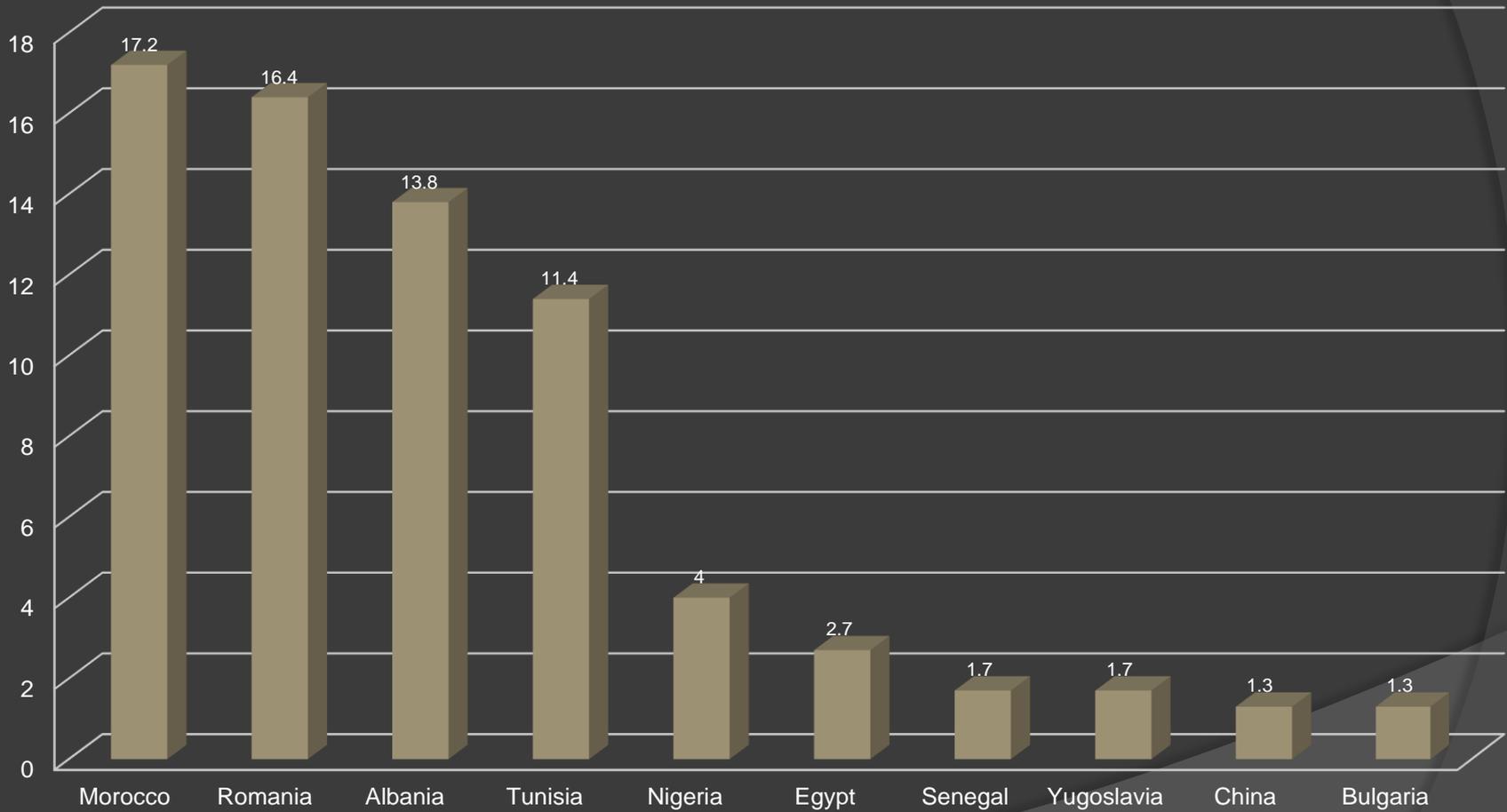


% of foreign women on total female prison pop. % of foreign men on total male prison pop.

■ Women ■ Men



First ten nationalities in the Italian prison pop.



Pilot research on prison workers and foreign prisoners – 1*

137 prison workers was interviewed with an anonymous questionnaire

(3 different prisons. Sample composed by prison officers, volunteers, teachers, director, psychologist and social workers)

*
Cosentino, N. *L'operatore penitenziario e i detenuti stranieri: un'indagine esplorativa*. Quaderni ISSP, V. 12, Ministero della Giustizia, DAP, Giugno 2013

Pilot research on prison workers and foreign prisoners - 2

- ⦿ *(among others questions)* In the last five years, have you attended a course on foreign language?
- ⦿ 74,5% - No
- ⦿ 24,5% - Yes (30% courses organized by the prison administration, 70% personal interest, courses organized by Universities or private schools)

23 October 2009:

EU roadmap on procedural rights - six priority issues

- Translation and interpretation
- Information on rights and information about the charges
- Legal advice and legal aid
- Communication with relatives, employers and consular authorities
- Special safeguards for suspected or accused persons who are vulnerable
- Green paper on pre-trial detention

Under the first 2 points:

- Directive 2010/64/EU (entry into force 15 November 2010 – implementation 27 October 2013) – Right to interpretation/translation
- Directive 2012/13/EU (entry into force 22 May 2012 – implementation 2 June 2014) – Letter of Rights

Italian legislative framework -1

Before the Directive 2010/64/UE

- Art. 109, 110, 117, 118,119, 121,122,123, 143,147,148, 172 C.P.
- Art. 171,179, 181,182 C.P.P

They give procedural guideline (minimum standard) for the translation/interpretation in favour of the foreign defendant/offender

Moreover, due to the self-executive nature of these international instruments, Italy has to conform its national law to:

- Art. 6, par. 1 ECHR; art. 14 par 2) a ICCPR

Italian legislative framework – 2

D.Lgs. 32/2014 implementing Directive 2010/64/UE

Art. 1

- ④ 4. “The assessment on the knowledge of the Italian language is accomplished by the judicial authority. The knowledge of the Italian language is presumed until proven otherwise for an Italian citizen.
- 5. The interpreter and the translator shall be appointed even when the judge, the prosecutor or the judicial police officer has personal knowledge of the language or dialect to be interpreted”.

Italian legislative framework – 2

D.Lgs. 32/2014 implementing Directive 2010/64/UE

In practice (1):

- No formalized procedure to decide the level of knowledge of the Italian language
- Art. 143 CP: “the verification of the knowledge of the Italian language is accomplished by the judicial authorities” (but there are no specific obligations to fulfil)



- Normally the verification is done by the first person who meets the foreigner: judiciary police or prison staff.
Judges ground on their evaluation the need to have an interpreter during the trial/questioning, but they can autonomously decide to stop the procedure and ask for an interpreter whenever they notice that the foreigner can't understand what is going to happen to him.

Italian legislative framework – 2

D.lgs. 32/2014 implementing Directive 2010/64/UE

In practice (2):

- ◉ Under the aegis of the Directive 2010/64/UE and the Directive 2012/13/UE, the knowledge of the language must be understood not only as oral but also as the capacity or, in the case, as the inability to read or to write even if the person can hear and understand a dialogue.
- ◉ D.lgs. 101/2014 implementing Directive 2012/13/UE – Letter of rights

Italian legislative framework -3

- ⦿ The 2010/64/UE is especially written for the protection of freedom before the trial, with special attention to the EAW and extradition procedures

- ⦿ **It will be a duty for the States to conform the prison law to the Directive itself.**

Thanks to this new law the interpretation/translation is granted:

- For free
- Oral and written, if needed
- Free of charge for all the documents that can be relevant for the whole comprehension of the charge and the trial

Italian experience: The Charter of Prisoners' and Internees' Rights and Duties

- Translated in 6 languages (German, Spanish, English, French, Arab and Romanian)
- Admission to prison from liberty
- Daily life
- Behavioural duties
- Education and cultural, sports and leisure activities
- Prison work
- Transfers
- *Peculio and management of the inmates' financial relations with the institutions*
- Relations with the community
- Measures and sanctions alternative to imprisonment
- Special prison regimes
- Women in prison, before, during and after childbirth
- Foreign prisoners
- Release

Foreign prisoners (according to the Chart)

- All foreign prisoners have the right to ask their consular authorities to be informed of their arrest, to receive abstracts of rules and regulations in their language, to make phone calls and receive visits at the presence of an interpreter. They have the right to suit their eating habits and religious/spiritual obligations and needs.
- Foreign prisoners who shall serve a sentence not exceeding two years, even if part of a longer sentence, have the right to be deported to their own country of origin.
- The criminal conviction can also establish the security measure of the **expulsion in addition to the conviction**, which shall be executed after the inmate has served the whole sentence. In any case, prisoners cannot be deported if in their country of origin they are at risk of persecutions on the basis of race, gender, language, citizenship, religion, political opinions, and so on. Inmates can ask for transfer in their country of citizenship to serve a sentence (exceeding six months) issued in Italy, the application shall be forwarded to the Ministry of justice in Italy or, when the offense is considered a crime in both countries, to the Ministry of justice of the nation giving citizenship to the inmate.

But in practice: in prison, what about...

- ① Relationship among foreigners and prison staff?
- ① Relationship among prisoners' families and prison staff?
- ① Possible disadvantages for foreigners who depend from other prisoners that know the language of the Country?

But In practice: in the resettlement phase, what about...

- ⦿ Conditions concerning a community service order not translated into a language that the offender can understand? (possible recall of the measure due to the breach of conditions?)

To help foreign prisoners

- ◉ Ngos who work in the field of prison with special competencies



- Support to foreigners in prison (cultural mediation, language mediation)
- Support to their families outside
- Support to foreign nationals in prison abroad

Thank you
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