



## Statewatch Analysis

### Italy

#### Shocking Death spotlights prisoner plight

The case of Stefano Cucchi, who died in hospital after being beaten in police custody, highlights the routine abuses that occur in Italian prisons and police stations and the lack of accountability of those responsible.

Since information surfaced about the death in custody of Stefano Cucchi in Rome (see *Statewatch News Online*, November 2009) pointing to him receiving one or more beatings following his arrest on the night of 15 October 2009, a number of other cases have come under the spotlight. Some involved new revelations, such as an intercept from Teramo prison in which a commander and two officers discussed where prisoners could be beaten and where it should not occur. Other cases concerned past instances of suspicious deaths in custody in which judicial authorities had made little headway and the families of the deceased were unsatisfied. Meanwhile, prisoners who had seen or spoken with Cucchi confirmed that he was beaten, as did evidence from prison officers and medical staff given to the *Dipartimento dell'amministrazione penitenziaria's* (DAP, prison administration department) administrative inquiry into the death. The new evidence shifted attention from his treatment in the court's security cell (originally identified as the place where he may have suffered injuries) to include the entire period spent in custody until he was taken to *Regina Coeli* prison. Nine people are under investigation - three prison officers and six medical staff - on suspicion of causing Cucchi's death and negligence.

In its annual report on conditions in prisons, *Associazione Antigone*, which monitors the penal system in Italy, expressed concern at the record number of suicides in 2009 (71). It is also worried about overcrowding which has reached levels that it describes as "beyond what is tolerable". This refers to the twin concepts used for prison capacity, those of a "regulation capacity" (43,074) and a higher "tolerable capacity" (64,111) which has been reached by the prison population. Justice Minister Antonino Alfano has demanded that a "state of emergency" be called to enact a special plan involving construction work to ensure the availability of a further 20,000 places, a recruitment drive, and work on access to alternative sentencing. However, *Antigone* identifies the criminalisation of "irregular" migrants and the tougher treatment of drug offenders as important causes of the rising prison population that are not considered in the plan, alongside a decrease in

access to alternatives to imprisonment. Critics of Alfano's approach have noted that at the rate at which the prison population is rising (1,000 per month), the plans to increase available places to 80,000 by 2012 is insufficient.

### The Cucchi case

Stefano Cucchi was a 31-year-old who died on 22 October 2009 in the detention ward of *Sandro Pertini* hospital six days after his arrest by *carabinieri* (police force with a military status) for drug possession and dealing (he had 20g of cannabis and 2g of cocaine on him). His home was searched after he was arrested, with his mother present, and Cucchi seemed to be "in good health". After a coroner reported his "natural death", Cucchi's family released photographs from his autopsy that showed a bruised and battered body, and complained about a series of irregularities, including the fact that following his admission to the hospital ward for prisoners, they were not allowed to see him.

The outcry over the case resulted in justice minister Alfano appearing in the Senate on 3 November 2009 to reconstruct the events leading to Cucchi's death, after defence minister Ignazio La Russa had pre-emptively acquitted the *carabinieri* of any wrongdoing:

*I don't have the elements to verify anything, but I am certain of one thing: the absolute correctness of the carabinieri's behaviour on this occasion.*

Alfano said that "Stefano Cucchi should not have died and his death should have been prevented", and that "the government is in the front line to ascertain the truth". Nonetheless, his repeated references to a fall that Cucchi suffered weeks before his arrest, to his physical frailty, drug addiction and the possibility of his being anorexic or an HIV-sufferer (which his family denied) did not bode well for those who expected transparency (see *Statewatch News Online*, November 2009).

Alfano repeatedly alluded to Cucchi's uncooperative attitude and refusal to accept food. Prison officers who had been in contact with Cucchi and a volunteer in *Sandro Pertini* hospital told the DAP inquiry that his refusal to eat was a protest at not being allowed to speak to his lawyer, members of a drug rehabilitation community (where he had undergone previous treatment) or his brother-in-law. He told two officers that: "Instead of guaranteeing the protection of citizens, the guardians of the state have done this to me", adding that "I want to speak to my lawyer to clear this up". Investigators are reportedly assessing whether his death was caused by physical injuries, dehydration and weakness resulting from his refusal to eat, or whether injuries sustained before his arrest may have played a part. The fact remains that he had been training in the gym on the afternoon before his arrest and appeared to be in reasonable condition apart from his slender build and drug addiction. He was six kilograms lighter and appeared to have been badly beaten by the end of his ordeal.

Arrested at 23.20, his home was searched and he was taken to Appia carabinieri station to be charged with the production and trafficking of illegal substances. He

was subsequently placed in a security cell in Tor Sapienza carabinieri station at 03:55 and reportedly had no bruising or visible injuries. He called for assistance at around 05:00, recorded as being a result of epileptic fits, but then refused treatment and examination when medical staff arrived. During a later examination, he said he had not had an epileptic fit for months. The next morning, he was taken to court to have his arrest validated, and in a hearing at 12:30 the judge decreed that he be placed under arrest, after which he was placed in the custody of the prison police at 13:30. When the prison service assumed responsibility for Cucchi at 14.05, a medical examination noted several injuries including bruising under both eyes. In their evidence to the DAP, prison officers explained that a prisoner is not in their charge until they are formally handed over after the court hearing, if they are remanded in custody. Prior to this, prison officers are merely responsible for opening and closing cell doors, while “acting officers” are in charge of the detainee’s care. Cucchi was examined by a doctor on entering *Regina Coeli* prison at 15:45, and the report noted that he had serious injuries to his face, suspected concussion, abdominal trauma and vertebral damage. The doctor had him sent “urgently” to *Fatebenefratelli* hospital.

## Witnesses

Nine people are under investigation - three prison police officers (as it appeared that his condition had worsened in the court’s custody) and six members of the *Sandro Pertini* hospital medical staff, for negligence. However, it has emerged that he may have been beaten both before and after his transfer to the courthouse. Moreover, until after the hearing, the *carabinieri* who were with him had a duty of care over the prisoner. On 21 November 2009, S.Y., an African man arrested for a drug offence who shared a cell in the courthouse with Cucchi, was heard as a witness by prosecutors:

*I was alone in my cell, I was there and heard noise. The youth was there and somebody was kicking, made noise with his feet, I heard the youth fall, he was crying. Then I looked through that window and saw them putting him in the cell, before they beat him I heard them talking, but I didn’t understand, ...but I understood that the police were telling him to go inside and he didn’t want to go inside.*

S.Y. notes that three police officers were involved (only one of whom he could identify) and that after the beating Cucchi was dragged into the cell. He had not seen Cucchi’s face, but met him later when they were placed in the same cell after his court hearing. Cucchi told him the guard had beaten him up, “look at what the guard did to me”, and showed S.Y. the lower part of his right leg, which was “red and a bit cut up”. He has a limp and was unable to sit down, huddling up. He had trouble walking when they were taken to *Regina Coeli* prison, and one of his eyes was red. S.Y. last saw him when the doctor checked them on admission, and heard that he had died five days later.

On 20 December 2009, *il manifesto* newspaper reported that two Albanians who were arrested on the same evening as Cucchi shared a cell with him at the courthouse. They claimed that he had trouble standing. When they spoke to

prosecutors, they said that he told them “the carabinieri beat me up, but not these ones”, in reference to those escorting him. He added that he did not report them because he would have been framed and imprisoned for ten years.

### Cucchi's father

Cucchi's father told the DAP that the hearing was the last time he saw his son. His face was swollen and he had “some rather clear black marks below his eyes” that had not been there when he left home the previous night. His son also told him that he had been framed.

He was unable to see his son in *Regina Coeli*, or leave clothes for him, because it was a weekend (Saturday). When he was informed that Stefano had been admitted to *Sandro Pertini* hospital on Sunday, he went there but, again, he was not allowed to see him: “This is a prison, you cannot see Stefano” he was told. He should return on Monday if he wanted news about his health. On Monday, the family was told that they needed permission from *Regina Coeli* to meet the doctors, and that this would arrive the next day. When they asked about Stefano's condition, they were told: “he is calm”. After insisting, they were allowed to leave him some clothing (underwear and pyjamas) - although when he died he was wearing the same clothes he had left home in. The next day, they requested to meet the doctors but were told this required authorisation from *Regina Coeli*. When they repeated what they had been told on the previous day, the answer was “what you were told yesterday does not count, I'm here today, and this is how it must be done”. On Wednesday, they obtained permission from the court at 12.30, but it needed to be validated in *Regina Coeli*, where the office for these procedures closes at 12.45.

While Cucchi's father was heading to the prison to have the authorisation validated on Thursday, his wife called to tell him that Stefano was dead. She found out through a notification from the *carabinieri* that a coroner had been appointed, without any direct communication to inform the family of the death. When they asked what had happened, an officer said that “he switched off”; when they asked about his condition during his stay, the reply was that “he had a sheet over his face and did not eat”; when Stefano's mother wanted to know why they were not informed about his worsening condition, the duty doctor asked them why they had not spoken to his doctors, drawing an angry response. Even when they went to the morgue, a police officer told them that they could not see the body. However, their insistence resulted in the coroner speaking to the prosecuting magistrate and they were finally allowed in. “I found my son in a frightful condition...beyond what the photographs taken during the autopsy showed”, although he was more than a metre away and his body was covered, “his cheeks were black, especially the left one”, his eyes were black, the left one had a ring of black around it and the eyeball seemed to have sunk into the socket. “He had a vertical groove along his left jaw, from below his eye to the chin...he also had a bump between his eyebrow and left eye”.

## Evidence from officers and staff

A.L.R., chief inspector of the prison police from the *Regina Coeli* transfers and monitoring unit, told investigators from the administrative inquiry:

*I remember that detainee because...I demanded a medical certificate because he was evidently bruised and also found it difficult to walk. In fact, he was bent towards one side when he walked and explained this difficulty to me, asking not to be handcuffed ... he had marks around his eyes and on the right side of his jaw.*

A.L.R. claims that when he asked Cucchi what had happened, he answered that he had fallen down the stairs running away from the *carabinieri*. Cucchi also asked if the prison had a gym to practice boxing. A.L.R. asked him what he needed it for considering his slim physique, Cucchi replied that he was an expert and had fought the previous night. Another prisoner who heard the exchange quipped: “Yes, and you were the punch bag”.

A.L.R. and his colleagues said that they accepted Cucchi because they had his medical certificates. A number of officers and medical staff noted that his face was marked, with descriptions ranging from “redness” and “black circles”, to “black eyes”, an “inability to walk” or sit properly, and a “beaten face”. Cucchi’s explanations for his injuries varied depending on who asked him, and ranged from receiving a beating to falling down stairs.

B.M., who searched him on admission into *Regina Coeli* prison, saw his naked body and noted a number of injuries. He asked him: “Did you have a head-on crash with a train?” Cucchi’s answer was that he was “badly beaten” during his arrest.

## The plot thickens

Cucchi’s sister Ilaria, who is campaigning vigorously, has highlighted a number of issues. There is a *carabinieri* arrest record that contains mistaken personal details, such as his being born in Albania, with a wrong date of birth and the acronym SFD, which means “without fixed residence” (*senza fissa dimora*, in Italian), whereas he lived at his parents’ home. Not having a fixed residence is a criterion used by judges when deciding whether to imprison someone, and rules out alternatives such as house arrest. The time of the arrest (15:20) is inaccurate. The description of the arrest: “caught furtively selling cellophane wraps and receiving a banknote in exchange” has reportedly been contradicted by the man arrested with him. This man also heard the name of Cucchi’s lawyer mentioned at least three times, despite the arrest warrant stating that the defendant “did not want to appoint his lawyer”. Moreover, this name mistakenly appears in the report as his appointed duty lawyer. In the event, Cucchi never saw him and died waiting to speak to him.

A letter written by Cucchi to a member of the drug rehabilitation community in which he had received treatment, disappeared. It was only later handed to his family. The letter showed that he had been seeking outside help in the period leading up to his death. The hospital authorities explained that Cucchi’s parents

were only allowed to see their son or his doctors with the permission of the prison authorities; Cucchi was also required to sign a form, something he refused to do. The family question the authenticity of a form that certifies this. Likewise, permission to see his lawyer depended on Cucchi filling in the relevant form and handing it to the acting officers, which, they explain, did not happen, despite him explicitly mentioning his wish to do so to a number of members of staff and a volunteer. Apart from those measures which were not implemented, including the failure to keep a detailed record of the entry of prisoners and the officers accompanying them in the courthouse security cells, the DAP investigation notes that the overall treatment of Cucchi and his family, “particularly in the setting of the protected section of Pertini hospital” was “reprehensible”. It stresses that no steps were taken for “receiving and interpreting the discomfort of the detainee drug addict”, especially the “re-establishing of personal ties that may have improved his psycho-physical situation”:

*On the contrary, the administrative inquiry has uncovered aspects that objectively run contrary to the mentioned purposes: bureaucratic and substantially obstructive attitudes as regards requests for contact from his family, the issuing of mistaken and incomplete information when medical staff were asked for information, no activity to simplify or facilitate procedures to enable individual interviews, no activity to simplify the meeting with his lawyer of choice, which was the condition for him to resume eating.*

The DAP report prompted Ilaria Cucchi to write an open letter in which she criticised the “normality” with which injuries sustained by arrested people are treated, the “normality” of not dealing with these injuries unless it comes to affect someone personally (in terms of responsibilities), and asks for this “normality” to no longer be tolerated. In particular, she highlights that one prison police officer stated that “I limited myself to asking for information...because it is not easy to work with the other police forces”, adding that “I did not seek to delve into the nature of the injuries that I observed as the detainee was under the direct responsibility of my colleagues”, and that “I only assumed a different attitude when I felt that with the handing over of a detainee I had to protect myself from possible issues that may arise”. When Cucchi told two officers that “the guardians of the state did this”, one of them reacted in this way: “from that moment on, I no longer spoke to Cucchi, I kept a distance, thinking that everyone should stay in their place”. Ilaria Cucchi also expresses surprise at the fact that the name of the family lawyer was mistakenly recorded as being the duty lawyer because the authorities would not have known his name if her brother had not mentioned it.

A further development in the story was the discovery by Cucchi’s family of large amounts of drugs (925g of hashish and 133g of cocaine) in a flat in Morena (outside of Rome) that he sometimes used when he did not sleep at his parents’ home. They handed it over to investigating magistrates.

## The aftermath

The clamour arising from the release of the autopsy photographs and the Cucchi family's complaints led to further disclosures concerning the abuse of prisoners in custody. A recording of a conversation between a commander and two prison police officers from Teramo prison featured two of them reprimanding a third for "massacring" a detainee in "the section". The problem was that he was seen doing it, "the negro saw everything", because "we could have had a riot" and "you don't massacre a prisoner in the section, you go downstairs". This led to the commander being suspended and an investigation that will not hear from the mentioned witness. The man referred to as a "negro" in the conversation, 32-year-old Nigerian Uroma Emeka, died "of natural causes" (a brain tumour) in custody on 18 December 2009. Questions were raised by Radical party MP Rita Bernardini as to why he was still in that prison when he "had the great guilt of having eyes to see what he shouldn't have seen". Luigi Manconi, of the association *A buon diritto*, said that Emeka's death, and the five hours that elapsed between his first feeling ill and being taken to hospital, shows the therapeutic abandonment in which the entire prison system lies.

The Genoa-based *il Secolo XXI* blog wrote about a case in the city that had received little press coverage. It involved Farid Aoufi, an Algerian who had lived in Genoa for over 20 years and was a repeat offender. He died at 22:35 on 8 November 2008 after he was arrested in the afternoon for theft. He fell out of a window on the third floor of the *carabinieri* station in Piazza Fossatello. Aoufi's wife stated that:

*I think that he fell during a struggle,...I have paid for a legal report that certified that there was nothing in his blood [the newspapers had spoken of traces of cocaine]....I won't give up, I want to find out what happened, the carabinieri gave contradictory versions, once [they said] that he was on his own, another time that they tried to catch him...they really treated us badly, because on the following day they did not explain what had happened to him to his mother, who had come by taxi from Marseille...it is not possible for an arrest for theft to end up like this...it is difficult to find a lawyer to assist me, they are conscious that they going up against the state...since he died, nobody has shown up, I am alone, without any explanation, ...they have treated me very badly, without any respect.*

The judge is assessing whether there are any criminal responsibilities, but a year on from the death, the culprits have still to be identified.

## Other deaths in custody cases

On 16 December 2009, the judge for preliminary inquiries' requested that the case against unknown people in relation to the death of Aldo Bianzino be shelved. His request that the cause of the death be treated as an aneurism was granted. The carpenter died in Perugia (Umbria) prison in October 2007, a few days after his arrest for growing marijuana plants at his home. Italo Di Sabato of the *Osservatorio sulla Repressione* (linked to *Rifondazione Comunista*), criticised the shelving of the case:

*Although injuries on his body were found including...signs of concussion, damage to his liver and two broken ribs after the death, that are clearly compatible with murder, and although the coroner excluded a death from a heart attack, Gip [giudice per le indagini preliminari] Ricciarelli's decision is astonishing and shows that by now, in Italy, there is absolute immunity for those who commit violent acts and unfortunately murders as well, in prisons and barracks.*

Another case that came under scrutiny was that of Marcello Lonzi, a 29-year-old who died in Sughere prison in Leghorn (Tuscany) on 11 July 2003. He was found dead by his cellmate with serious bruising, two dents in his head and broken ribs. His death was deemed to be “natural”, caused by a cardio-circulatory arrest. His mother filed a lawsuit, alleging that he was beaten when he was arrested. His body was exhumed and the prosecuting magistrate heard evidence from Lonzi's cellmate. “He was beaten, like Cucchi”, his mother said, noting that his medical report, dated on the day of his arrest on 3 March 2003 for theft (for which he received a nine-month sentence), reported that on his arrival at the prison he said that “he was beaten” and “his lower lip was injured”. Moreover, at the time of the medical examination he “reported blows, several grazes and bruising on his thighs and legs...pain in his mid-thorax requiring x-ray scans, he drags himself around on his right leg because he says his left one is injured”.

### **Suicides and an ECtHR ruling condemns Italy**

2009 ended with a record number of suicides in prison (71) and 175 deaths in custody (up from 42 and 121 respectively, in 2008). Overcrowding reaching a level that is 20,000 prisoners higher than regulation capacity and seven inmates had already committed suicide by 22 January 2010.

**Ivano Volpi** (29 years old) hanged himself four days after he was arrested for resisting a public officer and causing criminal damage on 16 January. He underwent a fast-track trial and was imprisoned in Spoleto (Umbria).

**Mohamed El Aboubj** was convicted and sentenced to serve six months' imprisonment in *San Vittore* prison (Milan) in a first instance ruling for participating in a revolt in Milan's *via Corelli* detention centre in July 2009. He was found dead in the toilet of his cell.

**Abellativ Sirage Eddine** (27) hanged himself using a sheet in the district penitentiary of Massa (Tuscany).

**Antonio Tamaro** (28) was detained in the “Workhouse” section of Sulmona prison (Abruzzo), not for a criminal offence, but because he was identified as a “socially dangerous” individual. He hanged himself from the window grating using a sheet on 7 January.

**Giacomo Attolini** (49) hanged himself from the cell toilet's window bars using a ripped T-shirt in Verona on the night of 7 January.

**Celeste Frau** (62) hanged himself in the cell toilet in *Buoncammino* prison in Cagliari (Sardinia) after he received a 12-year sentence for robbery. His lawyer protested his innocence: “After the publishing of his sentence, I would have fought in the [Court of] Cassation (Italy's highest appeal court) to have him acquitted”.

**Pierpaolo Ciullo** (39) who was in prison convicted of drug offences, committed suicide using a gas stove in Altamura (Bari) prison on 2 January.



A European Court of Human Rights ruling on 16 July 2009 in the case of Sulejmanovic vs. Italy which was filed in 2003 found that the Bosnian's detention in conditions of overcrowding at Rome's *Rebibbia* prison contravened article 3 of the European Convention on Human Rights. The detention conditions amounted to "torture and inhumane treatment", and a payment of 1,000 Euros in damages was ordered. The grounds for the decision were the two and a half months (from mid-January to April 2003) in which the prisoner shared a 16.2 square metre cell with five other detainees. Each inmate had only 2.70 square metres at their disposal. Other complaints were rejected. It was noted that following the period in question Sulejmanovic's living space increased, first to 3.20m then to 4.05m and finally to 5.40m, all of which are well below the 7 square metres deemed "desirable" by the Committee for the Prevention of Torture (CPT), but above the 3-metre benchmark that has been used in the past by the court to denote a violation of article 3.

### **Report highlights the growing prison population**

*Associazione Antigone* published its sixth report on prisons, entitled *Beyond what is Tolerable*, in reference to how the prison population has increased beyond the system's regulation capacity and reached its "tolerable" capacity with 63,460 prisoners on 15 June 2009. It highlights three key human rights violations:

- the unconstitutionality of the lack of legal safeguards with regards to actions by members of the prison administration that undermine the rights of people who are denied freedom;
- the absence of a criminal offence of torture, as required by the UN Convention Against Torture;
- the non-implementation of the Optional Protocol to the aforementioned Convention which requires that an independent authority be established to monitor the conditions in places where people are being denied their freedom.

The report notes an increase in the prison population at a rate of almost 1,000 prisoners per month. It says that this is due to laws on the repression of drug use, dealing and trafficking, the criminalisation of *sans papiers* and punishment of those who do not comply with orders to leave Italian territory, and tougher sentencing for repeat offenders. Moreover, the report details a decrease in expenditure on medical care in prisons, amounting to 34m euros between 2000-2008, and a reduction in use of alternative sentencing (with 9,406 people falling within this regime). 52.2% of the prison population is in remand custody (the figure was 36.5% in 2005) and thus have not yet been convicted. This is due to an increase in foreigners, a growing number of people serving short sentences and a standstill in the system for granting alternative sentences. A considerable proportion of people in prison are close to completing their sentences (32.4% have less than a year left and 64.9% have less than three years left to serve). They would, in theory, be able to request alternative sentencing (applicable when they have under three years left to serve). In 2008, over 21,000 people were imprisoned as a result of drug offences, and arrests under Art. 73 of the law on drugs amounted to 38.2% of detainees and 49.5% of foreign detainees. The amendment of presidential decree no. 309/1990 by the so-called Fini-Giovanardi law (no. 49/2006) did not explicitly criminalise drug use, but punishes the import, export, purchase, receipt and possession of proscribed substances, "conducts that may be enacted by dealers and

users alike”, the report notes. It does not distinguish between “soft” and “hard” drugs, and leaves the judge to establish whether dealing is involved on the basis of quantity, packaging etc. Thus, mere drug use may lead to penal punishment, particularly when it is committed by people who do not have the economic means or relations to fully exercise their right to defence.

1,434 people (25 of them women) are serving life sentences, against which a campaign, *Mai dire mai* (Never say never), has been conducted involving hunger strikes and appeals filed before the European Court of Human Rights in November 2008. In June 2009 there were 23,530 foreign prisoners (4,714 Moroccans, 2,670 Romanians, 2,610 Albanians and 2,499 Tunisians are the largest groups among them). Over half (13,825) were on remand, which is used more often for foreigners due to difficulties in establishing their residence and placing them under house arrest, in receiving adequate legal counsel and as a judicial safeguard against them absconding. The large number of foreigners entering prison is not reflected in their impact in the prison population, presumably because many were arrested for short periods as a result of irregular documents. The report also documents a number of cases involving violence against prisoners that are under investigation, and examples of good and bad practices in prisons.

## Sources

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To obtain the report, contact [segreteria@associazioneantigone.it](mailto:segreteria@associazioneantigone.it)*

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Ongoing coverage on this issue:

Associazione Antigone: <http://www.associazioneantigone.it/>

Osservatorio sulla repressione: <http://www.osservatoriorepressione.org>

Ristretti orizzonti: <http://www.ristretti.it/>

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