Handling Diversity on the Ground in Italian Asylum Appeals

Affrontare la diversità dal basso nei ricorsi in materia di asilo in Italia

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Abstract

In administrative, civil, and criminal courts, Italian judges are increasingly called upon to rule on crucial aspects of managing migration. One of the critical areas is undoubtedly asylum policies regarding access to asylum and the procedure for determining international protection. This article explores the daily work of international protection judges, who face challenges in accomplishing their tasks due to linguistic, socio-cultural, and geographical diversity. It links individual and organisational levels, showing how their work context shapes judges' practices. The study highlights the consequences of these practices in reinforcing social inequalities. Data was collected by combining semi-structured interviews with judges and shadowing in five court sections. The article reflects on the shadowing technique's potential for analyzing judicial sector dynamics, especially when combined with semi-structured interviews.

Keywords: diversity; courts; social inequalities; refugee status determination; Italy

Sommario

Nei tribunali amministrativi, civili e penali, i giudici italiani sono sempre più spesso chiamati a pronunciarsi su aspetti cruciali della gestione delle migrazioni. Uno dei settori più delicati è senza dubbio quello delle politiche di asilo, in particolare l'accesso all'asilo e le procedure di riconoscimento della protezione internazionale. Questo articolo esplora il lavoro quotidiano dei giudici della protezione internazionale, che si confrontano con diversità linguistiche, socio-culturali e geografiche. Il testo collega il livello individuale a quello organizzativo, mostrando come il contesto lavorativo influenzi le pratiche dei giudici. Lo studio evidenzia le conseguenze di tali pratiche, dimostrando come possano contribuire a rafforzare le disuguaglianze so-

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ciali. I dati sono stati raccolti attraverso interviste e attività di osservazione dei giudici in cinque sezioni di tribunale. L'articolo riflette sul potenziale della tecnica dello shadowing per analizzare le dinamiche del settore giudiziario, soprattutto se combinata con metodi qualitativi come le interviste semi-strutturate.

Parole chiave: diversità; corti; disuguaglianze sociali; determinazione della protezione internazionale; Italia

1. Introduction

Public institutions frequently overlook diversity, resulting in significant consequences for access to and fairness of public policies. This issue has gained prominence in Western countries due to increased migration, which has challenged public administrations to address migration-related issues while delivering public services, particularly at the front line. Among other public administrations, the judiciary in EU countries faces new challenges due to rising migration. Italy represents a clear-cut example: Italian civil courts exemplify this trend, with migration and asylum cases accounting for 20% of civil proceedings (Perilli 2023). Most of these cases involve Refugee Status Determination (RSD), the process by which governments or agencies, such as the UNHCR, decide whether an individual qualifies as a refugee. In Italy, 26 court sections created in 2017 handle RSD appeals, ensuring an effective remedy for first-instance asylum decisions.

The article argues that the rapid increase in asylum appeals since 2017 has forced Italian judges to confront significant diversity challenges (Italian Ministry of Justice 2024). RSD highlights the complexity of public administration in addressing diversity and migration issues. Specialised agencies, such as UNHCR and EUAA, provide training and guidelines for bodies and adjudicators facing these challenges. Researchers from various disciplines have studied how linguistic and cultural diversity complicates RSD decision-making. Drawing on this debate, this article focuses on how these challenges shape the service of justice for asylum seekers by concentrating on how asylum judges face diversity in their daily work and the consequences of their daily practices on implementing asylum appeals. This perspective can provide insights into the judicial profession within a transforming society.

Scholars in migration studies have noted the political nature of addressing migration-related diversity (Vertovec 2007), where linguistic, ethnic, and cultural differences can lead to social inequalities (Brubaker 2014). Intersectionality among various diversity axes can reinforce inequalities in

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interactions with government agencies (Capers, Jilke, and Meier 2024). The article argues that the responses of asylum judges to diversity-migration challenges may have consequences in the reproduction of social inequalities in RSD, particularly in the interactions between the state and the asylum seekers. In this regard, further investigation is needed to understand how asylum judges conceptualize and respond to diversity in their daily practice, particularly in encounters with asylum seekers, and how these conceptualisations and responses shape appellants' access to justice.

The article employs the Street Level Bureaucracy (SLB) framework, introduced by Michael Lipsky (1980), to examine policy implementation at the micro level. SLB research can bridge public administration and socio-legal studies, offering a valuable tool for investigating the judiciary's role in implementing public policies. To this aim, the article draws on socio-legal research arguing for the benefits of SLB research in understanding judges' discretion and organisational transformations affecting the judiciary (Mack and Roach Anleu 2007; Tata 2007; Dallara and Verzelloni 2022).

The article is structured as follows. It first develops the theoretical framework of the research, situating it within the existing literature on the diversity challenges faced by asylum adjudicators and the consequences of reproducing and reinforcing social inequalities in RSD. The case study, methods, and data analysis are then presented, highlighting the relevance of combining shadowing and semi-structured interviews in studying diversity challenges in courtrooms. Finally, the findings present two main diversity challenges: the language and socio-cultural knowledge barrier, focusing on judges' responses and their consequences on RSD.

2. Asylum judges' diversity-related challenges and strategies in context

The article examines the various challenges that judges encounter in direct interactions with asylum seekers and how they address these challenges. It considers asylum as street-level bureaucrats (Asad 2019; Dallara and Lacchei 2021; Glyniadaki 2024). These are frontline workers providing public services in direct contact with users. Despite working for different agencies and exercising various functions, street-level bureaucrats have common characteristics: i) they work within public services and allocate benefits or sanctions provided by their organisation to citizens; ii) in doing so, they interact directly with citizens during their daily work; and iii) they exercise 'wide discretion in determining the nature, amount, and quality of benefits or sanctions provided by their agencies' (Lipsky 1980, p. 3).

Due to their discretion, street-level bureaucrats are not mere implementers of top-down norms but crucial actors in policy implementation. They

interpret and adapt rules to specific situations, making numerous decisions that significantly impact policy application and content, effectively becoming de facto policy-makers (Lipsky 1980; Brodkin 2012).

Socio-legal scholars of the 'judgecraft' tradition – who focus on the process through which judges go about their tasks in the courtroom – argue that socio-legal research should benefit from SLB research (Mack and Roach Anleu 2007). Indeed, it offers an additional lens to investigate actors' relations within the courtroom (Tata 2007). SLB research can contribute to grasping social factors that affect judges' discretion by revealing the strict connection between judges' actions and their work environment and institutional context (Biland and Steinmetz 2017).

While existing literature focuses on how diversity-related challenges affect credibility assessments, more research is needed to understand how adjudicators perceive and address these challenges. Investigating adjudicators' views on diversity can help understand its impact on the RSD process. Thus, the article aims to examine asylum judges' diversity challenges, focusing on whether and how they conceptualise these challenges (RQ1).

Policy-makers and practitioners are increasingly aware of the difficulties arising from cultural, linguistic, geographical, and biographical differences among adjudicators and asylum seekers. UNHCR has highlighted these challenges since the early 2000s, and the European Asylum Support Office (EASO) has noted issues such as language diversity, cultural differences, and stereotyping risks. These factors can affect evidence and credibility assessments, leading to disparities in treatment and reinforcing social inequalities (EASO 2018).

Academic research supports these findings, emphasising the impact of language and cultural norms on the asylum process. Linguistic diversity poses a significant challenge in Refugee Status Determination (RSD), with institutional spaces often serving as sites of linguistic inequality (Maryns, Smith-Khan, Jacobs, 2023; Maryns, 2006). In asylum hearings, interpretation is crucial for managing processes and constructing narratives about asylum seekers (Maréchal 2025). Interpreters play a central role in shaping and legitimising asylum claims, revealing the connection between interpretation and power (Maréchal 2025).

The lack or low quality of interpreters can significantly influence asylum determinations and credibility assessments. Asylum seekers may struggle to convey their experiences accurately in a second or third language due to a scarcity of interpreters for less common languages or dialects (Pöllabauer 2015). Misinterpretations, caused by inadequate training or structural deficiencies, can lead to inconsistencies in applicants' statements and negative credibility assessments (Amato and Gallai 2024; Maréchal 2025).

Cultural differences, often linked to linguistic aspects, complicate asylum procedures. Adjudicators may assess credibility based on their sociocultural

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expectations, which can differ from those of asylum seekers (Dahlvik 2018; Glyniadaki 2022). For example, adjudicators might expect detailed, linear, and emotionally appropriate testimonies, but trauma and cultural norms can lead to fragmented or emotionally restrained accounts, raising credibility doubts (Spijkerboer 2005).

Policy-makers highlight the risk that adjudicators may unconsciously rely on stereotypes related to nationality, religion, or gender (EUAA 2018). Despite the available information and knowledge of the socio-cultural context of the asylum seeker, which can help reduce this risk, this knowledge is not neutral. Instead, it may reinforce stereotypes and overlook individual circumstances (Smith-Khan 2017). Expert evidence and *Country of Origin Information* (COI) may be biased or limited (Lawrence and Ruffer 2015).

After identifying the diversity-related challenges judges experience, the article aims to understand how they respond to them (RQ2). The article argues that judges, as street-level bureaucrats, adopt context-dependent practices and investigate contextual factors that can explain how judges respond to diversity challenges. Particularly, it focuses on the influence of the work environment, namely the court. Research has emphasised the importance of organisational culture, time pressure, efficiency goals, and available resources in shaping asylum adjudicators' street-level practices (Spire, 2007; Dahlvik, 2018). Relying on this literature, the article hypothesises that understanding asylum judges' responses to diversity challenges involves examining the relationship between micro and meso levels and how meso-level influences are interpreted and transferred into judges' practices.

3. What are the consequences of social inequalities?

RSD research has investigated the influence of adjudicators' practices on outcomes and the implementation process, for instance, showing the effects regarding disparity in treatment.

Contributing to this debate, the article discusses the consequences of diversity-related challenges, particularly the implications of reproducing and reinforcing social inequalities in asylum appeals (RQ3). Investigating this aspect can enrich migration studies focusing on RSD. Additionally, it aligns with SLB research more broadly, which must reflect more on social inequalities in implementation processes at the street level (Lotta and Piras 2019). Finally, the focus on judges and courts allows contributions to the literature on fair procedures and access to justice (Gutterman 2022), especially for vulnerable groups, such as asylum seekers (Gill et al. 2021).

SLB research can offer a valuable lens to investigate how social inequalities are reinforced and shaped in the courtroom when asylum judges respond to diversity challenges (Holzinger 2019). While conducting their tasks,

street-level bureaucrats must develop a particular client conceptualisation, and it often occurs by adopting normative judgements, reproducing and stigmatising social identities (Dubois 2010), such as gender, race, and education, as well as their behaviour and attitudes (Lipsky 1980; Maynard-Moody and Musheno 2003; Harrits and Moller 2014).

RSD research applying the SLB framework to asylum adjudication has shown these dynamics, demonstrating how the construction of the refugee, for instance, the categorisation of the 'true' or 'deserving' refugee, influences the adjudication process (Tomkinson 2018). Asad (2019) explains how US immigration judges responsible for asylum and deportation proceedings tend to interpret norms in a way that disfavour those they consider deportable immigrants, while adopting favourable decisions for those considered deserving to remain in the country.

Instead, few scholars have emphasized the challenges of street-level bureaucracies in mediating between government policies and the public, while confronting diversity, highlighting the relevance of SLBs' diversity conceptualization and responses in reproducing social inequalities.

For instance, Holzinger (2019) focuses on the linguistic discrimination experienced by Hungarian migrants when interacting with the Austrian Employment Service. More precisely, the author highlights the challenges of managing linguistic diversity for both institutions and individuals, exploring how language-related issues can lead to experiences of inequity for migrants in accessing labour market mediation services and benefits.

Another interesting case study on asylum is the work of Spire (2007), who demonstrates how coping mechanisms adopted by asylum workers in France can serve as instruments that reinforce inequalities. For instance, French asylum case workers prefer to process straightforward cases to work more efficiently. However, this can lead to avoiding processing situations of greater vulnerability and need. This neediness makes it difficult for asylum seekers to submit a complete and accurate asylum application. Being unable to present demands, possess organised documentation, or meet bureaucratic timelines and etiquette are signs of precariousness. This organisational strategy has the unintended consequence of disfavouring the most needy and vulnerable people.

To enrich this debate, the article examines the unique setting of the judiciary, particularly what occurs in the courtroom. In doing so, it aims to demonstrate that the SLB approach should be applied to examine judges' behavior and practices in encounters with appellants in the courtroom, which is conceived as a critical locus for reproducing social inequalities (Lotta and Piras 2019).

Why focus on the direct encounters between asylum seekers and judges? SLB literature highlights the unavoidable power asymmetry characterizing

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SLB-user direct relations, which cannot be overlooked when investigating the reproduction of social inequalities (Lotta and Piras, 2019).

In street-level organisations, users depend on the state for crucial services or sanctions (Lipsky 1980). In asylum cases, individuals seek state protection from severe human rights violations. Information asymmetries exacerbate power imbalances, as clients struggle to understand bureaucratic processes (Dubois 2010). This is particularly relevant in asylum hearings, where decision-makers, such as asylum officers, judges, and tribunal members, hold significant authority. These professionals control interactions due to the complex legal framework and their technical knowledge (Böhmer and Shuman 2007). Asylum seekers often lack legal terminology and bureaucratic discourse expectations, disadvantaging them. Despite their agency to construct narratives (Nikolaidou, Rehnberg, and Wadensjö 2022), asylum seekers rely on informal networks, leading to narratives shaped by survival strategies that decision-makers may penalise (Eule et al. 2019). Legal support and resources significantly impact RSD outcomes (Gill et al. 2021). The article examines the challenges of diversity in direct encounters between asylum seekers and judges, considering the roles of interpreters and lawyers.

4. Case study and methods

The article focuses on the Italian case for several reasons. First, Italy is an interesting case to study, where asylum cases are analysed by specialised court sections within civil courts. As mentioned, asylum proceedings have been a significant challenge for the Italian judiciary, which has been confronted with a rapid and substantial increase in asylum appeals. This remains a pertinent issue today. Finally, the Italian case, which is different from other EU cases, can offer relevant insights since asylum judges are responsible for adjudicating on the merit of the case, with the possibility to ask for clarifications, having direct contact with the asylum seeker in asylum hearings and conducting a complete examination of the case – not only on law or on paper, as in other EU countries (Gill et al. 2025).

Regarding methods, the research combines semi-structured interviews with the less common shadowing method in terms of research strategy. The research shows the suitability of combining these two methods for studying judges within their organisational environment.

Shadowing is a one-on-one ethnography, as it involves following a person throughout their daily activities, much like a shadow, even during breaks or informal moments (Czarniawska 2007). Notably, it involves taking notes, participating in events, and asking for clarifications from the person being shadowed. The aim is to 'see the world from someone else's point of view' (McDonald 2005, p. 464). It is beneficial to understand individual agen-

cy, which is defined as the capability of actors to choose specific courses of action in combination with roles, practices, and perspectives developed during daily work activities (Verzelloni 2019).

The research relies on shadowing conducted with 22 judges. It was possible to follow asylum judges for several days during their daily work, sitting in their offices before and after hearings and speaking with them in informal moments, such as during lunch breaks. The author conducted shadowing in five court sections specialised in migration and asylum, across all 26 court sections. All judges currently conducting hearings during the field research period have been shadowed. In Court B, only one judge was responsible for conducting hearings during the fieldwork period, while in Court A, the president of the court section scheduled a limited number of hearings. During the research period in the court, no hearings were scheduled. In one of the courts (Court F) where interviews were conducted, shadowing was not allowed due to restrictions imposed by the COVID-19 pandemic.

Data from shadowing have been analysed using 32 semi-structured interviews conducted with asylum judges from May 2020 to October 2021. The elite status of the interviewees justifies the choice of semi-structured interviews, given their knowledge, prestige, and power (Liu 2018). The interviews – conducted within a broader research project – were focused on three main aspects: a) their work practices before, during, and after the hearing; b) the asylum decision-making process, its peculiarities, and challenges; and c) their opinions about the asylum seekers, their job, the organisation they work for, and the institution of asylum more broadly. During the interviews, attention was paid to judges' diversity-related challenges in conducting their work and how they coped with them.

Interviews lasted an average of one hour each and were mainly conducted in person, although a few were conducted online through Microsoft Teams. In-person interviews have been conducted in judges' offices. They have been transcribed verbatim and analysed in the original language (Italian). Only quotes to be inserted in the article have been translated into English. Table 1 summarises the data collection.

Regarding data analysis, an initial codebook was developed based on the theoretical framework, modified, and then transformed into an iterative process that moved from theory to data. The use of MAXQDA supported the coding process. The codebook distinguishes between three principal codes: 1) judges' diversity challenges, 2) strategies to face these challenges, and 3) the consequences of these strategies in reproducing social inequalities. Each code has subcodes based on the literature and is integrated with the findings that emerged from the data.

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Table 1. Data collection: semi-structured interviews and shadowing with Italian asylum judges

Judges	Court	Date of the interview	Shadowing
Judge 1	A	28 May 2020	Yes
Judge 2	A	6 July 2020	Yes
Judge 3	A	31 July 2020	Yes
Judge 4	A	10 November 2020	Yes
Judge 5	A	10 November 2020	Yes
Judge 6	A	12 November 2020	Yes
Judge 7	A	16 November 2020	Yes
Judge 8	A	28 May 2020	No
Judge 9	B	1 February 2021	No
Judge 10	B	2 February 2021	No
Judge 11	B	3 February 2021	No
Judge 12	B	4 February 2021	No
Judge 13	B	30 March 2021	Yes
Judge 14	C	7 May 2021	Yes
Judge 15	C	10 May 2021	Yes
Judge 16	C	11 May 2021	Yes
Judge 17	C	13 May 2021	Yes
Judge 18	C	18 May 2021	Yes
Judge 19	D	16 June 2021	Yes
Judge 20	D	17 June 2021	Yes
Judge 21	D	22 June 2021	Yes
Judge 22	D	23 June 2021	Yes
Judge 23	D	28 June 2021	Yes
Judge 24	D	28 June 2021	Yes
Judge 25	E	14 October 2021	Yes
Judge 26	E	19 October 2021	Yes
Judge 27	E	20 October 2021	Yes
Judge 28	F	25 June 2020	No
Judge 29	F	2 July 2020	No
Judge 30	F	8 April 2021	No
Judge 31	F	9 April 2021	No
Judge 32	F	12 April 2021	No

Source: author's elaboration of data collection

5. The barrier of language

Significant linguistic barriers persisted in Italian asylum hearings at the time the research was conducted. Under asylum law, Italian judges may decide to conduct the asylum hearing by requesting clarifications and additional statements from the asylum seeker – the so-called audition – when they believe further information is needed to assess the case. At the time of the research, two different mechanisms for interpreters' appointment co-existed. On the one hand, the generalist approach, which is in place in the entire judicial system, involves a case-by-case appointment of professionals registered as interpreters in a court. On the other hand, at the end of 2020, a project funded by the European Union Agency for Asylum (EUAA) allowed judges to appoint an interpreter for asylum hearings, recognizing the specificities and peculiarities of asylum appeals. The research was conducted during a period of transition, when this mechanism was in the implementation phase in various court sections.

Data from shadowing and interviews suggest that the scarcity of professional interpreters led to significant communication difficulties between the judge and the asylum seeker (Dallara and Lacchei, 2021). According to interviews, all judges experienced difficulties in conducting their tasks due to communication problems with asylum seekers, and they were aware that this had relevant consequences for decision-making, particularly in credibility assessment. They often complained that they were tasked with the complex responsibility of asylum adjudication within an organisation, the court, which did not provide the necessary support for a quality service.

As mentioned, asylum judges could, in theory, appoint an interpreter, as in criminal hearings. However, courts often lack sufficient interpreters on their lists, particularly for certain languages. On the rare occasions it occurred, mechanisms of appointment through the court often worked informally, without standard procedures and relying on individual judges' efforts:

> I checked with the administrative office, and no Pashtu interpreter is in the registry of interpreters usually used for criminal hearings. Furthermore, finding interpreters would not be a typical administrative office job. I typically call them because I might hear about an interpreter appointed by another judge, but it is still tough (Shadowing Judge 26).

Other procedural barriers were also raised due to vague guidelines governing interpreters' payment in asylum proceedings. As explained by one judge after observing the first hearings in Court A, administrative impediments discourage interpreters from being appointed via the courts. During the lunch break, the shadowed judge said the situation [of interpreters] was complicated. She explained that they rarely appoint an interpreter because the court often fails to pay them. They have a problem with reimbursing

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these professional figures since it is unclear to whom the payment is due, whether to the Ministry of Justice or the Ministry of the Interior, in the event of a successful appeal. The judge explains that the existing provision only states that the interpreter is paid, but not by which institution; therefore, they risk not being paid (Shadowing Judge 4).

All these aspects reveal that the regular procedure cannot provide adequate instruments for addressing the specific needs of specialised sections on migration and asylum, posing challenges for asylum judges in their daily work. Specialised sections within the Civil Court Sections have been created to respond efficiently to the increase in proceedings in this policy area. However, no dedicated funds have been allocated to hiring needed professionals, such as interpreters (Law 46/2017). In this sense, despite the efforts to adapt the organisational arrangements in civil courts, there was no full awareness and response at the institutional level to the different needs required for quality justice in asylum appeals, where interpreters' appointments are not the exception, as it is in other fields of justice, but the rule.

As street-level organisations, local asylum courts respond to these institutional limitations by adopting different strategies, navigating a tension between, on the one hand, inadequate resources and vague guidelines and procedures, and, on the other, the goal of providing a good service of justice. These various strategies can have different consequences regarding asylum seekers' access to justice.

5.1. "We should rely on what we have."

Data highlights that, except for judges in court F, who rely only on interpreters appointed through the EUAA project, as described in the next paragraph, all other judges often ask asylum seekers to bring their trusted interpreter to the asylum hearing. However, they frequently complain about the quality of these interpreters. While in some instances, interpreters and mediators are available from the reception centres where asylum seekers are hosted, in several cases, these are non-professional interpreters, including friends and other asylum seekers (Interview Judge 13).

This raises questions about impartiality and the quality of the translation:

> Another difficulty is that of the interpreters, and since the courts do not pay them […], we should rely on what we have and ask asylum seekers to bring their [trusted] interpreters, but the quality is not good. Some people add or change things, thinking the appellant said something wrong. I understand when they speak in French, and it has happened to me several times that I interrupted the interpreters because they had omitted things, which, according to them, were not important (Interview Judge 18).

Shadowing confirms that most courts adopted this strategy as the primary response, which often resulted in a low-quality interpretation, with interpreters having difficulties speaking Italian. Only in one court did this mechanism often result in a complete lack of interpreters during hearings, which in some cases became impossible due to communication barriers between the judge and the asylum seeker:

> The main difficulties during the hearing are mainly linguistic because sometimes there are no interpreters […]. Sometimes, they bring a trusted interpreter, while other times, unfortunately, we do not have interpreters, so I must try to understand [the asylum seekers]. However, they often do not speak Italian, which is very complicated (Interview Judge 9).

This strategy, through which asylum judges tried, despite the structural deficiencies, to accomplish their task in a way that was as good as possible, had relevant consequences for asylum seekers and can contribute to reinforcing social inequalities. First, asylum seekers are asked to take on the burden of the host country's shortcomings while confronting the state's power. The state is asking them to provide proper, additional, yet fundamental resources: they are not only asked to tell the story to convince the authority of their right to be protected, but they also need to provide the instruments through which they will be able to tell that story. Thus, the state puts the future of asylum decisions in the hands of asylum seekers, especially if we consider that the presence and quality of interpreters can largely influence the credibility assessment.

Additionally, this request to alleviate the state's burden can affect certain asylum seekers more than others. For instance, for victims of human trafficking, trusted interpreters can be instruments of control, limiting their possibility of disclosing their conditions. In this sense, this practice can exacerbate power inequalities, affecting the most vulnerable and limiting their effective right to access justice.

Furthermore, this practice has significant consequences for those asylum seekers who cannot rely on a network or quality legal and social support. This is, for instance, the case of asylum seekers outside the reception centre. They are not supported in their asylum appeal and cannot rely on the limited number of interpreters available in the reception centres. In this case, the equity of their treatment depends on their human capital, namely, their social network (Kosyakova and Brücker 2020), and/or the lawyer's efforts in finding a quality interpreter (Stoufflet 2025).

Finally, since the contact between asylum seekers and interpreters occurs informally and independently of the court's role, this practice raises questions about economic inequalities, especially in cases where interpreters are not provided free of charge but at the asylum seeker's expense.

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On the court side, the lack of qualified interpreters may justify reducing asylum hearings, which can be very important in evaluating the case (Lacchei, 2023). For instance, in Court D, as confirmed by shadowing, asylum hearings were rare and represent an exception. In interviews with judges in this court, they rarely mentioned diversity-related difficulties that arise from direct encounters with asylum seekers. This finding can be attributed to the consolidated practice of holding asylum hearings only in exceptional cases. One judge, who was the most experienced, having worked in the specialised section since 2017, explained that they gradually reduced the number of asylum seekers' interviews because they realised that in most cases, they were useless. This has been attributed to the increasing expertise of the court section, which has helped identify cases that truly require a court interview, as well as the improvement in the quality of decisions by the first-instance adjudication body. In addition to this increased specialisation, s/he stated that language was a significant barrier and argued that, combined with cultural barriers, it often rendered asylum hearings useless (Interview Judge 21). In this sense, the structural lack of intervention to overcome these limitations can, under certain conditions, favor on-paper decisions, which are considered the most efficient way to conduct RSD in court, in a context of time pressure and resource cuts characterizing the contemporary judiciary (Colaux et al. 2023).

A fair procedure, including a quality interpreter, cannot be a matter of luck. The 'lottery' of refugee adjudication manifests through structural inequalities, which reinforce inequality and affect the most vulnerable. Indeed, the results indicate an increase in disparity among asylum seekers, based on their personal human capital, social network, and geographic location (Gill 2009; Marshall 2025).

Data also shows how a structural shortage of crucial resources and dedicated funds to properly respond to the peculiar needs of asylum courts, such as those of interpreters, can have important consequences for adjudicators' practices on the ground. In responding to a challenging working environment, they can adopt practices that may have the unintended consequence of reducing the quality of the adjudication process and access to effective remedies.

Locating these dynamics within a broader context, it appears that over time, the state has abandoned these crucial institutions, choosing not to invest largely in quality asylum adjudication systems, while investing in border control to limit access to the territory (Sunderland 2024). Instead, RSDs are left behind, undermining refugees' fair procedures and access to justice.

5.2. Support from outside

The few interventions aimed at overcoming structural limitations originated from outside, primarily through targeted projects funded by the European Union. As mentioned earlier, the research was conducted during the period when the EUAA project for interpreters' appointment was in its implementation phase.

What emerged from interviews and shadowing is the adoption of highly different strategies among courts, as confirmed by other studies (Perilli 2023).

Only one of the courts had implemented the project on a large scale at the time of data collection (Court F). Particularly, judges of Court F explained that they did not experience linguistic barriers anymore after benefiting from an EUAA project, which allowed them to hire professional interpreters:

> Before the collaboration with EASO [now EUAA], we had this terrible practice of having the asylum seeker bring their trusted interpreter. So often, the hearings were tough because of communication difficulties. Since this collaboration started, the level of interpreters has been very high, and there are no more problems. We email the EASO unit [of the court section] and ask for a mediator for a particular dialect and of a specific gender, and that is it (Interview Judge 31).

This data was not triangulated with shadowing: there was no opportunity to observe asylum hearings in this court. However, considering organisational aspects, the court, at the time of the interview, could rely on several EASO research officers, who supported judges in Country-of-Origin Information research and other related aspects[2]. These qualified professionals worked in a specific organisation unit responsible, among other tasks, for overseeing and organizing the call of mediators/interpreters at the judges' request.

The support from several specialised human resources from EUAA in the court section likely facilitated the project's implementation.

Other courts faced completely different situations, in which this opportunity was only partially implemented (Court A, Court C, Court E) or not implemented at all (Court B) at the time of data collection.

In courts A, C, and E, judges did not use the instrument as standard practice. For some judges, it is because the court section needed additional time to actually implement the appointment procedures in their daily work,

2 EUAA research officers have been appointed in Italian court sections specialized in asylum and migration since 2020 to support judges in conducting a preliminary analysis of the cases and conducting COI research. The number of EUAA researchers has recently reduced, and their work is more of consultancy and coordination.

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while others show a more skeptical approach. These judges considered the EUAA appointment mechanisms to be time-consuming and, according to the judges' experience, did not guarantee the quality of the interpreters.

Despite differences, judges were aware of the risks associated with relying on asylum seekers' trusted interpreters and have adopted a prioritisation mechanism, often developed at the court-section level. For instance, in court C, the court-section president decided to ask for EUAA interpreters only for vulnerable asylum seekers, especially those who showed indicators of trafficking, to guarantee the safety of the asylum seekers in disclosing their history (Shadowing Judge 18).

Even in other courts, a mix of strategies is applied, with certain applicants having EUAA-appointed interpreters while others ask to bring trusted interpreters. In the first case, what emerged from shadowing, at least in these contexts, was a not-so-evident higher quality of translation but more professional behavior and impartiality during the asylum hearing.

Despite being used by judges in some courts, the EUAA's appointment had some practical challenges, which had relevant consequences for asylum seekers. In court D, in three of the nineteen observed asylum hearings, EUAA interpreters did not attend the asylum hearing, which was postponed for several months. According to one judge, this sometimes occurred because there was no interpreter for a specific language on that day and due to a lack of rapid communication among the institutions involved (Shadowing Judge 25). The consequence was prolonging an already extended limbo for asylum seekers, who wait years for a final decision.

Finally, despite the possibility of adopting this strategy, it was not implemented at all, or at least not in the data collection, in one court involved in the study. The judge explained the reason:

> It is not always easy, as the interpreter's intervention should be organised in advance; however, the volume of work does not allow for this. I want to do that, for instance, by grouping the hearings by country so we can call the mediator paid by EUAA, but it is not easy to do that (Interview Judge 13).

In this court, only one judge was fully allocated to asylum claims, and he had no previous experience in the topic. Moreover, it was supported only by one EUAA research officer responsible for COI research, a proposal for an interview hearing structure, and a summary of each case before the hearing. In this context, there was no established practice to prepare in advance for the asylum hearing, as required by the appointment of an EUAA interpreter. This case shows how judges perceived organisational arrangements and human resources as barriers to implementing innovations to address courts' diversity-related challenges.

Relying on external support from the EUAA means that the organisation and institutional level prefer it, as is often the case with Italian migration and asylum governance (Campomori and Ambrosini 2020). This emergency approach does not guarantee structural change in these organisations, which rely on external funds and time-limited projects. The precarity of this mechanism can disincentivise judges from investing energy in implementing the measure, especially when the efforts required are countless due to work conditions. Indeed, the implementation process appears to be largely in the hands of the court sections and, particularly, court-section presidents, who are tasked with developing local procedures to implement the EUAA appointment system concretely in their daily work, with little to no support. Indeed, the implementation process is ruled by vague guidelines (e.g., who will appoint the interpreter and through which mechanism?) without considering the court section's actual resources, particularly human resources.

To sum up, on the side of asylum seekers' access to interpretation services and the ability of court sections to respond to the diversity-related peculiarities proper to their task, a targeted project, such as that of the EUAA, can offer a short-term response, allowing them to address all concerns mentioned in the previous paragraph. However, it can exacerbate territorial inequalities, with different levels of justice quality depending on the court sections and their shortage of human resources in terms of both numbers and asylum specialisation, as well as a different approach at the managerial level, especially from the court presidency.

6. The barrier of socio-cultural knowledge

Diversity-related challenges emerging from the interview also concern cultural aspects. This quote summarises the challenge experienced by asylum judges in RSD, who are confronted with asylum seekers from different socio-cultural contexts:

> There is serious incompetence on our part, of knowledge that we do not have; we need to know the context of origin of these people, their countries, because we read everything with a Western lens (Interview Judge 20).

Most interviewed judges shared this feeling, arguing that to assess the case properly, the judge must be familiar with the socio-cultural context of the asylum seeker. Indeed, they are aware of the effect it has on decision-making and particularly on credibility assessment, compared to other areas of law:

> The credibility assessment is different [from other fields] because we have a different culture than the applicants, so it is not easy because we apply our

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> maxims of experience and cultural maxims. In contrast, the applicant comes from a very different world, and you do not understand what world he comes from (Interview 16).

As emerged from the quotes, judges often rely on general experience principles while adjudicating, for instance, in criminal proceedings. However, in asylum proceedings, they often decide to rely on facts that occurred in the asylum seeker's country of origin, which increases the complexity of the adjudication and makes it extremely challenging. This challenge is particularly relevant for RSD but is exacerbated by structural aspects related to judges' training and educational path. Despite the increasing opportunities for specialised training organised by the Italian School of the Judiciary, which is responsible for judges' training, or by the EUAA, among the interviewed judges, only a few participated in these trainings, which primarily rely on a single judge's interest, but also available time, considering the significant workload they have experienced since 2017 (Interview Judge 7; Interview Judge 13). In this context, the training provided by the organisation to judges on international protection was considered insufficient to adequately address the diversity challenges arising from the different socio-cultural backgrounds of the asylum seekers:

> It is a meta-legal subject, and we have not been trained. During my studies and training as a judge, the subject of international protection practically did not exist. We must also change the legal training of magistrates. This subject goes beyond the approach that we magistrates have. We must understand that we must study the socio-economic and legislative aspects of the world's countries and change our perspective in exercising our functions (Interview Judge 11).

This lack of training is experienced by the most experienced judges and new judges who have just been appointed. This judge, for instance, was appointed as a judge only the year before:

> The subject of international protection suffers from the lack of training that characterises our profession, even during the training we do before practicing as judges. It is also less in-depth by judges who want to establish themselves, to make a career, for instance, in the Supreme Court… it is a bit of a second-class subject […], and therefore it is left to itself (Interview Judge 15).

As for the interpretation service, the specialisation of court sections on asylum and migration did not lead to structural interventions to make the judiciary fully capable of responding to the difficulties resulting from the peculiarity of RSD. In this context, asylum judges were tasked with accomplishing this crucial task in a challenging work environment, which has

significant consequences for both the institution and the asylum seekers (Holzinger 2019). In this work context, judges adopted individual strategies to overcome the challenges they experienced. However, these responses vary among judges. More precisely, data analysis shows two groups of judges: 1) the *inquisitive judges*; 2) the *disillusioned judges.* As explained in the following paragraph, they differ significantly in their approach to their job, which shapes their practices, with consequences regarding inequalities in asylum proceedings.

6.1. Inquisitive judges and efforts to overcome barriers

Inquisitive judges stressed in the interviews that the most essential characteristic of the asylum judge – fundamental to accomplish their job well – is to be open to learning from the asylum seekers' stories of different cultures and societies and the available information on the countries of origin (COI). One judge says:

> There is an almost inevitable influence [of your values and culture] when you decide on stories about a world very different from yours. What we can do to conduct our job well is listen and pay attention to the asylum seeker, discuss, question, and study a lot (Interview Judge 29).

Regarding asylum hearings, *inquisitive judges* tend to ask more open questions and clarifications related to the country of origin, the cultural norms and values, directly to the asylum seekers during the hearing. Interviewees argued that they put in place strategies for learning the socio-cultural context of the asylum seeker in the courtroom:

> Sometimes, however, we hear an absurd fact and do not question it; we consider it absurd, and that is all. Instead, by asking a few more questions, we can realise that what the asylum seeker told us makes sense. For example, during a hearing, an asylum seeker told us: 'I was taking a shower, and enemies came, and I ran off into the fields." At first glance, we did not believe it was possible, but I asked how it was possible to leave the house without being seen, and he explained that the shower was outside the home, as always in his village (Interview Judge 18).

Shadowing – when conducted – confirms that *inquisitive judges* stress this aspect during interviews, concretely develop these strategies during hearings, leaving questions more open, and often ask for clarifications and explanations from asylum seekers.

Despite most-experienced judges mentioning that experience made them more open towards the asylum seekers during hearings, data suggest that ex-

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perience was not a relevant factor, since even less experienced asylum judges displayed this attitude.

Additionally, they often prepared for the hearing by studying the country-of-origin information. When possible, they relied on the EUAA research officers to support judges in these types of activities. For instance, during shadowing in court A, in the office of Judge 6, the judge looked at the hearings set for next week and asked the EUAA officer in the room what s/he knew about Sikh minorities in Pakistan. He mentioned that next week, s/he would have an asylum seeker claiming refugee protection for religious persecution. The EUAA officer stated that there was available information on this aspect and will provide it to the judge. S/he also said that EUAA had specific guidelines for conducting interviews concerning religious persecution, and s/he would send them to the judge if interested. The judge accepted enthusiastically, thanked the EUAA officer, and said preparing for the hearing would be extremely useful (Shadowing judge 6).

In interviews with the author, judges emphasise that a preliminary study of the context and COI is necessary to conduct the asylum hearing properly, asking pertinent questions of the asylum seeker. They viewed these instruments as valuable tools for evaluating the case and were able to overcome the knowledge barriers faced by the adjudicator. Their attitude toward their job, particularly their interest in studying and learning subjects other than law, was the main factor explaining their behaviour. However, as explained in the paragraph below, the work environment can provide additional insights into the dynamics at stake.

6.2. Disillusioned judges, simplification strategies, and stereotypes

A different approach characterised *disillusioned judges*. In facing socio-cultural barriers, they feel unable to overcome them, and this attitude often leads to the reinforcement of these barriers and a widening gap between themselves and asylum seekers. While acknowledging the importance of socio-cultural context, these judges express frustration and a sense of helplessness due to the lack of resources to bridge this knowledge gap. As one judge noted: "You should be informed about everything, and it would be wonderful always to have an expert by your side, but unfortunately, this is impossible" (Interview Judge 15).

This frustration is exacerbated by the perceived difficulties in understanding asylum seekers' experiences, leading to a sense of disconnect. Another judge highlighted this challenge:

> Then I feel frustrated sometimes because you cannot understand or reach the point when you have an expectation. Still, there are difficulties in understand-

> ing the language, and even my ignorance is the cause. After all, maybe I do not know how certain things work, sometimes I say [to the asylum seeker]: 'Why didn't you call the police?' and they laugh in my face (Interview Judge 7).

Disillusioned judges perceive socio-cultural differences as a barrier to communication and understanding of asylum seekers, attributing this to the nature of RSD, which requires decision-makers to make decisions with minimal information at stake. For instance, these judges also argue that COI research cannot respond to these challenges, since "it usually only offers general context information, making it difficult to find specific details useful for decision-making" (Interview Judge 15). With this in mind, *disillusioned judges* often do not conduct in-depth Country of Origin Information (COI) research before hearings. Compared to *inquisitive judges*, they stress that COI research is not always so relevant for asylum hearings and prefer analysing them before deciding. They justify their strategy by referring to work contraints, arguing that COI research is highly time-consuming. For this reason, due to the high workload they experienced, they would rely entirely on the support of EUAA officers, which, however, was limited, especially in some courts (Interview Judge 11; Interview Judge 23).

Despite giving responsibility for the structural deficiencies of RSD, their professional training, and the scarce resources combined with the high workload, some *disillusioned judges* often add asylum seekers' responsibilities. More precisely, they argued that asylum seekers did not have the instruments for providing the required information:

> Some experiences are impossible to summarise in an hour's hearing, mainly because of the cultural or educational differences. They [the asylum seekers] are often illiterate or have a very low level of education, and therefore, they usually cannot even understand the depth of our question. We perhaps demand a depth that they may not even be able to give, for cultural or other reasons (Interview judge 20).

When this approach was adopted, it reinforced the power asymmetry in the adjudicator-appellant relationship, thereby reproducing social inequalities. They considered the vulnerabilities of asylum seekers, such as being illiterate, while navigating a complex bureaucratic procedure in a host country, as a barrier to communication, rather than an aspect to address during the asylum hearing, for instance, by adopting specific strategies to foster a positive relationship. The risk of this approach is that it may reproduce and reinforce power asymmetries during hearings and social inequalities in RSD (Bohmer and Shuman, 2007; Eule et al., 2019).

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7. Conclusion

This article has explored the diversity-related challenges asylum judges face in Italy while conducting Refugee Status Determination at the appeal stage. Particularly, it focused on navigating diversity-related issues in their daily work while directly encountering asylum seekers in the courtroom. By employing the Street -Level Bureaucracy (SLB) framework, the study has shed light on the complexities of implementing asylum appeals at the micro level and the connections between judges' practices and the work environment in which they operate. In this sense, the article presented a picture of the deficiencies of the contemporary judicial system in addressing the newly emerging diversity challenges specific to RSD. At the same time, it emphasised the need to examine the concrete responses of individual judges to these deficiencies and their impact on access to justice and fair procedures for asylum seekers.

The article uses the case of asylum appeals to reflect on the influence of power asymmetries and socio-inequalities inherent in the implementation process from a bottom-up perspective (Dubois 2010; Lotta and Pires 2019).

The findings reveal that asylum judges encounter two primary diversity-related challenges: linguistic barriers and socio-cultural knowledge gaps. These challenges are exacerbated by structural deficiencies within the judicial system, including inadequate resources, vague guidelines, and insufficient specialised training. The ways judges face the lack of professional interpreters and the judges' limited knowledge of the socio-cultural contexts of asylum seekers in the encounter with the appellants impact the quality and fairness of the asylum determination process. Under certain conditions, they contribute to reproducing and reinforcing social inequalities in the RSD process. Asylum seekers, already vulnerable, face additional burdens due to the state's inadequacies, exacerbating power asymmetries and information disparities. The study underscores the need for structural interventions to address these challenges, including allocating dedicated funds for hiring professional interpreters, providing comprehensive training for judges, and establishing clear guidelines for implementing specific measures in asylum courts.

In conclusion, this article emphasises the critical role of asylum judges in shaping the implementation of asylum policies. Doing so contributes to the broader debate on fair procedures and access to justice for vulnerable groups, highlighting the importance of addressing diversity-related challenges in the judicial system. Future research should continue to explore judges' work, looking at the new challenges arising in the transformed judicial office. To this end, it is essential to analyse the concrete functioning of the judiciary, shaped by individual practices. At the same time, keeping the micro and meso levels together is relevant, and SLB research can be a

valuable theoretical lens for this aim. Finally, the combination of shadowing and interviews contributes to this goal, permitting the investigation of professionals' behaviors and practices within their organisation.

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