



National Guarantor for the Rights of Persons Detained or Deprived of Liberty



National Preventive Mechanism under the OPCAT

The National Guarantor in the context of Covid-19 outbreak

Rome, 8 April 2020

Residences for people with disabilities or the elderly

The second report on the national survey on the Covid-19 epidemic in residential and social-health homes (RSAs) is available on the website of the National Health Institute (ISS) and — from tomorrow — on that of the National Guarantor. As the public may remember, the survey was launched by the ISS in collaboration with the National Guarantor. It is addressed to around 2,500 public or system-affiliated health care homes out of 4,629, which is the total number of nursing homes (private included): a significant scope of intervention. To date, the survey has involved 2,166 facilities: the response rate was 26.6% with wide regional variability. It is in the perspective of the working group to provide data any time it receives feedbacks from the questionnaire. The average number of elderly housed in the nursing homes that have answered today is of 78 patients, thus 44,457 residents have been involved. The second report considers the number of deaths occurred from March 26 — which is the date of the first report — to April 6 in 576 structures: 3,859 residents in total. The highest percentage of deaths was recorded in Lombardy (47.2%) and Veneto (19.7%). Within this overall number, only 133 deaths were tested positive, while 1,310 had shown flu-like symptoms, but the reason of their death was not confirmed with a test. This figure relates to 37.4% of the total deaths. People living in the RSAs that have answered the questionnaire — but were housed in a hospital — were 1,969: the 48% of them showed flu-like symptoms, trouble breathing (i.e. fever, cough or shortness of breath) or pneumonia (regardless of them being tested). The figure relating to the lack of Personal Protection Equipment remains high, as 85.9% of the structures were not provided adequate supplies. Almost all, however, have adopted alternative means of communication compensating visual visits, using phone calls, video calls, and social networks. The survey was also addressed to staff. The region with the highest number of facilities with staff tested positive is Lombardy (34.6%), followed by the province of Trento and Liguria (both 25%), then Marche (16.7%). In a comprehensive item called “adverse events”, the investigation included accidents, dispute outcomes or even falls and their number was requested from the beginning of February to date. From the responses received so far, it can be assumed that events of this type occurred in 34% of the structures, with a higher incidence in Piedmont and in the other regions, which were more directly involved in the contagion. Emilia-Romagna is an exception in this context. However, it should be noted that the number of events compared to the total number of residents in the structures interviewed by region is rather low, ranging from 0 to 4.3%.

<https://www.epicentro.iss.it/>

Prisons

With a letter sent to Bologna prison governor, to the Prison Regional Directorate and to the president of the Supervisory Court, the National Guarantor asked for clarifications and/or disconfirm of the dismaying news arrived to its office about the long-term deprivation of outdoor exercise for a large number of prisoners in said institution. The National Guarantor is waiting for a reply, hoping for its disconfirm because otherwise the situation would constitute a breach to one of the fundamental rights of prisoners that international conventions have affirmed since the 1950s. For a completely different

aspect, the National Guarantor had to send today a letter requesting information and commitment regarding the prisoners' right to improve their knowledge which, as interpreted in our Constitution, refers to the right to education. Even if schools and universities are experiencing lockdowns — and consequently there is a problem for finishing their educational programmes — it is nevertheless necessary to remember that, in a large number of prisons, remote schooling has not been considered as an alternative to vis-à-vis teaching. Furthermore, the compensating means of communication made available for conducting individual visits with families and lawyers and as well, as reported, with some Guarantors have not been used for this purpose. In the letter sent to the Ministers of Education, University and of Justice, the National Guarantor expressed its being certain that both Ministers will always consider paramount the prisoners' education in their pathway to rehabilitation and social re-insertion. Hence, it made itself available to help evaluating together any modality to be undertaken to make the right to education effective also for that part of the population living in a condition of deprivation of personal liberty.

While there is a persistent downward trend in the number of prisoners, which has now fallen to 56,102, we cannot hide worries about the laboured application of the measures provided for by articles 123 and 124 of the recent Decree-Law No. 18. After this new bulletin, the National Guarantor will undergo an evaluation of the numbers related to prisoners and staff tested positive based on tonight's Prison Administration report (it also received some alarming news from at least one prison establishment).

The international networking

Today, the Secretary General of the Council of Europe, Marija Pejčinović Burić, issued to Member States a toolkit with guidance on respecting human rights, democracy and the rule of law in the framework of the Covid-19 sanitary crisis. The toolkit is designed to help ensure that measures taken by member states during the current crisis remain proportional to the threat posed by the spread of the virus and are limited in time. The document notably covers four key areas: 1. Derogation from the European Convention on Human Rights including article 3 on the prohibition of torture and inhuman or degrading treatment or punishment; 2. Respect for the rule of law and democratic principles in times of emergency, including limits on the scope and duration of emergency measures; 3. Fundamental human rights standards including freedom of expression, privacy and data protection, protection of vulnerable groups from discrimination and the right to education; 4. Protection from crime and the protection of victims of crime, in particular regarding gender-based violence.

<https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>

In its Bulletin 1, the European Union Agency for Fundamental Rights (FRA) assessed the fundamental rights implications of the coronavirus pandemic in the EU, highlighting some problems and considering them precisely from the perspective of human rights. FRA focuses on the solutions adopted by different countries on prison establishments and on immigration detention centres, including the Centers for asylum seekers. It also considered the actions carried out by some countries to sanction fake news related to this area. Furthermore, the document highlights some startling initiatives undertaken by member states, such as in Hungary where the authorities put a red warning label on the door of the person put in quarantine and regularly check the person concerned or in Bulgaria where the new rules stipulate that violations to quarantine are to be punished by up to five years of imprisonment.

<https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1>

Residences for the execution of security measures (REMS)

Yesterday's bulletin reported the first case tested positive in a REMS (in Ceccano, Frosinone). Today's information reports two other cases in San Maurizio Canavese REMS (Turin), which were sent to the local hospital. The National Guarantor is monitoring the situation in all these Residences, also in relation to the measures taken to prevent the spread of the virus and to protect patients and staff.

Psychiatric Diagnosis and Treatment Services

The Italian Psychiatric Society (SIP) has appealed to the Italian regions «to urgently approve ad hoc guidelines for mental health services and ensure equal access to healthcare for psychiatric patients tested positive for Covid, the safety of staff and the continuity of care during the current health emergency. In the appeal it is underlined that to counter the risk of creating new outbreaks of infection». It is necessary that all Covid-19 patients with mental disorders sent to hospital are accommodated in the hospital's ordinary wards (as for all citizens) and are upheld by mental health services staff, in order to prevent any form of discrimination. Another solution is to create separate Covid areas or rooms in psychiatric wards, bearing in mind that patients suffering mental disorders need more specialised assistance than other ill patients with a chronic disease do.