



*Garante Nazionale
dei diritti delle persone detenute o private della libertà personale*

PRESS RELEASE

Ocean Viking: the National Guarantor for the rights of persons detained or deprived of liberty calls upon the Maltese and Norwegian counterparts to coordinate actions for protecting the migrants' rights onboard the rescue ship.

Rome, 22 August 2019 – The ship, Ocean Viking, is awaiting port access in international waters with 356 migrants onboard (including 103 minors, many of them unaccompanied). Persons were plucked from the sea in four separate missions conducted between August 9th and 12th.

This is the umpteenth standoff involving a charity-run ship, rescuing persons in distress at sea and requesting a Place of Safety access. A condition that is nevertheless causing conflicts of jurisdiction between European Countries. In this situation, which calls for cooperative and networking initiatives not only between the concerned authorities, but as well among the independent guaranteeing bodies in the interested States, the National Guarantor has often recorded the lack of intervention of its counterparts, the European National Preventive Mechanisms, pursuant to the Optional Protocol to the UN Convention Against Torture (OPCAT).

Facing the perspective of a new 'de facto' deprivation of liberty of the rescued persons, which seems indefinite, the National Guarantor has taken an initiative addressed to two European NPMs, aiming at enhancing the safeguard of the rights of those onboard the ship. To this purpose, a letter was sent to Aage Thor Falkanger, the *Parliamentary Ombudsman of Norway*, to Helga Fastrup Ervik, Head of the Norwegian NPM, and to Andre Camilleri, Chairperson of the *Board of Visitors for Detained Persons of Malta* (in copy, Malcom Evans, Chairperson of the UN Subcommittee on Prevention of Torture, who acts as coordinator of the many NPMs). Indeed, they are the independent authorities, respectively, of the ship's flag State which has jurisdiction on the persons aboard and of the State among which a conflict of competence about the migrants' rescue has arisen. In its letter, the National Guarantor urges a joint action (in the form of a letter, a complaint lodged to the concerned judicial authorities or similar others) to be addressed to the relevant national bodies. This proposal has the objective to promote coordinated initiatives among the NPMs, and at the same time to raise awareness and take responsibility among the national Authorities concerned on the respect of the international commitments to which they are equally bound.

Over more than a year, the National Guarantor had cast an attentive eye on the safeguard of the rights of migrants first plucked from the sea, then blocked for days aboard different charity-run rescue ships: in this direction went its monitoring visit onboard the famous "Ubaldo Diciotti" ship and its further information made available to the relevant Prosecutor's Offices. All has been done after a thorough assessment of the occurring situation, free from any political judgments or considerations on the behaviours of those responsible for the rescue mission. Moreover, it is with no doubt acknowledgeable that a person cannot be left in a state of limbo regardless of their rights and in material conditions which worsen day by day. This situation, which is a *de facto* deprivation of liberty, implicitly exposed the stranded migrants to the risk of being pushed back. Besides, the rescue ship standoff being perpetrated — sometimes for weeks — can amount to the violation of the right to dignity, which pertains to any individual in absolute terms.