



## 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*

29 May 2020

#### **Prison institutions**

The number of prisoners in detention facilities are 52,622; those placed under home detention — granted since March 18 — are 3,555, out of them 1,005 are wearing an electronic tag. Unfortunately, to these numbers we should also reckon additional 21 persons who committed suicide from the beginning of 2020 until today. Though not considered in its complexity, this number is higher than in the last two years (on the same date, they were 16 in 2019 and 18 in 2018). What is striking is that two cases out of the last three refer to offenders newly arrived to prisons and suddenly quarantined for medical reasons. This dramatic contingency makes us reflect on what kind of impact such a quarantine period may have on a person that — all of a sudden — has been added to their precarious life lived outside prison the intrinsic vulnerability connected to the deprivation of liberty and the placement in isolation from the very outset of their detention. The National Guarantor is well aware of the aim of preventive isolation to protect the whole community from contagion and, in particular, those who work or live in the facility the newly arrived offender is entering. However, such awareness shall always take additional consideration for specific vulnerabilities, such as the one described, to be addressed with tools that are also exceptional — as the situation that is determining them is unique. For this reason, the National Guarantor recommends to step forward the implementation of the so-called 'suicide prevention protocol' — which is followed in normal times — and boost practices by additional and tailored psychological support to be provided for these particular groups of detainees, albeit with all the necessary protective measures be applied on workers employed for this task. While awaiting to evaluate with the competent Authorities, which proposal can be put in place to address this specific issue — also in consideration of the numerical size that it could represent if prison admissions increase — the National Guarantor would like to promote the possibility to set up, at least temporarily, a support team to be recruited through an urgent call similar to the one launched for providing the prison administration with socio-health workers.

On the side of the prisoners' right to education, the National Guarantor reaffirms the need for prisons to continue their educational activities, after the sudden interruption in March. It urges the Authorities concerned to resume and carry out educational curricula in the form of distance learning currently provided for colleges outside, so to allow a continuous support until the end of the school year. If some schools in prisons have already ensured the continuation of

courses in said methodology (so-called *Dad*, Distance Learning), however, this new method has been limited to a few experiences. According to a survey carried out by some prison educators, only 20% of the prison establishments ensured the students some sort of education services, where scheduled courses can hardly be considered sufficient (one video call per week/per class with a representative of the class or two hours of lessons once a week).

However, in this context, the National Guarantor has flagged the positive experience of an education course bolstered by the Ministry of Education and Rai — the Public Service Broadcasting in Italy. The Ministry set up a "classroom" for students enrolled in the Provincial Centres for School Education for Adults (*Centri provinciali per l'istruzione degli adulti – CPIAs*) and started "The school on TV - Adult education" course, which is splitted into 30 lessons and is involving almost 230,000 adults enrolled in the current school year, among them 10% are prisoners. All lessons will be offered on *Rai Scuola* (channel 146) Mon-Fri at 11h00 am, 4h00 and 9h00 pm.

### **Migrant persons**

On May 25, the Immigration Removal Centre (CPR) in Potenza-Palazzo San Gervasio closed for its building renovation. Thus, the number of detainees in the Italian CPRs has further declined to 178 persons (they were 195 on May 22 and 425 on March 12). To date, the operational CPRs are, therefore, six: Bari, Brindisi-Restinco, Rome-Ponte Galeria, Torino, Gradisca d'Isonzo and Macomer. The availability of places is of 525: now, only 30% are occupied. In addition to Palazzo San Gervasio, renovations are also ongoing in the CPR in Caltanissetta (refurbishment started in early May).

At the very outset of the emergency, the National Guarantor administered a questionnaire to the CPRs' directors of the managing bodies to record the general conditions and critical issues experienced, in particular with regard to the measures adopted to prevent and contrast the spread of the infection from Covid-19. In Bulletin #26 (of April 21), the main results of the survey were reported. In the first week of May, the National Guarantor re-administered the same questionnaires to update information.

Compulsory quarantine and isolation wards have been arranged in the majority — but not all — of the CPRs. Some detainees in Gradisca d'Isonzo and Rome-Ponte Galeria have been placed in quarantine, while no migrants are accommodated in the isolation wards. Some actions connected to the Coronavirus outbreak have now become the *modus operandi* in most CPRs. Preventive sanitization of the facility, supply of protective devices, distribution of hygiene kits, detection of body temperature, increased number of swab tests, distribution of multilingual information leaflets have all contributed to very low spread of the infection in the CPRs since the beginning of the health emergency. As in other closed places where some daily activities are carried out in common environments, the outbreak of an infection can easily change into uncontrolled spread. Therefore, it is positive that the Authorities continue with the same attention paid so far, keeping in mind that the infection trend has not yet reached the plateau and may show fluctuations in the forthcoming months.

As already noted, some CPRs have diluted contacts of detainees with the outside world, if not completely suspended. In some facilities, alternative tools of communication have been put in place to compensate contacts already put on hold. Nonetheless, communication with the world outside has always been a problem in the CPRs, and during the pandemic — notwithstanding some positive results with the use of video calls — it continues representing an issue still to be regulated. The National Guarantor wishes that the experience of video calls (with all those

where a direct dialogue is theoretically possible) could continue beyond the pandemic emergency, and expand to the Centres that have not implemented them so far. The new CPR's regulation is undergoing a first draft by the Ministry of the Interior and will be ruling all CPRs nationwide. All provisions included in the new regulation will be of paramount importance in the management of the CPRs. The National Guarantor is always at the Ministry's disposal to enhance the debate with those factual elements observed during its monitoring visits, which are at the core of its Recommendations. Their main objective is to build upon a system of rules that gives due attention to safety issues and the thorough protection for the rights of migrant persons.

Eventually, it is worth noting that the questionnaires results speak of a general calm situation in all CPRs, especially in the month of May with no protests or tensions outbreaks. This is probably due to the reduction in overcrowding, even in those CPRs, such as Gradisca d'Isonzo and Macomer, which until recently have continued to work almost at their maximum regulatory capacity.

As stated, the whole issue of repatriation was repeatedly discussed when borders are temporary closed and therefore the real possibility of getting persons returned to their home countries is almost inapplicable. The overall legitimacy of a detention order — depriving a person of their liberty and having a perspective that cannot be fulfilled, at least in a short time, continues to be doubtful. In this context, the National Guarantor is reporting the position of the United Nations Network on Migration, which includes, among others, the International Organization for Migration (IOM), the UN High Commissioner for Refugees (UNHCR) and the World Health Organization (WHO). The Network calls on States to suspend forced returns during the pandemic, a position that certainly constitutes a starting reflection not only for the authorities concerned, but also for the guaranteeing bodies ([https://migrationnetwork.un.org/sites/default/files/network\\_statement\\_forced\\_returns\\_-\\_13\\_may\\_2020.pdf](https://migrationnetwork.un.org/sites/default/files/network_statement_forced_returns_-_13_may_2020.pdf)).

In the document, it is written that the United Nations Network on Migration is concerned by reports of States in many regions using forced return of migrants as a measure in response to COVID-19. In this regard, the UN calls on States to suspend forced returns during the pandemic, in order to protect the health of migrants and communities, with the aim of supporting the human rights of all migrant persons. The statement focuses on forced returns intensifying public health risks for everyone — public officials, health and social workers and origin communities, where, in many cases, health systems are already stretched due to the considerable increase in work consequent to the pandemic.

Of course, this was not the position taken by our country. Some factors and choices have resulted in Italy not using forced return of migrants as a measure in response to COVID-19. The reduction in numbers in the CPRs is therefore not linked to the UN analysed framework. Nonetheless, the Network's document calls for reflection on the issue of the Immigration Removal Centres as such. This implies that a back on track to old fashioned policies in the management of immigration policies is not to be considered in the future agenda. The reasons are twofold: first — from a global perspective — this would result in increasing the risk of spreading the infection, and second the experimentation of a difficulty has a cultural enhancement value only if the questions it poses do not find old answers.

As of today, the total number of migrant persons held in the three operational hotspots, which have been repurposed as a COVID-19 quarantine compound for migrants arriving ashore the Italian coasts, is of 218 migrants: 111 are held in Lampedusa, 56 in Messina and 51 in Taranto.

People quarantined on board the "Moby Zazà" vessel, who have recently reached Lampedusa island on different occasions, as reported in the National Guarantor's Bulletin #33 of May 22, are 232 (on May 27, 71 migrant persons landed on the island and climbed aboard the ship). The National Guarantor acquired some information from the Ministry of the Interior about the migrants' temporary stay on board, also in relation to the tragic death of a Tunisian citizen who fell from the ship in circumstances under investigation by the Judiciary. On the Moby Lines ferry, the use of which is established by decree of the Chief of Civil Protection of April 12, the management and care of the quarantined migrants are entrusted to the Italian Red Cross (CRI), assisted by the Sea and Air Border Health Department. CRI is in charge of health care, personal assistance, administrative management, distribution of goods; the information is conveyed in eleven languages. CRI staff consists of 23 persons, including doctors, nurses, cultural mediators, psychologists and personnel trained in emergency management. Migrants welcomed on board are accommodated in single cabins, except for families. According to the Ministry of the Interior, part of their day is dedicated to "transversal activities" carried out on a bridge, called *safe place*. Migrants have access to the bridge in groups and at scheduled times in order to avoid gatherings. Said activities have a focus on information delivery, *focus groups*, time for prayer, *wi-fi* connection and mobile phone recharge; the information, in particular, is relevant to the right to health, to international protection procedures, to the prevention of human trafficking and the protection of minors. For security reasons, the "Moby Zazà" vessel has implemented regular law enforcement patrols when the ship is in the territorial sea off the coast of Agrigento. The chartered ship, in fact, is anchored in Porto Empedocle, but not permanently as it moves towards Lampedusa to face any situation of distress at sea and rescue migrants. The National Guarantor can only express its doubts regarding this shuttle operations carried out with migrants aboard: any time we should consider that migrants hosted on board have experienced migratory routes completely or in part by sea and in most cases in dangerous and uncomfortable conditions. All the elements that characterise these particular quarantine operations shall be discussed with the responsible Authorities.

As regards land borders, following the partial lifting of the anti Covid-19 measures, the so-called "Balkan route" has become active again. From the Ministry of the Interior, the National Guarantor acquired information about the arrival of migrants across the external border of the Friuli-Venezia Giulia region. At present there are 340 foreign citizens placed in isolation in the province of Trieste in private structures, which are managed by the town Caritas.

### **National and international networking**

The Council of Europe Commissioner for Human Rights, Dunja Mijatovic, called on member states to pay attention and investigate the causes of the large number of deaths occurred in care facilities for the elderly and disabled. In Europe, she continues, 50% of the deaths took place in these structures where some fundamental aspects, enshrined in the European Conventions, relating to care and assistance were possibly put at stake: the right to life and the right to respect for private and family life (Articles 2 and 8 of the European Convention on Human Rights) and the principle of equality of care (Article 3 of the Convention on human rights and biomedicine). Furthermore, the Commissioner recalls the World Health Organization warning contained in the 2016 guidance that raised ethical issues in the management of intrinsic vulnerabilities in some persons deprived of their liberty in long-term care facilities, heavily dependent on other people and therefore potentially more exposed to the risk of contagion. (<https://go.coe.int/gx7QR>)

By a large majority, on May 26 the Regional Council of Liguria approved the law establishing the Guarantor for the rights of persons subjected to measures depriving their personal liberty. The National Guarantor, which since its appointment in 2016 has supported the need to designate guaranteeing Authorities in all the Italian regions, especially those lacking this body, welcomes with satisfaction the regional law establishing the Guarantor of the Liguria region. In fact, the new designation, from a regulatory point of view, is going to integrate the national network, which is not yet including the Basilicata region. We really wish it can complete its regulatory process as soon as possible.

### **From the Guarantor's Office**

As already reported, the National Guarantor has launched a **selective procedure for staff to be appointed in the Unit "Health care and deprivation of liberty"**. It is a selection, by qualifications and job interview, of three posts (two of "category C" and one of "category D", according to the classification of the national employment contract - Healthcare sector).

The deadline for the call, initially set for May 30, has been extended to June 15. Candidates must already be enrolled in the public Administration and operate in the health sector. A self-certification of the candidate's qualifications is to be attached to the application form.

[http://www.garantenazionaleprivatiliberta.it/gnpl/it/dettaglio\\_contenuto.page?contentId=CN G8689&modelId=10021](http://www.garantenazionaleprivatiliberta.it/gnpl/it/dettaglio_contenuto.page?contentId=CN G8689&modelId=10021)

The National Guarantor's **Report to Parliament 2020** will be presented on June 26, the International Day in Support of Victims of Torture, at 10h00 am. It will be possible to follow it on the web platform. The access link will be communicated to those who have confirmed their participation at [segreteria@garantenpl.it](mailto:segreteria@garantenpl.it) by June 15.

Journalists have to register, by sending an email to [ufficiostampa@garantenpl.it](mailto:ufficiostampa@garantenpl.it).

*All issues of the Bulletin are available on the National Guarantor's website in the Covid-19 page:*

<http://www.garantenazionaleprivatiliberta.it/gnpl/it/covid19.page>