



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



National Preventive Mechanism under the OPCAT

16th March 2020

The Law decree

At the time of writing this new bulletin, the definitive text of the article related to the prison service that will be included in the final governmental Decree (being approved this afternoon) is not yet known. The whole day was characterised by hypotheses, proposals and requests from different actors. The supervisory judges, through its representative association (Conams), stressed "the need for urgent application of effective and rapid measures to prevent and contain the virus outbreak in prisons", in the perspective of "a well-thought, organised and differentiated plan of releases that at least will bring the official prison capacity within the limits of the operational". At the same time, it called for "exceptional support measures for the justice sectors that will implement said provisions". For their part, all the main organisations operating in the penitentiary field – both religious and secular - have spurred judges to employ effective measures that can keep up with the problem and its rapid spread.

The National Guarantor has long talked with the Government representatives, highlighting the criteria of necessity, number of inmates that can be reached by the measures and their simplified implementation. The National Guarantor proposed to employ alternatives such as home detention, early release and permission to spend the night at home for prisoners in semi-liberty regime. Nevertheless, it underlined that all proposals should also give a regulatory framework for decisions undertaken by the supervisory justices at local level, through meetings and discussions with the territorial ombudsmen/guarantors, and occasionally also with some prisoners' representatives.

On the contrary, the Government has chosen to intervene on the obligations imposed by Law 199/2010 ("Provisions addressing the possibility to serve prison sentences of up to 18 months, even residual, on home detention"). Until June 30th, a simplified procedure will be provided for the measure to be implemented. On one side, the new procedure wipes out some restrictions that required the supervisory judge's evaluation; on the other, it introduces other obligations such as no disciplinary sanctions imposed on the prisoner. Furthermore, it provides for the necessity to schedule the implementation of the provision according to the availability of electronic monitoring bracelets.

Overall, this is a short, but first step, which - however - will achieve almost immediate results for short sentence terms while for longer prison sentences, it will be articulated in the coming weeks.

Prisons

From the network of local Guarantors, the National Guarantors got information about the many prison establishments, which have adopted the restrictions on family visits though boosting on the possibility to engage prisoners and their families in video calls via Skype and increasing the number of phone calls. Measures to raise awareness on how to prevent the Covid-19 spread among prisoners were implemented and mainstream information given. Volunteering, chaplains and the Caritas are working to make up for the lack of support that ordinarily comes from families' care packages and money orders.

In all penal institutions, a triage service has been put in place to check people accessing the prison from the outside (new arrivals, prisoners transferred from other facilities, legal advisors, other staff, etc.).

Residences for the execution of security sentences (REMS)

The National Guarantor got information from 14 REMS. They described the situation as follows: family visits have been almost everywhere suspended or sometimes reduced; at the same time, telephone or video calls were increased.

Everywhere, rehabilitation and recreational activities have been boosted but they are carried out inside the facility, given that any activity outside are subjected to the limitations valid for the general population.

Immigration Removal Centres (CPRs) and hotspots

In the CPRs, the situation has been substantially unchanged in terms of the number of detained persons the National Guarantor reported in its bulletins up until today.

The question raised by the National Guarantor to the Ministry of the Interior regarding the administrative detention of those who, although approaching the maximum length of pre-removal detention, cannot be repatriated - due to the flights lockdown – remains unanswered. The detention in CPRs of migrants - who actually cannot be repatriated - risks to become an "illegal detention" pursuant to the Return Directive 115/2008.

The situation in the hotspots is of 26 people in Lampedusa, in preventive quarantine by order of the isle's mayor, 288 migrants in Pozzallo – who are staying in the facility since thirty days and are waiting to be relocated in other European countries. However, the procedure was stopped due to the ongoing health emergency.