



## 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, 21 April 2020 (2773<sup>rd</sup> Rome foundation day)

#### **Networking with the local Guarantors**

On April 22<sup>nd</sup>, the National Guarantor will hold an online meeting with the county monitoring bodies. For the National Guarantor, networking with the regional counterparts is the first information source because they have the advantage to cascade information from the local representatives (municipal, metropolitan areas and provinces), which are closer to the community.

In the meeting's agenda, the oversight on the situation inside places of deprivation of liberty from a double perspective: the contagion trend and the impact of these places' lockdown on their daily routine. At the core of the discussion, the planning of the so-called "phase 2" — which will happen when established, possibly along a step-by-step return to normality. The key aspect of this reconstruction phase will be to treasure the positive experience, though different in the many situations, developed in all these places before the Covid-19 emergency that — notwithstanding the limits imposed by restrictive measures — have been enhanced by the additional value of ITC technologies and means of communication. What has been experienced in this period with compensating and alternative means of communication to contact visits (with family members, with the Guarantors ...) may become an element of further support to standard life in detention. For example, the use of Skype calls has made it possible to get in contact with family members who were unable to move from their homes (like the elderly) and, therefore, lost contact with their beloved in custody. Thus, it facilitated the reconstruction at distance of the detainee's sense of belonging to a familiar context which is peculiar to an individual's effort to find himself included in a community of relatives, even if this community is realised in one distant person. It is important that this factor could survive the emergency phase to achieve that sense of belonging to the social environment which is characteristic to all community of detainees.

The National Guarantor has always bolstered the use of modern means while considering the need of the elderly to experience a degree of autonomy and self-organisation and of prisoners to live a life in detention that would resemble as much as possible to the outside world. Indeed, contemporary technologies applied to detention contexts surely constitute the step forward and the National Guarantor wishes that their experimentation, though imposed by these times, may dissolve the Prison Service's fears towards everything that is technological, contemporary and leading to self-determination.

#### **Prisons**

Today, the total number of prisoners dropped down to 54,323. This is a significant downturn that should be nonetheless related to the actual regular capacity of prison institutions, which stands at 46,875 places: this comparative relation is imposing further efforts on the different actors aimed at remaining

within the limits of the regular availability of places to ensure the protection of health and quality of life of prisoners.

In this regard, the Department for Justice Affairs (DAG) and the Prison Administration Department (DAP) invited the Presidents of the Supervisory Courts “to ensure the most extensive and timely application of the provisions established by law” (namely, the Decree-Law No. 18/2020) in order to reduce prison overcrowding in response to health emergency.

A working group was selected to draft a specific guidance relating to the “management of the epidemiological emergency within prisons, including Youth Offender Institutions and social enterprises, consistent with what has already been established by the scientific community”. The National Guarantor is in the group, together with some representatives of the Ministry of Health, the National Health and other representatives from the regional health Directorates, the head of the Prison Service, and the head of the Department for Youth and the Community. The first meeting is scheduled for this evening, at 6h30 p.m.

Other working groups and projects were implemented, among which it is worth mentioning the Ministry of Justice, the Civil Defence and the Special commissioner for virus emergency Domenico Arcuri working group that issued a call for 1,000 social and health workers (OOSS) to be employed in prisons for adults and juveniles.

Last night's figures of people being tested positive in prisons have leveled off both among detainees (though in slight decrease) and prison staff.

### **Immigration Removal Centres (CPRs)**

From the very outset of the health crisis, as reported on other occasions, the number of people detained in CPRs has been gradually decreasing (today they are 259). In some judicial districts, the drop may be linked to a lack of detention orders validated by the judicial authority, while more generally it is due to the small number of orders enforced by Police Headquarters (approximately 32 cases from 15 March to 17 April).

At the moment, no Centre has a condition of overcrowding, though two CPRs have almost all places occupied (Gradisca d'Isonzo and Macomer CPRs, where 45 and 46 third-country nationals are kept, having respectively 66 and 50 places available). The remaining CPRs have registered a good percentage of free places if compared to their real capacity (in particular, the Centre in Trapani is empty). The Ministry of the Interior informed the National Guarantor of the closure of the CPR in Caltanissetta, the material conditions of which have been widely criticised by the National Guarantor during its last visit to Sicily and the subsequent discussion with the local Prefect.

The number of people detained in the hotspots remains high: 116 people in Lampedusa, 50 in Pozzallo and 57 in Messina. The National Guarantor has recorded the recent arrival of five new migrants to the hotspot in Lampedusa; at the same time, it had knowledge of a local provision by the island's mayor that established the extension of the quarantine for all migrants until April 28<sup>th</sup>, those who started their medical isolation on April 6<sup>th</sup> included. It appears to the National Guarantor that all new arrivals to the island actually determine the quarantine period to be restarted for all migrants held in the hotspot, even for people who were already detained. Obviously, this endless process is far from being acceptable.

The National Guarantor's attention is also paid to the CPRs and hotspots material conditions and to the daily activities implemented inside these places. In fact, their overall structure (space for common activities and outdoor exercise yards are very limited, as in Macomer CPR [Sardinia], for example, which has been rebuilt and structured on the local prison former architecture) makes it impossible the observation of social distancing and the decrease in the number of migrants there held, in response to hygiene necessities as in the population at large.

In the past days, the National Guarantor administered a questionnaire to the managers of the CPRs relevant to measures applied to prevent and contrast the Covid-19 epidemic.

From their replies, it emerged that, following the indications given in the circular note from the Ministry of the Interior, Department for Civil Liberties and Immigration (dated 18 and 26 March 2020), in most CPRs new arrivals' quarantine wards have been set up as well as some medical isolation rooms. As of April 17<sup>th</sup> — in the total of CPRs — 15 people were quarantined and placed in single rooms.

No one has been placed in medical isolation. Almost all CPRs have planned a thorough screening in case of a person to be isolated and that all detainees' health conditions being constantly checked regardless of the person's specific symptomatology.

Almost all the CPRs' managers declared that they had regularly carried out disinfections to ensure the premises hygienic conditions. They all reported having increased the number of personal hygiene kits for all persons detained and making protective masks available to them at release. In addition, they have informed in multiple languages all detainees about the health emergency and instructed hosts on how to behave to prevent the spread of the virus.

The immigration places of detention have also been affected, albeit to a lesser extent than prisons, by the restriction of contact visits with friends or family members. As a form of compensation, the use of video call systems was facilitated and expanded in three CPRs (Gradisca d'Isonzo, Brindisi and Palazzo San Gervasio). They were also used with legal advisers and the local Guarantors. In addition, the National Guarantor is definitely positive in video calls continuing even after the health emergency and being eventually introduced in all CPRs for an effective and full realisation of the right to contacts with the outside world.

With regard to release of migrants held in these structures, the majority among the CPRs managers are asking the released person about any accommodation at their disposal and if any, they alert the local social services to find a solution. Best practices at release reported by CPRs are to conduct a specific health screening (in Gradisca d'Isonzo, a swab test; in Macomer and Brindisi medical examination before release and, in Macomer, a drug treatment supply for five days). In some CPRs, released persons are also provided with PPE, as well as the health services card for "Foreign Nationals' Temporary Stay" (STP) (in Rome).

### **The international networking**

On April 23<sup>rd</sup>, the National Guarantor will participate in a *Webinar* organised by the Geneva Association for the prevention of torture (Apt) on *Monitoring places of detention in times of COVID-19: Precautionary measures and health considerations for monitors*. It is a seminar explaining which precautionary measures should be put in place by NPMs during oversight visits to places of deprivation of liberty. Dr. Elena Leclerc, Health in Detention Unit, Head, International Committee of the Red Cross (ICRC) and Dr. Hans Wolff, Member for Switzerland of the European Committee for the Prevention of Torture (CPT) are among the webinar's speakers.

Cooperation within the network of *National Prevention Mechanisms* (NPMs) continues: yesterday, we got in contact with the Maltese NPM to get feedback concerning a request of information about an Italian citizen imprisoned in "Corradino" establishment in Valletta. The request was for a possible video call via Skype to be undertaken with a family member in Italy.

### **Monitoring social care homes for people with disabilities and the elderly**

The "Third collection of data from the *National Survey on the contagion for Coronavirus in social care homes*" is available on the National Guarantor's website. The survey has been carried out by the National Health Institute (ISS) in collaboration with the National Guarantor and it is updated on April 14<sup>th</sup>.

The survey was launched on 24 March: a questionnaire was sent to 3,420 facilities, followed by 3,042 interviews on the phone carried out by ISS technical-scientific team. As of April 14<sup>th</sup>, 1,082 social care homes sent their feedback, that is 33% of the structures contacted.

On February 1, 80,131 people were housed in these facilities, an average of 74 people per residence.

In some of our bulletins, the National Guarantor commented on the survey results saying that it should be considered the unequal distribution of social care homes nationwide and their differences in size. In fact, data collected show a conspicuous number of places available in Piedmont, Lombardy, Emilia-Romagna and Tuscany: the first four regions have recorded the greatest number of people being infected. Similarly, there are major differences in policies adopted by the regional health administrations concerning the swab test performance. Of course, a widespread testing is likely to affect the number of deaths of people positive for Covid-19. No wonder, then, if Lombardy is leading the rank as the region with the highest number of deaths for Coronavirus, followed by Emilia-Romagna and Veneto: just consider the impact on numbers the large testing performed might have.

The number of people who died in the nursing homes addressed by the survey and replying the questionnaire is of all evidence: 6,773 patients, out of which 364 were tested positive and 2,360 had influenza-like symptoms attributed to Covid-19 infection not confirmed by a test. The very small number of guests being tested would make it plausible to think of data being underestimated, as well as, nationwide data are underestimated. The death toll of people who tested positive or with flu-like symptoms is of 40.2% of the total number of deaths and it represents 3.3% of patients already in the residences (residents on February 1<sup>st</sup> and new arrivals since March 1<sup>st</sup>). This percentage value rises to 53.4% in Lombardy, to 57.7% in Emilia-Romagna and to 78.8% in Trento [northeast of Italy]. If comparison is made with the total number of patients in nursing homes, the death toll rises respectively to 6.7%, 4%, 6.9%. The timeframe considered, a greater number of deaths occurred between 16 and 31 March (data detected only on 4,993 cases, because this question was raised later, from 30 March).

Certainly all the values of the survey related to deaths in nursing homes are 'declared' by testees and, as known, they will be subject to assessment and comparison to evidences shown by investigations carried out by the Public Prosecutors.

The ratio between people hospitalised and the number of facilities answering the questionnaire ranges between 0.8 in Calabria to 8.7 in Friuli Venezia-Giulia. In the three regions or provinces considered above in relation to the mortality rate, these respective ratios are: 2.5 in Lombardy, 4.5 in Emilia-Romagna and 3.7 in the autonomous Province of Trento.

The main critical aspect reported is the lack of personal protective equipment (82.7%). With regard to the containment of the infection, more than 25% of the structures reported about difficulties in isolating residents affected by Covid-19. 46.9% of the nursing homes (that is 143 structures) report the impossibility of performing swab tests. This question was included only later in the questionnaire (starting from 8 April), therefore data do refer only to the facilities that responded subsequently. Two other aspects have shown critical: conflicting information received on how to manage the pandemic and the lack of coordination.

18.4% of the structures which sent their feedback have staff tested positive for Coronavirus. More cases in Trento and Bolzano autonomous provinces (both at 50%), followed by Lombardy (36%), Emilia-Romagna (17.9%), Marche (16.7%), Veneto (16, 6%), Piedmont (12.7%), Friuli-Venezia Giulia (12.5%), and Tuscany (11.3%).

It should also be noted that 90% of the structures have locked down their premises and avoided contacts with family members, pursuant to Decree-Law of 8 March 2020. Except for five nursing homes, all the other structures have implemented compensating means of communication: phone and video calls, social media and emailing.

With regard to the use of means of restraint on patients, the research showed that they were adopted in almost all the facilities interviewed, with an average 14 applications per nursing home in the period investigated and with a considerable regional variability (almost zero in Campania and up to 29 in Veneto). However, it is positive that all applications were recorded in logbooks, together with the modality of application, and the time of the parameter assessment: this is mostly important if the

effectiveness and the last resort methodology applied to the use of the means of restraint will have to be evaluated.

***The next bulletin will be issued next Friday.***

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