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for the rights of persons detained or deprived of liberty*

REPORT ON THE THEMATIC VISITS TO THE IMMIGRATION REMOVAL CENTRES (IRC) IN ITALY

(FEBRUARY - MARCH 2018)

The National Guarantor carried out some thematic visits to the former Centres for Identification and Expulsion (CIE), today Immigration Removal Centres (IRC), monitoring the Centres in **Brindisi-Restinco**, **Palazzo San Gervasio** (PZ) and **Bari** (from February 19 to 22, 2018) and subsequently that in **Turin** (March 2, 2018). The visits aimed to carry out a follow-up of the Centres in Brindisi-Restinco and Turin, which were already the subject of a Report by the National Guarantor issued in May 2017,¹ and to visit the Centres established on the basis of the Law-Decree No. 13 of 17 February 2017, containing “Urgent provisions to speed up the procedure for international protection, as well as to combat illegal immigration”, amended by Law No. 46 of 13 April 2017 (from now on, Law-Decree No. 13/2017).

FOREWORD

The Guarantor is grateful for the cooperation received during the visit, but at the same time states its disappointment for the lack of attention to the previous Report on visits to places of deprivation of liberty for migrants carried out in its first year of activity. This Report, which encompassed some critical issues and relevant recommendations aimed at overcoming them, was not acted on by the Ministry of the Interior, by providing a written reply to its remarks and requests for clarification, even when a partial implementation of the recommendations was carried out.

During the monitoring process, in fact, the Guarantor found that several of its recommendations had not resulted in significant changes, as it will be further explained in this Report. It was also found that the subjects operating in the Centres – as they themselves declared – had not received a copy of the Report from the Ministry and were therefore not aware of it.

In this regard, it must be recalled that Article No. 22 of the UN Optional Protocol to the Convention against Torture (OPCAT) states that it is the duty of the competent Authorities of the State Party to examine the recommendations of the National Preventive Mechanisms (NPM) and enter into dialogue with it on possible implementation measures. The failure to do so risks compromising the system of cooperation between the NPM and the competent Authorities, on which the OPCAT Protocol is based. This need for cooperation was also recently highlighted by the UN Committee Against Torture, which, in its concluding observations on the

¹<http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/6f1e672a7da965c06482090d4dca4f9c.pdf>.



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periodic Report of Italy – during the sixty-second session held from 6 November to 6 December 2017 – formulated the following Recommendation to the Italian State (15 b):²

“The State party should:

[...]

(b) Ensure effective follow-up to, and implementation of, recommendations of the National Authority for the Rights of Persons Detained or Deprived of Personal Liberty, generated by its monitoring activities, in accordance with the guidelines on national preventive mechanisms, of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see CAT/OP/12/5, paras. 13 and 38).”

With a view to a collaboration between State Institutions, aimed at raising the standards of protection of human rights in our country,

1. The National Guarantor recommends that the Ministry of the Interior, primary recipient of the Report:

- ensures the careful and concrete examination of the Recommendations formulated by the National Guarantor on the part of its Offices;
- strengthens the dialogue with the Guarantor Authority on the critical issues identified;
- involves in this process of analysis, evaluation, elaboration of responses and implementation of the recommendations, the competent territorial Authorities and hopefully also the other subjects involved in the provision of services, management and administration of the structures.

As already mentioned, the Guarantor visited not only the two Centres already operative in Brindisi and Turin, but also those in Bari and Palazzo San Gervasio (PZ), established following Law-Decree No. 13/2017, which provides for the opening of Centres in all Regions. In the law it is clearly indicated the criteria for their new configuration: structures of limited size, absolute respect for human dignity, enhancement of the role of the National Guarantor and the extension of the power of visit to the subjects indicated in Article No. 67 or the Prison Act are the characteristics that should distinguish the Immigration Removal Centres (IRC) from the former Centres for Identification and Expulsion (CIE).

However, as the Guarantor wrote in the Report to Parliament 2018, “A little more than a year after the entry into force of the decree, it must be noted, unfortunately, that the renewed expressions of commitment in favour of the absolute respect of fundamental rights have remained declarations of principle. In fact, they have not been followed by an effective improvement of the living conditions and/or by a different organisation of the facilities. The National Guarantor is aware of the difficulties related to the apparently irremediable paradox inherent in the use of the facility, aimed at the detention of a person for the sole purpose of allowing their removal, and in the ongoing problems of order that characterise life within the Centres, but the temptation to resort to easy pragmatic approaches must give way to the protection of fundamental rights of the individuals”.³

² For further details see the web pages:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fITA%2fCO%2f5-6&Lang=en

³ National Guarantor, Report to Parliament 2018, May 2018, p.228.



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In fact, the IRC in **Bari**, which opened in October 2017, has the appearance of a *former* CIE. It restarted its activity without any substantial structural change. Therefore, the discontinuity indicated by Law-Decree No. 13/2017 failed to be evident though symbolically marked by the change in the name. This seems to be the case also with the Centres that are about to open, to which the Ministry has explicitly referred to in recent communications: Gradisca di Isonzo, Modena and Milan were CIEs, while Macomer in Sardinia was a district prison, i.e. a penitentiary facility.

THE IMMIGRATION REMOVAL CENTRES VISITED

The four IRCs visited are, as already mentioned, those of **Bari, Brindisi-Restinco, Palazzo San Gervasio and Turin**. These structures are very different one from the other, but they share some critical issues, which were also detailed in the Report to Parliament 2018: “Poor material and hygienic conditions of the structures, lack of activities, Centres closed to the organised civil society, scarce transparency starting from the lack of a system for recording critical events and for tackling procedures, lack in considering the different legal positions, individual needs and vulnerabilities of the detained persons, difficulties in accessing information, lack of a complaint procedure to assert violations of rights or submit requests, are just some of the critical issues found that persist also in the current organisation of the Centres”.⁴

The following remarks summarise information regarding the visits carried out and the facilities monitored.

IRC in Brindisi-Restinco: the visit was conducted on 19 February 2018 by a delegation composed of Daniela de Robert and Emilia Rossi, members of the National Guarantor Board and Massimiliano Bagaglini, Antonella Dionisi, Paola Barbaro and Luca Imperatore, members of the National Guarantor’s Office. At the time of the visit, the centre, which total effective capacity was of 48 places, accommodated 43 persons. The Managing Body is the social cooperative *Auxilium* with headquarters in Senise - PZ (in extension of the mandate). Throughout the visit, or during part of it, the following persons were present: the Director of the Centre, Vincenzo Lutrelli, and his staff, the acting Vice-Prefect of the Prefecture of Brindisi, Pasqua Erminia Cicoria, accompanied by the Director of the Immigration Office of the Police Headquarters in Brindisi and the acting Superintendent of the State Police, Nicola Carlomagno, responsible for the internal security of the Centre under the Office of the Cabinet of the Police Headquarters in Brindisi.

IRC in Potenza: the visit was conducted on 21 February 2018 with the delegation composed of Daniela de Robert, member of the National Guarantor Board, Massimiliano Bagaglini and Paola Barbaro, members of the National Guarantor’s Office. At the time of the visit, the centre, which total effective capacity was of 72 places (though it will raise to 152 after renovation), accommodated 33 persons. The Managing Body is *Engel Italia Srl*, based in the province of Salerno. Throughout the visit, or during part of it, the following persons were present: the Director of the Centre and his staff, the acting Vice-Prefect of the Prefecture of Potenza, Rita Cocciufa,

⁴ *Idem*, p.228.



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accompanied by the Head of the Immigration Office of the Police Headquarters, Teresa Romeo, and Deputy Commissioner of the State Police, Luigi Schettino, responsible for the internal security of the Centre.

IRC in Bari: the visit was conducted on 22 February 2018 with a delegation composed of Daniela de Robert and Emilia Rossi, members of the National Guarantor Board, Massimiliano Bagolini, Antonella Dionisi, Paola Barbaro and Luca Imperatore, members of the National Guarantor's Office, Piero Rossi, Guarantor for the rights of people deprived of their liberty of the Region Puglia and his collaborators. At the time of the visit, the centre, which total effective capacity was of 90 places, accommodated 89 persons. The Managing Body, provisional appointed contractor, is the social cooperative *Costruiamo Insieme*. Throughout the visit, or during part of it, the following persons were present: the Director of the Centre, Marianna Bello, and her staff, Giovanna Zampetta, Officer of the Prefecture of Bari, accompanied by Ilaria Masi, Head of the Immigration Office of the Police Headquarters in Bari.

IRC in Turin: the visit was conducted on 1 March 2018, with a delegation composed of Mauro Palma and Emilia Rossi, respectively President and member of the National Guarantor Board, Elena Adamoli, Alessandro Albano and Gianni Massaro, members of the National Guarantor's Office, Bruno Mellano, regional Guarantor of the rights of people deprived of their liberty of the Region Piemonte and his staff. At the time of the visit, the centre, which total effective capacity was of 175 places, accommodated 171 persons, with 20 asylum seekers. A call for tender to appoint the Centre's Managing Body was currently underway (the outgoing Managing Body was *Gepsa* and the cultural association *Acuarinto*). Throughout the visit, or during part of it, the following persons were present: Valeria Sabatino, Head of the Department I, Order and Safety, of the Prefecture of Turin, Alessandro D'Ovidio, officer of the Prefecture, and the Chief Inspector of the State Police Antonio Di Benedetto, representative of the Immigration Office of the Police Headquarters in Turin.

A. Facilities and their use

In general, with the exceptions that will be illustrated, while the state of maintenance of the visited Centres is acceptable, some critical aspects have been observed, namely the lack of places and facilities for performing any common activities, the premises setup and their shortage in furniture. They all heavily affect the quality of life within the facilities and determine the risk of degrading conditions even in the exercise of the most elementary and fundamental rights.

A.1. Premises and common places

The only places available to the detained migrants are the overnight accommodation rooms (with at least four beds), with adjoining bathrooms and a courtyard; sometimes a room is available to consume meals and watch television.

In particular, in the **IRC in Brindisi-Restinco** there are no common rooms except one in the area used for interviews, which is used both for visiting families, and for individual meetings with lawyers and psychologists. What was monitored in a previous visit, which Report was published on 6 June 2017, has been confirmed



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during this last. In general, the lack of common places constitutes the Centre's structural critical aspect and makes the planning of both sport and cultural activities much complicated, as provided for by Article No. 4 letter h) of the ICR Regulation.⁵ Recently, the soccer pitch was made available - yet on alternative team rosters, but the only activity that the Managing Body is able to offer, with great difficulty, is an Italian course (to seven students) delivered in the common rooms of each block. This entails that people not considered in the class have to turn off the room television, which is the only possible leisure to detainees. The rest of the activities are limited to a music therapy workshop in a pavilion structure, which can only be held in summer time, while a workshop for creating artefacts and a bingo are programmed in winter.

However, it should be noted that, alongside the structural problems due to the lack of space, the police officers in charge of the security aspects of the Centre have a hostile behaviour, and tend to deny authorisation for any activity, for safety reasons. In fact, the only open spaces that allow for some recreational activity (for example, table football) are the courtyards in front of the overnight accommodation rooms (about 10 x 20m in each block), covered, moreover, by a thick net.

In the **IRC in Bari** there is a room for the school, also used for other activities (cineforum and so on) which counts a maximum of five participants. There are no sport dedicated areas, which indeed are recreated in the spaces separating the units, nor are there other ones for social activities.

The situation at the **IRC in Palazzo San Gervasio** is more difficult. Despite the fact that it was recently opened, there is no common room inside the blocks. In addition to the rooms and bathrooms, in fact, the only other space is a corridor. Migrants are forced to have their meals standing outside or sitting on their beds. It is obviously impossible to carry out any social activity. The courtyard that could be used for the so-called "recreational" activities of the Centre is lacking a shelter from rain, snow or sun.

The Guarantor also noted that the opening of the IRC in Palazzo San Gervasio, which took place before the renovation work had been completed, led, among other things, to serious discomfort for the personnel working there, who was forced to work inside some containers located outside the detention area. In addition, at the time of the visit, there was not a spot where to heat the catered food, nor was there a laundry, or a storehouse.

The Centres object of the present Report are all characterized by the absence of a canteen; the only exception is the **IRC in Turin**, which in each detention block has special rooms for social activities and for having meals. However, in some cases, such as in the "white block" visited by the delegation, the rooms are bare, being

⁵ Regulation providing "Criteria for the organisation and management of the Centres for identification and expulsion", October 20, 2014, Article No. 4, letter h), which provides for the: "Organisation of recreational, social and religious activities that must be carried out daily and in dedicated spaces. To this end, the manager prepares a weekly calendar of the planned activities, to be brought to the attention of all housed foreign nationals. The use of recreational grounds, located within the structure, takes place according to the procedures established by the Director of the Centre, in agreement with the Prefecture and the Police Headquarters. The daily availability is ensured by adopting a turn-taking system, except for situations in which the order and safety of the Centre is compromised, in which case these activities are temporarily suspended. The daily use of outdoor spaces is however allowed".



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equipped only with concrete tables fixed to the ground without any complementary furniture, such as benches or chairs (these cannot even be transported from other areas of the housing block because none were available to the persons housed)⁶ The so-called “Ospedaletto” has no common areas: the individual rooms are characterised by a small space facing the room, which gives the impression of a zoo-like environment.

It should be emphasized that none of the IRCs visited provide a space to be used as a place of worship (the Muslims’ daily prayers, for example, are held in blind corridors, while nothing is provided for Christians).

In view of what has been monitored,

- 2. The National Guarantor recommends that urgent provision be made in the existing IRCs to create and equip common spaces for meals and to carry out recreational activities, and areas dedicated for daily prayers and, where they already exist, to ensure appropriate furnishing starting from benches or chairs.**

Where there are no suitable rooms in the block, a canteen is to be equipped, as provided for by the 2014 CIE Regulation, which specifies, in Article No. 4 letter d): “[...] Meals are served in rooms converted into canteens and at set times, which possible roster lists”.⁷

A.2. Sanitary facilities

Regarding the sanitary facilities, the material conditions of the bathrooms and showers in the **IRC in Brindisi- Restinco** are particularly critical: in the blocks B and C only one shower out of four could be used; the moisture-laden floor was very slippery, so much that one host - while entering the bathroom - slipped and fell; the walls were covered with blue and green mould and many toilets were with no door. A **detainee** who had recently undergone a leg surgery, not being able to use the squat toilet, had to leave the block each time and go to the bathroom available at the healthcare unit.

The **IRC in Palazzo San Gervasio**, on the other hand, started to function with only three shared showers, which, besides, were external to the accommodation unit, and could be accessed only if escorted by the police officers. For this reason, despite its capacity of 152 places, at the time of the visit the Centre housed a maximum of 32 people. The officer of the Prefecture reported to the Guarantor that in March 2018 one of the four bathrooms available in each block would have been converted into a shower, so as to gradually increase the number of showers and overcome the problem. The National Guarantor therefore asks to be informed on the state of the art of the refurbishment.

⁶ As referred by the staff, the people detained are for this reason forced to choose between eating standing, leaning against the tables in the room for social activities, or sitting on the bed holding their plate with their hands, in a precarious balance trying not to drop the plastic plate, which is difficult to keep steady.

⁷ Regulation on the “Criteria for the organisation and management of the Centres for identification and expulsion”, 20 October 2014, Article 4, letter d).



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Regarding the **IRC in Turin**, each dormitory has its own bathroom, which could be accessed directly from the overnight room. Between the bedroom and the bathroom there is no door, nor are there any to separate the two squat toilets from the resting room where there are two sinks and a shower. In a nutshell, the toilets are only a few metres away from the nearest beds and there is not any piece of furniture, such as doors, not even curtains, to ensure some privacy for those who use the services. This situation is unacceptable, groundless and unjustifiable on the basis of any security requirement. It also goes against the postulate of “absolute respect of the individual’s dignity”, which is heightened in the Law-Decree No. 13/2017, as a core principle for the new organisation of the Centres for administrative detention.

Having considered this:

- 3. The National Guarantor recommends that all the necessary steps be taken with the utmost urgency to ensure that the bathrooms and showers inside the Centres are adequate in relation to the number of detainees, easily and police officers. Sanitary facilities shall be equipped with doors that guarantee the indispensable and necessary privacy of the users, and with sufficient hot water. It also recommends that the facilities be subject to constant routine maintenance interventions in order to guarantee their functioning and essential hygienic conditions, and remove any traces of mould and moisture.**

Finally, in the **IRC in Brindisi-Restinco** it was noted that there was neither a place for hanging clothes to dry nor drying racks. To overcome the problem, detained persons put their wet clothes on the floor as the heat pipes were running under the floor. In this regard, the management of the Centre is urged to find an alternative to this extemporary solution, which is undoubtedly unhygienic.

A.3. Overnight accommodations

In the overnight accommodations of the three visited Centres, many of the mattresses were found without their expiry date and often without sheets, as in the case of the **IRC in Bari**, where all beds in block 1 were provided with no sheets. The National Guarantor – during the visit - urged the Managing Body to immediately take action and provide bed linen. It should also be noted that, in the same IRC in Bari, in the common room of unit 5 there was a window with a broken glass and, as reported by the persons detained, who were not contradicted by the Managing Body, the glass had been broken for at least three months.

At the IRC in Palazzo San Gervasio the doors were without handles and it was not allowed to keep a trash bin or a garbage bag inside the blocks. Therefore, the plastic plates, after the food was consumed, were placed on the ground. The day the visit took place cockroaches were found in the facility despite the cold and the snow. This situation is unacceptable and the Guarantor requests to be informed about a final solution to the problem.

A further critical issue concerns the functioning of the artificial lighting system, in particular at the IRC in Palazzo San Gervasio where it was reported to the Guarantor that inside the accommodations the lights are always kept on at night.



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At the **IRC in Turin**, on the other hand, detainees reported to the delegation that inside the accommodation rooms no switches were available to turn the light on and off, which is in fact operated centrally by the staff. The detained persons are therefore forced to leave the room, walk outside along the perimeter of their unit until they reach the bars and from there try to attract the attention of the security officers on duty on the other side of the bars and ask for the lights to be turned on or off.

The Guarantor disapproves this practice. It should also be pointed out that even in the prison establishments prisoners can switch on/off the lights from inside the rooms, as established by the Decree No. 230 of the President of the Republic of 30 June 2000, “Regulations containing provisions on the Penitentiary Act and on measures entailing restrictions on, and deprivation of, personal liberty”⁸ and asks for clarifications on this issue. Consequently,

4. The National Guarantor recommends that inside the overnight rooms of the IRCs the detainees shall always be allowed to freely access the light switch so that they are not forced to remain in the dark during the day with particular weather conditions outside, or with the light on also at night.

B. Quality of life and safety within the centres

As indicated in the introduction, during the visit the delegation found that the structural configuration of the IRCs appeared to be in no way different from that of a prison environment: with bars, sometimes high metallic gates dividing the residential sectors (IRC in Turin) and screens (IRC in Bari). The afflicting effect of the architectural aspect and its impact on the people who are there housed and on those who work in the IRC are strengthened by a whole series of other factors that concern the quality of prison life and safety standards; among these, in particular, the impossibility for persons detained to move freely between the different units.

With regard to the quality of life inside the Centres, one of the most critical issues identified in the Report submitted last year concerned the lack of activity – a lack that made the daily life of the persons detained monotonous and always the same, with no opportunities to occupy their time in a constructive way or at least seek distraction. Closely related to this aspect is the fact that IRCs are substantially cut off from the civil society organisation, which is theoretically admitted to carry out assistance and activities of social promotion for the persons detained⁹ and that indeed, for various reasons, is completely absent (see, for example, the considerations expressed in reference to the IRC of Brindisi-Restinco in section A.1 of this Report). Moreover,

⁸ Article No. 6, paragraph 3. “Switches for the artificial lighting of the rooms must be in place, as well as for operating the radio and television sets, both outside, for staff, and inside, for prisoners and inmates. The personnel, using the external switches, can impede the functioning of the internal ones, when the use of these compromises the orderly cohabitation of the prisoners and internees”.

⁹ Regulation on the “Criteria for the organisation and management of the Immigration Removal Centres”, October 20, 2014, Article No. 6 letter a) provides for access to the Centres, with authorisation granted by the Prefecture, of “representatives of Bodies, voluntary associations or social cooperatives allowed to carry out assistance activities on the basis of collaboration agreements signed with the Ministry of the Interior or with the Prefecture”.



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the right to worship is severely limited, since no pastoral care is provided within the Centres. This applies to all the Centres visited with no distinction.

If it is true that rehabilitative and treatment programmes are not envisaged in the case of administrative detention, it is also true that the impact of the complete and tangible lack of interest in a person's worth – if only in terms of scheduling activities for recreational purposes – is to be considered. Mainly on the person as being considered an individual with his/her own life and inalienable dignity. Without the slightest consideration of the cognitive aspects and those related to the development of the individual, the deprivation of liberty inside the IRCs is characterised by an afflictive measure and a mere confinement with regard to a State that even prior to their physical return excludes the individuals from their community, almost sort of “non-person”.

The lack of activity, from the point of view of the impact it has on safety and order, was nonetheless taken into consideration in the programmatic document on the IRCs, drafted in 2012 by the Panel of Experts launched by the *pro tempore* Minister of the Interior Annamaria Cancellieri¹⁰: “[...] because the total lack of activities inside the Centres, which result in forced idleness, entails an increase in aggressiveness and discomfort and leads to an escalation of tension between detained immigrants and law enforcement officers, distinct modalities of detention and a different management of spaces would allow the detained persons to spend time constructively, and would give them the opportunity to engage – in a more harmonious and pleasant environment – in recreational and sport activities”.

After six years, considering the high frequency of episodes of damage to the structures caused by detained persons, this reflection remains topical; furthermore, it is still difficult to find a balance between the outweighing safety measures and the safeguard of an elementary level of quality of life inside the Centres.

In addition, the European Committee for the Prevention of Torture (CPT) in its Report following the visit to Italy, which took place from 7 to 13 June 2017, condemns the high relevance given to security reasons in the IRC in Turin and invites the Italian Authorities to reconsider their rigorous directives.¹¹

- 5. The National Guarantor, therefore, recommends that a programme be activated in full compliance with the IRC Regulation of the Minister of the Interior of 20 October 2014, which, with Article No. 4 letter h) provides for “the planning of recreational, social and religious activities in dedicated spaces” as well as “the daily use of recreational playgrounds” and the possibility of relying on the collaboration of external actors (Voluntary Associations and Social Co-operatives) for the implementation of integrated activities, of a recreational type – Art. No. 5 letter f) and Art. No. 6 letter a) of the Regulation.**
- 6. The National Guarantor, furthermore, recommends that the new IRCs, which are to be built, renovated or open shortly, be equipped with the necessary common facilities provided for by the legislation.**

¹⁰ The document is available at the website of the Association for Juridical Studies on Immigration: http://www.asgi.it/wp-content/uploads/public/1_013_doc_cie_documenti.pdf

¹¹ For further details: <https://www.coe.int/en/web/cpt/-/anti-torture-committee-publishes-report-on-its-visit-to-italian-hotspots-and-removal-centres>.



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The National Guarantor invites the Ministry of the Interior to closely monitor the effective scheduling and carrying out of these activities by the Managing Bodies, as provided for in the tender obligations¹² overcoming, where necessary, those obstacles put in place in the name of safety, which in fact risk compromising it.

As far as the **Turin IRC** is concerned, the remarks expressed in last year Report should once again be reiterated, as they refer precisely to this point, with regard to the methods of interaction through the bars separating foreign citizens and the frontline staff, which usually remains outside the detention units.

It is worth noting that the Centre has six residential areas, each consisting of a building where overnight accommodation rooms are located and another building where there is a multipurpose-room used for common activities, as a refectory or a facility for prayers. Each housing unit has a large outdoor area separated from others by high iron railings. As already noted in last year Report, foreign citizens are not free to leave the detention unit assigned to them at will and go to the main building where the administration offices are located and the various services provided (e.g. the legal advice service); nor do they have the possibility to address their requests to the staff, when they wish, since at certain times of the day all staff is no more available in the units, but just approached beyond the gates where they stop to give responses to the vocal requests they may receive. For any need, complaint or request that a detained person needs to communicate, the person is therefore forced, whatever the weather conditions, to remain in the outdoor area of the housing unit, and wait for an officer to come by, attract his attention and express his own request from behind the bars of the detention unit.

The National Guarantor expresses its firm disapproval against such an organisational approach, which - in the name of some supposed security reasons strongly limiting access to the housing units – sets out a dehumanizing context where access/exercise of rights, of which the detained persons are the holders, translates into the physical demarcation of the power relation between the Centre’s staff and the foreign national detainee who is in vulnerable conditions. Therefore,

7. the National Guarantor addresses the same recommendations expressed in last year Report to the Responsible Authorities and to the actors operating at the Turin IRC, which are:

- to ensure that detained migrants are able to communicate with the Centre’s staff in ways that respect human dignity and not through the bars enclosing each detention unit;
- to guarantee the regular presence – at least at certain times of the day – of staff inside the accommodation facilities so that, in case of need, the detained persons can easily contact them.

A further critical issue, concerning in particular aspects related to security and order maintenance in the IRC visited, is the absence of alarm systems to contact and/or request the intervention of personnel in case of need. In fact, both the intercom systems¹³ and the alarm bells were out of order inside the detention units. The situation appears particularly serious in the **IRC in Turin**, where the housing units are quite distant from the

¹² The tender obligations, approved by decree of the Minister of the Interior on 7 March 2017, expressly establish that also in the IRCs the services of generic assistance to the person, which the contracting entity shall guarantee, include the organisation of leisure time through recreational, sporting and cultural activities.

¹³ The delegation was told that the IRC in Turin was supposed to be equipped with an intercom system but that it had been destroyed.



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main administrative building and, in case of urgency, the only possible way to communicate an alert is by attracting the attention through the CCTV cameras placed on the watchtowers outside the detention units.

- 8. In order to ensure minimum safety standards and timely intervention of the personnel in the housing units, the National Guarantor advocates to have the blocks equipped with call bells accessible from inside the detention area, as required by the CPT standards.¹⁴**

C. Improper use of some facilities

The IRCs are administrative detention facilities that can only provide detention rooms, generally divided into blocks, common areas for activities (although these are often absent or insufficient), sanitation areas with isolation precautionary rooms managed by the Centre's medical staff, rooms for interviews with the detainee's family members, lawyers, the Managing Body's staff, the Justice of the Peace or others. No other facilities are provided for, such as isolation rooms for disciplinary purposes, also because their use is still unregulated.

During the monitoring visits, however, the Guarantor found improper use of some facilities, as in the case of the IRC in Turin that will be illustrated below, or misuse of others designed for a specific purpose, as in the case of the isolation precautionary rooms in the IRC in Brindisi-Restinco.

In **the IRC in Brindisi-Restinco** the Guarantor, in fact, visited the two isolation precautionary rooms: one was used as a warehouse, while the other was equipped with two concrete bunk beds, despite the Managing Body and the medical doctors declared that it was only and always used as a single room. It must also be noted that the Guarantor could not verify this claim in that there was no register to record all entries. The room had no call bell that could be rung from inside the room and the bathroom had no shower.

On the door of one of the two rooms there was a sign that read "room for checking detainees". The Guarantor verified that people had been placed in this room, in the sanitation area, without any type of medical instruction. In particular, on the night of 31 January, 6 and 10 February 2018 respectively one person, three persons and one person were placed here. The operations were carried out, according to what was declared by the Managing Body, by the Police Forces on duty in the Centre, against the opinion of the Managing Body itself that reported the incidents to the Prefecture of Brindisi and, for information, to the Police Headquarters, the Office of the Cabinet and to the Immigration Office. Furthermore, the Managing Body and the medical staff reported that a transwoman held in the men's Centre of Brindisi-Restinco was also placed in the rooms formally used for precautionary reasons in March 2012.

The National Guarantor strongly condemns the improper use of the isolation precautionary rooms: it is unacceptable that rooms meant for health protection are used for other purposes and, in addition, without the consent of the medical staff; even more unacceptable is the fact that they are used to separate individuals from others and actually segregate people who are detained in the Centre. It must be recalled that the 2004

¹⁴ CPT/Inf(2017)3 Immigration and detention, factsheet March 2017, Article No. 4 paragraph 3 "Call bells should be installed in all detention areas where staff are not continuously present".



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IRC Regulation does not establish, even as an exceptional measure, the use of isolation rooms, therefore the Guarantor calls for clarifications from the Authorities concerned regarding this practice.

Furthermore, the Guarantor asks to be informed about what measures have been foreseen in the case of the detention of transgenders in full compliance with the Yogyakarta Principles and with particular reference to Articles No. 5 and 9.¹⁵

The **IRC in Turin** is using the so-called “Ospedaletto” when a medical precautionary isolation is needed; as highlighted in last year Report, it consists of a single building divided into 12 overnight accommodation rooms with a capacity of 24 beds. At the time of the visit on 1 March 2018, 16 people were placed there. The unit presents multiple critical aspects as regards the following: a) architectural structure, b) the detention regime applied to people there held and c) the absence of safeguards with respect to such a placement.

In relation to the first two aspects, we refer our last year Report and to what the National Guarantor has stated in paragraph A.1. of this Report. Thus, we restate against the unacceptability of detention conditions that do not allow the possibility for the detainees to spend at least a few hours in a spacious outdoor exercise yard, without any device, which might prevent the detainee to look at the sky above.¹⁶

With regard to the third aspect, it should be noted that, as reported in the IRC in Brindisi, and also in the one in Turin, the evidence for the use of isolation precautionary rooms for other purposes was monitored. The reasons for such a change in purposes can be summarized in a) problems of safety/security/order b) satisfaction of individual needs of some detainees. Leaving out the latter case, without prejudice to the highlighted architectural structure of the rooms and the regimes applied, segregation for disciplinary reasons without specific provisions defining the procedure and allowing the detainee to present his/her defence, the duration of the punishment, the possible remedies, appears very critical.¹⁷

9. The National Guarantor, therefore, recommends that:

- **facilities intended for medical precautionary isolation within the Centres are effectively and exclusively used for this purpose and under strict medical supervision;**
- **people assigned to these facilities, compatibly with their own health conditions, be allowed to daily use outdoor yards, which must be of an adequate size so as to ensure the possibility of walking and taking exercise;**
- **segregation for disciplinary reasons (addressed to detainees responsible for disorders in the Centres) be suspended in the absence of specific regulations establishing procedures, duration of the punishment, conditions and safeguards related to the possible disciplinary isolation.**

¹⁵ Principles on the application of international human rights law in relation to sexual orientation and gender identity, November 2006.

¹⁶ As indicated in the previous Report, the space in front of each overnight accommodation room is a small cement passage completely covered with metal nets.

¹⁷ In this sense also the CPT states that: “The CPT recommends that Italian authorities adopt clear rules to regulate the placement, duration, conditions, and safeguards surrounding the use of segregation units or cells in IRC establishments, in the light of the above remarks” Report on the visit carried out in Italy from 7 to 13 June 2017.



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At the IRC in Turin, the National Guarantor also remarked of the availability of some “holding cells” placed inside the building that houses the State Police’s and the Managing Body’s offices: one is located on the ground floor and three more located in the basement level. It must be emphasised that the discovery of the existence of these cells was causal, in that the delegation did not receive any preliminary information from the Centre’s managers, neither on the previous monitoring visit conducted in 2017, nor on the one that is the object of this Report. In this regard, the principle of mutual and transparent co-operation among Institutions should be recalled: it implies, in this specific case, the duty of the Administration responsible for the structure to ensure the conditions necessary for the guaranteeing Institution to effectively fulfil its mandate by accessing and verifying all places of deprivation of liberty in the visited Centre.

This being said, the abovementioned cells are unacceptable because they are located inside the IRC, because of the lack of information on their use, the lack of transparency due to the absence of registers of ins/outs, and the cell living standards.

In particular, the cell located on the ground floor is not heated and has a hole for its ventilation, while the cells located underground are extremely small, with a very limited ventilation and natural light. Both are almost completely lacking furniture, with the exception of a small bench.

It was reported to the delegation that these rooms were used as subsidiary cells during the preliminary phases of forced return operations, in particular for carrying out security checks before some overcrowded charter flights. Given the absence of a register to record ins and outs of detainees, this information could not be verified by the delegation. In the course of the visit, however, in one of the cells located in the basement the National Guarantor noted the presence of a packed meal (bearing the date of the day prior to the visit), consequently noting that at least in this case the stay was prolonged.

- 10. The National Guarantor recommends that the “holding cells” located in the basement level of the in Turin be withdrawn and that the one placed on the ground floor be adequately renovated. In general, it recommends that, in all IRCs, any stay, even for short time, in inadequate rooms with few lighting and ventilation, as well as insufficient protection from harsh weather conditions, be not permitted.**

D. A mixture of heterogeneous judicial situations

In all the IRCs visited, a mixture of different detained persons was observed. This was caused by not considering the variety of judicial and administrative statuses of the detainees: persons in administrative detention (irregular foreigners), people with criminal records, others applying for asylum after entering the IRC. This heterogeneous mixture potentially risks creating the conditions for entering into contact with illegal affairs



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and for the spread of illegal behaviours, also in consideration of the fact that not all the detained persons are subject to return procedures.

Regarding asylum seekers, and also in the event the application is submitted after entering the IRC, Article No. 4 letter e) of the IRC Regulation provides for their separation from other detained persons.

- 11. The National Guarantor advocates the separation between subjects with criminal records and those whose irregularity is only administrative or who are asylum seekers, in full compliance with the Regulation providing the “Criteria for the organisation and management of the Centres for identification and expulsion” of 20 October 2014. The heterogeneity with regard to the different detainees should be addressed by providing differentiated “pathways” within the facility that may take into account such significant differences.**

E. Age assessment of alleged minors

During the visits, the National Guarantor pays the utmost attention to the identification of vulnerabilities, with particular reference to Unaccompanied Minors (UM). In this regard, the Guarantor welcomed the approval in the past legislature of Law No. 47 “Protection Measures for Unaccompanied Minors” of 7 April 2017. However, the National Guarantor also found that, disappointingly, many of the indications contained therein are not fully implemented.

In fact, in the **IRC in Brindisi-Restinco** evidence was considered of some hosts who declared to be minors and, nevertheless, remained in the IRC. The Guarantor was able to verify at least two cases: in the first case, the person stayed at the IRC for six days (from 6 to 11 November 2017)¹⁸, in the second case for eight days (November 6 to 13, 2017).¹⁹ The latter was then assessed as being a minor and transferred to a dedicated Centre. In addition to this, according to what was declared by the Managing Body, their age was assessed by carrying out a wrist x-ray.

The practice actually followed is in contrast with the provision referred to in Article 5 paragraph 2 of Law 47/2017 which establishes that, pending the outcome of the identification procedures, the person must be guaranteed reception in facilities for minors²⁰, as well as with Article 5 paragraphs 4, 5 and 6 that define the modalities of the assessment based on a multidisciplinary approach, carried out by appropriately trained professionals and in a suitable environment.²¹

¹⁸ The person was given the ID code 751 of the Managing Body.

¹⁹ The person was given the ID code 753 of the Managing Body.

²⁰ Law No. 47 of April 7, 2017 Article 5 paragraph 2. “In the cases of serious doubt concerning the age declared by the minor, the provisions of paragraphs 3 and following apply. In any case, pending the outcome of the identification procedures, the reception of the minor is guaranteed by the appropriate reception facilities for minors provided by law; if the conditions are met, the provisions of Article 4 of the Legislative Decree No. 24 of 4 March 2014 apply”.

²¹ Law No. 47 of 7 April 2017 Article 5 paragraphs:

“4. Should there be any serious doubts regarding the age declared by an unaccompanied foreign minor, the Public Prosecutor’s Office in the juvenile court may arrange for social-medical examinations aimed at ascertaining the age.



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A *de facto* non-application of the aforementioned law was also found in the **IRC in Turin**, where three foreign nationals entered the Centre on 20 February 2018 after being issued refusal of entry pursuant to ex Article 10, paragraph 2 of Legislative Decree No. 286/1998. According to the files examined, it was found that all three had declared to be minors before the Justice of the Peace at the validation hearing held on 23 February 2018, a few days before the visit of the National Guarantor. In the minutes of the hearing, it was found that the Administration approved to start the procedures aimed at assessing the age; however, it insisted for the validation of the detention, which the Judicial Authority granted. The case is singular from a procedural point of view: from the files, it emerges that the age assessment was subsequently carried out. Its results established that the persons assessed were come of age. This assessment, however, was carried out independently by the Police Authority outside the procedure established by the regulations, i.e. without the involvement of the Public Prosecutor's Office. In fact, as of 6 May 2017, he is the sole responsible for these kind of assessments, according to the guarantees defined by the same law.

12. The National Guarantor recommends:

- **full application of Law No. 47 of 7 April 2017 "Protection Measures for Unaccompanied Minors" in order to ensure full protection of unaccompanied minors or alleged minors, according to the principle of *favor minoris*, as defined by the law which establishes, in Article 5 paragraph 2, that "pending the outcome of the identification procedures, the reception of the minor is guaranteed by the appropriate reception facilities for minors provided for by law";**
- **that consequently the age assessment be carried out in compliance with the legal framework in force, in accordance with a standardised procedure that establishes specific provisions in case of social and medical examination and clear-cut guarantees.**

The National Guarantor trusts that Authorities in charge will provide detailed and timely information to all the articulations of Law No. 47 of 7 April 2017 also issuing circular letters and implementing specific training initiatives.

5. The foreign national is informed, with the help of a cultural mediator, in a language that the foreign national can understand and in accordance with his degree of maturity and literacy, of the fact that his age can be determined with the help of social and medical examinations, of the type of examinations to which the foreign national must be subjected, of the possible expected results and of the possible consequences of such results, as well as those deriving from the refusal to undergo such examinations. This information shall also be given to the person who, even temporarily, exercises a legal guardianship over the alleged minor.

6. The socio-medical assessment of age must be carried out in a suitable environment with a multidisciplinary approach by appropriately trained professionals and, when necessary, in the presence of a cultural mediator, using methods that are the least invasive and respectful of the presumed age, of the sex and the physical and psychological integrity of the person. No social-medical examination must be carried out that could compromise the psycho-physical state of the person".



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F. Transparency and registers

It is appropriate to spend a few words on the record keeping relative to the critical events happening in the IRCs. Those registers, in fact, are means of legality and transparency as they keep recorded in official acts all activities carried out by the Authority in charge, with reference to deprivation of liberty, as well as any events that may have occurred and the treatment following. Transparency, in fact, comes not only in protection of the detainees, but also – and perhaps above all – of those working in places of deprivation of liberty and play such a particular sensitive role.

However, despite the recommendation already formulated by the National Guarantor in the Report on visits to the Centres for Identification and Expulsion and to hotspots in Italy issued on 11 May 2017, in all the Centres visited there is no system for recording critical events (cases of self-harm, assaults, damage, attempted or committed suicide, etc). The Guarantor therefore appreciates the introduction in the **IRC in Bari**, following the visit, of a register for critical events, as communicated by the Managing Body *Costruiamo insieme* with a letter dated 3 May 2018. On the contrary, in the **IRC in Turin**, reports of episodes of self-harm can only be found in medical reports on individual cases. It is therefore impossible to verify the situation if not rereading the daily reports drafted by the police officers on duty. Just as, in the **IRC in Brindisi-Restinco**, the presence of a register of critical events would have allowed the delegation to learn at the beginning of the visit, and not later and incidentally, about a fire caused by seven mattresses in the C block, which happened just the day before the visit (Sunday, 18 February 2018), and about the intervention of both the Local Health Service, and the Police Headquarters Mobile Department, to carry out respectively health assessments and investigations.

In the medical unit, no registers were available for consultation, where to record injuries of any type, identified during the medical examination of detainees: they are of particular importance, as also highlighted by The European Committee for the Prevention of Torture (CPT) in its 19th General Report published in 2009.²²

- 13. The National Guarantor therefore recommends establishing the use of registers for critical events in all IRCs, to be updated daily. It also recommends the establishment of a register in which the cases of injuries of detained persons or of staff are systematically reported. This register is particularly important in the event of formal complaints or suspected ill-treatment. It is an essential tool both for the protection of persons detained or subject to restrictive measures and for the protection of staff working inside these facilities. In places of deprivation of liberty, it is all the more important to ensure that acts and behaviour are transparent.**

²² CPT/Inf(2009)27-part, par. 96: “In respect of any place where persons are deprived of their liberty by a public authority, the CPT consistently recommends that any sign of injury to a person who alleges ill-treatment, as well as the relevant statements made by the person concerned and the doctor’s conclusions (as to the degree of consistency between the person’s statement and the injuries observed), be duly recorded by the doctor on a form designed for that purpose. A similar record should be made even in the absence of a specific allegation, when there are grounds to believe that ill-treatment may have occurred. Procedures should be in place to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by the person concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent judicial or prosecuting authorities.”



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G. Right to information and defence

Each person has the right to understand, as stated by the European Convention on Human Rights already in the Additional Protocol 1, regardless of their legal status. This right implies that all places of deprivation of liberty must necessarily be equipped to offer adequate instruments to ensure “understanding”, which go from basic literacy, to aid in understanding the rules of the hosting institution, to support in accessing the different possibilities that the institution itself or, more generally, the legal system, can offer. In this context, the understanding of one’s own allocation is part – not a secondary one – of the inclusive process that even the administrative detention administrations should look after. It is worth recalling Rules No. 54 and 55 of the so-called Nelson Mandela Rules of the United Nations²³. Though adopted to ensure the respect of standards applied to penal detention - therefore operating in a more restrictive context, they state the right to receive written information regarding the Regulation of the prison institution and regarding one’s rights and duties, and the right to have an interpreter, or, in case of illiteracy, to be in the condition to understand.

Moreover, one of the fundamental rights of every person forced to live in a place of deprivation of liberty, which is governed by a system of rules, is the knowledge of these rules and the possibility to be certain of what is allowed and what is forbidden, as well as having knowledge of the reasons of any prohibition. Despite this, in the IRCs visited the flow of information relating to the rules of the Centre itself, rights and duties, appeared to be lacking. Often the Managing Bodies have not even formulated the Centre Regulation and rules and regulations are learnt by word of mouth.

14. The National Guarantor recommends that in all IRCs detailed information be given to detainees about the rules governing life within the Centre, in an understandable and accessible way, through the dissemination of a document defining them, translated into the different languages spoken by the people there housed.

Finally, as regards the **IRC in Brindisi-Restinco**, the National Guarantor expresses a certain dismay in apprehending of a communication from the local Prefecture addressed to the Managing Body, concerning the need to reduce the access to the IRC of legal advisers. The letter, in fact, set out their access from Monday to Friday and at specific times established by the same Managing Body. This limitation is considered inappropriate and the National Guarantor asks for explanations about its reasons.

H. Right to lodge complaints

The absence of an appeal mechanism for migrants to lodge complaints about the conditions of detention is still an unsolved problem. It was also highlighted by the European Court of Human Rights (ECHR), which in the case *Khlaifia and Others v. Italy* – the Grand Chamber gave its ruling on 15 December 2016 – condemned Italy for violating Articles 3, 5 (paragraphs 1, 2 and 4) and 13. The judgment was referring to the lack of a statutory basis

²³ UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) adopted by the United Nations General Assembly on 17 December 2015.



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for the detention of three Tunisian citizens in the Centre of Lampedusa and on some ships in 2011. It also referred to the absence of remedies the claimants could have benefited from for lodging complaints regarding the conditions of detention and the ability to challenge violation of Article No. 3 of the ECHR. Already in 2013, the United Nations High Commissioner for Refugees (UNHCR) recommended that Italy activate a complaint mechanisms in the Centres for migrants.²⁴ However, this recommendation has not been applied yet and migrants held in IRCs do not have access to any formal procedure for reporting possible violations or lacks.

15. The National Guarantor therefore recommends that a complaint procedure be established before an independent Authority concerning the material conditions of accommodation in the Centres, the relating rules and the exercise of detained persons' legitimate interests.

It shall also be noted that in the context of the applications that can be submitted by the aliens held in the Centres, greater attention shall be given to the expression of intent to apply for international protection. The reason given that there is no direct relationship between the detainees and the police officers operating in the Centres cannot be a cause for delay in the acquisition of the expression of intent by the law enforcement authorities.

In this regard, in the **IRC in Turin** it was reported that detainees who intended to apply for asylum could address the application to one of the Managing Body. The latter then informs the Immigration Office of the fact that a detainee has requested an appointment, without giving any indication regarding the intention expressed by the interested party. Based on what the police officers reported, the detainee shall then be waiting an average of two to three days before being called for the appointment. During this period, the law establishes that the alien is already to be considered an asylum seeker. Nevertheless, as the Police Authority is not aware of the alien's request of international protection, it could therefore proceed to carry out his/her return operation.

16. The National Guarantor recommends that in IRCs the acquisition of the intention to access the procedure of international protection by the Police officers is always assured promptly and that in any case the foreign person who has expressed this intention be issued a written receipt proving the declaration made to that effect.

I. Right to confidentiality

During the visits, the delegations found serious risks of violating the confidentiality that detained persons should enjoy as a right during medical examinations, given the systematic presence of police officers inside the medical unit or at a distance not sufficient to guarantee said confidentiality.

The National Guarantor, in line with all internationally recognised standards, considers unacceptable the systematic presence of police officers during medical examinations. The National Guarantor reminds that

²⁴ UNHCR Recommendations on Important Aspects of Refugee Protection in Italy, July 2013. "27. UNHCR encourages the Italian authorities to establish mechanisms aimed at consulting asylum-seekers hosted in reception facilities and at facilitating their active participation, to introduce complaints mechanisms"



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medical personnel in specific and circumstantial cases can request this presence but that in no case it may constitute a routine practice. Therefore, also on the basis of the Legislative Decree No. 196 of 30 June 2003 “Right to the Protection of Personal Data”,

- 17. he National Guarantor recommends that the practice of remote control, visual and not auditory, be established as usual practice and that only in specific cases the presence of police personnel during medical consultation be foreseen.**

L. Relations between Managing Body and Police Forces

During the visits in the many IRCs, critical relationships between the Managing Body and the Police Forces were observed, the first being in charge of the management of the daily life in the Centres, the latter of the security aspects. This diversity of mandate sometimes poses difficulties to the collaboration, as reported to the National Guarantor. The Security Plans of the Police Headquarters tend to generally exclude the possibility of carrying out activities involving more than three/four people at a time, as happens in the **IRCs in Brindisi-Restinco and in Bari**, preventing and hindering any initiative involving a higher number of migrants.

While understanding and respecting security requirements, the Guarantor demands more information regarding the limits set for the organisation of the activities and the reasons motivating these decisions. The National Guarantor reminds that the IRC Regulation explicitly provides for the planning and enforcing of initiatives involving detainees, also in collaboration with the civil society organisations.

M. Offensive weapons

During the visit to the **IRC in Brindisi-Restinco**, the Guarantor found a baton belonging to one of the officers of the Police Force on duty at the Centre on the table of the room used for the detainees’ visits (lawyers, with family members, and staff). The Guarantor condemns this fact, and considers that the personnel cannot introduce into the Centre, except for specific needs, any object that may be used – or may be perceived as being usable – as an instrument of threat or violence.

The Guarantor also recalls the fact that Police officers operating in the IRCs, as well as the officers employed to escort forced return operations, are trained in the use of de-escalation techniques to prevent or contain possible aggressive attitudes, also preventing a potential amplification effect of the event.

In presenting this Report, the National Guarantor recalls that each visit is intrinsically an element of collaboration with the Institutions.

The Report contains some Recommendations and the request for some clarifications to which the National Guarantor asks the competent authorities to formulate a response, as required by Article No. 22 of the Optional Protocol to the Convention against Torture (OPCAT). The Report will remain confidential for thirty



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days, to give the Authority time to reply, it will then be made public on the website of the Guarantor along with the replies received.

Mauro Palma

A handwritten signature in black ink that reads "Mauro Palma".

6 September 2018