



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, 23 March 2020

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has published the *Principles for the Treatment of Persons Deprived of Personal Freedom in the Coronavirus Pandemic (Covid-19)* where ten principles are outlined, starting with the fundamental one which is thus stated: «The basic principle must be to take all possible action to protect the health and safety of all persons deprived of their liberty. Taking such action also contributes to preserving the health and safety of staff».

The other principles include:

- Full compliance with the guidelines of the World Health Organization in all places of deprivation of liberty
- Reinforcement of staff availability and all staff receiving support and protection gears
- Right to have a legal basis for every restrictive measure taken vis-à-vis persons deprived of liberty and to respect the criteria of necessity, proportionality, respect of human dignity and restricted in time, as well as the right of persons deprived of liberty to receive comprehensive information in a language they understand
- Stress on making use of alternatives to deprivation of liberty in all sectors where it takes place (criminal, health care, administrative ...)
- Special protection to be addressed to vulnerable or at-risk detained people, such as older persons and persons with pre-existing medical conditions
- Irreducible minimum of fundamental rights: the right to maintain an adequate personal hygiene, the right to access open air activities (at least one hour a day). In addition, the need to compensate for restriction on contacts with alternative means of communication
- Guarantee the provision of daily human contact to detained people placed in isolation for reasons of health
- Fundamental legal safeguards being protected (access to a lawyer, access to a doctor and notification of custody to a third person)
- Full exercise of the powers of the independent monitoring bodies (such as, for example, the National Guarantor) to all places of deprivation of liberty, including those where people are quarantined

[The full text of the Cpt document is published on the website of the National Guarantor <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/fdedc460a98a505bc8c83cc10e88d2fe.pdf>]

Alongside these statements published by an organisation, which is — it should be remembered — the expression bounded to a Treaty, other international guidelines have been recently produced in this context among which the following deserve mention:

The World Health Organization (WHO) has published a guidance on the prevention and control of Covid-19 in prison and other places of detention, entitled *Preparedness, prevention and control of COVID-19 in prison and other places of detention*.

In its introduction, the guidance makes it clear that people in places of detention are likely to be more vulnerable to the virus outbreak than the general population because of the confined conditions in which they live together for prolonged periods of time. Furthermore, experience shows that prisons, where people are gathered in close proximity may become a source of spread of infectious diseases within and beyond prisons.

The guidance, therefore, provides guidelines on how to contain the risk of transmission, how to take preventive measures, how to deal with suspected and positive cases and how to manage information.

[The full text of the WHO guidance can be found at the following link:

http://www.euro.who.int/_data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1

Some international *think tanks* are also developing recommendations and guidelines. Among these, *Penal Reform International* has published a *briefing note* entitled *Coronavirus: Healthcare and human rights of people in prison* on the impact of the epidemic in the prison environment.

Here is the link: <https://cdn.penalreform.org/wp-content/uploads/2020/03/FINAL-Briefing-Coronavirus.pdf>

Prisons

At the time of writing this bulletin, the number of prisoners is 58,858. 91 prisons have set up 108 wards used for preventive isolation, for special needs of people accessing the facility or for isolating people from those with fever symptoms. To-date, there are 281 people quarantined.

As well known, the more stringent imposed movement restrictions have made it impossible to restart contact visits for prisoners. The National Guarantor, in collaboration with the spokesperson of the local Guarantors, has sent a message to the prison population (<https://www.youtube.com/watch?v=jPiY6V2kf2M>), ensuring the commitment of all Guarantors to control that the promised implementation of alternative means of communication, ensured by the Prison Service (cell phones available, video communication, increase in number and duration of free of charge phone calls, free laundry services, ...) has actually been carried out.

The local Guarantors have largely appreciated the invitation to get involved in these difficult moments - working in close contact with the prison governors and in some cases directly with some prisoners' spokespersons — and help mitigating the feeling of pain experienced by them, by their family members by those who work in prison, and by associations that have project activities in prisons.

However, in some prisons the situation is still extremely difficult — especially those where some prisoners have been transferred after the protests. Some inmates arrived without their personal medical file and medical staff had hardly worked to recover their clinical diary. The National Guarantor underlines, also starting from this context, how it has always stressed on the need to have the prisoner's medical file digitized, especially in the extent of giving continuity to their health care treatment. However, any appeal to achieve this expression of civilization and national cohesion manifested in the digitizing and sharing medical records whatever regional service is considered, has been unheard to-date.

Difficulties remain in the use of the Skype platform, both due to the shortage of lines and their cabling, and to the small number of computers and cell phones required for connections. The National Guarantor is following

the situation and has received news of the administration of 1,500 mobile phones, additional to the 1,600 already supplied by TIM.

The delivery of individual protective gears to staff is still a concern: the Prison Service has ensured much commitment on their supply and administration, even though information from prisons arrived to the National Guarantor still tells of feelings of anxiety among staff with regard to the lack of protective gears. Too often, there is unreliable information about presumptive positive cases that risk fueling this anxiety, often making confusion between the suspected cases and the confirmed ones.

Residences for people with disabilities or the elderly

Recently, the National Guarantor has expressed strong concern for people hosted in closed residential structures or suffering from serious chronic neurological diseases or having specific disabilities, also in consideration of the fact that these facilities are more concentrated in northern Italy where the epidemic is, at the moment, most widespread.

The research project — announced last Friday (bulletin 8) — in collaboration with the National Institute of Health has been finalised over the weekend: at its outset, it will address 1,983 nursing homes (RSA) distributed throughout the national territory in order to acquire information on the management of any suspected cases or patients being tested positive to Covid-19. Collected information will help in working at the implementation of strategies for enhancing prevention programmes of infections related to the health delivery service and, in parallel, for those critical issues that could jeopardize the enforceability of people's fundamental rights. The National Guarantor strongly invites the RSAs involved in the research to a strong sense of responsibility by ensuring a high participation in the *survey* and by giving precise and exhaustive answers to the questionnaire in all its parts.

The National Guarantor has received some reports, which are indicative of the risk of contamination in the RSAs nationwide. To avoid making the patients' families get more worried, the location and names of the concerned structures will not be disclosed. However, it is important to point out that, for example, in a city, 12 cases out of the 16 people tested positive were from the local RSA. In another RSA, 25 cases were tested positive out of 35 guests. Moreover, the situation of the two monasteries of Grottaferrata and Rome is well known to everyone. To prevent contamination, some nursing homes, although they have a limited number of infected people, have been isolated by preventing visitors from accessing them.

Quarantines

In addition to the stringent measures adopted nationwide to contain the spread of the infection, regional governors and city mayors, from north to south of Italy, are resorting to quarantine, closing entire territories by establishing red areas to prevent the spread of the infection.

Following the city of Medicine — a little town of 16,000 inhabitants in the province of Bologna — same measures have been taken for other cities like Fondi (Latina – Lazio), Pozzilli, Venafrò, Riccia and Montenero di Bisaccia (in the region Molise). Many other municipalities in Campania (Irpinia) and Calabria, such as Cutro (Crotona), Montebello Jonico, San Lucido, Ariano Irpino, Sala Consilina, put in place similar measures which were then further confirmed by the new governmental nationwide restrictions on leaving the places where a person is found at the time of the imposed provision.