



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



National Preventive Mechanism under the OPCAT

Rome, 12th March 2020

Prisons - Today has been a relative calm day in the Italian prisons. However, a number of problems remain related to the riots and violent situations of the past few days. The National Guarantor is investigating the situation of over 1,500 people transferred or being transferred following the disorders. Compared to a sample (of 65 people) of critical issues found following the events, on which the Guarantor made a specific study, it emerged that in 13 cases the hospital visit was arranged; 2 people are hospitalized and 1 is under intensive care. We are working on receiving information from the territorial guarantors and updating results.

From a more accurate examination, the number of deaths related to the events has been 13 (yesterday's communication incorrectly included the case of a person imprisoned in Bologna who instead we ascertained to have been hospitalized in intensive care and subsequently recovered from the crisis). The identity of the 13 people is currently under investigation by the National Guarantor also considering that the data uploading at Modena prison got interrupted once the unrest began; presumably for a system crash. At the moment, we had information about the identity of ten out of 13 – though we are sure that the investigating authorities have at their disposal all details: only 1 is Italian and 3 were under custody (waiting for their trial); the youngest was 29 years old and the oldest 42. An overall report will be dispatched tomorrow.

Like in the past, the National Guarantor have written to the prosecutors of Modena, Rieti, Parma, Alessandria, Verona, Bologna to have information about the preliminary investigation in order to exercise its rights of appearing as injured party in the criminal proceedings (condition provided in article no.90 of the Criminal Procedure Code)

In this sad context, we have to report today the twelfth suicide in prison since the beginning of the year. It happened in Novara prison: once again, a young prisoner, a homeless Egyptian national.

Many requests of information are arriving to the desk of the National Guarantor from family members who have difficulties in getting into contact with their imprisoned relatives, after the prison service's serious turn of the screw on family visits (which were all refrained from being carried out) and the still incomplete system of telephone and video calls to support contacts with inmates. The National Guarantor clarified to the Prison Administration that the possibility of making video calls, in substitution of on site visits, shall be obviously extended to all prisoners regardless of the prison regime the detainee is currently submitted (the number of calls shall be related to the prison regime adopted, of course). This forecast is even more important now that movements along the peninsula are subject to severe limitations. Certainly, face-to-face conversations through glass partitions have no reason to be limited on the basis of any possible direct infection.

The National Guarantor has prepared a communication scheme with all the territorial Guarantors for sharing of information on the ongoing events in the Italian prison establishments (also in YOIs), and to know about all measures adopted locally after the decree-law of March 8th, and the wretched situation of having the Covid-19 infection passing through the gate.

Work continues on the search for possible regulatory measures and the dissemination of good practices enforcing the existing rules, aimed at reducing the impact of overcrowding on the current difficult situation, pending a new meeting of the so-called "Task Force".

Immigration Removal Centres (CPR) - the National Guarantor has started correspondence with the Ministry of the Interior on the persons detained in the CPR whose detention deadline is close to expiry. Following the

Covid-19 emergency, in fact, several countries have ordered the blocking of flights to and from Italy, thus also interrupting forced return operations. Therefore, the National Guarantor asked to assess the need for an early release of those who, being in a situation of impossible effective repatriation, are indeed “illegally detained” pursuant to the same Return Directive 115/2008.

Quarantine - With a note from the United Nations Subcommittee on the Prevention of Torture (SPT), signed by its President, Sir Malcom Evans, the National Prevention Mechanisms (NPM) of the countries that have ratified the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment (OPCAT) have been informed about the fact that any place where a person is held in quarantine is a place of deprivation of liberty for the purposes of the OPCAT and so falls within the visiting mandate of the NPM. Clearly, the Subcommittee invites the NPMs to evaluate methodologies in carrying out monitoring visits in structures intended for this purpose, and to be mindful of the ‘do no harm’ principle when exercising their mandate (be subject to medical checks and other forms of inspection and restriction to ensure the integrity of the quarantine). However, the SPT specifies that the NPMs’ monitoring to these structures shall be carried out and that the declaration of a health state of emergency cannot reduce the individual’s exercise of their fundamental rights nor be invoked as a reason to impede supervision by internationally appointed bodies.

Health care home for the elderly (RSA) - Given the limitations provided for in letter q) of the Council of Ministries’ decree of 8 March 2020, which provides that "the access of relatives and visitors to home and long-term care facilities, assisted healthcare home (RSA), *hospice*, rehabilitation and residential structures for the elderly (both self-sufficient and non-self-sufficient), is limited to the cases indicated by the healthcare manager of the structure which is required to take the necessary measures and prevent possible transmissions of the infection", the National Guarantor, while considering the appropriate restrictions in order to prevent the spread of the illness, expresses its concern regarding the backlashes that these limitations may have inside the structures for people with disabilities and the elderly, if not properly monitored and controlled. In fact, the situation exposes both guests and operators to high stress. This entails an increased risk of conflicting behavior, of mistreatment or of abuse of coercive measures. The National Guarantor is studying collaborations and methods of supervising unacceptable behaviours of this type.

However, the National Guarantor drew attention on those who work in the social-health and social-welfare sector, recommending to all the Directors of the facilities concerned and to the regional supervising Bodies to monitor the structures with utmost attention, given the drastic reduction of the informal control exercised by the external community following restrictions on access.