

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



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# Report to Parliament 2019

## Credits

This report has been collectively drawn up by the different Operating Units of the Office of the National Guarantor under the coordination of its Board.

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## Abbreviations and acronyms

Acli	Christian Association of Italian Workers	Ipm	Juvenile Detention Facility
Apt	Association for the Prevention of Torture	Lgbti	Lesbians, Gay, Bi-Sexual, Trans-Sexual, Intersex
Cahdph	Ad hoc committee on the rights of disabled persons	Msna	Unaccompanied Foreign Minor
Cara	Reception centre for Asylum Seekers	Nhri	National Human Rights Institution
Cat	Committee Against Torture	Npm	National Preventive Mechanism
Cda	Reception Centre	Ocse	Organisation for Economic Co-Operation and Development (OECD)
Cdcj	Committee on Legal Cooperation	Odihr	Office for Democratic Institutions and Human Rights
Ceas	Common European Asylum System	Ohchr	Office of the High Commissioner of Human Rights
Ceep	European Code of Police Ethics	Oim	International Organisation for Migration (IOM)
Cedu	European Convention for the Protection of Human Rights and Fundamental Freedoms	Oms	World Health Organisation (WHO)
Cerc	Centre for governmentality and disability studies	Ong	Non-Governmental Organisation (NGO)
Cesp	Study Centre on Public School	Onu	United Nations (UN)
Cidu	Interministerial Committee on Human Rights	Opcat	Optional Protocol to the Convention against Torture
Cj-dam	Committee of Experts on Administrative Detention of Migrants	Opg	Judiciary Psychiatric Hospital
Cie	Centre for Identification and Expulsion	Osce	Organisation for Security and Co-Operation in Europe
Cnf	National Forensic Council	Pnud-Tunisie	<i>Programme des Nations Unies pour le Développement en Tunisie</i>
CorteEdu	European Court on Human Rights	Pos	Place of Safety
Cpia	Provincial Adult Education Centre	Ptri	Individual Therapeutic Rehabilitation Project
Cpr	Return Detention Centre	Ra	Nursing Home
Cpsa	Centre for First Assistance and Reception	Rems	Residential Facility for the Implementation of Security Sanctions
Cri	International Red Cross	Rsa	Nursing Home
Cro	Collecting Return Operation	Sai	Increased Assistance Service
Cpt	Committee for the Prevention of Torture	Sar	Search and Rescue
Crpd	Committee for the Rights of Persons with Disabilities	Sdo	Hospital Discharge Form
Dap	Penitentiary Administration Department	Sio	Hospital Information System (HIS)
DeMon Base	European Detention Monitoring Knowledge Base	Smop	Information System for Monitoring the Overcoming of OPGs
Dgmc	Juvenile and Community Justice Department	Sop	Standard Operating Procedure
Dpr	Decree of the President of the Republic	Spdc	Diagnosis and Treatment Psychiatric Service
Dsm	Mental Health Department	Spt	Sub-Committee for the Prevention of Torture
Ecosoc	Economic and Social Council	Ssn	National Health Service
Epr	European Prison Rules	Ssr	Regional Health Service
Fami	Asylum, Migration and Integration Fund	Sso	OPG Overcoming Services
Fao	Food and Agriculture Organization	Tso	Compulsory Health Treatment
Fra	Agency for Fundamental Rights	Ue	European Union
Frontex	European Border and Coast Guard Agency	Uepe	External Criminal Enforcement Office
Hrc	Human Rights Council	Unhcr	United Nations High Commissioner for
Icam	Mitigated Custody Institute for Incarcerated Mothers		
Icj	International Court of Justice		

*The new Report to Parliament by the National Guarantor for the Rights of Persons Detained or Deprived of Liberty is now available less than one year after the previous one. Actually, last year it was published in mid-June, pending the setting up of the new Parliament of the 18th legislative term. This year it goes back to its usual deadline, just nine months after the former one.*

*Last year's keyword was found to be expectation, a feeling which is widespread in the different areas of deprivation of personal liberty. Expectation for the announced reframing of the enforcement of criminal sentences, following the long debate within the General Consultation on penal execution (the so-called Estates-General); for the new wave of attention to the social care homes for the elderly or to the disabled, due to the fact that during this year we strongly wanted them to fall into the overall National Guarantor's supervisory mandate; for the promised new facilities for the detention of returnees – to replace the former ones – which are explicitly described as an environment far from their previous prison-like aspect. Lastly, expectation for the declared capacity and will to bring together the rigorous safeguard of public security and the acknowledgement of the inalienable rights of each individual, regardless of the crime being committed or of the person's own situation of irregularity or minority.*

*These are different expectations but they are held together by a thread of hope that should be never worn down, even when it comes to those who have acted wrong, sometimes even seriously.*

*Therefore, today we should ask ourselves if and how such expectations have received any responses or, at least, if any step was undertaken to keep up with said opportunities and preserve the flame alive. It might be hard to answer, especially in the light of the many inconsistent messages – in the early phases of the new Italian parliamentary term – being addressed to such a multifaceted world, nevertheless marked by the risk of indifference.*

*The term, which may best describe this year's commitment, is subjectivity. Such subjectivity has been frequently denied in the past months, to the extent that in prisons the risk to thoroughly spread a sense of distrust towards the acknowledgement of the subjects's belonging to the social context. In other places of deprivation of liberty, in particular those holding irregular migrants, data comparison has been strongly developed and people are referred to as numbers. All this actually denies the subjectivity of those who are held therein. We do not know their names, only their numbers. It is an argument that often recurs in discussions concerning prisons and places hosting people that society no longer considers as productive, even from a cognitive standpoint. Nonetheless, the hope for a reconstructable subjectivity is entrusted to the constitutional framework that holds together every institution of the State and any Government, irrespective of its political views. This is a foundational principle that goes beyond policy differences and empowers the institution of the National Guarantor to issue cooperation with the need to place the *poterpetro* to *totum* constitutional principles into legislative and administrative acts.*

*The common ground over which the different institutions should reach a full agreement is the acknowledgment of the complexity of the issues to be faced in the current context, with its progressive and endless change. Once, the term complexity implied an important meaning to be recognised as a whole, instead of denying it in the search for an impossible simplification. Nowadays everybody seems to avoid both the word and its underlying concept.*



*On the contrary, it is complex to build a positive relationship between the insecurity perceived by citizens and the determination to reintegrate those who have done wrong. It is complex to hold together the need for a future of those who come to Europe – leaving familiar, but difficult environments, to move to other ones, which are unknown, but full of hope – with the sense of difficulty felt by the many living in some areas of the cultural and social suburbs of our country. It is complex to cope with the mental disorders of people who, notwithstanding this, shall never be denied any possible form of self-determination.*

*Only by being aware of such a complexity it becomes possible to build on structured pathways. Conversely, if we consider complexity as a rhetorical aspect to be avoided in order to adopt simple and fast procedures, we run the risk of developing fictitious solutions, or solutions denying the subjectivity of their recipients. Instead, to fully grasp the positive value of recognising complexity, the very first operation is to leave aside a simplifying language, which often takes the tone of offence or refusal. The language of those who hold public responsibilities should not be modulated on the basis of the impromptu feelings of those who have experienced, sometimes quite suddenly, a difficulty or a trauma. Language should not seek for emotional support: it shall give form to thoughts so that a change in said emotions is possible within the frame of a relation that helps understanding. To this purpose, during the past year, the National Guarantor has admonished about some linguistic expressions, verbal and nonverbal messages that challenged the set of values at the basis of our Republic. The Guarantor did not intervene to censor or to call to order: he did so to help understanding that the cohesive function, which every institution shall pursue, dealing with different needs and standpoints, can only be exercised if we see language as a medium for respect and acknowledgment, capable of structuring thought towards unifying concepts, not against imaginary enemies.*

*This report is another contribution to the acknowledgment of complexity, to the sharing of difficulties that such an acknowledgment entails, and to the construction of a significantly inclusive way of thinking.*





During a  
year of  
activity





# During a year of activity

2018

## January 2018

**11-14** **Visit to 41-bis prison regime units.** Visit to the 41-bis prison regime units of the PI of Terni, Spoleto, and Ascoli Piceno.

**15** **Training seminar on unaccompanied foreign minors.** The so-called “Zampa Law” was the object of a special in-depth study. The Guarantor for Children and Adolescents attended the seminar.

**17** **Training seminar on the texts of the reform of Penitentiary Law, in the process of being adopted.**

**18-19** **Monitoring of a forced return chartered flight to Nigeria, including its pre-return and pre-departure stages at the TRC of Bari.**

**19** **Monitoring of the pre-return phase of a Moroccan national at the TRC of Rome-Ponte Galeria.**



**The President of the Republic appoints Liliana Segre as senator for life.**  
A victim of racial laws and of the Shoah, she survived life in the concentration camps of Auschwitz-Birkenau.

**20** **Visit to the Secured Health Ward of the Belcolle – Viterbo Hospital.** The visit was paid within the framework of the assessment of facilities capable of hosting prisoners affected by specific diseases.



**Attack in Kabul.** An attack claimed by the Taliban at the Intercontinental Hotel, often patronised by government officials, resulted in 40 casualties.

**22** **Monitoring in Palermo of the pre-departure phase of a forced return chartered flight to Tunisia.**

**22-24** **Training seminar in Palermo.** Implemented within the framework of the FAMI Project and organised in co-operation with the Office of the Sicilian Regional Guarantor for Persons Deprived of their Liberty, the seminar examined return procedures and regulations.

**23** **Follow-up visit to the hotspot of Lampedusa.** One year after the first visit, the Guarantor came back to monitor the facility.

**24** **Press conference of the National Guarantor about the visit to the hotspot of Lampedusa.** Following the visit to Palermo, the Guarantor described to the journalists in attendance the material conditions found in the visited facility, formally designated as a hotspot.





**Meeting with the “Human Rights Legal Clinic” of the University of Palermo.** The Guarantor, intending to co-operate with civil society associations, has had a first contact with the “Legal Clinic”, with a view to possible further collaborations.

**25 Monitoring of a pre-departure phase in Palermo.** The Regional Guarantor, jointly with the National Guarantor, monitored the pre-departure phase of a forced return chartered flight to Tunisia at Palermo’s airport.



**28 Car bomb in a crowded Kabul street:** over 100 victims. According to UN’s estimates, during the first half of the year 2017, 1,662 civilians were killed in Afghanistan.

**29 Presentation of the book “Norms and Normativity”.** With the participation of the Italian Minister of Justice Andrea Orlando, the first collection of recommendations issued by the Guarantor about the enforcement of adult sentencing was presented at the Istituto dell’Enciclopedia Italiana Treccani.

**Coordination meeting of regional Guarantors and local Guarantors.**

**31 Seminar on disability.** At the Italian Institute of Philosophical Studies in Naples, the National Guarantor discussed with different university representatives the monitoring criteria for closed residential facilities for disabled persons and elderly people.

## February



**1 Frontex launches Operation Themis, which replaces Triton.** This new initiative is aimed at assisting Italian Authorities in their control of the Mediterranean, which shall be pursued including search and rescue components.

**National Project on architecture and prisons at the Polytechnic University of Milan.** The National Guarantor took part in the presentation of the Intermediate Report about the project “Architecture for prisons: from detention spaces to relation places”.

**2 Ad hoc visit to the Prison institution San Vittore of Milan.** The visit concerned some cases signalled in the female wing.

**3 Ad hoc visit to the prison of Vicenza.**



**4 Attack in Macerata.** An Italian neo-fascist militant wounds six foreign citizens of African origin, perhaps as a racist retaliation act following the killing of a young woman, for which a Nigerian national has been indicted.



## During a year of activity

2018

**5** **Monitoring of a forced return chartered flight to Tunisia.**

**12** **Press Conference of the National Guarantor.** The Guarantor expounded on the monitoring plan for closed residential facilities for disabled persons or elderly people, and on the mapping of the same facilities.

**13** **Visit to the special regime units of the Prison institution “Raffaele Cinotti” in Roma-Rebibbia (New complex), pursuant to Article 41-bis P.L.**

**15** **Monitoring of a forced return chartered flight to Tunisia.**



**16** **Six Turk journalists sentenced to aggravated life imprisonment.**

Sentenced because of alleged subversive activities, namely supporting Fetullah Gülen’s network. The Turkish government considered Gülen as connected with the failed coup of 2017.

**19-22** **Themed tour of Apulia and Basilicata.** Some follow-up visits were carried out as part of the monitoring: to the TRC of Brindisi, to the hotspot of Taranto, the TRC of Bari, and to the TRC of Palazzo San Gervasio (Potenza), as well as to some detention cells of the Municipal Police Department, of the State Police, and of the Carabinieri.

**21**

**Ad hoc visit to the Prison Institution of Potenza.** This turned out to be a general visit to the Institution.

**27** **Ad hoc visit to the Juvenile Detention Facility “Cesare Beccaria” of Milan.**

**28** **The Guarantor’s visit to Piedmont.** The guarantor paid a follow-up visit to the “Sestante” wing and a monitoring of the so-called “filter” unit of the “Lorusso e Cutugno” Institution of Turin, meeting with administrative managers and health directors.

**Training Seminar for Forced Return Monitoring,** implemented within the framework of the FAMI Project, in co-operation with the Piedmontese Office of the Regional Guarantor for persons deprived of liberty.



## March

### 1 Follow-up visit to the TRC of Turin.

#### Monitoring of a forced return chartered flight to Tunisia.

Monitoring, at the TRC of Turin, of the pre-return phase of two forced returns to Morocco and Colombia by commercial flight.

### 2 Visit to the Secured Health Ward at the Hospital Centre “Le Molinette” of Turin. This visit falls within the framework of the assessment of facilities capable of holding detainees with specific diseases.

### 5 Ad hoc visit to the correctional facility of Turin. This visit was aimed at monitoring the Articulation Unit “Il sestante” for the protection of mental health.

### 5 Follow-up visit to the correctional facility of Aquila. This visit was designed to check the living conditions in the special regime unit as per Article 41-bis.



### 4 General Elections in Italy. On that day Italian citizens voted for the renewal of the Parliament and, in Latium and in Lombardy, regional elections were held as well.

### 5-9 Training in Prague organised by Frontex. A representative of the National Guarantor attended in Prague the second training course organised by the Frontex monitoring pool for forced returns (“Forced-Return Monitoring Training”).

### 5 Follow-up visit to the special regime units of the Prison Institution of Aquila, pursuant to Article 41-bis P.L.

### 6 Ad hoc visit to the Psychiatric Diagnosis and Treatment Centre (SPDC) at the Hospital Centre of Colferro. This was the first visit to the facilities for the hospitalisation of patients subjected to Compulsory Health Treatment (TSO).

### 9 The new law on torture and its application. The Guarantor attended a convention organised by the “Franco Bricola” Association and by the University of Ferrara on the application profiles of the new law on torture.

### 10 Ad hoc visit to the correctional facility of Ferrara. The visit was also triggered by the requests received from the Municipal and Regional Guarantors.



## During a year of activity

2018

**Visit to a person detained** at the “Bio-Medical Campus” of Rome. The Guarantor monitored the detention conditions of a specific detainee.

**12-14** **Debate in Strasbourg on the judgments of the ECHR.** The National Guarantor took the floor in Strasbourg during the thematic panel promoted by the Committee of the Council of Europe on the enforcement of the sentences issued by the European Court of Human Rights, to expound on the actions adopted by the Italian Government following the Court’s sentence on prison overcrowding.

**12-13** **Monitoring Homes for the Elderly.** The National Guarantor attended the international meeting held in Trier at the Academy of European Law, which was co-organised by the Council of Europe and aimed at the definition of new standards for material and overall conditions of residential facilities for the elderly.

**15-16**

**LGBTI in custody.** The National Guarantor took part in the meeting “LGBTI in custody” organised in Geneva by the Association for the Prevention of Torture (APT), while also contributing to the drawing up of guidelines for the monitoring of the conditions of LGBTI persons deprived of liberty.



**18**

**Vladimir Putin re-elected President of the Russian Federation.** His fourth mandate was confirmed with over 76% of votes.

**21-22** **In-house Training Course on the “Calliope” Protocol.**

**22** **Workshop on legal writing.** The Guarantor illustrated the methodology for writing reports and recommendations in a “soft law” context.



**24** **Maria Elisabetta Alberti Casellati and Roberto Fico respectively elected** President of the Senate and of the Chamber of Deputies.



**“March for Our Lives” in the US.** Hundreds of thousands of people all over the world joined in the “March for our Lives” promoted by students to protest against the sale of arms.

**27-28** **“DeMon Base” Project.** The National Guarantor attended in Vienna the meeting organised by the Forum of National Preventive Mechanisms (NPMs) concerning the “Pilot Project for the Development of a European Knowledge Tank about Monitoring in Criminal Matters”.

**28** **Ad hoc visit to the Psychiatric Diagnosis and Treatment Centre (SPDC) of the General Hospital “Umberto I” of Rome.** This was the National Guarantor’s second visit, carried out within the framework of the monitoring of Compulsory Health Treatment (TSO).





**29** **The Egyptian President Abdel Fattah al Sisi re-elected with 97% of the votes.**  
The turnout was very low, no more than 40%.



**31** **At Bardonecchia French Police Stations forced their way into a facility owned by the Italian Railways used by an NGO.** The French justified their break-in, harshly criticised by Italian authorities and the object of a diplomatic dispute, with their need to take an immigrant's urine sample for investigational purposes.

## April

**5** **Meeting with the Refugee Law Clinic of Turin.** The National Guarantor attended the presentation of the renewed Convention among the International University College, the Correctional facility "Lorusso e Cutugno", and the Guarantor for persons deprived of liberty



**7** **Bombing at Duma.** The military attack took place in the Syrian town, a stronghold of IS, through a bombing that caused many casualties and, according to different sources, poisoning produced by chemical weapons.

**9** **Meeting of the National Guarantor with Giovanni Nistri, the new General Commander of the Carabinieri.**

**12** **"In Praise of the Constitution".** Meeting with the detainees of the Prison Institution "Raffaele Cinotti" of Rome - Rebibbia on the occasion of the 70th anniversary of the Republican Constitution, organised in co-operation with the Study Centre on Public School (CESP) and the University Roma Tre.

**Monitoring of a forced return chartered flight to Tunisia.**



**14** **The US, France, and the UK launched a combined bombing in the night against some Syrian plants,** allegedly identified as arsenals containing chemical weapons, supposedly used during the bombing at Duma.

**21** **Ad hoc visit of the correctional facility of Rovigo.** This visit was requested as well by local trade unions.

**23** **Monitoring of a forced return chartered flight to Tunisia.**



## During a year of activity

2018

**26-27** **Discussions at the MGIMO University in Moscow.** The National Guarantor took part in the panel discussion organised at the State University of Moscow for International Relations (MGIMO) about the enforcement of sentences issued by the Court of Strasbourg related to prison conditions.

### May



**1** **Double attack in Nigeria.** Two Boko Haram militiamen blew themselves up in the vicinity of a Mosque and of a marketplace in the town of Mubi, causing at least 60 casualties.



**8** **The US withdraw from the agreement on the Iranian nuclear programme.** President Donald Trump announces the withdrawal of the US from the agreement on the Iranian nuclear programme and the introduction of new sanctions against Teheran, congealed since 2015.

**10** **Monitoring of a forced return chartered flight to Tunisia.**

**17** **Monitoring of a forced return chartered flight to Tunisia.**



**20** **Protests arose after Maduro was confirmed as President of Venezuela.** Nicolás Maduro was re-elected President of Venezuela, following elections boycotted by the main opposition forces.

**25** **The book “The State does not Kill” published by the National Guarantor.** In the first issue of the book series “Wherefrom” the Guarantor presents a set of little known documents about the abolition of death penalty.

**30-31** **Monitoring of the pre-return and pre-departure phases of a forced return chartered flight to Nigeria at the TRCs of Bari and Turin.**



## June



**1 The Conte Government sworn into office at the Quirinale.** The new government was sworn in before the President of the Republic, thus ending a three-month crisis. On June 5 and 6 the Chamber of Deputies and the Senate expressed their vote of confidence.



**2 A Malian trade unionist killed at San Ferdinando.** Soumayla Sacko was murdered by rifle shots near the “tent city” of San Ferdinando in Calabria. It was an Italian man who shot him down.



**3 Shipwreck off the Tunisian coast.** A boat loaded with migrants sank: 112 persons lost their life, while 68 more were saved.

**4 Monitoring of the pre-departure phase of a forced return chartered flight to Tunisia at Palermo’s airport.**

**6 The National Guarantor meets with Federico Cafiero De Raho, the National Anti-Mafia Prosecutor.**

**Monitoring of a CRO (Collecting Return Operation) flight organised by France for the return of Albanian nationals from Lille to Tirana.**

**6-8 Second multidisciplinary training seminar on forced return monitoring organised by the National Guarantor.** The seminar took place at the School for Inspectors of Nettuno and it was attended by delegates of the Local Territorial Guarantors adhering to the FAMI Project, as well as by State Police officials.

**8 The National Guarantor received in the Palace of Montecitorio by the President of the Chamber of Deputies Roberto Fico.**



**10 The Malta versus Italy crisis about the “Aquarius”: deadlock in the allocation of a safe haven.** The ship “Aquarius”, owned by the NGO “SOS Méditerranée” with 629 migrants on board was blocked offshore for days between Malta and Italy because of a dispute about the allocation of a safe haven.

**11 The National Guarantor received at the Quirinale by Sergio Mattarella, President of the Republic.** Mauro Palma hands over to the Head of State an advance copy of the Report to Parliament 2018.

**12 Start of a collaboration with “Eurostreet” related to linguistic, cultural mediation services, and interpreting within the framework of forced returns.**

**15 The National Guarantor presented the Report to Parliament 2018 at the Senate of the Republic.**



## During a year of activity

2018

**18-22** **Regional visit to Eastern Sicily.** The visit was carried out by two parallel delegations, one of which monitored residential facilities for elderly or disabled persons.

**18-20** **Participation to the Annual Lessons Learned Meeting on forced returns** organised by Frontex in Helsinki.



**19** **UN: The number of refugees and displaced persons throughout the world has risen to 68.5 millions.** According to UNHCR during 2017 refugees and displaced persons have increased to 2.9 million units worldwide, thus reaching the number of 68.5 million people.



**The US withdraw from the UN Human Rights Council.** This decision was made in protest against the UN, charged with being tolerant in the face of serious violations of human rights in some member countries and unfairly critical towards other countries.



**24** **Hundreds of castaways taken back to Libya.** Eight hundred and twenty migrants, on board of seven dinghies drifting away in the Mediterranean requested the aid of the Italian Coast Guard. Vessels in transit and Libyan authorities were alerted, and migrants were brought back to the African country.



**Erdoğan confirmed as Turkey's leader.** Voters renewed the Turkish President's mandate.

**25** **The National Guarantor requires urgent information about the 113 migrants on board of the ship "Alexander Maersk", blocked in Italian waters.**



**26** **The US Supreme Court confirms Trump's travel ban.** According to the Court, restrictions on entry for nationals coming from some States fall within the presidential prerogatives.



**27** **Malta authorises the docking of the "Lifeline" ship.** After six days offshore, the ship of the NGO with 234 castaways on board landed in Valletta. An earlier refusal from the Maltese authorities was overcome thanks to the commitment made by 8 European countries to accommodate the migrants.

**Regional visit to Eastern Sicily.** The third delegation sent by the Guarantor completed the monitoring.



**29** **Brussels: The reform of the Treaty of Dublin has ultimately faded.** The European Council concluded confirming that relocation and resettlement measures for migrants shall be implemented on a voluntary basis by individual Member States.



## July

**4** The National Guarantor met with **Alfonso Bonafede, the Italian Minister of Justice.**



**9** **Historical Peace Agreement between Ethiopia and Eritrea.** The representatives of the two countries signed an agreement following more than 20 years of conflict.

**12** *Ad hoc* visit of the National Guarantor to the Correctional facility of Udine.

**14** *Ad hoc* visit of the National Guarantor to the Correctional facility of Trieste.



**14** **Hundreds of migrants rescued off the coast of Linosa, 100 accepted by France and Malta.** Since some European countries made known their availability, the Viminale assigned Pozzallo as a safe haven to two ships with migrants on board.



**17** **Russia condemned by the ECHR because of Politkovskaja and Pussy Riot.** Russia was sanctioned by The European Court of Human Rights for omissions in the investigation on the death of the journalist Anna Politkovskaja and violations committed during the arrest and detention of some members of the Pussy Riot feminist group.

**19**

*Ad hoc* visit of the National Guarantor to the Women's Correctional Facility of Rebibbia in Rome. The visitors concentrated on the high security wing.

**23-27** Regional visit to Molise.

**23** **II The National Guarantor heard by the Senate Justice Committee.** The Guarantor gave his opinions about draft decrees in the area of restorative justice, penal enforcement for young offenders, prison life, and work.



**24** **Migrants rescued by bathers at Isola Capo Rizzuto.** A boat in difficulty with 56 migrants aboard was spotted by bathers in the Crotonese locality, who took action and rescued them.

**31** **Letter by the National Guarantor about the "Asso 28" case.** The Guarantor wrote to the General Commander of the Coast Guard to get information about the conditions of the migrants rescued by the ship "Asso 28" flying the flag of Italy and subsequently transferred to Libya.



## During a year of activity

2018

### August

**3** Declaration of the National Guarantor on the reform of the prison system. The Guarantor reremarked out that some points originally contained in the enabling act are missing in the text approved by the Government.

**6** The National Guarantor expressed his concern about the number of suicides committed in prisons.

**7** The National Guarantor sent his reasoned opinion about the Government's text on prison reform.

**8** Monitoring of a flight co-organised by France for the return of Albanian nationals from Lille to Tirana.



**14** The Morandi Bridge collapsed in Genoa. The tragedy, occurred on the A10 motorway, caused the death of 43 people, some of whom were crossing the bridge in their cars while others were working beneath the structure.



**15** The "Aquarius" ship lands at Malta after rescuing 141 castaways on August 10. The situation had reached an impasse in the previous days due to differences between Malta and Italy concerning their respective competences, solved through voluntary reallocation in different European countries.

The National Guarantor asked the Ministry of Home Affairs and the Coast Guard to be promptly informed about the alleged prohibition of landing for the "Diciotti" ship with 177 migrants on board.

**21** Letter of the National Guarantor concerning the "Diciotti" ship. The Guarantor wrote to the Head of the Department for Civil Liberties and Immigration of the Ministry of Home Affairs to get information about the impossibility for migrants to disembark from the ship, moored in the port of Catania.

**23** The National Guarantor visited the "Diciotti" ship. On the same day the Guarantor sent two letters to the Presidents of the Chamber of Deputies and of the Senate to inform them on the persisting situation on board the ship moored in Catania.

**24** Two disclosures have been sent to the Public Prosecutor's Offices of Agrigento and Catania concerning the visit effected on board the "Diciotti" ship.







**30** The “Diciotti” Case: The National Guarantor asked the Ministry of Home Affairs for information about the accommodation of the persons disembarked and to ensure the utmost respect for their rights.

**31** Ad hoc visit to the high security wing of the Women’s Correctional Facility of Rebibbia in Rome.

## September



**6** **India decriminalised homosexuality.** The National Supreme Court has declared constitutionally illegitimate the criminalisation that defined homosexual relations as “unnatural”.

**8-13**

**Regional visit to Calabria.** Three delegations have been working at the same time. The monitoring included a visit to the equipped area for migrant seasonal workers at San Ferdinando and to the adjoining “makeshift” camp.



**10** **The UN talks of a racism alert and of hate speech in Italy.** The High Commissioner for Human Rights sent a mission to Italy.



**12** **The European Parliament instructs the Council to proceed against Hungary.** The Council will have to ascertain the apparent risk of a serious infringement of UE values pursuant to Article 7 of the EU Treaty.



**15** **Tunisia said no to expedited forced returns.** Such a request had been made by the Italian Ministry of Home Affairs concerning 184 Tunisian migrants disembarked at Lampedusa.

**17** In-house training on anti-corruption.

**19** Declaration of the National Guarantor on the double infanticide committed in the women’s prison of Rebibbia.

**20** The National Guarantor’s report about a forced return chartered flight to Nigeria has been published. The Guarantor declares that providing incorrect or no information to returnees could be an infringement of international standards.

Ad hoc visit to the Therapeutical Community “Il Merro” at Sant’Angelo Romano in Latium.



## During a year of activity

2018



**24** **The EU Commission refers Poland to the Court of Justice.** Such a decision was justified by Poland's infringement of the principle of independence of the judiciary, following a reform law issued by the Supreme Court of that country.



**24** **The Italian Government passes the Security Decree.** The text shall be converted into law, with amendments, in December.

## October



**2** **Mimmo Lucano, the Mayor of Riace, was arrested.** The first citizen, a symbol of the "Riace model", based on widespread reception for asylum seekers in the territory, was charged with facilitation of illegal immigration and of direct fraudulent awarding.

**Celebration for the 40th anniversary of the Inter-Ministerial Committee on Human Rights (CIDU).** Mauro Palma attended the panel discussion "The Human Rights System 70 years years after the Universal Declaration of Human Rights".



**3** **Luca Traini sentenced to 12 years on first instance.** The neo-fascist who at Macerata opened fire on a group of migrants seriously wounding six of them in February 2018 has been convicted of massacre aggravated by racial hatred.

**The National Guarantor attends the international meeting on "The Italian and Spanish Penitentiary Systems Compared. Focus on Mental Health".**

**4** **Ad hoc visit to the correctional facility of Turin.** The National Guarantor's Board wished to check out the living conditions in some units, following different reports.



**5** **Nobel Peace Prize against Sexual Abuse as a Weapon of War.** The prize awarded to the Congolese Doctor Denis Mukwege, an expert at curing physical damages caused by rape, and to the Iraqi Nadia Murad, enslaved by the IS, who became the first UN Ambassador for the dignity of persons who survived the violence connected with human being trafficking.

**6** **Monitoring of a forced return chartered flight to Nigeria, as well as of pre-return phases at the TRCs of Turin and Bari.**

**8** **Monitoring of the pre-return phase of a forced return commercial flight to Bosnia and Herzegovina at the Immigration Office of the Police Headquarters of Rome.**



**10** **The Saudi journalist Jamal Khashoggi was killed.** The man was murdered inside the Saudi Embassy. There ensued an international diplomatic crisis.

**11** **Ad hoc visit to the women's prison of Giudecca in Venice.**



**One officer of the Carabinieri admits that Stefano Cucchi was beaten.** He made such a confession during the trial in which he was defendant jointly with four colleagues, two of which were accused by himself.

**15** **Participation in the discussion panels held in Greece on the system adopted by the Frontex European pool for monitoring.**

**15** **The National Guarantor heard at the Senate about the Security Decree.** The Guarantor expressed his concern about the extension of detention terms and urged caution in the use of tasers.



**16** **Central American Migrants Marching towards the US border.** Up to 7,000 people demonstrated starting from Honduras and triggered protests in the US.



**19** **People over 60 overtake those under 30 in Italy.** The fact was made known through a study conducted at the Istituto Cattaneo on the basis of data provided by ISTAT.

**19** **The Thematic Report on Temporary Residence Centres for Returnees has been published.**

**23** **The National Guarantor lectured at the "Piersanti Mattarella" School of Advanced Training on Enforcement.** The lecture concerned the complaints pursuant to Article 35 P.L.



**25** **Strasbourg stigmatises Italy for having prolonged Provenzano's 41-bis detention.** The European Court for Human Rights discerned an infringement of Article 3 of its Statute concerning the latest renewal of the special regime a few months before Provenzano's demise.



**28** **Bolsonaro won the elections in Brazil.**



## During a year of activity

2018

### November

**5** The Guarantor expresses his concern for the current peak of suicides in prison.

**5** ***A National Human Rights Institution for Italy: Challenges and the Way Forward.*** The National Guarantor made a speech at the University of Trento to request the establishment of an Independent State Committee for Human Rights in Italy.

**In-house Training on the Whistleblowing Regulation.**

**7** The National Guarantor Lectured at the “Piersanti Mattarella” School of Advanced Training on Enforcement.

**In-house Training about the Two New Decrees on Security and on the Reform of the Penitentiary System.**

**12** The Guarantor organised a meeting at the Senate on “Fundamental Rights and Forced Returns, Two Years of Monitoring by the National Guarantor”.

**13** ***Workshop on the Victims of Human Trafficking organised by the National Guarantor in Rome.*** The meeting took place at the International Women’s House and involved the most eminent national and international experts.

**13-** **Thematic Visit to Residential Facilities for Disabled Persons in Apulia.**

**15** **Monitoring of a forced return chartered flight to Tunisia.**

**19-23** **Regional Visit to Basilicata.**

**20** The National Guarantor and the Naples Public Prosecutor’s Office have launched a common and permanent working table.



**Silvia Romano, an Italian volunteer working in Kenya, was abducted.** The 23-year-old woman from Milan is apparently still being held by her kidnappers.

**Monitoring of a CRO flight** organised by France for the return of Albanian nationals from Lille to Tirana.



**21** Visit to the “Nazareno Martini” Residential Care Home for disabled persons at San Giorgio a Cremano. The visit was organised within the framework of a case-study.

**26** In-house Training on the SMOP Data Collection System on REMS.

**27** Monitoring the pre-return and pre-departure phases of a forced return chartered flight to Egypt at the TRCs of Bari and Turin.

**28-29** Mission to Armenia of the National Guarantor. As a National Prevention Mechanism (NPM) within the UN framework, the Guarantor attended the International Conference promoted by the Armenian NPM for its 10th anniversary.



**29** Italian Legal Authorities indicted intelligence service for the Regeni Murder Case. Roman Public Prosecutors indicted five officials belonging to the intelligence service of the African Country.

## December

**1** Monitoring the pre-return and pre-departure phases of a forced return chartered flight to Nigeria at the TRC of Turin.

**3** APT/ODIHR Meeting on the administrative detention of migrants in Milan. Organised as a meeting of the different National Prevention Mechanisms operating in the countries of the Osce area, it was promoted by the Association for the Prevention of Torture (APT) and the OSCE Office for Democratic Institutions and Human Rights.

**5** Visit to the “Fondazione Stefania” in Milan. The monitoring was implemented within the scope of a case-study.

Monitoring of a forced return chartered flight to Egypt.

**6** The National Guarantor publishes his opinion on the final text of the Security Decree.



**10** Virginia Raggi acquitted. According to the Court of Rome, the Mayor did not commit an ideological fraud. The Public Prosecutor announced his decision to bring an action for judicial review.





## During a year of activity

2018

**The Carabinieri Corps and the National Guarantor signed a Memorandum of Agreement on training.**



**11 Attack at a Christmas Market in Strasbourg.** Five persons died as a result of the Christmas attack, including the Italian citizen Antonio Megalizzi.

**Year-end toast with the Head of the DAP.** Francesco Basentini, Head of the Prison Administration Department, visited the National Guarantor's Office.

**12 Declaration of the National Guarantor on the current peak of forced returns to Egypt.**

**Start of a co-operation with the ISMU Foundation** in order to provide methodological support to the consolidation and formalisation of instruments and monitoring procedures for forced returns.

**14 Conference and Coordination Meeting with Local Guarantors.** The National Guarantor spoke about "The Function of Guarantors during the Re-Design of the Programme on the Enforcement of Penalties" in the Council Chamber of the Metropolitan City in Rome.

**17 The Guarantor Gives a Lecture at the training course for officials of the Carabinieri Corps.** This event marked the start of the collaboration defined by the Memorandum of Agreement between the National Guarantor and the Carabinieri Corps.

**Follow-up visit to the Correctional Facility of Ferrara.**

**Start of a co-operation with a medical examiner for the FAMI project.** The medical expert shall specifically evaluate the application of the UN Istanbul Protocol within the framework of forced returns.

**18 Follow-up visit to the correctional facility of Rovigo.**

**20 Follow-up visit to the correctional facility of Padua.**



**Lybia: Arbitrary killing and torture of migrants have been documented.** This has been written down in the UN Report on the human rights situation in the African country.

**21 Conference on Mental Distress in Prison.** The National Guarantor attended a conference on "Mental Health, Prisons and REMS" in Palermo.



**22 Christmas Odyssey for Hundreds of Migrants Rescued at Sea.** Different rescues at sea have been effected by ships owned by NGOs, giving rise to tensions between the different countries about the reception and allocation of migrants.





**22** **Beginning of the Longest Shutdown in the History of the US.** The Congress did not approve the State budget because Democrats opposed the allocation of funds for the building of a wall on the Mexican border decided on by Trump.

**26** **The National Guarantor met with the Head of the Human Rights Committee (NHRI) of Guatemala.**

2019

2019  
January

**L'Espresso** **7** **Neo-fascist assault against two journalists of the weekly "L'Espresso".** Two persons have been sued.

**9** **Ad hoc visit to the Casal del Marmo juvenile detention facility in Rome.**

**19** **Monitoring of a forced return chartered flight to Tunisia.**  
**11** **The National Guarantor sent (CIDU) his opinion about the findings related to ten special procedures lately opened by the UN against Italy to the Interministerial Committee on Human Rights.**



**14** **The Mayor of Gdansk was murdered.** Pawel Adamowicz, an opposer of the Polish government and the first citizen of Gdansk, was stabbed by a mentally disturbed young man and soon after lost his life.

**15** **Ad hoc visit to the State Police security chambers in the port of Civitavecchia.**

**Ad hoc visit to the border police premises in the transit area of the international airport of Fiumicino.**



## During a year of activity

2019

**16** Declaration of the National Guarantor against the spectacularisation of Cesare Battisti's extradition.



**14** **Terrorist attack in Kenya.** The attack against a Nairobi hotel caused at least 14 casualties and was claimed by the Somali jihadi group Shabaab.

**18** Monitoring of a forced return commercial flight to Morocco.



**Shipwreck in the Mediterranean.** Rescuers came late and 117 died off the Lybian coast. The Public Prosecution Office of Rome opened proceedings against unknown perpetrators for omission of official acts.

**21** Consultation with the organised civil society concerning the draft Standard of the National Guarantor on the administrative detention of foreigners in Italy.



**23** **The Leader of Venezuelan opposition proclaimed himself President.** Juan Guaidò received the support of the US.

**Lina Di Domenico, Deputy Head of DAP, pays a visit to the National Guarantor.**



**An authorisation to proceed was asked against Minister Salvini for the "Diciotti" case.** The Court of Ministers of Catania asked the Senate for an authorisation to proceed for the minister related to the "Diciotti" ship affair.

**24 e 26** **The National Guarantor gives two lectures on how to prevent violent radicalisation in prison.** The course was organised within the framework of the "FAIR – Fighting Against Inmates' Radicalization" project.

**25** Meeting in Rome with the International Commission on Missing Persons (ICMP).

**28** **The National Guarantor sent a letter to the Minister of Transport Toninelli about the "Sea Watch 3".** The Guarantor asked the minister to promptly allow disembarkation because of the risk of unlawful deprivation of liberty.

**30-31** **Monitoring of a joint forced return chartered flight to Gambia, organised by Austria.**



**31** **The Council of Europe wrote to Italy about migrants.** The Commissioner for Human Rights expressed his concern about rescues at sea handled by Lybia, as well as about the consequences of the Security Decree on the fundamental rights of migrants.





## February

**1** **Ad hoc visit to the border police premises at the international airport of Malpensa.**

A delegation of the UN High Commissioner for Human Rights (UNHCHR) paid a visit to the National Guarantor during its mission to Italy.

**4** **Publishing of the thematic report on the 41-bis special detention regime.**

**5** **Reunion with the Interministerial Committee on Human Rights concerning the UN Convention on Enforced Disappearances.**

**6, 15 e 16** **The Guarantor lectures on how to prevent violent radicalisation in prison.**



**8** **France calls back its ambassador to Italy.** This was the peak of a diplomatic crisis begun last year. Some days later, the ambassador went back to his office.

**11-12** **Mission to Vienna for the first reunion of the FREM 3 European project pilot group on forced return monitoring.**



**11** **The centre-right coalition won the election in Abruzzi.** The candidate Marco Marsilio was elected President of the Region.

**12** **A delegation of the International Red Cross Committee paid a visit to the Office of the National Guarantor.**



**A major Filipino opponent has been imprisoned.** Maria Ressa, who has strongly opposed the authoritarian government of President Duterte, was arrested.

**14** **Italian institutions and civil society offer their solidarity to the Guarantor following the threats and verbal attacks received after the publication of his Report on 41-bis.**

A delegation of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) paid a visit to the National Guarantor.

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## During a year of activity

2019

**15** Giulia Sarti, the President of the Committee on Justice of the Chamber of Deputies, paid a solidarity visit to the National Guarantor.



**A young migrant dead after a fire in the slum of San Ferdinando.** A 29-year-old Senegalese is the third victim in one year, after a 26-year-old Nigerian woman, who died on 27 January 2018, and an 18-year-old Gambian boy, dead on 2 December.

**18** Monitoring of a forced return chartered flight to Tunisia.

**19** Monitoring of a forced return chartered flight to Nigeria.



**The authorisation to proceed against the Minister Salvini was refused.** The Council for Immunities of the Italian Senate rejected the requested authorisation to indict the Minister of Home Affairs Matteo Salvini made by the Court of Ministers of Catania.

**20** Monitoring of the pre-departure phase of a forced return flight to Nigeria.

The Guarantor lectures at the “Piersanti Mattarella” School of Advanced Training on Enforcement. His lesson concerned the complaints pursuant to Article 35 P.L.

**20-21** Monitoring the pre-departure phase of a forced return chartered flight to Gambia. The monitoring was implemented in Catania.

**22** Ad hoc visit to the Prison institution of Viterbo.

**22-23** Ombudsman/NPM meeting on strengthening the independence and increasing the accountability of the Frontex pool of monitors. The Guarantor attended the meeting in Athens.

**25** Christian Solinas, a centre-right candidate, won the election in Sardinia.



## March

**5** **Forced-Return Monitoring Training organised by Frontex.** A delegation of the Guarantor attended the training course conducted by the Forced Return Monitoring Pool in Prague.

**11** **Meeting with CPT representatives on a mission to Italy.**

**12-17** **Mission to Palestine** aimed at implementing training activities addressing Palestinian authorities about the protection of human rights.



## During a year of activity

*How to select, in relation to the different areas of competence of the National Guarantor, events that may have influenced the lives of persons deprived of liberty as well as cultures built around the monopoly of the State's enforcement power?*

*The choice is not a simple one, especially because it requires an elucidation of the very same concept of event.*

*Within the regulatory framework of the function depriving of liberty, notwithstanding the fact that it involves domains that are quite distant from one another, an event does not consist of a particular meeting or initiative. It takes on the shape of regulatory changes. Once a new rule is introduced, it becomes an event to the subjects it addresses, when it may coincide with an existential change and with a different self-representation of one's own future.*

*The paradox lies in the fact that the regulatory text – which has to be abstract, general, and prescriptive – becomes the builder of a possible experience for those who entrust their own horizons to it and, at the same time, the builder of a new role and of a different operational mode for those who have to implement it.*

*Thus, in the following pages the National Guarantor decided to single out six regulatory changes and some new institutional perspectives as events to be extrapolated from the flow of the months that have elapsed, to assess whether they have been assigned (or whether it may be possible to assign them) a paradigm shift as concerns the matter being analysed.*



## 1. A Ministry for Disabilities

During the very first session of the Council of Ministers, the new government established a Ministry without portfolio whose competences include the different themes related to disabilities. Such themes were put in strange company: the family and anti-drugs policies. Nonetheless, as it always happens, it is not the company that determines the character of a subject or of an institution, but the ability to independently build relevant pathways for the mandate.

Article 4 of the Decree expressly reads: «the Minister is delegated to exert the functions of guidance, coordination, and promotion of supervisory and verification initiatives, which may as well be prescriptive, as well as any other function that the provisions in force ascribe to the President of the Council of Ministers as regards the policies in favour of disabled persons. More specifically, except for the competences the law attributes to the single ministers, the Minister is delegated to promote and coordinate governmental policies aimed at ensuring the protection and the promotion of the rights of disabled persons and to facilitate their full and actual participation and social inclusion, as well as their independence, consistently with the UN Convention on the Rights of Persons with Disabilities and with the Charter of Fundamental Rights of the European Union».

We think it is positive to refer to supranational instruments, since these may steer the promotion and protection acts of the new Italian institution. On the other hand, the goal is to create a new instrument to add to the group of social and institutional realities meant to promote personal well-being and to foster a new approach to persons with disabilities, not assistance-oriented but possibly based on self-determination.

Therefore, it is important that Article 3, paragraph 2, of the establishing decree delegates the Minister to co-operate with the Minister of Labour and Social Policies, expressing his/her opinions while carrying out the functions which are the jurisdiction of the State relating to planning and the use of resources in different areas. In particular, the Fund for the Right to Work of Persons with Disabilities<sup>1</sup>, the Fund for the Assistance of Persons with Serious Disabilities and Lacking Family Support<sup>2</sup>, the Fund for the Support of the Care and Assistance Role of Family Caregivers<sup>3</sup>. The scope of delegation for co-operation and coordination is manifold, not just as regards the Minister of Labour and Social Policies, but also for the other ministers that are competent in the different themes of interest. We would like to point out some of the most significant areas:

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1. Article 13 of the Law no. 68 of 12 March 1999.

2. Article 3 of the Law no. 112/22 June 2016.

3. Article 1, paragraph 254 of Law no. 205, 27 December 2017.



## During a year of activity

The establishment of the new ministry has raised different reactions among the associations operating in this sector. Actually, some of them consider the birth of the Ministry for Family and Disability as a chance to make the existing safeguards uniform, for it is a institution connecting different ministries. Others have seen in its creation the risk of ghettoising, at least at the cultural level, those who are in need of inclusion policies.

adoption of initiatives to plan, direct, coordinate, and monitor policies to support persons with disabilities; control of the full application of the regulations on disability and promotion of its advisable updates; connection with organisations that represent persons with disabilities, with organisations of the voluntary sector, and with social partners to promote interventions in favour of disabled persons<sup>4</sup>.

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The National Guarantor has established a positive relation with the Under-Secretary in office with the intent of building together a pathway capable of turning the competence this specific function was established for into a chance for evolving from an enclosure for issues that instead need openings and connections, and into a perspective axis along which many other decisions made by other ministries may be measured, for instance as concerns schools, urban planning, access to administrative functions, use of cultural, social, and recreational opportunities.

Our common objective has to be the sliding of disabilities towards the proposal of the different abilities, while holding on to the principle that different abilities entail the same rights.

## 2. The National Guarantor and Disabilities

Among the most recent commitment prospects for the National Guarantor is the compliance with the international obligation, stemming from the ratification of the Convention on Disability<sup>5</sup>. This implies the task to pay visits to psychiatric wards and other residential facilities for persons with

4. See Article 4, paragraph 3, of the Decree of the President of the Council of Ministers, 27 June 2018.

5. Law no. 18, 3 March 2009.





disabilities. As a matter of fact, Article 33, paragraph 1, of the UN Convention on the rights of disabled persons provides for the obligation to monitor the application of the Convention itself, which may be applied to different rights. Two of them are especially significant: the right to liberty and security of disabled persons (stated in Article 14, especially in its first paragraph, letter b) and to the effectiveness of the non-derogable prohibition of torture or inhuman and degrading treatment (Article 15).

Furthermore, the UN Committee on the Rights of Persons with Disabilities, established by the

Convention, includes among the duties of member States<sup>6</sup> the indication of the deadline to include in the mandate of National Prevention Mechanism (NPM)<sup>7</sup> the «visits to psychiatric institutions or other residential facilities for disabled persons, especially those affected by intellectual and/or psychosocial disabilities». Besides, in October 2016 the same Committee, in relation to the mentioned Article 15 and concerned that «the scope of the NPM's mandate does not extend to psychiatric institutions or other residential facilities for persons with disabilities where these are deprived of their liberty<sup>8</sup>» recommends that «National Prevention Mechanisms immediately start visiting and reporting on the situation of psychiatric institutions or other residential facilities for persons with disabilities, especially those affected by intellectual and/or psycho-social disabilities<sup>9</sup>. Therefore, the Italian Guarantor concluded that such visits and reports are an immediately enforceable State obligation as a result of the ratification of the Convention on Disability.

On the other hand, the identification of the National Guarantor as an NPM occurred, from an operational standpoint, because of a governmental act, through the Ministry of Foreign Affairs and International Cooperation, more specifically through the Interministerial Committee for Human Rights<sup>10</sup>. In its turn, this act is based on the inclusion in the mandate of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), with reference to every power it provided for, even to activities carried out as stated in Article 15 of the Convention on Disability.

Therefore, the competence of the National Guarantor in this area directly comes from the act ratifying the protocol and establishing the same Guarantor as an NPM. On such a basis, operating as an NPM even for the purposes of the Convention on Disability (and specifically of its Article 15) the National Guarantor shall retain without a doubt *all* powers conferred on it by the OPCAT. Consequently, the Guarantor is bound to ascertain (as required in Article 4, paragraph 1, of the OPCAT

Furthermore, the UN Committee on the Rights of Persons with Disabilities, established by the Convention, includes among the duties of member States the indication of the deadline to include in the mandate of the National Prevention Mechanisms (NPMs) the «visits to psychiatric institutions or other residential facilities for persons with disabilities, especially those affected by intellectual and/or psychosocial disabilities».

6. List of issues, CRPD/C/ITA/Q/1, 29 April 2016, paragraph 16.

7. Established following the ratification of the OPCAT Protocol. In Italy the mechanism is represented by the National Guarantor.

8. *Ibidem*, paragraph 41. (CRPD/C/ITA/CO/1 «Concluding Observations on the Initial Report of Italy», § 42)



9. CRPD/C/ITA/CO/1 *Concluding Observations on the Initial Report of Italy*, paragraph 42.
10. *Addendum 1*, point 33, CRPD/C/ITA/Q/1/add. 1.



## During a year of activity

protocol<sup>11</sup>, implicitly but clearly referred to in Article 15 of the Convention) whether in such facilities there are occurrences of inhuman or degrading treatment. Because of a peaceful international practice accepted by the States, this provision includes among the facilities liable to deprivation of liberty: «private hospitals», «nursing homes», «children homes», and health and social care institutions at large.

International and Italian laws call for an effective control of such institutions, where the physical freedom of a person is not reduced by stated and evident constraints but is limited by methodological, environmental and treatment conditions, which integrate factual constraints and the exercise of the fundamental right referred to in Article 13 of the Constitution. Such constraints may certainly be legitimate as regards their 'title', but there is now an international obligation to verify their conditions of implementation. In other words, these are spatial contexts wherein it is theoretically possible to produce conditions degrading the human person, whose effects coincide with the subjection to the power of another. That is exactly the reason why, regardless of the effective subsistence of those conditions, such places are the object of the control entrusted to the National Guarantor according to the above-specified terms.

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Such situations include, of course, persons hospitalised in health and social care or assistance institutions who experience mental disorders or affected by cognitive impairment and, more generally, disabilities that magnify their fragility and shortcomings in their capacity for self-determination.

11. Article 4, paragraph 1, OPCAT: «Each Member State, pursuant to this Protocol, authorises the visits of the organisations referred to in the preceding Articles 2 and 3 to all places under its jurisdiction and its control where some persons are or may be deprived of liberty by virtue of an order issued by a public authority or within the framework of investigations conducted by the same or with the consent or the acquiescence of a public authority (hereinafter: «places of detention»). Such visits will be conducted to the purpose of strengthening, when necessary, the protection of said persons from torture and other cruel, inhuman or degrading punishment or treatment».



### 3. Almost a Reform of Penitentiary Law

2018 was characterised by the waiting for the conversion into regulations of the wide-ranging design for the reform of the Prison Law, formulated by the *Estates-General of Enforcement*.

It is well known that the design was included in the *Action Plan* put in place by the Italian government to comply with the obligations imposed by the 'pilot' judgment of the European Court of Human Rights, *Torreggiani et alia vs. Italy*<sup>12</sup>. That sentence, beside seeking for organic and not emergency-based solutions to overcome the issue of overcrowding, imposed a remodulation of enforcement and of the living conditions of detainees in such a way as to respect all principles contained in Article 3 of the European Convention on Human Rights. Such work to produce a reform resulted in the closure of the enforcement procedure decided on by the Committee of Ministers of the Council of Europe on 8 March 2016<sup>13</sup>.

Two years later, nonetheless, we need to observe that the regulatory processes and modifications provided for back then have not been enough to stop the resumption of a trend towards the increase of detainees, although at a slower pace, which determined the current concern expressed by several observers and shared by the Guarantor. Perhaps the subsequent phase then foretold could have helped to consolidate the earliest results obtained, if it had been transformed into permanent provisions.

The fate of the legislative decrees that were supposed to give a regulatory implementation to the criteria set out in paragraph 85 of Article 1 of the enabling law no. 103 of 23 June 2017, was entangled in the Italian institutional and political situation, which slowed their progress down until they came to a complete stop. Their legislative process was resumed by the new government. Finally, on 2 October, three legislative decrees<sup>14</sup> were issued, but they only gave a regulatory implementation to a portion of the points originally contained in the enabling law, excluding those related to the review of the modalities, the prerequisites, and the procedures to access measures alternative

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12. Judgment of 8 January 2013, final on 27 May 2013, complaints n. 43517/09, 46882/09, 55400/09, 57875/09, 61535/09, 35315/10 e 37818/10.

13. Council of Europe, Committee of Ministers, Resolution CM/ResDH(2016)28, adopted during the 1250th meeting of the Committee on 8 March 2016, «welcomes the response of Italian authorities to the judgment Torreggiani and others, the introduction of important reforms meant to solve the issue of prison overcrowding, and the significant results so far obtained».

14. Legislative Decree no. 121, 2 October 2018, which regulates the enforcement of sentences for juvenile offenders; legislative decree no. 123, 2 October 2018, on healthcare in prison, the simplification of proceedings, the competences of local offices and police stations as concerns external enforcement, prison life; Legislative Decree no. 124. 2 October 2018 on prison life and work.



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to detention in prison, as well as those relating to a significant reduction of automatisms and foreclosures concerning penitentiary benefits and alternative measures. The three legislative decrees also excluded the points regarding the enhancement of restorative justice and voluntary work, the acknowledgment of the right to affectivity, and the re-designing of special alternative measures aimed at protecting the relationship between detainee mothers and their minor children.

The decrees prepared at the end of the previous legislative period already did not envisage some of these aspects, first of all the affectivity issue. The further limitations brought about by the new decrees maintained the profiles concerning life within detention institutions but they have basically hindered any progress in the relation between life in prison and the access to measures meant to foster a progressive return to the social context. Thus, the long-lasting wait for the reform outlined at the *Estates-General* workshop ended with a retrenchment of expectations for a remodulation of the enforcement system, with a view to a greater accountability of detainees and to their consequent and progressive positive return to the outside world.

The National Guarantor expressed his opinion about the decrees then being issued: the partial implementation of the enabling law determined the disappearance of an overall legislation that gave meaning to a regulatory intervention to redefine enforcement so as to pursue a kind of social reintegration with no risk of exclusion and, consequently, of relapse»<sup>15</sup>. Such partial implementation brought about a complex of sectoral modifications that, although important, limits the innovative potential and the original meaning of the reform.

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Moreover, as concerns health care in prison, the new decrees have removed the new regulations about mental disorders provided for in the original text in accordance with point I) of the enabling law. The failure to include psychological disabilities jointly with physical disability in the causes for an optional postponement of the enforcement of a sentence (Article 147 P.L.) and the removal of the provision that, amending the current Article 65 P.L., should have introduced units managed by medical personnel dedicated to persons who developed mental disorders during their detention, have ultimately deprived a most critical area of the necessary interventions. This is the area of psychological distress, whose magnitude is manifest in a daily life marked by relational problems, which sometimes may be interpreted as one of the causes of the currently high number of annual suicides. Besides, we should not forget the considerable criticalities faced by those who have to manage such a situation, which is alien to their vocational training.

Thus, the governmental choice appears to be incomplete, even in the perspective of a judicial policy focussed on internal conditions and not geared towards the outside.

Therefore, the National Guarantor entrusts its reassessment to the Parliament so that it may provide for, with the urgency imposed by the situation currently verifiable in

prison institutions, to organically define the domain of psychological distress in prison.

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15. Opinion of the National Guarantor about the Legislative Decree on the "Reform of Penitentiary Legislation" (Enabling Law no. 103/17) pursuant to Article 19, letter c, of the OPCAT Protocol, 7 August 2018.



In this context, the Guarantor has welcomed the adoption of the Legislative Decree 121/2018, which has finally given juvenile criminal law an independent prison system and its own regulation concerning the enforcement of sentences. These are consistent with the overall model that the Italian judicial system had already adopted in 1988 for this sector, oriented towards the priority goal of the rehabilitation of offenders and essentially built around the concept of the residuality of the custodial solution.

Such a measure was expected since the law on the prison system was approved in 1975: its overall positivity is undermined, nonetheless, by its 'contamination' with the model designed for adults, determined by the introduction of impedimental preclusions for community penal measures and for prison benefits, borrowed from Article 4 *bis*, paragraphs 1 and 1-*bis* P.L. Other than raising serious perplexities about the compliance with the provisions contained in the enabling law, which provided for the absolute exclusion of automatisms, without exception<sup>16</sup>, the introduction of the very concept of *impediment* in a judicial system primarily designed for the rehabilitation of minors, according to the Guarantor, is totally in contrast with the overall system.

As to the remainder, the interventions to modify the penitentiary system have introduced in the life of detainees a considerable set of rights: the articulation of the right to health within the parameters of the public health service (Article 11 P.L.), the right to follow a diet according to one's own religious creed, the right to remain outdoors 4 hours a day instead of the 2 hours formerly provided for in Article 10 P.L.<sup>17</sup>, the right to an individualised reintegration programme, geared towards an acquired awareness of the offence committed, to a reflection on the consequences produced for the victim and on possible restorative actions (Article 13 P.L.), the right to maintain emotional relationships as a guiding criterion when it comes to send a convict to a certain institution and to possible transfers, the right to receive an answer from the Administration about their requests for transfer within 60 days (Article 42 P.L.), the detainees' right to have an interview with their lawyers from the beginning of their terms, their right to have an interview with the Guarantors of detainees without prejudice for the number and duration of interviews with their relatives, a broader right to information through the access to newspapers and information websites, the right to study and vocational training even through agreements with universities and institutes for higher technical training, the right to work even outside the prison, which may be applied thanks to the intervention of public and private bodies and remunerated with two thirds of the pay provided for in national collective labour agreements.

Such rights are set out in a body of legislation whose implementation and shared practices shall depend on the enhancement of each and every one applicable rights. The National Guarantor undertakes to encourage the full application of the new provisions,

16. The absolute exclusion of automatisms was contained in letter p), point 6) of paragraph 85 of the enabling law. See the Observations of the National Guarantor on the Acts of the Government no. 16, 20, 29 - 23 July 2018, sent to the Commission for Justice of the Senate following the informal hearing of 17 July 2018 ([www.garntenpl.it](http://www.garntenpl.it)).

17. Even if limited by the possibility of "justified reasons" that may decide the Director to reduce their permanence outdoors to 2 hours (paragraph 2, Article 10 P.L.)





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irrespective of his overall judgment about its limitedness as compared with the wider expectations raised by the discussion.

The action of the Guarantor is oriented towards such a perspective. The Guarantor's tasks range from the verification of the compliance with national and supranational legislation to the nomophylactic construction of a soft law system based on the Recommendations addressed to the Prison Administration Department in order to overcome the criticalities detected in the system and, as a consequence, to establish concrete terms of effectiveness for the rights provided for. The definition of a system of national standards, parallel to and in dialogue with supranational ones such as the *European Prison Rules*<sup>18</sup>, the *Nelson Mandela Rules*<sup>19</sup> and the CPT standards<sup>20</sup>, already begun with the first collection of Recommendations of 2016-2017 contained in the book *Norms and Normativity* is the most effective tool to enhance the value of the compound of rights currently included in the penitentiary system and to contribute to a common action aimed at steering more and more the criminal enforcement system towards the finalistic approach of our Constitutional Charter.

## 4. Security in a Decree

2018 was a difficult year for the definition of the border line between the protection of the fundamental rights of every person and the power of States to control their frontiers and their territories. Migrants have been at the core of the connotation of such a border, both in the actions of those who are politically accountable and in the citizens' perception of this theme. To find the focal point is not easy, and to think of solving such an issue by negating its complexity, which also includes consideration for the lives of all, is a short-sighted operation. Unfortunately, sometimes the National Guarantor has already observed the effects of such an operation.

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The focal point lies firstly in regulatory provisions. If we focus on these last, to resort to deprivation of liberty for illegal migrants is undoubtedly a tool that has been progressively privileged to control migratory fluxes:

18. Recommendation R(2006)2 of the Committee of Ministers to Member States about European Prison Rules.

19. Minimum standards for penitentiary treatment, UN General Assembly, 19 December 2015.

20. <https://www.coe.int/en/web/Cpt/standards>





mainly in the so-called decree on *security and immigration*<sup>21</sup>, adopted 4 October 2018, and converted into Law, with different amendments, on 1 December 2018. The decree widened the map of places of possible deprivation of liberty for irregular migrants, while extending the maximum duration of restrictive measures and the reasons why Public Safety Authorities may resort to them. The competence of the National Guarantor has been redefined in more precise terms as regards his power to access the ‘specific premises’ mentioned in paragraph 3-*bis* of Article 6 of the Legislative Decree no. 42, 18 August 2015, as amended by Decree Law no. 13, 17 February 2017.

This very decree had re-launched administrative detention, even only by fostering the development of the network of Temporary Residence Centres (TRCs), providing for the presence of one of them (of limited dimensions) in each Italian region. The new provision actually reduces the exclusivity of such centres as places where people are deprived of liberty, extending to other places the possibility to fulfil such a function and for a longer period. This legislative measure was once more adopted as a governmental decree of urgency, notwithstanding the unquestionable and dramatic reduction of disembarkations. Therefore, at least theoretically, such urgency was unjustified: the parliamentary process was especially quick and it ended, once more, with a vote of confidence. Conversely, the National Guarantor is convinced that this theme, which is strongly present in the doubts and moods of the public, would require an ample and calm reflection and that this dossier makes it especially apparent that simplification is detrimental to the consensus about governmental measures. After all, the fact that two decrees of urgency have been adopted in less than two years is a sign of emotional lawmaking on this subject, and thus of the difficulty in tackling the theme of immigration beyond an emergency logic, adopting the typical time and space of social, cultural, and parliamentary confrontation.

The National Guarantor, in compliance with his mandate, made a series of observations before the national Parliament about the original text, presenting his opinion during a hearing at the Senate of the Republic on 15 October 2018. Incidentally, the very actions of the Guarantor during ‘deadlock’ situations occurred because of the prolonged impossibility to land in Italian harbours for ships belonging to the Italian Navy, to Non-Governmental Organisations or simple commercial vessels carrying on board persons rescued at sea, have highlighted the will to face the complexity posed by such issues together. It being understood that a strict protection of each person’s rights is the *raison d’être* of this Guarantor, that it cannot be limited by any other consideration whatsoever and that the National Guarantor is charged with the protection of the

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18. Decree Law no. 113 of October 4, 2018, entitled “Urgent provisions on international protection and immigration, public security, as well as measures for the operation of the Ministry of Home Affairs and the organisation and functioning of the National Agency for the Administration and Management of Assets Seised and Confiscated from Organised Crime”.





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the country in the face of possible complaints from supranational bodies<sup>22</sup>. It is nonetheless necessary to remember that every Italian ship in any territorial waters represents an extension of the national territory and that the persons it hosts on board, although temporarily, hold the guarantees provided for in the Italian legislative system. The same holds true for foreign ships when they are in the territorial waters of our country.

The positive elements of novelty the Parliament introduced during the conversion of the decree concern the judicial authority's validation of 'deferred rejections' (as called for by the Constitutional Court and recommended by the National Guarantor in the opinion sent to the Senate) and the explicit provision for the control of the National Guarantor in every place of detainment however described, as already mentioned. Yet, such elements do not completely dispel the Guarantor's concern about a text with a strong impact on the liberty of migrant persons, which is liable to limitations in a constantly increasing number of cases and ways.

By synthetically going through the decree's articles, in the light of the areas of interest for the National Guarantor, the abolition of humanitarian protection as a general category and the definition of a limited number of cases when a residence permit may be issued for humanitarian reasons is certainly one of the most critical aspects, because of the safeguard gaps that may arise even in the face of precise duties in terms of protection imposed by constitutional and international obligations. For instance, the consequence that may occur to a person justly not rejected, on the basis of the binding effect of the *non refoulement* principle. Such a person may find himself or herself without any protection, since the new regulation provides for it only when there are well-grounded reasons to think that this person, once repatriated, risks to be the subject of persecution (Article 19, paragraph 1) or torture (Article 19, paragraph 1.1). This limitation of cases is much more stringent of the one determining the prohibition of *refoulement*. In point of fact, on the basis of the provisions contained in the amendment introduced by the law on international protection<sup>23</sup>, in the event of risks of persecution and torture, a residence permit for special protection is recognised, whereas no explicit safeguard is provided for in the event of a risk of inhuman or degrading punishment or treatment – obviously if these do not fall within the other definitions.

19. Letter to the General Commander of the Coast Guard to get information about the impossibility of landing for the container ship "Alexander Maersk", carrying on board 113 migrants rescued at sea – June 25, 2018; letter to the Head of the Department for Civil Liberties and Immigration to jointly assess the conduct of the operation once this was over – August 7, 2018; letter to the General Commander of the Coast Guard to ask information about a group of migrants rescued at sea by the ship "Asso 28" flying the flag of Italy and transferred to Libya – 31 July 2018; letter to the General Commander of the Coast Guard and to the Head of the Department for Civil Liberties and Immigration to request urgent information about the prohibition to land for the ship "Ubaldo Diciotti" – August 17, 2018; letter to the Head of the Department for Civil Liberties and Immigration and to the Cabinet Office of the Ministry of Home Affairs concerning the impossibility to disembark for the migrants on board the ship "Diciotti", moored in the harbour of Catania – 21 August 2018; visit of the National Guarantor to the ship to verify the conditions of the 177 migrants on board – 23 August 2018; letter to the Presidents of the Chamber of Deputies and of the Senate to inform them about the persisting situation on board the ship moored in Catania – 23 August 2018; informative letters to the Public Prosecutor's Offices of Agrigento and Catania about the outcome of the visit paid on board the ship – 24 August 2018; letter to the Minister for Infrastructures and Transport to request the immediate landing of the ship "Sea-Watch 3" and the consequent disembarkation of the persons rescued at sea – 28 January 2019.

20. Legislative Decree no. 25, 28 January 2008, Article 35, paragraph 3.



Thus, in the absence of a constitutionally and internationally-based interpretation of the provision, the risk of creating incongruous situations where some persons cannot be expelled judicially, but they have no residence permit and thus no protection, becomes higher. Such persons are inevitably destined to poverty and social exclusion. The National Guarantor, in his capacities as National Prevention Mechanism and as Monitoring Body on Forced Returns, shall keep a very watchful eye on similar situations.

Another concern is related to the extension of the time limits for the detention of foreign nationals waiting for their forced return. While implementing this provision it will be essential to avoid the risk that such extended detention, without a reasonable prospect to achieve the purpose intended, become an end in itself and be used as a mere deterring tool against the act of migrating, by prospecting potential additional individual suffering based on the deprivation of liberty, thus possibly becoming an inhuman and degrading treatment, as pointed out by the Special UN *Rapporteur* on torture in his Report of 26 February 2018.

Other concerns are ascribable, in general terms, to a lack of clarity and timeliness in the aforementioned regulations; to the self-evident language and text of provisions recommended by Norberto Bobbio, which seems to be forgotten where they prospect a possible detainment of asylum seekers in order to determine or to ascertain their identity and nationality or where they generically characterise the suitability of the facilities and premises of the Border Office where foreigners may be detained during the expulsion phase. A quick perusal of the provision poses some problems about the mandatory certainty required by Article 13 of the Constitution when it comes to the deprivation of liberty of persons, as well as about the prerequisites stated in Article 5 of the European Convention on Human Rights (Cedu) to protect them against arbitrariness and to provide a possible appeal against such deprivation.

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### 5. A Weapon

In our previous Report to Parliament, the introduction of the Taser<sup>24</sup> in Italy had a conjectural character<sup>25</sup>. Our misgivings did not only concern the effective introduction of the Taser among the tools at the disposal of police forces following a period of experimentation, but especially the doubts that its use posed in terms of risks of abuse «resulting from its very alleged non-lethality»<sup>26</sup>. As is widely known, moreover, a considerable part of the documentation and of the scientific researches internationally performed about its use highlight non-residual percentage of casualties among the persons against which the ‘non-lethal’ weapon had been used: mainly heart patients, persons showing some form of delirium, drug addicts, elderly or very young people.

In that Report the National Guarantor referred to the general principles of caution to be adopted in the use of this tool: necessity, subsidiarity, proportionality, gradualness, and precaution. To these principles he added the need of an *ad hoc* training for the personnel destined to use it, of stringent operational written protocols, of a rigorous control of its use even by a third body, and lastly the necessity of an immediate medical control of persons hit by the Taser.

Thus, in September 2018, following the Decree of the Ministry of Home Affairs issued on 4 July, the State Police and the Carabinieri began their three-month experimentation in 12 Italian cities: Bologna, Brindisi, Caserta, Catania, Florence, Genoa, Milan, Naples, Padua, Palermo, Reggio Emilia, and Turin.

Experimentation of the Taser in 12 Italian cities



21. Acronym of Thomas A. Swift’s Electronic Rifle. Its official designation in Italy is “electrical pulse common weapon” (Decree Law no. 113, 4 October 2018, converted with amendments into law no. 132, 1 December 2018).

22. National Guarantor, Report to Parliament 2018, *The Taser in Italy?*, p. 258.

23. *Ibidem*.



The experimentation period was preceded by the adoption of the “Technical and Operational Guidelines for the Introduction and the Experimentation of the Taser Electric Pistol” already formulated by the Ministry of Home Affairs in February 2018 and approved by the Ministry of Health in May of the same year. The technical and operational manual was prepared during the summer, with the contribution of interagency representatives and technical experts of ENEA and of the National Institute of Health. After the subsequent theoretical-practical targeting the chosen personnel, 30 electric pistols were supplied to police squads (14 distributed in seven of the cities singled out) and to the Carabinieri Corps (the remaining ones, in six cities).

The experimentation was extended for three additional months and ended between the end of February and the beginning of March of this year. What was its outcome? As regards the State Police, in the seven cities where the experimentation was actually conducted, according to the data the Public Security Department provided to the Guarantor, 31 operational interventions requiring the use of the Taser were recorded in 2018: six in Milan, two in Genoa, seven in Padua, six in Reggio Emilia and ten in Catania. In 24 cases such interventions were limited to simply drawing out the weapon from a holster or by turning on the visual device called *warning arc*. In the other instances (one in Milan, two in Padua, two in Reggio Emilia and two in Catania) warning arc electric darts were turned on<sup>27</sup>, whereas in the remaining seven cases electric darts were fired. According to a communication of the Public Security Department, the use of the Taser has had no effects on the health of the individuals against whom the tool was used.

As for the Carabinieri Corps, the experimentation involved the Car Patrol Squads of Milan, Turin, Bologna, Florence, Naples, and Palermo, totalling twelve devices distributed (two per city). During 2018, the weapon was used during 8 interventions (two by throwing the darts, four by activating the warning arc, and two by extracting the weapon or giving verbal warning for deterrence purposes). In this instance as well, as it happened with the police, according to the reports of the Carabinieri, when the electric darts were hurled (Bologna and Florence), the persons hit have had no consequences.

Sperimentazione Taser da parte della Polizia di Stato e dell'Arma dei Carabinieri 2018.			
	Utilizzo del Taser con effettivo lancio dei dardi elettrici	Forze di polizia dotate dell'arma.	
Bologna	SI	Carabinieri	
Brindisi	NO		Polizia di Stato
Caserta	NO		Polizia di Stato
Catania	SI		Polizia di Stato
Firenze	SI	Carabinieri	
Genova	NO		Polizia di Stato
Milano	SI	Carabinieri	Polizia di Stato
Napoli	NO	Carabinieri	
Padova	SI		Polizia di Stato
Palermo	NO	Carabinieri	
Reggio Emilia	SI		Polizia di Stato
Torino	NO	Carabinieri	
Fonte: Dipartimento della Pubblica Sicurezza e Comando Generale dell'Arma dei Carabinieri, 2019.			

24. The so-called *warning arc*, that the operator may activate through a special button, which generates a crackling electric discharge for warning purposes.



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It is certainly necessary to wait some time to evaluate - in the light of the documentation provided - the consequences of the introduction of the Taser in the standard equipment used by police forces: consequences on health, on the protection of public order, on the cultural constructions concerning the legitimate use of force and thus on the employment of the Taser instead of lethal weapons. Nevertheless, the National Guarantor has acknowledged that the introduction of this innovation has so far been implemented with diligence and caution, through a technical-judicial analysis of its possible employment, the adoption of guidelines and technical and operational manuals, a period of training and subsequent experimentation, and finally through the monitoring of its use. All these factors, jointly with the relatively small number of Tasers supplied, has so far contributed to favour its non-traumatic introduction.

However, the numerous requests to be provided with Tasers addressed by other local or central level law enforcement officials to the different Corps they belong to, as well as the acquiescence with which such requests have been reported in the public debate, make it necessary to ensure the continuance of this moderate approach. To this purpose, the Guarantor expresses his concern about the provisions of Article 19 of the already mentioned decree on *Security and Immigration* on the «experimentation of electrically-powered weapons by local police forces» in provincial capitals and towns with a population of more than 100,000 dwellers, as well as in urban centres presenting certain parameters «connected with the socio-economic characteristics, the age group, the influx of tourists, and the rates of offences and crimes». The evaluation of such parameters is determined by a decree of the Ministry of Home Affairs, adopted after an agreement concluded during the Conference “State-city and Local Authorities”. The decree states that the Taser may only be used by local Police Stations if they qualify as public security officers, following a period of training and experimentation, and after the adoption of a municipal regulation which should include the principles of precaution, protection of public health, and safeguard of public safety. The concerns in terms of caution are then enumerated, but they are absolutely insufficient to dispel the perplexities about an extended use of the new weapon. Therefore, there is a risk of paving the way for a very widespread use in the territory, which will require an accurate monitoring on the part of local and national institutions, including the Guarantor, to prevent any kind of abuse.

As for the usefulness of the introduction of the Taser, we may maintain that the experimentation has had a positive outcome only if its use will reduce the resort to firearms, at the same time guaranteeing the safety of all actors involved.

In point of fact, the concerns and cautions already expressed by the Guarantor are still extant, especially those linked to observations and comparisons with the international scenario. In some countries the widespread use of electrical weapons brought about abuses and casualties, connected with their very alleged non-lethality. Therefore, the position of the Guarantor stands firm as regards the mandatory parameters of necessity, subsidiarity, proportionality, gradualness, and precaution for the use of this weapon, as well as the absolute prohibition of its use in contexts where the use of weapons by police forces is forbidden, in particular in prisons and during forced return operations.



In 107 countries police forces are provided with Tasers. In Europe, besides Italy, they are used in Finland, France, Germany, Greece, the United Kingdom and the Czech Republic.



In 2018 the Vatican City provided Tasers to a select group of members of its gendarmerie. Thus the State must be added to the above list.

## 6. At the Human Rights Council

On October 12, 2018, Italy was elected to be a member of the UN Human Rights Council (HRC or, more accurately, UNHRC) for the period 2019-2021.

This is the most important charter-based body<sup>25</sup>, an organisation founded in 2006 pursuant to the Resolution 60/251 of the UN General Assembly to

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25. In the UN system bodies and procedures for the control of human rights are established by resolutions issued by the competent UN bodies (charter-based bodies or procedures). These are distinguished from those established by special treaties, called treaty-based bodies or procedures (for instance, the Human Rights Committee, which is a body established by the International Covenant on Civil and Political Rights in order to supervise their application by the States).



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replace the Human Rights Commission. This is an upgrade as compared with the Commission (which was a subsidiary body of the Economic and Social Council-ECOSOC), whereas the Human Rights Council is a subsidiary body of the General Assembly. The UNHRC's office is in Geneva and it is the only inter-governmental organisation dealing with all situations related to human rights worldwide. It is made up of 47 members, elected by the General Assembly<sup>29</sup>.

The most significant innovation introduced with the establishment of the Human Rights Council is the Universal Periodic Review (UPR), relating to the overall situation of human rights<sup>30</sup> in all UN member countries (not just those that are members of the UNHRC). This is a unique two-step procedure, directed by the States. The first step takes place before the UPR Working Group and is concluded by a Report containing a set of recommendations for the examined State. The second step consists in a discussion of the above mentioned report, after which a final document is drawn up and integrated into the Report of the Council to the General Assembly. Italy will be under review during the 34th session of the *UPR Working Group* on the morning of 4 November 2019<sup>31</sup>.

To go back to the UNHRC, so far Italy has applied for one of the seven seats reserved to Western Europe countries and it was elected for three terms: 2007-2010, 2011-2014 and recently for the period 2019-2021.

In view of its first two terms (thus since 2007), as stated in the mentioned Resolution 60/251, Italy presented a list of good intentions, which in the jargon of international diplomacy are called voluntary pledges and commitments and are not fully complied with by most States. Among those Italy presented over time the commitment to establish a "Independent Commission for the Promotion and Protection of Human Rights and Fundamental Liberties" stands out. This was to be called National Human Rights Institution (NHRI)<sup>32</sup> and it should have been built in accordance with the so-called *Principles of Paris*, contained in the Resolution of the UN General Assembly 48/134 of 20 December 1993 concerning the status of national institutions for human rights, but such a commitment was ever disregarded.

26. African States have 13 seats at their disposal, as many are assigned to the States of the Asia-Pacific region, eight to Latin American and Caribbean countries, seven to Western Europe countries and other States, six to Eastern Europe ones.

27. The examination must be conducted on the basis of the UN Charter, of the Universal Declaration of Human Rights, of the Human Rights Instruments of which the State is a member, and of the voluntary pledges and commitments assumed by the States themselves (including commitments taken on at the time of their application to UNHRC). See *Human Rights Council: Institution-Building*, document approved with the Resolution of the Human Rights Council of 18 June 2007 (A/HRC/RES/5/1).

28. For the 34<sup>th</sup> session of the Working Group, see the *Tentative Timetable* and the *List of Troikas* at [www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx).

29. See the Letter dated 17 April 2017 sent by the Permanent Representative of Italy to the UN General Assembly and addressed to the President of the General Assembly (UN General Assembly A/61/863) and the Verbal Note dated 11 February 2011 issued by the Permanent Mission of Italy to the United Nations addressed to the Secretariat (UN General Assembly A/65/733).





The failure to comply with the same pledge twice consecutively was probably the reason why the same commitment was not included in the letter of application for the three-year period 2019-2021<sup>33</sup>. But the issue is still pending and it shall be tackled during the period review next November 4<sup>34</sup>.

To date, even if the umpteenth draft law on this issue is pending, Italy remains one of the last European countries not to have introduced in their legislation a national institution for the promotion and the protection of human rights, a body that should deal with all fundamental rights at the domestic level.

Accordingly, at the moment Italy experiences a quite singular situation, since the one organisation for the protection of human rights in accordance with the Principles of Paris it has instituted is the National Guarantor for the Rights of Persons Detained or Deprived of Liberty, established and specifically designated as a National Prevention Mechanism against torture and other serious abuse (NPM) based on the OPCAT Protocol of 2002. Its adhesion to the *Principles of Paris* is explicitly required by Article 18, paragraph 4, of the Protocol itself and the designation has attested such a requisite. Moreover, the establishment of this independent and operative NPM was recommended by the States during the last cycle of the Periodic Review in 2014<sup>35</sup>, and their recommendations had been thoroughly accepted by Italy<sup>36</sup>.

This enables us to state two things. Firstly, the importance of establishing an NHRI in Italy as well, thus complying with commitments assumed too many years ago and putting an end to a singular failure. Secondly, the need to be aware of the difficulties to create such an institution. It is necessary to proceed by building on what already exists, enhancing the by now consolidated experience of the National Guarantor as an NPM, making an effort to construct potentially interacting systems that do not overlap one another and may strengthen each other, ensuring that an effective greater protection of the rights of persons corresponds to a spreading of envisaged promotion and control institutions.

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30. See *Verbal Note* of 22 February 2018 of the Permanent Mission of Italy to the United Nations addressed to the President of the General Assembly (UN General Assembly A/73/72).

31. Even in the event of the approval of a law establishing an NHRI, for in that case the organisation may hardly be already operative, unless the function is ascribed to already existing organisations.

32. Recommendations 49 and 50, *Report of the Working Group on the Universal Periodic Review. Italy* of 10 December 2014 (A/HRC/28/4).

33. The *Response of the Government of Italy to Recommendations in the Report of 10 December 2014 of the Working Group on the Universal Periodic Review (A/HRC/28/4)* of 12 March 2015 (A/HRC/28/4/Add.1) made it clear that Italy accepted *inter alia* the recommendations 49 and 50 «considering them already implemented or under implementation». This was quite true, since at the time the National Guarantor had already been established and designated as an NPM, even if not operative yet. The same could not be said about the recommendations from 26 to 48 concerning the establishment of the NHRI.









# Places

Andrea Tarli, *"The Unknown Island"*, Prison of Ascoli Piceno, 2014



## Places

### To Begin Anew from the Place

*When it comes to analyse the deprivation of liberty by public authorities or by those who act on its behalf, at first we wonder – and rightly so – what is the reason why, on which foundation they justify their exercise of the utmost power: to deprive a person of self-determination, free decision, freedom to move about. The judicial parameters that authorise such exercise and the guarantees – both procedural in their application and in terms of appealing against such decisions before a third party and independent authority are the focal point of this analysis.*

*With equal appropriatedness we shall then examine the how, that is the material conditions that characterise the application of deprivation of liberty. Within this framework an important role is played by internationally shared standards regarding the fulfilment of basic needs and the thorough safeguard of the dignity of detained persons, as well as their psycho-physical integrity.*

*Nevertheless, there is little reflection concerning the where, understood as an element partly interactive with the how and partly quite independent, even because of its intrinsic symbolic signifiante. Actually, there are differences between the situation of persons who live in unacceptable conditions of detention in a prison cell or in the so-called accommodation room (read cell) of a penitentiary – and the same situation experienced within a spare room, a storeroom, a shed or similar spaces, in a public facility temporarily dedicated to this function. In point of fact, this last situation implies the symbolic – and thus essential – value of the irrelevance of the dimension of person for those who are detained therein. An irrelevance capable of building widespread cultures and an attitude that we may define as actuarial, which makes the very dislocation of persons central, as if they were as many packages to be picked up, perhaps accurately, but always as indistinguishable elements while tidying up a warehouse.*

*The space where deprivation of liberty is carried out does not seem to be an object of attention; its connotation, even before its dimensions, does not fall within the scope of an analysis focusing on its square metres and on the possibility to contain all those who are subjected to a custodial measure. Thus we talk about the conversion of barracks to accommodate detainees, or about suitable premises (not accurately described even in the regulatory text, which we would like to be clear, self-evident and certainly not polysemic) where foreigners under investigation before a probable expulsion may be detained. But, beyond such incongruous statements and definitions, other places are actually 'lent' to temporarily host detained persons: charter aircrafts for repatriations, ships waiting for a safe harbour, small rooms in some prisons where persons wait to be sent elsewhere, smallish prison rooms suddenly defined nurseries destined to accommodate infants who are not three years old yet. Dummy places, lent places, where the connection between their function and spatial connotation is hard to assess.*

*The National Guarantor intends to put such places under the spotlight in his Report to Parliament on the activities carried out in 2018, for he visited many different places of this kind over the course of the year.*

*It is worthwhile to keep in mind that the space where an activity that is functional to a public mandate is performed is always an element confirming the approach of such a concession and it is structured on the basis of the tasks to be accomplished through such activity. This is the case of the spatial definition of schools, places of worship, hospitals, and also of places of detention. Therefore, it would be a mistake not to read the change occurred in the spatial organisation, parallel with a changed cultural vision of the activity carried out therein. In the days of the Italian writer De Amicis, schools were big bare rooms (as described in his book Heart) for their educational function was mere literacy teaching, whereas the space of contemporary schools is articulated in accordance with today's teaching and learning standards; even the space occupied by places of worship has changed following the new post-conciliar approach. Thus, even the space*



*dedicated to the enforcement of a sentence cannot be the same after the Republican Constitution attributed a social rehabilitation role to penalties. Likewise, the places where people are detained may not be a mere linear space: there are other needs posed by a vision aimed at reintegration and involving the organization of a prisoner's day. On the contrary, it is often otherwise and today there are still too many prisons and other places of deprivation of liberty which are designed as mere 'containers' in order to face the urgent need to provide more room for detainees.*

*However, if space is an element resulting from cultural assumptions, in its turn it acts as a setting for a future vision of what must occur within it. Consequently, the design of a space is never a 'neutral' operation: on the contrary, today a design that pays little attention to a different function of criminal enforcement ultimately confirms and re-proposes even for the future a vision of everyday life only centred on the useless passing of time. This will produce negative effects in the future as well.*

*Hence the need to reflect again on the places where the deprivation of liberty is implemented, since to reflect on places, in detail (as we will do in the following pages) means to reflect on the meaning that such a measure, important and to be unavoidably reserved exclusively to cases of absolute necessity, may and must have. It means to question ourselves, going backwards, asking how and why.*

## Places and Verbs

*Access to all places of deprivation of liberty, both ordered by an authority or in fact<sup>1</sup>. This is one of the pivotal powers of National Prevention Mechanisms (NPM) pursuant to the OPCAT Protocol and thus of the National Guarantor: to access every place where «any form of detention or imprisonment» is exerted «or wherever a person is put under custody in a place that he/she is not permitted to leave voluntarily, by order of a judiciary, administrative or any other kind of authority<sup>2</sup>». Visits to such places are then necessary because – as Pietro Calamandrei wrote in 1949 – «we need to see»<sup>3</sup> the living conditions and the treatment to which persons deprived of liberty are subjected, but we also need to prevent possible abuse, infringements, and offences against their dignity.*

1. Article 20, paragraph c, OPCAT: «In order to put national prevention mechanisms in a position to accomplish their mandate, the States Parties to this Protocol undertake to guarantee: a) their access to all information about the number of persons deprived of liberty staying in detention places, as defined by Article 4, and about the number and the location of such places; b) their access to all information about the treatment such persons receive and their detention conditions; c) their access to all detention places and to the related installations and equipment; d) their possibility to hold private interviews with persons deprived of liberty with no lookers-on, directly or through an interpreter if need be, as well as with any other person that national prevention mechanisms consider capable of providing relevant information; e) their freedom to choose the places they mean to visit and the persons to interview; f) their right to maintain contacts with the Sub-Committee on Prevention».

2. Article 4, paragraph 2, OPCAT.

3. Title of the volume V, no. 3, March 1949, of *Il Ponte, Rivista di politica e letteratura*, editor Piero Calamandrei.



*The places and contexts of life are fundamental elements, allowing people to define their own role and to find their own social identity. Through them people perceive symbolic and semantic meanings, through them they enter into relationships with one another and with the place itself. This happens because places express meanings, define statuses, and determine functions. Their organisation and management can change a person's life and may produce distress or, conversely, inclusion; they may foster a person's development or make him/her a prey to apathy and discouragement.*

*Places are precisely at the core of the thematic part of this Report: the places that the National Guarantor visited last year, where he met with persons deprived of liberty, about which he has collected a conspicuous documentation. Some of them are traditional establishments, well-known and regular; others are less defined spaces and surely less known as milieus of deprivation of liberty.*

*The task of an NPM is to make them less opaque, first of all by visiting them, breaking down the isolation, checking the conditions in which persons deprived of liberty are hosted, looking at them with the eyes of one who lives outside and is not accustomed to everyday deprivation, listening to all parties involved, constantly maintaining as a key to observation and interpretation the protection of everyone's rights, whatever the conditions they temporarily find themselves in.*

*But the task of an NPM is also to reveal such places when they may be concealed, hidden, obscured by silence and illegality; to verify their effective compliance with their mandate; to request their transformation, closure, alignment to standards, according to the different situations found on the spot.*

*This explains our choice to look back over them in the light of a year of work, divided on the basis of a verb, an action which precisely defines their characteristic of deprivation of liberty.*

*The verbs we have chosen are: to procrastinate, to detain, to take care, to arrest and to protect. These are actions corresponding to different places of deprivation of liberty in different contexts: from Criminal Matters to the administrative detention of migrants, to police custody, to hospital environments dedicated to Compulsory Health Treatment and to residential facilities for non-self-sufficient persons with psychological distresses. Places that respond to the function expressed by each verb, but which always need to keep in sight the respect of the rights of every person acknowledged and protected by our Charter and by supranational regulations. Actually, the last verb is to protect and it refers to the places where decisions are made so that such acknowledgment and protection may be effective.*

*Lastly, the empty rooms, with no furnishings, depersonalised, sometimes punitive, locations that are living metaphors of separation, of closure, of living in another world, different and distant. Such places are symbols and realities of diversity and exclusion.*





## 7. The Space and the Prison

by Luca Zevi

Space, in its different possible meanings, represents what is really at stake in the genesis of detention. Come to think of it, why someone is arrested? Because he/she has occupied a different space than the one society assigned to him/her. As a consequence, a more or less large portion of the space originally provided for is taken away from him/her, so as to compensate for the previous overflow. Historically, this compensation has occurred in different ways, from corporal punishment at one extreme to rehabilitation to a positive social function through measures alternative to detention at the opposite extreme. The modalities for the enforcement of penalties are articulated between these two extremes.

### Abolition of Space

Therefore, take liberty away from those who misused it. Total removal of liberty, traditionally, through imprisonment in one space - individual but more often collective and frequently overcrowded - where all vital functions are carried out: from sleeping to eating to idling away all day long, except for yard time. A removal - accompanied or not by physical harassment and always supported by a religious or political educational intervention - destined to be a threat to offenders, who are supposed to come out of it afraid to replicate their trespasses or to commit a different crime so as to avoid being sentenced again to detention.

All culprits, presumed or proven to be so, have been historically subjected to this condition of deprivation and the difference between the punitive treatments imposed to single prisoners mainly lies in the duration of their permanence in prison rather than in the nature of the detention. In this perspective they must undergo a spiritual regeneration - physical harassment may be a tool to achieve that - which induces them to spend time, other than in their cell, in a place of worship and/or political re-education. This original approach to penalties had its most literal physical expression in the different forms of 'dungeons' - truly a denial of space.

### The Representation of Penalties in the Urban Space and its Subsequent Expulsion

From the 18th century on, reform theories aimed at creating an aptitude to obedience, so offenders could go back and play a positive social role, again thanks to religious or political indoctrination, on the one hand, and to a training aimed at their resuming a work activity, which they had left - pushed by necessity or willingly - taking a criminal shortcut, on the other hand.

Thus their day was filled with a productive engagement that could be performed 'at home' inside their cells - as it happened, for instance, for many crafts

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in the sector of clothing, still mostly performed by women – or in specially dedicated workshops/factories fitted within prison institutions, or even community work – forced or freely chosen – to be performed outside the prison under the strict control of surveillance personnel, which generated much of the iconography of detention. Such an approach was embodied in the prison-fortress, which became a threatening emergence of the urban tissue of the 18<sup>th</sup> and 19<sup>th</sup> centuries. It was first separated from the urban tissue in the second half of the 19<sup>th</sup> century parallely with the trend to expel all ‘abnormal’ conditions – sickness, folly, deviance – from the scene of rapidly expanding bourgeois cities.

The architecture of the inner spaces of these institutions was overshadowed by the objective of visibility, that is by the possibility to exert total control, minute by minute, on the persons detained through an approach not surprisingly defined *panoptic*.

### From a Place of Exclusion to a ‘Special’ Residential Complex

During the 20<sup>th</sup> century democratic evolution was accompanied by a growing will to replace a purely punitive practice with a re-educational action aimed at preparing detainees for their return to civil life as responsible citizens. The prison, formerly a place where the activities performed within were concealed, progressively evolved in the direction of a ‘special’ residential complex, revealing itself to the city and assuming some of its peculiar characteristics.

Such a route not only brought about a humanisation of the living space from the cell to the accommodation room, but also a functional articulation aimed at providing detainees with an existence no longer purely passive but, on the contrary, a training about the complexity of the life to which they must be restored as soon as possible. Thus no longer a container of passive affliction, but a poly-functional settlement where it is possible to recover a social responsibility in all areas of everyday actions. A settlement where only the night time is spent in the accommodation room, while the day is filled up with work, training, sports, creative, and social activities, ~~rediscovering the awareness and dignity~~ of citizens.

Along this route the prison-fortress, even in its image, evolves into a borough and life within it is more and more modeled on what goes on outside.

### From the Space to the Spaces of Penalty

This evolution from a place of exclusion to a city of rehabilitation contains an intrinsic contradiction: the need of ever wider surfaces to be destined to such institutions, in the presence of an overcrowding that, in many an instance, is already dramatic. This contradiction questions the prison as the unique response to whatsoever form of transgression, highlighting the need to articulate penalty enforcement measures that resort to prison only in the most extreme cases.



We should therefore reflect anew on which offences must necessarily be punished with a penitentiary treatment. This does not mean to legalise behaviours formerly considered transgressive, but to position the penalty for each transgressive behaviour within the right space. Such a space may be intangible as, for instance, in the event of a financial restorative sanction; it may be domestic in the case of home detention; it may be a community space in the event of an assignment to social services. The reflection needed must aim at understanding what space is suitable, for example, to serve a sentence that is strongly connected with subjective conditions, from drug addiction to irregularity of the presence in the territory, of course for offences that are not particularly serious, the most effective response to which is probably not a detention in prison institutions.

## The Space of Rehabilitation

Thus, an articulation of criminal treatment should lead, as it has already happened, to a dramatic reduction of presences in prison. This would allow to reconsider existing institutions as places where all rights are ensured, including the right to mobility, which assuredly must be accurately measured but never completely suppressed. It is only seldom that new facilities should be built, and these should have limited dimensions and be located far from urban and social contexts. Penitentiary treatment should reproduce an everyday life similar to the one detainees shall resume as soon as possible.

Therefore there is a need of work spaces, possibly outside the institutions, otherwise inside them.  
Training spaces to acquire work-related skills as well as general cultural competences.  
Spaces of creativity to achieve a better relationship with one's own inner world.  
Spaces for sports activities for a training aimed at taking care of one's body.  
Social spaces to develop interaction capacities with others.  
Residential spaces aimed at overcoming once and for all the traditional typology made up of cell-lobby-row-wing, in favour of a layout based on groups-apartments where to acquire a responsible attitude even as concerns the collective management of the domestic space.

This approach is meant to achieve legal certainty for detained persons, which is one of the hinges of our Constitutional Charter and cannot be questioned or even just limited. Such a certainty must be put into practice not just for persons detained in prison institutions, but also for all persons who are somehow deprived of liberty.

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## Places

# To Detain

*Dētīnēre*: to detain, to keep away, to arrest, to prevent from advancing<sup>4</sup>.

*To detain*: to keep waiting, to prevent from leaving, to keep in custody.

The Latin term contains the first meaning of the act of detaining: a denial of the freedom to move and act, isolation, *keeping away*. The English verb suggests the idea of a power to constrain, a power possessed by the detaining person.

Places of detention encompass all original and current meanings of the verbal expression: places where persons are kept away from their family and friends, where liberty is restricted but, at the same time, where the individual is in the hands of the institution that exerts such a power of constraint. A form of power that combines with the action of safeguarding: the verbs “to detain” and “to take care” identify together the task of institutions when a person is entrusted to them.

Detention, therefore, is not only restraint but caretaking as well, ontologically connected with the exercise of power and custody, specifically seen in relation with the rights of those who are in the hands of the State.

Thus the premises of prison institutions, detention rooms, visiting rooms, yards, nurseries for mothers detained with their children, common areas, and the spaces of units become places where institutions are put to the test as regards the care they take of the person entrusted, their ability to combine the deprivation of liberty with the guarantee of every right, except for the right to free movement.

4. IL vocabolario della lingua latina, Castiglioni Mariotti, Loescher, 1966-1980.



## 8. The Cell

The “cell” par excellence is that of the prison. Before being a place it is a concept, an absorbent one for it is more characterized as compared to the detention cell, to the room of the administrative detainee, to the room of a social care home. This is the reason why we are talking about it: because of its archetypal meaning. What is a cell? Or, rather, what should be a cell? Resorting to Kant’s categories, let us begin with the dimension of *having to be* in order to gradually ascend to that of *being*.

To begin with, the place provided for in the penitentiary system is not a “cell”: the Italian law speaks of «living and sleeping quarters». The term “cells” appeared instead in the *Regulation for the Institutions of Prevention and Punishment* issued in 1931 by Vittorio Emanuele III<sup>6</sup>. A circular of the Administration Penitentiary Department issued in the spring of 2017<sup>7</sup> highlights this conceptual (even before than semantic) difference, transposing standards set out by the Council of Europe<sup>8</sup> and interpreting them in the sense of “linguistic hygiene”: one of the redenominations concerns precisely the “cells”, which according to the circular must be correctly called “sleeping quarters”, as provided for in Penitentiary Law since 1975<sup>9</sup>.

Sleeping quarters are single or multiple «rooms» (Article 6 P.L.). Thus, a cell should actually be primarily a “sleeping quarter”, that is a place where people normally sleep or rest.

The law is rather exacting in terms of the habitability of spaces: alluding to the «premises where detainees live» - referring in this way both to living and sleeping quarters - it states that they must be sufficiently large, illuminated by natural light, but equipped as well with artificial lights so as to allow detainees to work and to read,

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5. Royal Decree no. 787, 18 June 1931.

6. Circular Letter no. 0112426 of 31 March 2017.

7. As, for instance, the fifth of the *European Penitentiary Rules* contained in the Recommendation R(2006)2 of the Committee of Ministers, according to which «life in prison must be as close as possible to the positive aspects of life in the free society», a fundamental principle of the *European Rules*, which underlines the «positive» profiles of this «normalisation»

- namely to «make the living conditions in the institution as close as possible to those of normal life» - which must be interpreted in the sense of avoiding «consequent inhuman conditions of detention». The *Comment* of the Committee to the *Rules*, which is an integral part of the Recommendation R(2006)2 validates this interpretation.

8. To this purpose, it is impossible not to recall a quite recent English study being conducted at the University of Bath to decide whether to use the terms “men” and “rooms” instead of “detainees” and “cells”. Such a change may favour, through the self-esteem mechanism, a reintegration into the social tissue. «To treat detainees with trust, respect and dignity [...] encourages them to invest in their own future, to make plans for tomorrow». Such theories have already been put into practice in the prison of Berwyn, the largest in England, inaugurated in 2017. The prison

«at full capacity will host more than 2,000 offenders belonging to the low-risk category C». This was reported by G. Gaetano, *Gran Bretagna. Via le sbarre alle finestre delle celle, sono troppo "punitive"*, in *Corriere della sera*, January 10, 2019. See also <https://howardleague.org/prisons/berwyn>.



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ventilated, and heated when the climate requires it<sup>10</sup>. The recent reform (Legislative Decree no. 124, 2 October 2018) - applicable on this point from 31 December 2021 - has commendably specified with a primary law provision what the implementing regulation already provided for but more hesitatingly<sup>11</sup>, namely that in sleeping quarters «sanitary facilities, adequately ventilated, must be located in a separate space to guarantee privacy » (Article 8, paragraph 2, P.L.).

Another issue concerns the dimensions of sleeping quarters. Here we enter a 'parallel dimension' and sometimes improperly absorbing, but nonetheless rather pivotal. Since 1988 Italy, on the basis of an administrative practice - referring to a circular issued on 17 November 1988, from the then General Management of the Institutions for Prevention and Punishment - calculates the capacity of its penitentiary system on the basis of a criterion borrowed from residential buildings: 9 square metres for a single detention room, 14 for a double room, 19 for a triple room and so on<sup>12</sup>.

In late 2015 CPT guidelines defined a desirable minimum standard<sup>13</sup>: 6 square metres for a single room, plus 4 square metres for each additional person in a multiple room, up to a maximum of 4 persons per room.

The minimum standard defined by the European Court of Human Rights' case-law is of a different nature: it does not concern desirable dimensions but establishes a threshold under which there is a strong presumption of violation of human rights in the form of inhuman or degrading treatment on the basis of the Court of Strasbourg's case-law regarding Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (thus to guarantee it *tout court*, as we shall see, must not be a point of arrival but only a starting point).

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Notwithstanding this, from the case-law of the Court of Strasbourg we can derive useful indications at the system level: if it is true that the minimum per capita space may be below the fateful threshold of 3 square metres - and such an option is certainly not desirable - , it is also true that the Court allows for it only when there are significant compensating factors, basically consisting in the very reduced duration of the detention in minimal prison spaces and - what is more interesting to us - in the freedom of inmates to move out of the detention room (quantitative level) to engage in adequate activities (qualitative level) and in a detention structure that is also comprehensively adequate (quantitative

9. Here the Legislative Decree no. 124, 2 October 2018, replaced the formula «heated where climatic conditions demand it» with «heated for the time during which climatic conditions demand it», essentially stressing the obvious necessity that the heating system must be turned on when the room temperature requires it.

10. «Sanitary facilities are located in a space adjacent to the room» pursuant to Article 7, paragraph 1,

Presidential Decree no. 230, 30 June 2000.

11. The so-called criterion of the "9+5 square metres", which in the 1988 circular defined the *optimum* for detention spaces - the so-called "optimal capacity", which was then distinguished from the "tolerable capacity" ranging between 8 and 9 square metres. Such an extravagant distinction is provided for in very few other countries and it is striking that the concept of "tolerability", semantically subjective, may be applied by an administrative authority and with an objective value.

12. *Living space per prisoner in prison establishments*, CPT/Inf (2015) 44, 15 December 2015.



and qualitative levels). Thus, from the most recent case-law of Strasbourg there emerges a vision of the “cell” developed at three levels: 1) it is oriented to exclude automatism; 2) it is holistic in the sense that it considers space, but in relation to all other factors that define detention, an overall assessment that considers all the profiles of habitability cumulatively and in a relational way; 3) it develops a model in which the “cell” is basically a room effectively and solely used for sleeping in, where the possible reduction of space is compensated by the actual possibility of staying out of it, engaged in «adequate» activities.

«Adequate» means that it is not enough to stay out of the cell *tout court*. in a penitentiary system that poses the re-educational function – already at the constitutional level – as the centre of gravity of the penalty. Adequate activities are certainly those that contribute to realise the re-socialising purpose of the penalty, which in an advanced system is also and mostly built by working to formulate a “non-infantilising” model, designed for adults and based on self-organisation.

Therefore, in terms of *having to be*, the “cell” is seen as a “sleeping quarter”, dedicated to rest because the natural place for activities (and thus of prison life) must be outside of it. Then, at the system level, we should abandon the overused synecdoche according to which when people talk about the “cell” they really mean the “prison”. Let us consider the cell only as a “sleeping quarter”, moving the centre of gravity towards external, common, social, relational spaces where meaningful activities are performed, create an identity and fill up a time that would be otherwise empty.

Resorting to the well-known and complex categories introduced by Marc Augé, we move

in the direction of the conceptual estrangement from the «space of the non-place», which «does not create a single identity nor a relation, but loneliness and similarity»<sup>14</sup>.

The scope of *being* is drastically different. The problem is not that Italy lacks sleeping quarters approximating the advanced guidelines of its own domestic law<sup>15</sup>. However, from the multi-faceted reality of the 191 prison institutions there emerges a general picture that is too often distant from the theoretical configuration. The reports on the visits the National Guarantor paid to such institutions still highlight an excess of inadequacies and the predominance of the ‘infantilising’ model over the ‘responsibilising’ one, concerning both material conditions and the centre of gravity of prison life shifted on the room rather than outside it.

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13. M. Augé, *Nonluoghi*, trad. it., Elèuthera, Milano, 2018, p. 114.

14. With regard to domestic law it is useful to refer to the *Introduction to the Comment* of the Committee of Ministers of the Council of Europe to the *European Penitentiary Rules* of 2006, according to which such rules «refer to measures that should be integrated into the “domestic law” rather than in the “domestic legislation”, to the extent that they recognize that this last may take on different forms in the Member States of the Council of

Europe. The term 'domestic law' was coined to incorporate not only the main legislation adopted by a national Parliament, but as well all other regulations and ordinances that have the force of law, other than the case-law of courts and tribunals, and this to the extent that such types of regulations are acknowledged by national judicial systems».



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The National Guarantor, as he has already expressed, stresses the importance that an established rule be respected, especially in a place where the focus should be the 're-education' to the respect of rules. If such a rule is considered too wide-ranging it should be modified and made more similar to the European parametre. Conversely, if it is maintained it must be respected. The situation of capacity, and thus of the actual being of the "cell" nowadays, assumes a particular outline if we take into account the number of rooms or units that are out of order for damages or works in progress.

In short, if 'domestic law' – the *law in books* – represents a "sleeping quarter", the actual reality – the *law in action* – still takes us too often before a "cell". Then the risk lies in the fact that «detention institutions essentially conceived as places of restraint become serial spaces made up of sequences of cells, without expressing a readable idea of the role ascribed to them and of the project that should be implemented within them»<sup>16</sup>.

In summary, the National Guarantor, as he has already expressed, stresses the importance that an established rule be respected, especially in a place where the focus should be the 're-education' to the respect of rules. If such a rule is considered too wide-ranging it should be modified and adjusted to European parametres. Conversely, if it is maintained it must be respected. The situation of capacity, and thus of the actual being of the "cell" nowadays, assumes a particular outline if we take into account the number of rooms or units that are out of order for damages or works in progress: as of 14 February 2019, those unusable are 6.5% of the total, a percentage that has however undergone a positive reduction of 3 points as compared with the one related in the Report to Parliament of two years ago. There subsist extreme cases: since several years in Arezzo only 17 places are available on a total of 101, only 24 places of the overall 57 in Gorizia, and in Sardinia 13% of official places is unusable.

## 9. The Yard

The yard where detained persons stroll plays an important role in the penitentiary system, as a crucial place of treatment in a perspective of observation and social reintegration. The latest changes in terms of open air access have been brought about by Legislative Decree no. 123, 2 October 2018, which reforms Article 10 of Penitentiary Law: «yard time is increased to four hours a day (except for possible reductions due to specific reasons) and the permanence outdoors takes place in an organized way in spaces equipped for recreational and sports activities and in the presence of prison workers and volunteers». Through this modification legislators have taken into account the provisions contained in the *European Penitentiary Rules*, Rec(2006)2, highlighting the importance of the yard as a place where detained persons may recover their relationship with their own bodies, perform an effective workout outdoors, meet one another, communicate and evolve positively in their social aggregation with other detained persons and with prison workers.



15. Thus M. Palma, *Due modelli a confronto: il carcere responsabilizzante e il carcere paternalista*, in S. Anastasia, F. Corleone, L. Zevi, *Il corpo e lo spazio della pena. Architettura, urbanistica e politiche penitenziarie (a cura di)*, Roma, Ediesse, 2011.



The National Guarantor, during his monitoring activities conducted all over the national territory, has instead visited many times places used as “yards for strolling” that admit of no activity and do not respond to any of the parametres listed above: the inmates’ recovery of the relationship with their own bodies, nor the process of social aggregation. The limited spaces, the presence of sanitary facilities in view, the absence of shelters from bad weather and the box-like setup make them unsuitable for the institutional purposes provided for by the law. Although they do not resemble the extreme Vincent Van Gogh’s picture depicting the yard of an internment institution, in many yards of our prisons the only possible physical activity seems to be to walk round and round or back and forth.

Besides, the presence of a ‘net cover’, which hinders a free vision of the sky while it does not prevent the possible throwing of objects, and the impossibility to see something that is not grey, mark such places as depersonalised. Therefore, the Guarantor commended the directors of prison institutions who have allowed for and demanded the positioning of some plants, which almost create a small garden, or the possibility of frescoing in different ways the walls of the yard. He certainly did not appreciate the fact that the roofs of buildings are sometimes used as walking areas, a situation unfortunately observed even in the ward of an Intensive Assistance Service (SAI), which is reserved for sick persons. This issue is linked with the lack of available yards in secured health wards, where patients may spend their allotted time outdoors when this does not affect their health.

Yards should be spacious and available in every season. Detained persons should be able to look far and see green areas, trees, and vegetation. In fact, we must not forget that visual stimulation is an integral part of the preservation of a person’s psycho-physical abilities. Perhaps this could be a starting point for the frequently announced works for the renovation of spaces.

## 10. The visiting room

Relationships with the family and loved ones are a central element for a possible positive reintegration at the end of the prison term. They are an important resource, both in the short term, with their affective and material assistance to the person deprived of liberty and all along the detention pathway, being a focal point of contact with the external society. In this perspective, the dedicated premises should be structured in such a way as to favour encounters.

Nonetheless, this is not always the case. In point of fact the National Guarantor, in his reports about the visits, has repeatedly urged the need to intensify all over the national territory the effort to strengthen family and emotional relationships for detained persons «as a meaningful vehicle towards a positive cohesion with the outside world, even by improving the current conditions of the spaces dedicated to interviews».

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## Places

On the contrary, visiting rooms too often appear inadequate and scantily equipped: a small table (generally measuring 1 m x 60 cm) with four even smaller stools, very frequently riveted to the floor. The standard furnishing of institutions and the subdivision of spaces inevitably affect the quality of meetings with family members. The choice to use stools instead of chairs, the fixity of places, the difficulty to add other possibilities for people to sit down in cases of necessity and the closeness of tables make such encounters fatiguing and incompatible with any requirement of privacy, even minimal. Actually, a private dimension is almost non-existent because of the nearness of tables and of the noise. Thus people are forced to talk in a high tone of voice to drown the voices of those who sit at the next table, and in such an overall cacophony all find it difficult to interact.

**The right to play should be guaranteed to minor children through the setting up of welcoming spaces adequately equipped with playrooms or play corners in the visiting rooms, as specified in Article 2 of the Charter for the Rights of the Children of Detained Parents, recently renewed.** : The right to play should be guaranteed to minor children through the setting up of welcoming spaces adequately equipped with playrooms or play corners in visiting rooms, as specified in Article 2 of the *Charter for the Rights of the Children of Detained Parents*, recently renewed and in a paragraph of Article 3 of the *Convention on the Rights of the Child* that engages to consider always prominent, in every decision, the best interest of the child: a principle often expressed and seldom actually applied<sup>17</sup>. In addition to this, often detained persons do not tell their younger children that they are in prison to avoid a trauma or in order not to influence negatively their psychological development. Therefore, such a room should represent a 'neutral' place, not an unfriendly one and not an absolute denial of other more familiar spaces, whilst a particular one, wherein children may gradually reach an awareness of the different situation of their parents.

Conversely, the current state of many visiting rooms represent for children a strong break with their habits, both in procedures and in language and most of all in the suggestion of a structurally hostile space. Sometimes such a situation induces parents to avoid the access of their children to the institution, which causes serious damages both to children and the whole household.

However, it must be said that in recent years the attention of directors to the needs of minor children of detained persons has progressively grown. There are now multiple instances of compliance with the commitment to set up welcoming and pleasant visiting rooms, or even playrooms and entertainment for younger children while they are waiting to see their parents, even thanks to the contribution of associations of the voluntary sector. In some instances special rooms for interviews with children in peculiar situations have been provided for, as in the District Penitentiary of Monza where, besides the usual visiting rooms, a playroom, and a green area, a room for minors has been set up and is used for 'protected' interviews in the presence of a social worker. In addition to this, there is also a so-called 'small house', a domestic-like space fitted with a small lounge and a kitchenette where families with particular criticalities may

17. UN *Convention on the Rights of the Child*, Article 3, paragraph 1: «In all decisions related to children incumbent upon social assistance public or private institutions, tribunals, administrative authorities or legislative bodies, the best interest of the child must be a prominent consideration», approved by the General Assembly of the United Nations on 20 November 1989, ratified by Italy with Law no. 176, 27 May 1991.





spend the whole day cooking and eating together, doing homework and playing. The protocols signed and ratified to foster a different accompaniment of children visiting their parents and the setting up of spaces dedicated to them have thus produced interesting experiences in different contexts, but these are struggling to become widespread. The National Guarantor has repeatedly requested to double the attention paid to this issue, even considering the great number of children – estimated at several tens of thousands – who every year enter a prison to visit their parents.

Interviews are much more difficult when the person secluded is hospitalised in a protected health ward. In this situation, the interview equate to an odyssey. As already stated by the National Guarantor in his Report to Parliament 2018 «to have a interview family members have to pick up a sheet at the institution where the person now hospitalised is detained, possibly in another city, and show it at the hospital ward. Therefore, in most healthcare facilities dedicated to detained persons there is no place for all elements defined as central by Penitentiary Law, such as the importance for detainees to maintain a positive relationship with their families ».

In such an altogether difficult context, which is nonetheless evolving, last year the National Guarantor has welcomed the fact that the Penitentiary Administration has introduced procedures that may have a significant impact on the quality of prison life. One of them is the possibility – expressed in a recent circular of its Department<sup>18</sup> – to have interviews in “virtual places” through the Skype platform. Moreover, in many institutions interviews are provided for in days (such as Saturdays or one Sunday in the month) that do not impact on the work engagements of family members. In the same institutions interviews may be booked online filling in a printable application form, which shall be subsequently handed over at the institution. Therefore, we need to seize the positivity of these good practices and to extend them to all over the national territory, in order to avoid a drastic impact over the everyday life of family members and loved ones, and to simplify access to interviews. In this way waiting time outside the institution is reduced: an important achievement, especially if we consider (as the National Guarantor has noticed in his different visits) that the external spaces of many facilities are not equipped with sheltering structures against bad weather.

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Such attentions, often recommended by the Guarantor and by international supervisory bodies as the CPT, fall within the dimension of the care for affectivity, which is a prerequisite of any positive reintegration route. Such affectivity is however ‘mained’ in our system, which does not provide for visits with no external control nor any chance for intimacy between partners or for relaxing moments with family members. Care for affectivity is a theme that should not be underestimated, since its denial may determine a connotation of criminal enforcement that compromises a fundamental

dimension

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18. Circular GDAP, 30 January 2019.0031246.U



## Places

of persons, understood in their psychological and physical totality, thus degrading itself to 'corporal punishment', which is prohibited by any liberal and democratic system. Forced chastity is an inherent violence that no law has formally authorised and is adopted for organisational management purposes rather than because it may be considered as an intrinsic element of criminal enforcement, even because modern criminology has repeatedly stressed that frequent and positive encounters with partners play an irreplaceable role for the rehabilitation of detained persons.

On these grounds, several European countries have actually introduced in their legislation provisions aimed at ensuring the personal right to develop family, affective, sexual, and friendly relationships with free persons, dedicating special and adequate premises to this purpose, with no supervision, which contributes to release the tension inherent in everyday prison life. It would be necessary in Italy as well to provide for prisons capable of restoring motivating relationships and emotional spaces to persons in custody, focussing prison life on the inmates' responsabilisation and on the necessity to make them the architects of their own pathway towards social rehabilitation. This has been the direction followed, during the course of last year, by the new Juvenile Criminal Law<sup>19</sup>, whose Article 9 provides for a reinforced safeguard of the right to affectivity for detained minors, envisaging eight monthly interviews that may even last for one hour and a half. As for the premises, it provides for visits «effected in dwelling units specially equipped within the institution, set up in such a way as to allow for the preparation and the consumption of meals and to reproduce, as far as possible, a domestic-like environment». The National Guarantor considers positively this first regulatory innovation as the beginning of a trend that will surely find its support.

## 11. Between the Walls and the Cells

The *intercinta* is the space separating detention areas from the boundary wall. It may be occupied by manufacturing warehouses, barracks of the Penitentiary Police, buildings for persons detained under alternative measures as day release, gardens and the like. It is a border area between the inside and the outside, located within the prison institution but – since inmates cannot access it – it is sometimes considered as an outside, although those who only enter the institution to visit it already feel like being within once they have crossed its threshold.

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Starting from the idea of the *intercinta* as an *outside*, that is an external place although located within the prison walls, penitentiary directors ever more frequently resort to



19. Legislative Decree no. 121, 2 October 2018 (Official Gazette no. 250 of 26 October 2018, Ordinary Supplement no. 50).



this space, thus improperly applying the outside work provisions set out in Article 21 P.L.: the oxymoron of outside work done within. This is a paradox that, while permitting to favour the exit of detainees from their units, utilizes a false *outside*. In this way, the strategic space connecting the inside and the outside could act as a linkage, almost a space for the interaction between two worlds – a closed space separated from the jail and the space of free social life, becomes instead a place of pretense: the false opening of the prison towards the outside world. False because it is an outside located within a closed and separated world, and thus cannot foster the reconnection with the real world, hindering persons from experimenting reality in its complexity. Consequently, this ‘outside – inside’ becomes the depiction of a simplified outside, far from the complexity of social reality.

The National Guarantor has repeatedly emphasised that this “outside-inside work” could even slow down the way to reintegration: it is actually a space under surveillance, where detainees may hardly come in contact with new social relations and lifestyles, different from those that brought them inside.

Conversely, sometimes the space between the outer walls and the cells actually becomes a place where to communicate with the real outside, connecting the two worlds, when it is open to the city: restaurants in some institutions, theatres in others (where the plays are also attended by the outside public), in one instance a high school accessible as well by students coming from the city, some experiences productive of external enterprises. Such experiences represent a bridge between the reality of the institution and the city, breaking up the segregating logic of the prison dimension and overcoming the fears linked to security aspects, transforming the space of the jail in a place of culture at the disposal of the urban community and of the prison population itself, which is a part of the urban tissue. These experiences are multifarious and, when it comes to enumerate them, we always risk to overlook some important ones. Therefore we will only describe one of them for every type of intervention.

The restaurant “InGalera” located inside Detention Facility of Bollate is well-known to the citizens and patrons are obliged to reserve a table well in advance. The direction of the Prison “Marassi” of Genoa has set up the “Teatro dell’Arca” in that area, accessible both to detainees and the outside public. It is constructed as a professional theatre, not as a social one, where persons detained work side by side with professional actors in the different productions. In the penitentiary of Rebibbia in Rome, more specifically in the third Mitigated Custody Wing and in the women’s penitentiary, the insurmountable border wall of the jail has been opened to implement, respectively, a baker’s shop where detained persons work, and a store to sell the products of the local farm and dairy. Both, being open to the public, shorten distances that would seem psychologically insuperable by looking at those walls. The wide-ranging productions within the Penitentiary of Padua are well-known and their dynamism must be defended against the recurring attempts to limit it.

These are just some examples showing how it is possible to overcome the idea of a fencing of the detention area with a high and impenetrable wall, which does not make allowances even for ideal holes, built to conceal a negative reality from the glance of free people.

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### 12. The Nursery

This is the last resort for legislators. Only when the conditions for home detention - even in a protected family-centred group home - or for the assignment to a mitigated custody institution for imprisoned mothers (ICAM) are lacking, maternity protection for female detainees can allow them to keep their younger children with them in penitentiary institutions.

Prison nurseries, which the Penitentiary Administration has so far informally called “nursing units”, are 19 in Italy. As of 16 January, mothers detained in nursing units or rooms were 13 with 14 children, together with 11 women with no children. At the same date, 32 mothers with 34 children were detained in ICAMs.

Prison nurseries, which the Penitentiary Administration has so far informally called “nursing units” are 19 in Italy, distributed in the Female Prison institution of Rome-Rebibbia and in the 18 women’s units of the mainly men’s prisons of Agrigento, Avellino, Bologna, Cagliari, Castrovillari, “Sollicciano” in Florence, Foggia, Forlì, Genoa, Messina, Milan Bollate, Perugia, Pesaro, “Giuseppe Panzera” of Reggio Calabria, Sassari, Teramo, Turin, and Trento. As of 16 January, mothers detained in nursing units or rooms were 13 with 14 children, together with 11 women with no children. At the same date, 32 mothers with 34 children were detained in ICAMs.

Following the reform of Penitentiary Law in 2018<sup>20</sup>, the term *prison nursery* was officially adopted in the regulations, thus crystallising the situation. Article 14 P.L. reads: «Mothers are permitted to keep their children with them until they are 3 years old. Special nurseries for the care and assistance of children are organised».

The National Guarantor, with the co-operation of local guarantors, has conducted a research on the actual conditions of the units or rooms destined to host children up to 3 years of age. The first datum to emerge was the complete inadequacy of four facilities that do not meet the prerequisites being monitored, neither structural ones (adequacy to the needs of children, separate kitchens for children, presence of an equipped playground, of a playroom, of suitable premises for the visits of family members), nor those related to their quality of life (presence of qualified personnel and volunteers, conventions for the integration of children in local schools, possibility for children to go out accompanied by volunteers). Three other facilities do not have an equipped playground for children, in two of them there is no playroom, and in three visiting rooms have been defined unsuitable for younger children. In addition, the lack of qualified personnel is also striking: nine of these institutions have not provided for staff dedicated to children, and in six of them specialised medical and healthcare personnel is absent (such personnel is only available on-call in cases of necessity).

In short, in some instances the situation is unacceptable and there is a need of urgent structural interventions and of raising the standards needed to host children within a detention facility, even for a short time.

The detention of women with children must always be an extreme measure and, when it is adopted, it requires great attention on the part of the personnel, both to mothers and children.

20. Legislative Decree no. 123, 2 October 2019, Article 11, letter e).



Moreover, we should always take into account that those children are not detainees and therefore their liberties and their rights should not be subjected to any limitations other than the inevitable one of living with their mothers in a detention facility. As a consequence, they must be allowed to easily access external schools and to go out accompanied, as it only happens in eight of the 19 institutions above mentioned and exclusively thanks to the willingness of volunteers, so as to mitigate their inevitable separation from the outside world.

There remains the paradox of the Region of Latium, which hosts the biggest women's prison in Europe containing a nursing wing that can accommodate up to 15 women; a Region without an ICAM and with only one Protected Family-Centred Group Home for six women. The National Guarantor has pointed out the urgency to provide for other facilities in the area, where children may stay with their mothers without being subjected to any deprivation of liberty, rectifying a deficiency which lasts since the legislative provision of 2011<sup>21</sup>, thus safeguarding the mother-child relationship and reducing the negative consequences of such a deprivation of liberty for the children.

The presence of children between the ages of 0 and 3 is also recorded in juvenile detention facilities (IPM). Nevertheless, it must be said that their numbers and the duration of their stay are very limited. In 2018 the children who entered IPMs with their mothers were seven and the average duration of their stay was of five days: two of them stayed in for less than one day (one for just half an hour), other two for two days at most, one for seven days but another for

25. In such cases the National Guarantor has noticed and welcomed the particular efforts made by the Penitentiary Administration in order to transfer mothers with children as soon as possible to a facility more suitable to their needs, usually a Protected Family-Centred Group Home.

The attention paid to children who live in prison institutions with their mothers and the aspiration summed up by the motto «Children in jail: Never again » should not make us lose sight of the objective to protect the mother-child relationship, even when the mother is in jail, avoiding to sacrifice maternity itself because of a misinterpretation of the fundamental principle of the best interest of the child as a prominent factor in every decision<sup>22</sup>, as if a separation from the mother could be generally understood in this way. It is instead necessary to find a point of balance between the safeguard of the right to the relationship with the mother, which the Italian law ensures at least for the first three years of life and the absolute priority of the necessity to facilitate the positive evolutionary and cognitive abilities of children in their earliest years of life. A difficult balance, which requires complex solutions with the contribution of all: local authorities for the creation of Protected Family-Centred Group Homes, whose number is extremely limited, and that

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### It is instead necessary to find a point of balance between the

should be the paramount solution; local communities that often are not keen on the presence of detained mothers in their territory; a public that thinks of prisons only in the event of tragedies and does not care about the many aspects of care and protection that arise therein everyday.

Therefore, the National Guarantor advocates a full and wide-ranging application of the law on the safeguard of the relationship between detained mothers and their children, in the light of a reflection that should involve all interested and responsible subjects in the search for a solution.

21. Law no. 62, 21 April 2011.

22. *UN Convention on the Rights of the Child*, Article 3, paragraph 1; adopted on 20 November 1989. [67](#)



### 13. Filter Cell

Even in well-known institutions and in important cities sometimes there are sometimes places that are more opaque, withdrawn from any transparency, even though they could be physically close to other places that are most willingly shown because of the quality of the activities carried out therein. These are the back rooms of normal everyday life in jail, destined to a particular function that predominates over any consideration aimed at protecting the dignity of those who are secluded inside them. And when their function is linked with the basic and scatological aspects of human nature, such places take on the aspect of the very function they are destined to, with serious consequences on the working conditions of both supervisors and detainees. The *filter cell* is the most emblematic place of this kind and the task of the National Guarantor has been to restore its visibility and to let people know what has been detected in it, so as to put a symbolical spotlight on it to destroy its intrinsic 'will to be something not seen'.

Established in 2009 in the prison "Lorusso Cutugno" in Turin to tackle the phenomenon of *body stuffers*<sup>23</sup> and regulated in 2012 by a memorandum of understanding between the Region of Piedmont and the Public Prosecutor's Office at the Court of Turin<sup>24</sup>, the "Filter Unit" stemmed from the idea to perform the operations to recover ingested small balloons of drugs inside the institution. Such an idea was implemented to combine judicial and prison management purposes - to seize material evidence and to prevent the diffusion of drugs in the prison - as well as healthcare necessities, such as the preservation of the person's health with regard to the damages produced by the breakage of the ingested balloons and the outflow of drugs in the body.

The unit was organised due to the healthcare segregation regime applied to the persons destined to occupy it: seven detention rooms with no furnishings and one equipped with a so-called "nautical toilet seat" and the tools for the expulsion and the retrieval of the balloons.

The experiment of Turin remained unique in Italy, for elsewhere authorities have made the obvious decision to reserve such function to healthcare and hospital facilities. This may be one of the reasons why the experiment - beyond its already incongruous initial approach, both in terms of location and of structuring - has progressively shown serious criticalities and a seeming lack of reflection even by those in charge of health monitoring, which has brought into question its original founding idea. The issues related to such an idea are not only of a structural nature, but mainly linked with the characteristics of prison life, with the health and security conditions of the penitentiary police personnel, called upon to perform tasks beyond their professional competence, and the absence of a specific health facility fit to face emergencies and to ensure an adequate clinical monitoring.

23. In medical literature, the term *body stuffers* is used to designate small-scale drug traffickers who, at the time of their arrest, instinctively swallow their balloons of drugs to hide them. Thus they cannot be equated to *body packers* or carriers, who transport considerable quantities of drugs concealing them inside their bodies within the framework of organised trafficking. See VV. AA., *Apple, Condom, and Cocaine - Body Stuffing in Prison: a Case Report*, in *Journal of Medical Case Reports*, 2018.

24. Protocol of 20 January 2012, Rep.no.16590, no. prot. Public Prosecutor's Office of Turin 51/2012.



### A place of neglect and degradation.

In the early months of 2018, following different reports even from local guarantors, the National Guarantor conducted an *ad hoc* visit during which the serious criticalities reported were confirmed<sup>25</sup> and which led to consider as unacceptable the situations detected with regard to the respect of the fundamental rights of persons, beginning with the rights to dignity and health. The healthcare authority in charge showed little concern; in fact, no record was found documenting its *de visu* supervision of a situation on the threshold that separates the constraining function from the protection of health.

In the wake of the observations and recommendations formulated by the National Guarantor after the visit, the direction of the institution devised some changes in the equipment of detention rooms and of the *filter cell*, aimed at somehow improving the living conditions in that unit as well as the working circumstances of the penitentiary police personnel<sup>26</sup>. Such improvements are commendable but insufficient to overcome the basic critical point: the introduction of interventions, operations, tasks, and requirements of a purely medical nature in an environment managed by a penitentiary administration.

To this purpose the National Guarantor recommended a review of the 2012 Protocol and to send arrested *body stuffers* to a first aid department. On the basis of the agreement expressed by the Penitentiary Administration Department<sup>27</sup> and of the already initiated collaboration with the competent public prosecutor's office to achieve this goal, we trust that in the short term it will be possible to eliminate such an improper place, incompatible with the *minimal* standards for detention imposed by Italian and supranational regulations.

The Guarantor will make sure that this is done and has deemed necessary to report here this quite peculiar situation - in fact an *unicum* in the detention landscape - in order to point out how the function of "outside eye" that all guarantors are called upon to exert often contributes not only to reveal hidden aspects of the overall representation of a detention institution, but as well to reflect on how to tackle difficult issues that require a common sense way to think and act and involve different domains: repression of crime, deprivation of liberty, and the safeguard of health.

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25. Report of 17 July 2018 on the *ad hoc* visit to the "Lorusso e Cutugno" Penitentiary Institution of Turin, 2 March 2018.

26. Answer of the Head of the Department of the Penitentiary Administration to the National Guarantor's Report, 13 August 2018, prot. no. 260284.

27. See Answer, *supra*.





### 14. The Infirmary

Surely we cannot speak about the possibility to express 'one's own being' for persons secluded inside any institution –even less so in the case of a total institution that concedes very little to that being– if first we do not assert the postulate of the protection of his/her health.

The right to health is the only one for which the calibrated language of the Italian Charter uses the adjective «fundamental», and it should be referred to the safeguard of what the World Health Organisation (WHO) defines as a «state of complete physical, psychological, and social well-being and not just the absence of diseases or infirmities». Therefore, it has nothing to do with the mere provision of health services to respond to a full-blown pathological situation. It is instead a wide-ranging task mainly carried out through education, prevention and, most of all, the development of a positive relationship with one's own self.

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Following the repeated postponements of a law approved in 1999, after experimentations that have been more or less accepted by healthcare personnel, rather inclined to maintain the previous *status* even though it limited the autonomy and independence of the medical function, a decree issued by the President of the Council of Ministers in 2008<sup>28</sup> has definitely stated the transfer of penitentiary healthcare to the National Health System. The decree has defined the modalities and the criteria to transfer healthcare functions thus marking an important step in the reform of the penitentiary system and affirming the equality of every person as concerns their access to medical care and the exercise of their right to health.

The safeguard of the right to health for persons deprived of liberty lies with those charged with the management of such deprivation; healthcare services are instead provided by the Health Service: two different competences on the basis

of which the former must control the latter so that the health needs of the detained population, which fall under its responsibility, may obtain adequate responses. In this respect, the internationally accepted principle that equates healthcare services within and without prison facilities should not be interpreted as a uniform provision of care and assistance but as an indispensable differentiation, defined according to the different medical needs of the detained population, which is quite vulnerable from the health point of view. As the ancient masters used to say, there is nothing more unfair than giving equal parts to unequal people.

The latest modifications with regard to health assistance in prison environments have been brought about by

28. Prime Ministerial Decree of 1 April 2008, published in the Official Journal (General Series) on 30 May 2008.



a recent legislative decree already discussed in this Report<sup>29</sup>. Some of the innovations introduced are: the extension of guarantees for detainees, with the specific provision that every possible injury detected by physicians during entry medical examinations must be written down in the medical record of new inmates; the extended possibility to resort to one's own external physician in case of healthcare treatments and interventions of the therapeutic and surgical kinds; the stress laid on the necessary continuity of treatment plans when detainees are relocated from one institution to another. Such modifications enhance the independence of the medical function from the penitentiary context and configure infirmaries as medical places rather than simple rooms where medications are administered. Such independence is again stressed in the re-arrangement of the Disciplinary Board, which no longer includes physicians, even though they are to evaluate the possibility of discontinuing the enforcement of a specific penalty when this is considered incompatible with the psychological and physical conditions of detainees.

Therefore, the prison infirmary – which the Guarantor wishes to be denominated as *outpatient clinic* - is the place par excellence dedicated to the exercise of the right to health. At the same time, the Guarantor is convinced of the need to extend the use of telemedical procedures for medical examinations and diagnoses. As a matter of fact, this approach is increasingly encompassing the adoption of electronic health records, which ensures the real-time transmission of health data in the event of transfers. This would intensify the necessary continuity of treatments and make available a set of medical data meant to describe wounds or other signs of injuries detected during a medical examination in a clearer way as compared with paper medical records. The National Guarantor is tasked with promoting such an intensified prevention of abuse, as well as the possibility to investigate about it.

On the contrary the Guarantor, during the visits paid to different prisons, has observed that the premises where healthcare is provided - which, according to regulations and declarations made at different conferences, should be clean, adequate and well equipped - are actually below the required standards. There is often only one consulting room for every medical specialty (an example of this, among others, is the prison of Nuoro). This imposes a strict turnover, which is seriously harmful for detainees. Diagnostic tools are few and over-aged, and medications are distributed using little more than a tray. In the above mentioned instance the Guarantor detected the presence of cockroaches and vermin due, according to the medical personnel that operates therein, to sporadic and scarcely effective disinfection. If degraded premises and units infested by insects (which in some cases have been denounced for years<sup>30</sup>) are always a serious issue within an institution holding a heterogeneous collectivity such as a jail, they are absolutely unacceptable in healthcare rooms because of the activities carried out within. The Guarantor repeatedly asked local authorities in charge of healthcare services and directors of institutions to prioritise such aspects, both for the necessary protection of detained persons' health and for the risk of epidemics that such neglect creates.

Assuredly, in other situations the Guarantor has instead observed that the structural conditions of the infirmary and

29. See the unit *An Almost Reform of the Prison Law*.

30. As in the case of the presence of bedbugs in a wide area of the Prison of Trieste, reported many a time.



## Places

the provision of healthcare services are in line with the regulations in force, with a basic medical service 24 hours a day, with suitable spaces and the prearrangement of a consulting room where medical observation and pre-hospitalisation services are carried out<sup>31</sup>.

Such contrasting examples show that the current situation of health services in the different Italian institutions is highly variable. This is quite alarming since it concerns a basic asset that involves regional responsibilities. The commitment of regional authorities to consider the detained population as an actual part of their audience, in need of specific attention due to its social and healthcare makeup, is still too uneven and the National Guarantor has to remind such authorities to pay greater attention. This problem also involves the human resources allocated: often organisation charts are not complied with and the very contractual arrangements may sometimes compromise the quality of the services provided. Likewise, the Superintendencies for the Penitentiary Administration are called upon to formulate solid protocols with healthcare authorities responsible for the areas concerned where such protocols have not been defined yet, and to monitor their effective application, co-operating in every due form. On the other hand, during 2019 the Guarantor will reserve a considerable part of his analysis of detention institutions to the issues related to the health services provided.

Another significant issue concerns infirmaries, that is the scrupulous respect of the privacy of detainees. We regret to be forced to stress again that the delegations of the National Guarantor have observed that penitentiary Police Stations are routinely present during medical examinations.

Another significant issue concerns infirmaries, that is the scrupulous respect of the privacy of detainees. We regret to be forced to stress again that the delegations of the National Guarantor have observed that penitentiary Police Stations are routinely present during medical examinations. As it is well-known and obvious, physicians may request the presence of an officer when examining a particular person only in specific and motivated situations, but this can never be an ordinary practice. The National Guarantor has recommended that the directors of prisons always ensure the respect of the private dimension of the interview between the physician and his patients. This could be effected by equipping the doors of consulting rooms with small windows, so that officers may perform their controls visually but not aurally, thus respecting the confidential nature of such interviews, in accordance with the *Personal Data Protection Code*<sup>32</sup>. This aspect takes on a special relevance within the framework of the prevention and reporting of abuse:

a lack of confidentiality in the physician-inmate patient relation may heavily hinder the detection of possible violences. The latest report concerning the visit to Italy of the European Committee for the Prevention of Torture<sup>33</sup> stresses that the delegation detected a total lack of confidence in the prison institutions monitored during the medical examinations of detainees, and that many abused inmates expressly admitted that the presence of penitentiary personnel during examinations deterred them from denouncing such abuse.

31. We will mention only one example: the positive evaluation of the medical service in the Prison of Rossano Calabro.

32. Legislative Decree no.196, 30 June 2003.

33. CPT/Inf (2017) 23 Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 8 to 21 April 2016.



## To send back

*Although it may seem strange, in a context of deprivation of liberty, to choose a verb indicating movement, for irregular migrants deprivation of liberty is almost always linked with the action of **sending back**.*

*Within the framework of administrative and non-criminal detention that characterises the restriction of irregular migrants, deprivation of liberty actually consists in the decision of the competent authorities to send them back to their own country or in the country where they come from, following an expulsion or a refoulement, even deferred, or a prohibition of entry. Foreign nationals who have entered or are staying irregularly in Italy are sent back.*

*The places dedicated to the detainment or administrative detention of migrants are then mainly places of waiting: for expulsion, refoulement, or return flights when they are considered inadmissible to Italy. Premises where they wait for days or even months before being sent back. Their wait ends when their rejection becomes effective.*

*Such places can be facilities like the **Temporary Residence Centres** for returnees (TRC), where people may be detained up to 180 days or even a year for asylum seekers, and which they leave, in general, after their requests are accepted or else to be sent back through a forced return or travel order procedure. However, such centres may also be used as unspecified facilities at the disposal of police headquarters, where migrants may be detained up to four days or else as **suitable** premises of the Border Office, where they may remain for 48 hours. There are also so-called waiting rooms at borders, in airports or harbours, where migrants wait – sometimes even for days – for the flight that will take them back where they came from and are not allowed to leave the premises.*

*But such places can as well be means of transportation such as the aircrafts used for forced return flights or the rescue ships on board of which migrants arrive, mostly from Libya, in search of a future in Europe. These, too, are places of deprivation of liberty: the former as a mean of transportation towards the country of origin during the enforcement of their expulsion; the latter because in Italy such rescue vessels often became places of detainment for migrants. A de facto detainment without the authorisation from the judicial authority, sometimes used as a tool for pressure while locking swords with Europe, even though irregular migrants cannot be sent back to their place of provenance, since Libya is considered an “unsafe place” by the UN High Commission for Refugees (UNHCR).*

*In any event these are closed places wherefrom persons cannot go out and wherein they cannot receive other visits than the lawyer's. Closed places while waiting – as we have already pointed out – to be **sent back** or **possibly sent back**.*



### 15. The Ship

The ship as a place of deprivation of liberty is an unprecedented scenario that appeared in Italy in 2018. It is possibly the most representative one, jointly with the so-called decree *Security and Immigration*, of the new governmental approach towards the phenomenon of irregular immigration, an approach that has had a profound impact on the widespread culture of Italians on this issue.

The ship as a place of deprivation of liberty is an unprecedented scenario that surfaced in Italy in 2018. It is possibly the most representative one, jointly with the so-called decree *Security and Immigration*, of the new governmental approach towards the phenomenon of irregular immigration, an approach that has had a profound impact on the widespread culture of Italians on this issue.

Ships – be they military or civil, flying the flag of Italy or a foreign one – were originally means of rescue, but now they sometimes become places where migrants rescued at sea are detained on board, off the coast or in harbours, with no chance of disembarking to be identified and possibly ask for protection. Places that have produced a clash at the European level with regard to the reception and distribution in the territory of the Union of those who got there in search of a possible future, often in search of safety, sometimes of protection; a challenge whose stakes are the freedom of women, men and children.

Being an NPM, the mandate of the National Guarantor extends to «any form of detention or imprisonment or collocation of a person in a place under custody that he/she is not permitted to leave voluntarily, by order of a judicial, administrative or any other type of authority»<sup>34</sup>. It is then apparent why the Guarantor took action in different ways in the several affairs that involved ships seeking a POS (*place of safety*) where to land and allow rescued persons to be identified, received, assisted, and only then destined to stay in Italy or to be repatriated. The Guarantor's task is to protect the rights of every person deprived of liberty, in any place – official or informal – where such deprivation takes place in the territory under the Italian jurisdiction. Within this framework, the Guarantor fulfils another important co-operative function for, through its visits and recommendations, it avoids the sanctioning of the country by supranational organisations.

The cases the Guarantor took into consideration were of a different nature and configured different situations: the “Alexander Maersk” is a Danish container vessel that took on board 113 migrants rescued by a ship owned by the German NGO “Lifeline”, on the instruction and under the coordination of the Italian Coast Guard; the “Asso 28” is an Italian ship which had rescued some migrants in international waters, in the Lybian SAR zone, and then brought them back to Lybia; the “Ubaldo Diciotti” is an Italian Coast Guard ship that had rescued migrants in Italian territorial waters; lastly, the “Sea-Watch 3” is a ship belonging to the eponymous NGO flying the Dutch flag that had rescued migrants in international waters, subsequently permitted to enter the port of Catania for safety reasons.

34. OPCAT, Article 4, paragraph 2.







Nonetheless, regardless of the diversity of such situations, it is appropriate to reassert that all Italian ships are to be considered as an extension of the national territory, independently from the waters they are in, and therefore the persons on board are under the Italian jurisdiction and should retain the guarantees and the rights provided for in Italy. The same applies to foreign ships navigating in Italian waters. This implies that the State must scrupulously comply with the obligations imposed by its Constitution, by national and international regulations, and by international conventions. It also implies, then, the preventive action of the National Guarantor as regards the risk of infringements. More specifically, this is a situation of a *de facto* deprivation of liberty, according to the obligations stated in Article 13 of the Constitution and in Article 5 of the CEDU<sup>35</sup> and as exemplified by the failure to actuate individual identification procedures and thus to consider individual positions (pursuant to Article 4 of the Fourth Additional Protocol of the CEDU<sup>36</sup>, which prohibits collective expulsions) and by the failure to consider individual vulnerability aspects, given the mandatory nature of Article 3 of the CEDU, which moreover provides for the conditions in which migrants are detained on board. Not only that, but also the related loss of the absolute prohibition of refoulement, since the persons rescued often come from Lybia, a country to which they cannot be sent back, and the risk of violating the right to asylum disciplined by the Geneva Convention.

The Guarantor decided to highlight such risks precisely on the grounds of its preventive and cooperative tasks. The authorities in charge did not always consider the real dimension of such risks with patent consequences in their current difficulty in tackling the issue of a well organised and regular integration of migrant persons into the social context without prejudicial contrasts.

In the perspective of the protection of the rights of every person – both at the level of national responsibility and of the European one – the National Guarantor wishes to express its strong concern about the referral to Lybian authorities, in the current situation, to rescue migrant persons at sea. To this purpose the National Guarantor reaffirms that the principle of *indirect liability* is also applicable in order to fully comply with Articles 2 and 3 of the CEDU. As a consequence, without prejudice to the legitimacy and necessity to adopt every possible measure to promote the consolidation of Lybian administrative structures and institutions, including its Coast Guard, from a judicial and ethical-political standpoint it appears unreasonable to comply, on the one hand, with the prohibition of refouling migrants to Lybia to avoid the risk that they be subjected to torture or inhuman and degrading treatment and, on the other hand, to encourage private vessels providing assistance to refer to the authorities of that country.

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35. See to this purpose the reports that the National Guarantor sent, following a visit on board the ship “Diciotti”, to the public prosecutors of Catania and Agrigento who had opened a file on this case: <http://www.Guarantornazionaleprivatiliberta.it/gnpl/resources/cms/documents/a7f0a0036a74f842cbf710e4045effff8.pdf>

36. To this purpose the National Guarantor recalls that the European Court of Human Rights, with the judgment *Hirsi Jamaa et alia vs Italy*, no. 27765/09, considered the refoulement of migrants towards the country of provenance, that is Lybia, carried out by three Italian ships, a violation of the prohibition of refoulement, notwithstanding that the vessels transporting the migrants had been intercepted in international waters.







## Places

Authorities that, according to the Council of Europe Commissioner for Human Rights, Dunja Mijatović «seem to be unwilling or incapable to protect rescued migrants from torture, inhuman or degrading treatment»<sup>37</sup>.

Lastly, the National Guarantor is convinced that Italian authorities agree on a principle that the Italian judicial tradition has been reaffirming for more than 250 years. According to this principle persons may never become a tool to achieve any objective<sup>38</sup>, not even to send out a signal to Europe, which finds it hard to assume a co-responsibility regarding the criticalities that migrations determine in border countries. The deadlocks occurred following the non-communication of a POS should represent a step to be overcome in the context of rescue at sea operations and the actuation of the consequent procedures.

Certainly it is within the powers of a State to adopt countermeasures to handle a phenomenon that exerts a pressure on its territory but, as stated to this purpose by the expert in international law Irini Papanicolopulu, «International law is adamant on this point: countermeasures may never be used if they violate fundamental human rights. This does not entail that States do not have instruments to point out the others' violations. Specifically, in the event of a breach of the UN Convention on the Law of the Sea, the Convention itself provides for the possibility to refer the matter to an international judge, who shall make his decision with binding effect for both parties. Then, if Italy believes that other States violated their obligations it is provided with means to assert its reasons without violating human rights»<sup>39</sup>.

Thus ships will be again a temporary place of transportation and not of improper permanence.

## 16. The Aircraft

This is not a place conceived and designed for deprivation of liberty. Aircrafts have taken on that function by chance, they have been borrowed from freedom of travelers and adapted to the security, order, and discipline requirements of forced return operations. However, undoubtedly the persons on board who are escorted towards the destination of their expulsion trip, are deprived of liberty.

37. Letter of the Council of Europe Commissioner for Human Rights, Dunja Mijatović, to the Italian President of the Council, Giuseppe Conte, 31 January 2019, <https://rm.coe.int/letter-to-giuseppe-conte-prime-minister-of-italy-by-dunja-mijato-vic-co/1680921853>

38. Cesare Beccaria, *On Crimes and Punishments*, chapter XX: «There is no freedom every time the laws permit that in some events man is no longer a person and becomes a thing».

39. I. Papanicolopulu, *Rescue at Sea: What the Law Says (and What it Does not Say)*, "laCostituzione.info", 19 June 2018, <https://www.lacostituzione.info/index.php/2018/06/19/salvataggio-in-mare-cosa-dice-il-diritto-e-cosa-non-dice/>



For years scheduled flights transporting expelled escorted passengers or dedicated chartered flights, sometimes organised in co-operation with other European countries, have been a part of the international air traffic and have found their own discipline in the sector of civil aviation.

In 2018 about 870 persons were escorted to their countries of origin on a scheduled flight, whereas 2,116 were repatriated on one of the chartered flights organised by Italy towards Tunisia (66 flights), Nigeria (5 flights), and Egypt (3 flights). The organisation of such scheduled flights is implemented by police headquarters, which buy the tickets and send to the chosen airline the forms related to the “transportation of potentially dangerous passengers”, provided for by a special regulation of the European Commission<sup>40</sup>, specifying if there will be an accompanying escort, the presumed level of risk and the request for a specific seat. In the event of national chartered flights the preliminary phases of the operation are instead the task of the “Repatriation Service” of the Central Direction for Immigration and of the Border Police, charged to find the most convenient carrier and the connected services.

There is another possibility: “joint” chartered flights implemented under the coordination of the European Agency Frontex in collaboration with other Member States of the European Union or of the Schengen Area. Each country brings on board its own group of foreign nationals to be repatriated and provides its own escort service. Many a time the National Guarantor has stressed that the presence of different escorts (each acting in accordance with the rules of its country) entails the possibility of a different treatment of persons within the same operation.

As for chartered flights, the rules to deal with the airline that will provide the carrier and the air crew are quite clear: there shall be no travel classes and the seat will be assigned on the basis of the plan prearranged by the leader of the escort; the provision of service on board is predefined (no coffee nor other hot drinks, food must not require the use of knives), every nook of the aircraft shall be cleared from any object that might be used to injure oneself or third parties; the commander will have no communication with the passengers and will exclusively address the leader of the escort who is entitled, in case of necessity, to take measures aimed at preserving the security of the flight.

Some of these measure are provided for by the airline itself and may have an improper custodial function: the permission to open seat belts may never come for persons being repatriated for fear of internal dangers and of atmospheric ones. The very footrests of seats, according to the operational techniques of the escort staff, may be used to lock the legs of especially nervous passengers.

Violent reactions or passive resistance, however, are essentially limited to the initial phases of a forced return operation, when returnees leave their temporary residence centre or reach the airport, when

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40. Implementing Regulation (EU) 2015/1998 of 5 November 2015.



## Luoghi

they become fully aware of their imminent refoulement. On the ground, at the foot of the aircraft steps, foreign passengers perhaps already feel the fist air pockets: when they suddenly realise what is happening, with no time to process the news, to sort out their belongings, to inform lawyers and family members. It is right then, during such phases and regardless of individual resistance to repatriation, that the operational protocols of the Italian police provide for the application of coercive tools, the velcro clamps to immobilise their wrists, that they shall keep during boarding time and takeoff and will be generally removed at the moment when the aircraft reaches its en-route phase.

Such clamps should be used only after an accurate assessment of the risk profiles expressed by every single person to repatriate: if they actually refuse or show their opposition to board the aircraft or if there is a risk of escape or of returnees harming themselves or others or damaging the premises. In normal practice these are applied to all indistinctly during every phase considered dangerous: transfer, boarding, stopping in premises where there are potential escape routes.

The only individual assessment of risk is performed with persons who show a rebellious or violent attitude so as to consider the application of the so-called *french bodycuff*, a sort of belt equipped with a set of accessories to immobilise their upper and lower limbs. Nonetheless, this is actually quite seldom used.

**The most impressive security measure is the sizeable escort personnel within the aircraft (two agents for each foreign national plus a varying number of personnel in charge of other functions such as sorting out documents, store luggages, coordinate foreign delegations in the event of joint flights organised in co-operation with other Member States, etc.), thus reducing the physical space within the already cramped passenger compartment and hindering, blocking, and containing any incongruous gesture and movement.** : The most impressive security measure is the sizeable escort personnel within the aircraft (two agents for each foreign national plus a varying number of personnel in charge of other functions such as sorting out documents, store luggages, coordinate foreign delegations in the event of joint flights organised in co-operation with other Member States, etc.), thus reducing the physical space within the already cramped passenger compartment and hindering, blocking, and containing any incongruous gesture and movement.

: During the flight moving along the corridor is reduced to a minimum, since it must remain free for necessary interventions. The physician and the nurse walk up and down it when they are called to mitigate the different discomforts lamented by escorted persons.

Such discomforts in most cases only require psychological support, when the distance that during the outward journey costed them months or years of pains now is flowing away very fast under their feet, with no chance to slow down their accelerated return.

In the instant when the landing gear touches the ground the roles of citizens and foreigners are inverted: repatriated persons get quickly off the plane according to the instructions of local authorities and the new strangers can do nothing but leave for Italy on board an aircraft that will turn back into a simple mean of transportation, with no memories.

It is hard for the National Guarantor not to have a chance of knowing the destiny of the persons who

have just got off. There remains the commitment to develop a network of similar bodies in destination countries in order to overcome the obscurity of the migrants' aftermath.



## 17. Suitable premises

The expressions *suitable premises* and *suitable facility* have been recently introduced by the *Security and Immigration*<sup>41</sup> Decree to enumerate the places where foreigners waiting for their forced return may be temporarily detained before the definition of the validation process. The necessary prerequisites are the exhaustion of the capacity of TRCs and the authorization of the Justice of the Peace (provided for in the decree) containing the notice of the validation hearing date. If the conditions that determined the detainment «in different and suitable facilities» persist even after the validation hearing the Judge, during the validation process, «may authorize the permanence, in suitable premises nearby the involved border office until the enforcement of the actual expulsion and however within 48 hours after the validation hearing».

The National Guarantor has stressed, already in its hearing at the Senate during the conversion of the decree, how the lexical vagueness of a provision may generate arbitrariness. In point of fact, who and how establishes the *suitability* of premises where persons may be detained up to six consecutive days<sup>42</sup>? This aspect is even more significant given the legal certainty such a provision must possess especially when the stakes are deprivation of liberty and the obligations pursuant to Article 13 of the Constitution.

At a first glance it appears rather obvious that the two expressions, *different and suitable premises* and *suitable premises*, refer to the same concept of *suitability* when dealing with environments to be physically singled out in different places. On the other hand, the legislator refers to both when he provides for treatment conditions that ensure the respect of the person's dignity. Notwithstanding this, except for this obvious indication, no other criterion is inferable from the provision in order to identify such places and define the related concept of *suitability*, therefore variously interpretable and articulated in the national territory. Accordingly, during the application phase, it appears essential to avert the risks of arbitrariness inherent in the provisions of this law by previously defining objective parameters of suitability for the premises referred to, which must have a uniform significance for all offices in the territory.

Besides, regardless of the process followed to define the notion of *suitability* of detainment premises (of course a primary issue), it is necessary that the political-administrative authority in charge of the same publishes a complete list of the singled out premises once they have been judged suitable,

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41. Decree Law no. 113, 4 October 2018, converted with amendments into Law no. 132, 1 December 2018.

42. If the 48 hours the Chief of Police has at his disposal to notify the Justice of the Peace about the compulsory escort to the frontier are added up to the following 48 hours, within which the Justice of the Peace proceeds to validate the measure with a motivated decree, and finally to the further 48 hours the law allows for in case the expulsion is not immediately implementable, we get a total of six days.





## Places

Besides, regardless of the process followed to define the notion of suitability of detainment premises (of course a primary issue), it is necessary that the political-administrative authority in charge of the same publishes a complete list of the singled out premises once they have been judged suitable, so that guarantee institutions may perform their function of independent control.

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Having said that, it is necessary to identify referral standards, that is the structural, organisational, and procedural features that may define the suitability or unsuitability of a place chosen in compliance with the law as a place of administrative detention, taking into account two essential prerequisites.

The former is that places chosen for administrative detention concern persons not subjected to criminal measures. Therefore, if the intent is to consider such *suitable facilities and premises* equal to the detention cells used by the police in the event of an arrest or preventive detention, it is necessary to stress that the European and international standards in force, applicable for detention cells<sup>43</sup>, must be also applied to such *suitable premises*, taking into account the obligation of the State to mitigate as much as possible the loss of liberty, by ensuring that the premises and the conditions of detention – which is administrative in this case – be respectful of the dignity and of the non-criminal connotation

of detained foreigners. For the same reason, in case of detainment in a prison institution, as indicated by the international standards in this area<sup>44</sup>, the separation between irregular migrants detained under an administrative act and persons detained in the criminal circuit, including persons in preliminary custody<sup>45</sup>, must always be guaranteed.

The latter prerequisite is that such places must be considered in all respects a surrogate of Temporary Residence Centres for repatriation and so must comply with the same standards in terms of protection of the detainees' rights. The assumption of detainment in *suitable facilities or premises* is actually provided for exclusively in the event that no places are available in TRCs. As a consequence, such an objective situation of congestion in facilities dedicated to administrative detention, quite independent from the behaviour of migrants, cannot produce any curtailment of the rights established to protect those who are subjected to an administrative detention measure (in whatever place persons are bound to serve their sentence). By way of interpretation, the same procedures provided for TRCs must be deemed applicable, with the sole limit of their compatibility with the temporary nature of the measure.

Material conditions are therefore the marking element of this assumption of detention: the consideration of the characteristics such premises must meet, both in terms of configuration of the spaces

43. See to this purpose the unit "The Detention cell".

44. See to this purpose the Directive 2008/115/CE on common standards and procedures in Member States for returning illegally staying third-country nationals, the so-called *Directive on Repatriations*.

45. Extract of the 7<sup>th</sup> General Report of the CPT, published in 1997. See to this purpose the UN Working Group on administrative detention in its decision amended on 7 February 2018: «The detention of asylum seekers or other irregular migrants must not take place in facilities such as police stations, remand institutions, prisons and other such facilities since these are designed for those within the realm of the criminal justice system. The mixing of migrants and other detainees who are held under the remit of the criminal justice system must not take place».





and of the provision of services, also taking into account the impact that such places may have. Nevertheless, the way secluded persons are treated inside them remains equally central.

The Guarantor, once such preconditions had been made clear and within the framework of the dialogue initiated with the Ministry of Home Affairs, pointed out some criteria that may be useful to shape the assessment of suitability, starting from European and International standards providing for both the administrative detention of foreign persons and, at the general level, all cases when a person is deprived of liberty for more than 24 hours

Concerning the material aspects, in accordance with the European Code of Police Ethics adopted by the Council of Europe in 2001 (ECPE) and by the European Committee for the Prevention of Torture (ECPT), the elements to be assessed are, for instance, the dimensions of the premises, access to air and natural light, the equipment for resting at night, the possibility to use sanitary facilities at any time, the presence of outdoor spaces accessible in case of permanences longer than 24 hours.

As regards managerial aspects related to the methods of treatment, the assessment of suitability shall be based on the level of protection of the fundamental rights acknowledged by law for persons in administrative custody provided in such places<sup>46</sup>. The Guarantor clearly stated how it is essential, to evaluate the regularity of detention and prevent arbitrariness in the enforcement of a measure depriving of liberty, to accurately and precisely record every information relating to the treatment of persons, also including every event occurred during the permanence within the facility and indicating the person in charge at the time of its occurrence. The already mentioned protection of the rights of the persons hosted in such facilities must be also implemented with regard to their access to informations on the rights themselves, on the terms of detainment and the modalities of repatriation, as well as on the possibility to access programmes of assisted voluntary return.

To sum it up, according to the National Guarantor, the parameters of suitability required by the law to identify the facilities to dedicate to the temporary detainment of foreign nationals during the enforcement of their expulsion impose the compliance with European and international standards, a configuration of spaces, and a provision of services adequate to the adoption of the methods of treatment provided for TRCs, where these are compatible.

Finally, it is important to highlight the essential role played by the Justice of the Peace who, authorising the detainment of foreign nationals even outside a return TRC, will be of necessity called upon to consider - as in all other cases - the individual conditions of persons and their compatibility with the specific measure.

Material conditions are therefore the marking element of this assumption of detention: the consideration of the characteristics such premises must meet, both in terms of configuration of the spaces and of the provision of services, also taking into account the impact that such place may have. Nevertheless, the way secluded persons are treated inside them remains equally central.

46. By way of illustration, it shall be required to evaluate access to primary needs (adequate food and water, taking into account the religious precepts and the eating habits of foreign citizens, changing clothes and linen), health assistance; freedom of correspondence, even by telephone, and the possibility to receive visits and having interviews.







### 18. The Waiting Room

No entry. People must wait for the next flight or ferry to be sent back, since they are considered inadmissible (*inads*, as said in jargon). In 2018 it happened to 8,184 foreign persons of the most varied nationalities who, once arrived at the Italian air (6,942) or sea borders (1,242) lacked the necessary requisites to enter the country and were therefore refouled to the State of provenance.

For instance, it is quite frequently alleged that they lack a regular entry visa or that they present forged documents or that they do not have the financial requisites needed for their livelihoods: the task of the Border Police is to refoule at border crossing points foreign citizens who are not in the conditions required by the law to enter the Italian territory: they must be provided for while waiting to be returned to the country of provenance<sup>47</sup>. Such an operation should be carried out with the utmost swiftness and, of course, by fully respecting the fundamental rights of foreign nationals. Nonetheless, at some air or sea frontiers the effective refoulement of foreign citizens entails a prolonged deprivation of liberty, sometimes up to eight days, because of the absence of an available return flight or of bureaucratic mechanisms. In some cases the National Guarantor was informed of a failure to comply with the basic guarantees whose direct foundation is in the Italian Constitution and in the international obligations assumed by the Italian State.

Some 'waiting rooms' at the air borders where people in this situation are detained are actually used for periods that can become very long, even though in the absence of a specific measure of deprivation of liberty, with no jurisdictional control, mostly deprived of the right to see a lawyer. Material conditions are frequently below the standards defined for ordinary administrative detention: promiscuous environments with no windows or access to open air, lacking closets and hygiene kits, with the prohibition of using their personal mobile phones, and deprived of the right to meet their relatives. Possible breaches of fundamental rights cannot, of course, find their justification in the judicially hybrid nature of the so-called *transit areas*, which actually - in the light of the national and supranational regulations and case-law - should be considered as subjected to the judicial discipline of the general guarantee of fundamental liberties of all persons present in the places where the Italian police forces exert their effective control. In other words, the lack of an *ad hoc* regulation on the deprivation of liberty during refoulements cannot deprive such persons of the guarantees provided for as a general rule by the judicial system. As a consequence, we must consider as critical the deprivation of liberty of persons refouled at border points without a judicial act submittable to a jurisdictional control and in the absence of any other protection ordinarily acknowledged for detained persons, as for example the right to defence, visiting rights and the right to decent treatment.

47. Article 10, paragraph 1, of the Legislative Decree no. 286, 25 July 1998, and subsequent amendments. More specifically, paragraph 3 of the article mentioned.



Furthermore, in some occasions, administrative detention without a reliable legal basis is enforced within the maritime carrier charged by police forces to take refouled citizens back to the State of provenance. In these cases it is even more alarming that the *waiting area*, where the administrative detention takes place, is actually under the sole control of a private entity (the Commander of the carrier), acting by virtue of an assignment of the border police and keeping foreign nationals in conditions of deprivation of liberty even for days on end, according to logistic needs and therefore preferring to return immediately to the port of provenance. An example of this are the refoulement operations of foreign nationals coming from Tunis on board the ships that land in Civitavecchia. In these instances, foreign citizens are again entrusted to the maritime carrier who sometimes, before taking them back to Tunisia, proceeds on his ordinary route in Italian territorial waters, calling at some national harbours.

A similar and at the same time different track record is represented by the hypothetical deprivation of liberty for foreigners occurring in other *waiting areas* in the Italian territory and for reasons different from the implementation of refoulement operations at borders. By way of illustration, sometimes it happens that foreign citizens, alone, for organisational reasons of the police forces, are deprived of liberty without any *ad hoc* measure, any jurisdictional control, any possibility to assert their right to legal defence and in conditions that do not comply with their fundamental rights. A well-known and time-honoured example of this is found in the region of Liguria, where asylum seekers are transported for logistic purposes – traveling by bus for quite some time – from Ventimiglia to Taranto, so as to temporarily reduce the impact of a presence considered unmanageable in town. During their long journey, as also documented by some videos and news reports, people are *de facto* deprived of liberty. Moreover, the Guarantor received information about cases of detainment in police premises, in order to verify the typology of the judicial operation to be applied, not supported by an adequate verbalization of the deprivation of liberty (the necessary communication to the judicial authority).

Furthermore, in some occasions, administrative detention without a reliable legal basis is enforced within the maritime carrier charged by police forces to take refouled citizens back to the State of provenance. In these cases it is even more alarming that the *waiting area*, where the administrative detention takes place, is actually under the sole control of a private entity (the Commander of the carrier), acting by virtue of an assignment of the border police and keeping foreign nationals in conditions of deprivation of liberty even for days on end, according to its logistic needs and therefore preferring to return immediately to the port of provenance.

In all of these cases, the judicial limbo wherein foreign nationals are deprived of liberty may not only be in contrast with the above mentioned general principles, but even with some specific judicial dispositions disciplining administrative detention, or designed for other offences.

Ultimately, the logistic or organisational requirements of police forces should in no way justify, neither in the Italian territory nor at border points, a limitation of the constitutionally protected good of liberty, the more so if this occurs in violation of the right to defence and to human dignity of persons, whatever their nationality and judicial record. Even in the absence of specific regulations, we can only consider as applicable the general rules established by constitutional provisions and by supranational laws, often referred to in international case-law and in the indications of the Committee for the Prevention of Torture.



# To take care

*The most ancient human remains outside the African continent have been found at the end of last century on a hill at Dmanisi in Georgia, under the ruins overgrown with moss of a small Medieval fortress. From the sediment layers there emerged the skull of a toothless old man. His jaw and mandible are smooth, the bone tissue completely reabsorbed the alveoli, the cavities occupied by the teeth's roots. Therefore, that person survived for some years after losing his teeth. In some way and for some time, the community supported that man, incapable of chewing. Although deeds of compassion are already attested at the time of the Neanderthal men, D3900 – the mandible's repertory code – takes considerably back in time elementary forms of empathy. About 1,8 million years ago a group of cavemen who still kept many features of the homo habilis, identified instead as homines debiles and took care of that man. The toothless old man of the Eurasia is not just a presence, but a neighbour.*

*Notwithstanding this, we must not be led by illusions. D3900 is not the evidence of a biological constant, the confirmation of a naturally good species. Firstly because such behaviour was also detected among non-human primates. For example XT11, a chimpanzee female puppy born in the mountains Mahale in Tanzania showed sign of a chromosomal condition comparable to the human Down syndrome: the researchers of the University of Kyoto documented how she received social cares for almost two years.*

*But we should not yield to illusions even because D3900 is just the sign, ancient as it may be, of a social possibility, of a possible way to be a society, to be humanity. The extreme evil experienced during the 20th century has, in point of fact, definitively and unmistakably dissolved every reassuring assumption about the intrinsic goodness, the coessential morality of homo. L'Aktion T4 that, from 1939 to 1945, planned and perpetrated the methodical suppression of the homo debilis, while common men remained indifferent, is the irrefutable proof that social care is only one of the conceivable forms of living together and its practice is a political decision that the community is constantly called upon to renew.*

*Moreover, "care" is a quite elastic category: to invoke it with no further qualification is useless. Martin Heidegger's reflections, dating back to a time not yet irretrievably jeopardised could be beneficial to find one's way in its complexity. We should first distinguish between "taking care of" (besorgen), which concerns something, and caretaking (Fürsorge), which concerns someone. Next we need to differentiate the faulted ways of taking care – for example indifference – from the positive ones. Lastly we need to remember that positive caretaking provides for two extreme possibilities. There exists a form of taking care that is embodied in the respect for other people as having an independent existence and in the acknowledgment of their full freedom to take care of themselves, and a way of caretaking that may end up in expropriating them of their own ability to take care of themselves: «in this form of caretaking the other may be turned into a dependent person and thus be dominated, even if such a dominance is implicit and disguised for those who endure it» (Heidegger's own words, from his book Being and Time). To recognise such a silent and dissimulating dominance is our future task.*



## 19. The Ambulance

An address, a house, some persons living a tragedy. The interventions quickly follow one another. A few minutes and the ambulance starts again. The ambulance is an emergency space, the time for action within it is limited and sometimes people are frenzied.

We are in that healthcare compartment, disoriented, blocked on a stretcher, we cannot look at the road outside, to see where we are heading to. Our breath is bated and the sound of the siren in our ears overlaps with the frequency of the 911 radio station. Mechanic, sharp noises.

What happened? We would like to share our moment with rescuers. We rely on or are entrusted to them. Our personal belongings are handed over to the healthcare personnel, as is in fact our very safety, our dignity, our life. In that moment nothing of our personal history is taken into account, since the object of healthcare interventions is mainly our body. Blocked, forced to undergo a treatment that should be a part of a cure.

We look about for a friendly face, maybe the face of a family member, to let somebody know about the instant we are living in a small transportation space. In that space, on their way to the hospital persons, by now stripped of their identity, alone and surrounded by medical tools, are assailed by feelings of anguish, fear, agitation, uncertainty. In the event of a Compulsory Health Treatment the ambulance is a deprivation space, a space where we are forced to undergo a treatment that should never be confused with a punishment, a criminal sanction, because it is strictly a medical affair. Persons transported in an ambulance have a personal story that, once they will be laid on the hospital stretcher, nobody will ever know.

Everything is quick: we are already out, we are already at the hospital, the person is entrusted to healthcare personnel. The separation from the ambulance operators is fast and elusive. In that moment we feel like we have been abandoned to an unknown fate, which was already out of our control and of our will before we were put in the ambulance. Some minute later the ambulance starts again.

## 20. The Module

Modules: they are mostly architectural interventions to redeploy residentiality in a social-healthcare environment. The objective of such redeployment is to make more human-centred the existing scenario of rehabilitative residentiality, for the most part destined to high-level healthcare provision hospitalization of indefinite duration. Hospitalisation units for the deployment of residentiality, which should be subjected to the constant monitoring of the competent local entities. These should represent calibrated solutions, according to the different healthcare and social needs of patients entrusted to the care of health personnel and an assistance pathway in view of their reintegration into social life.

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In some cases they are called crisis, treatment or discharge modules. Care units are separate, but connected: you just need to cross a symbolic threshold along the same corridor, which is ever open between a ward and the next to optimise personnel shifts and economic budgets.

On the left the women's ward, on the right the men's, following a sequence that starts from the main entrance and corresponds to a progressive seriousness of the pathologies treated and/or a progressive reduction of the patient's psychomotor autonomy or, in practice, to a greater need to conceal an aberrant reality from the looks of visitors: what remains of a worn-out body, vegetating, abandoned inside a six-bed room. Nearer to the entrance, you may find instead a nice old lady who cannot see what goes on outside because windows are too high, thus she keeps a piece of sky inside her room, loving and caring for a small yellow canary in a birdcage nearby her bed. A canary that has been living there for so long just as its mistress, that it has been trained.

When the old lady calls it, opening the cage to make you see how she feeds it after fumbling in a transparent bag full of seeds, the bird lands on her hand and lets her caress it. Even it has yielded to a destiny that seems to be marked by a time of cultural and regulatory transformations that here nobody has seen.

A fictional, never completed redeployment of spaces. The application of laws 180/78, 328/2000, 81/2014, or 112/2016<sup>48</sup>, or of all conventions against the discrimination or the segregation of persons with physical or psychic disabilities, even if temporary, keeps away from such places. These are full-blown asylum-like hospitals, with several blocks or buildings, each with its own function: residential block, block for the gym, block for workshops. They are situated in wide green fenced parks, where you may find age-old pines, hedges outlining paths that are so long you need a car to get to their end.

Notwithstanding their original conception, such modules maintain the set-up of a hospital ward with insufficient community characteristics and possibilities to live together. There is no individual plan, no person-centred project to allow patients to come back to their own homes or to move to a family-like community facility, no thought of *co-housing* in such modules.

The situation of the blocks/modules, set apart from each other, shows the failure of the deployment of such family-like residential buildings where instead the usual everyday life of a person, permeable to the outside world, with no break, prevails.

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48. Law no. 180, 13 May 1978 entitled «Voluntary and Compulsory Medical Examinations and Treatment»; Law no 328, 8 November 2000, entitled «Framework Law for the Implementation of an Integrated System of Interventions and Social Services»; Law no. 81, 30 May 2014, converting with amendments the Decree Law no. 52, 31 March 2014, laying down urgent provisions on the overcoming of judiciary psychiatric hospitals; Law no. 112, 22 June 2016, entitled «Provisions concerning the assistance of persons with serious disabilities deprived of family support».





Sometimes these complexes, assemblages of modules, also include a swimming pool, a church, a sports ground where there are people playing who know nothing about what goes on within the modules. Conversely, those who live within them, sometimes for more than forty years, look at the teams playing from the covered terrace, as if they were in the grandstand of a stadium, sitting on wheelchairs, with glassy eyes because they are resigned, since they lost the freedom to play the match of their own future beyond that terrace.

## 21. The Dehors

Structures dedicated to the temporary or residential accommodation of persons, be they healthcare and assistance facilities, hospital stays or medical emergency units, are characterised by organisational models that present two common dimensions: the relation system that regulates the implementation of cures and of the handling of hosts, and the planning of the spaces reserved to hosts, operators, and visitors. The quality of life within the facility, jointly with other factors, depends on these two dimensions, which in their turn are mutually dependent.

The reduction of space also reduces a person's freedom. By way of illustration, if a small place is too small, too close or however if its opening is regulated and supervised, with no privacy, it will tendentially restrain and force people within a more strict relation system as compared with those who have at their disposal a wide and open or semi-regulated space.

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In the Italian context the predominating health and hospital logic permeates care and assistance spaces and influences the approach and the organization of physical space for hosts. Most facilities are built according to the architecture of a full-fledged hospital ward, with no distinctions between reception facilities for hosts whose presence can be temporary and of a short duration, and those predisposed for a long-lasting and sometimes definitive stay. This is planned as a place separated from other environments, with residual open spaces, in some cases implemented to redeploy unused spaces.

Moreover, in some situations, the *dehors*, outdoor spaces or however outside the ward, are

quite absent. In these instances the lack of spaces alternative to the room or the corridor where hosts and visitors from outside the ward can spend some moments of the day which are different from those reserved to their cures,

49. The Judiciary Psychiatric Hospital of Castiglione delle Stiviere, following the final closure of such type of facilities and the envisaged system based on Health Residential Facilities for the Implementation of Security Sanctions (REMS) was transformed into a "Polymodular System of Temporary REMS". The National Guarantor visited these facilities in the







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such as the canteen, the visiting room or the recreation room create no clear demarcation between time spent within and without the facility during the daytime of hosts and patients. In places without *dehors* hosts with psychic disorders, even though autonomous in their movements, are handled as patients bedridden because of physical diseases.

Where *dehors* are present not everything is quite solved, since the frequent residuality of their design makes them only nominally correspondent to the function of projection towards the outside to which they are theoretically destined.

The *dehors* of some health facilities are set up on balconies whose banister is built with perforated bricks to facilitate the inlet of air and light: simultaneously they act as outdoor spaces and smoking areas. Others are verandahs with big windows before which deckchairs, chairs or mattresses are positioned, or even equipped with wheelchairs ready to be occupied by hosts wishing to enjoy a little sunny weather and fresh air. Such spaces overlook other buildings or, in the best scenario, allow hosts to look at a marine landscape, much more often at gardens, at times simply at streets. Spaces that extend the distance between the passing of time within and without. Real outdoor *dehors*, properly equipped, or refreshment areas with tables and chairs are limited to a few institutions. For instance, the SPDC are for the most part closed places, mainly located on basement floors, with no space to read a book or to share some moments with family members. The *dehors* of such institutions are sometimes fake outdoor spaces, consisting in small glassed rooms inside the ward, like those found in airports. In those rooms hosts, under surveillance for security reasons, may smoke their daily allowance of cigarettes. Access to outdoor spaces is usually through a passage connecting them with the ward and their use is reserved to hosts. It is quite difficult to find benches or green plants there.

In some facilities for psychic disabled persons, at times similar to asylums, *dehors* are set up within wide fenced complexes. These are large open space surfaces, not equipped, crossed by paths connecting service buildings with wings. They are actual labyrinths, almost without a beginning and an end that seem to symbolically refer to the self-referential and internal nature of unease and, in other respects, to the difficulty of achieving a moment of inclusion in an external reality.

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When confronted with such realities, it is necessary to question ourselves about the accessibility of outer spaces and the connection of this right with the persons' effective freedom to move, as on their actual chances to establish contacts and communications with the outside world. Especially perplexing is the oxymoron of some places called, and even accredited to regional authorities, as "residential care facilities" that instead, because of their organisational logic functional to economic and personnel management, are places that simultaneously break up all social relationships, from the inside towards the outside and viceversa: in point of fact, these are segregating facilities.

Luckily there are many exceptions and often the best of these are the smallest institutions, built on a human scale, where the organisation of open spaces provides for gazebos and gardens with aromatic herbs grown by hosts or even fences for keeping small pets with them.



Then the *dehors* where psycho-socio-rehabilitative activities are carried out contribute to create within the facility a therapeutic, welcoming climate where persons are taken care of but, most of all, a protective atmosphere capable of projecting persons 'out' and to leave them free, according to their individual degree of autonomy, so that they may actually participate in the life of the external world.

Thus, from the analysis of a seemingly minor 'place', such as the outer projection of a predominantly inner world, it is possible to interpret different aspects of the everyday life and of the relations developing within facilities. Those who are charged with their preventive monitoring may as well realise in what directions to address their recommendations.

## 22. The Restraint Room

Sound-insulated rooms<sup>50</sup> that can only be opened from the outside, blank, in some cases without heating, as detected by the Guarantor. Predominantly, the bed is in the centre of the room, equipped with four restraining straps fastened to the wall, which can be locked with special buttons or screws. A bottle of water near the bed, sometimes a bed wetting mat used as a bedside rug. But in this instance it is not really a bedside rug, but a makeshift medical device, in case the person restricted does not get to ring the bell near the door in time. A small glass window is embedded in the door to allow for on-sight surveillance, without entering the room. Restricted persons may also stay in that room, they say, to appease themselves, to find some relief: when in this condition they are not tied to their beds equipped with restraining straps. Some restraint room does not even contain a bed, just a brown woollen blanket thrown on the floor. These are solitary confinement rooms, also designed for patients to calm down. In very few instances the room is separated from the rest of the premises by glass walls, allowing those on the other side to constantly monitor patients and to promptly respond to their needs: separation, doorbells, white-washed walls are much more frequent.

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When inmates are bound, time in the restraint room is endless. No clock, no pictures, no television set to help them know since how long they have been there lying on their backs, watching while they are being monitored by somebody for 24 hours, most frequently through a video surveillance device.

50. With regard to resorting to restraints the National Guarantor has already expressed its opinion in the Report to Parliament 2018 (see unit 26, p. 169). Our discussion of the restraint room as a 'place' in this year's Report should not be understood as an endorsement of such a practice, concerning which persist the limitations pointed out and the misgivings vouched in the quoted unit. 89



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From the restraint position, face up, you can only look at the ceiling, which of course is white. At intervals health staff members come in to check their vitals, often unexpectedly for patients, thus making them perceive the unpredictability of what is about to happen: a clamp going to be loosened or fixed, an injection or maybe the chance to exchange a few words. Perhaps the clamps will be completely unfastened and they will be taken to the ward toilet or because their restraint time is over. A person bound, whose mental functions are weakened or inhibited by the action of medications, while still lying on the bed tries to find an answer to the question why solitary confinement and restraint began and starts thinking, maybe because he/she is hungry, “perhaps they will untie one wrist to let me eat”. It is quite hard to endure the neon fixed light (the switch can only be operated from outside) and the close smell of the room.

If there is no dialogic element to help them elaborate their experience nothing remains but misunderstanding or a feeling of humiliation. On the other hand, in that position and conditions even to ask for help, to negotiate, to seek explanations is difficult. If there is no further re-thinking, once restraint time is over the fear of its reiteration remains; the fear to find oneself in that room again watching the walls while the light outside goes from dawn to sunset.

In some wards the restraint room is always there, open, available. Its bed with the straps is ever ready to bind up someone. This is almost an implied warning, although involuntary, for those who glance into the room, while walking in the corridor. To look at the restraint room means evoking experiences, moments of crisis, the blocking grip of operators. Being left open, the room seems to “pedagogically remind” the remnant of an experience that persons will hardly forget, even if they did not live it as a trauma.

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51. Judgment of the Court of Cassation, 5th Criminal Unit of 20 June 2018.

52. While analysing such extreme acts it is expedient to always keep in mind the ‘negative stories’ - unfrequent but unfortunately existent - and which still raise questions, from the demise of Franco Mastrogiovanni on 4 August 2009, after 82 hours of restraint, to Antonia Bernardini’s, dead after she set herself on fire in the women’s judicial asylum of Pozzuoli on 31 December 1974 (her story and judicial case are reported in the book *Storia di Antonia* by Dario Stefano Del Aquila and Antonio Esposito, *Sensibili alle foglie*, Rome, 2017). Some other cases were recently reported and the National Guarantor is investigating about them.



only that: there also persist other psychological risks, in terms of feelings of confusion, resentment, frustration, in those who are subjected to it.

The most dangerous risk lies in the fact that this occurs in a featureless but telling room and that it may turn out to be an improper discipline tool within a system whose function is instead to take care, to keep up and reinforcesubjectivity and not to contain it.

## 23. The Protected Room

Sickness and isolation are often combined in our common imagination. When it comes to detained persons, affected by diseases that cannot be cured in jail, these two conditions immediately switch from imagination to reality.

The reality are protected healthcare wards, hospital operating units, structurally and functionally independent within the scope of the Institution they belong to, endowed with their own medical, nursing, support, technical health staff, entirely dedicated to detainees, to cure pathologies that cannot be dealt with in prison<sup>53</sup>. Such wards were implemented with a double goal: to provide hospitalised detainees with all the specialistic services available in a hospital through a co-operation with other hospital operating units and, at the same time, to ensure a high level of security. Today there are ten such wards in Italy<sup>54</sup> and they contain from 4 to 22 sleeping accommodations.

The National Guarantor has already expounded on the criticalities of the quality of life in such environments in its previous Report to Parliament<sup>55</sup>: the facilities are very often well-equipped from a medical standpoint but they are clearly designed for very short hospitalisation periods. Therefore they are inadequate for long stays. Detainees-patients, as a matter of fact, stay all day within the room, without any possibility to go outdoors, to socialise, to follow a specific treatment,

53. Introduced by Article 7 of the Decree Law no. 187/14 June 1993, converted into Law no. 296, 12 August 1993: «1. In each province capital, general hospitals shall contain wards primarily dedicated to the hospitalisation in an external healthcare institution, pursuant to Article 11, Law no. 354, 26 July 1975, [(a) and to Article 17 of the Regulation approved by Presidential Decree no. 431 (b) and its subsequent amendments], of detainees and internees which the competent authority has ordered to be watched by officers. In regional capitals where there are different general hospitals, such wards shall be located in the one containing a Division of Infective Diseases».

54. These are distributed as follows: at the Hospital "San Paolo" of Milan, the Hospital "San Martino" of Genoa, the "Belcolle" of Viterbo, the "Sandro Pertini" of Rome, the "Cardarelli" of Naples, the "Azienda ospedaliera dei Colli" of Naples, the Civic Hospital of Palermo, the "Cannizzaro" of Catania, the "Ospedali riuniti Papardo-Piemonte" of Messina, the "San Giovanni Battista le Molinette" of Turin.

55. *Report to Parliament 2018*, unit 35, p. 198.



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which is instead guaranteed in prison because of the actual lack of spaces, premises, and of the resources needed for these activities.

'Protected rooms' subsidiarily complement protected healthcare wards: actually, where these are not available, the hospitalisation of detained persons requires that patients be 'watched' 24 hours a day by the Institutions's penitentiary Police Stations. Understandably, there are also consequences about the employment of personnel that often are not compatible with actually available resources. To face such issues many local health authorities, in agreement with the Superintendencies of prison institutions, have implemented, instead of actual wards, some rooms dedicated to the hospitalization of patients coming from the jail.

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More and more widespread in the territory, they magnify – and very much so – the criticalities of everyday life in prison and those regarding the protection of the rights of persons detected in protected healthcare wards. In these rooms, often situated in the 'neglected' areas of a hospital, the segregating aspect is not even compensated by the quality of the healthcare service provided in protected healthcare wards. In point of fact, these last are organized with the medical equipment, presence, and responsibility that are typical of hospital wards, while the small premises where the «small rooms» are located are often without equipment and operators rely on on-call health personnel.

The fact that these rooms are separated by the whole environment wherein they are located and that there are no more than one or two for every hospital facility makes it absolutely impossible for detainees to access outdoor spaces and to come into contact with other persons.

Paradoxically such places generate a greater limitation of liberty, even worse than that experienced within a prison: in short, the pathology becomes the reason for a detention quite similar to that lived in solitary confinement rooms.

Persons hospitalized in 'protected rooms' for more than 3 months find themselves in this exact situation notwithstanding the possibility, pointed out by the medical director, to perform the prescribed treatments as an outpatient procedure. The National Guarantor met with such a person during a visit: actually isolated, imprisoned in his/her room all day long, with no one to talk to, deprived of any social relation, excluded from any possibility to go outdoors. A totally unacceptable situation, reported both to the direction of the hospital involved and to the penitentiary administration so as to put an end to it, which actually happened, with the Regional Guarantor's commitment to follow up the issue within the jurisdiction where the hospital is.

Other than reasserting that the permanence of detained persons in hospital facilities must be limited to the time indispensable to perform the particular interventions that cannot be provided within the prison institution involved, we also confirm the necessity of an integral re-thinking of such subsidiary places, of such segregating «little rooms» where restrained stay risks to turn into psychological suffering.





# To Arrest

*Nothing like an arrest represents, symbolically as well, the exertion of the coercive power of every State. Police custody and arrest are the earliest moments marking the deprivation of liberty of a person for judicial or investigational purposes. In the instant of the actual, immediate and unexpected deprivation of liberty – which is literally a defining and dramatic moment – people experience different feelings and attitudes: fear, or even dismay, bewilderment, search for a possible way out, while handcuffs click and you are transported to another place. Police and judicial investigations begin to implement, order or legitimate the arrest, the earliest interrogations, documents and police reports are signed. During this phase, sometimes characterised by a peculiar agitation, persons arrested are in a condition of extreme vulnerability, insofar as they are at the complete disposal of the State. This is the reason why the State itself, to compensate for such extended and pervading power, establishes a set of guarantees and rights in their favour.*

*This moment is crucial both for the person that experiences it and for those who decide it, because of the modalities it follows and of the consequences it produces. Therefore, it must not bring about distortions not to contradict the legitimacy of its prerequisites and of its actual purposes. In such a perspective, the arrest is the very first testing ground with regard to the capability of the State to hold together legality, security, and the rights of every person. In point of fact, the earliest moments when persons are temporarily deprived of their liberty are the very ones when it is mandatory to ensure a strict protection of their specific rights as person deprived of liberty, beginning with the right to be informed about their rights: these are the moments when they are arrested, handcuffed, transported by police means, be they cars or vans, brought to the waiting room of a police station, inside the office where the interrogation takes place, in the detention cell where they will spend some hours or days, when they shall be deprived of their personal belongings.*

*Therefore the basic rights of persons in custody or arrested, which need to be ensured since the beginning of their deprivation of liberty, are the right to information, as well as the possibility to communicate with a third party, a lawyer or a physician. Such rights also have a preventive function in the face of possible critical situations and abuse. The CPT has actually reiterated that the very moment when persons are arrested or put under police custody is characterised by serious risks of an excessive and unjustified use of force or by an illicit and out of proportion use of coercion tools, if not by unfair treatment.*

*To arrest and to detain are two verbs that point out to different phases and modes of enforced deprivation of liberty by the State. Nonetheless, all are anchored to procedural regulations, protections, and guarantees. This is the way things should work in a constitutional State.*



### 24. The Detention Cell

Police forces' detention cells, first created as premises where offenders arrested or in custody were temporary detained while procedural documents were drawn up and before appearing in the presence of the judicial authority, have undergone a transformation as regards their functionality and consequently their characteristics, following the legislative intervention of 2011. Such intervention was meant to overcome the phenomenon of the so-called *revolving doors*, that is the very short imprisonment (from a few hours to a maximum of two days) of persons destined to be judged by direct trial procedure<sup>56</sup>. The new regulations have shown their effectiveness: from 23,008 stays in jail up to three days at the end of 2010 to 17,441 in 2011<sup>57</sup>. The effect was confirmed in time, considering that in 2018 such stays were limited to 5,458 (11.5% of the detained population)<sup>58</sup>.

The reasons for the regulatory reform - which however provides for house arrest as the first option - were especially fostered by the objective to lighten the impact that very short detentions, often concluding with the outcome of the direct trial procedure, have on the capacity of penitentiary facilities, on prison management, and on the engagement of the personnel who must fulfil all duties related to new entries even for a few hours or days of stay. On the other hand, the intent of the reform was to avoid the traumatic impact of entering the detention system for persons, possibly first-time offenders and young, presumably destined to come out of it in a very short time and for whom such impact had no justification apart from mere custody.

The detention cell is then a place that in its new conception is best and most widely geared towards reducing the dramatic nature of an arrest: it is the place where persons taken into custody by the State first encounter judicial institutions and the defence guarantee system; at the same time, it is a sort of shelter from an unnecessary detention in prison.

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Persons arrested or under custody, from the very first moment when they are in the hands of Italian police forces belonging to different administrations, become the beneficiaries of the right to get procedural guarantees and public and private assistance: the right to receive punctual information

56. Decree Law no. 211, 22 December 2011, converted into Law no. 9, 17 February 2012, reading «Urgent interventions to contrast the detention tension determined by the overcrowding of prisons». The paragraph 4-bis of Article 558 c.p.p. - introduced with the reform - establishes that arrested persons must be prioritarily kept in their own homes or in an equivalent place, lacking which «in adequate facilities at the disposal of the judicial police officials or agents who effected the arrest and to whom arrested persons are entrusted». The same reform reduced from 72 to 48 hours the lapse of time within which the hearing for the confirmation of the arrest and the simultaneous judgment must be fixed.

57. Source: Penitentiary Administration Department.

58. Source: Penitentiary Administration Department.





about their rights in their own language, to appoint a lawyer or to get a public defender appointed and thus in both cases to access legal aid at the expense of the State, to have an interview with the defendant, to inform a relative or a friend about their current deprivation of liberty, to be examined by a physician.

A complex of rights that should be actually put into practice since the very first moment of their deprivation of liberty: possible delays must be detailed, substantiated, and specially recorded in view of future controls about their justification. It is actually well-known that the earliest phase of deprivation of liberty is the most sensitive moment for restrained persons and for the risk that the emotional aspects, ever present during arrests or police custody, may turn out into unacceptable behaviour on the part of those who are in charge of the operation, a risk documented by different well-known episodes occurred in recent years. Therefore, the rights of persons deprived of liberty determine as many obligations on the part of the police force keeping them in custody, which represent a guarantee for arrested people and operators alike. Such obligations include making detained persons sign a declaration where they state that they have been informed of their rights in a comprehensible way. These practices must be punctually reported in the records where officers write down all elements of the operation of deprivation of liberty and custody, as well as accesses to detention cells and the events occurred during custody time: an element of transparency that is part of a framework of safeguards for arrested persons, which should characterize their permanence in custody in police stations.

Precisely because of the provisions included in the legislative intervention of 2011 that, as we have already mentioned, considers home arrest or in an equivalent place as the first option of deprivation of liberty, the detention cell is a place that frequently involves the weakest social subjects within the context of the fight against micro-criminality. People who in many an instance committed minor offences, who should be judged by direct trial<sup>59</sup>, but who do not have a private or public domicile. These people are sent to jail when there is no available detention cell to hold them.

The presence of detention cells in prison institutions, provided with features that make them actually practicable and even suitable for a nocturnal stay, organised so as to make the fundamental rights of arrested persons immediately enjoyable, is therefore a highly relevant element in the eyes of the National Guarantor.

Nevertheless, even during our third year of activity<sup>60</sup> we had to observe a lack of premises adapted for detention requirements in different large territories, such as the Province of Catania or the Region of Apulia, due to an actual lack of such premises in police stations or to the fact that those existing are unfit for use, with the already mentioned consequence of the overcrowding of jails.

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59. Provided for in Article 558 c.p.p.

60. See: *Report to Parliament 2017*, unit 8, p.131 and *Report to Parliament 2018*, chapter 56, p.254.



## Places

The National Guarantor, other than the lack of facilities, has again noticed the scarcity in many of those existing and used of the essential requisites that make such premises suitable to be inhabited for more than one day. Such requisites are imposed, first of all, by the *Standard Minimum Rules for the Treatment of Prisoners* adopted by the United Nations in 1957 and reviewed in 2015, when they were called *Mandela Rules*, as well as by the *European Code of Police Ethics* (ECPE) adopted by the Council of Europe in 2001 and concerning the setting up of detention cells.

Synthetically<sup>61</sup>, these are a set of standards aimed at defining the minimum elements needed as regards the dimensions of premises, access to natural air and light, the provision of a mattress and clean sheets put on a fixed structure, the availability of adequately clean hygiene services, equipped in such a way as to allow detainees to wash themselves, the provision of drinkable water and meals, the possibility to spend at least one hour every 24 outdoors, access to a ringing bell within the room. The National Guarantor, having observed that such criteria are only limitedly complied with even in newly built facilities or in those best maintained<sup>62</sup>, intends to send to governmental administrations, as was done in previous years, a recommendation to call upon them to provide for the creation or rehabilitation (where they already exist) of detention premises fully compliant with the standards defined by international regulations and by the indications expressed following the Guarantor's visits, so as to apply as concretely and widely as possible the legal civilisation principles that form the foundation of the regulatory opposition to 'revolving doors' in Italian prisons.

## 25. The Hearing Room

This is the location of a point of arrival, the place where the offence committed and the presumed offender are presented to an external and independent third party, the magistrate. In this place arrested persons become visible and their demands are listened to, decisions are made concerning their destiny as free persons or persons deprived of liberty: in short, the place where citizens meet with justice and its authorities.

The look of arrested persons lingers on the features of the room, which is different from the other ones where they have so far been led to or detained. Their look, until then lost in inconspicuousness, now inevitably focuses on particulars. But one could wish that even the look of the judge be as much careful and curious, to interpret from faces and sometimes gestures the facts that preceded that moment, the difficulties faced, the treatment received.

61. For a more extended discussion on this subject, see the *Report to Parliament 2018*, chapter 55, p. 250-252.

62. By way of illustration: the constantly scant access to natural air and water, since detention cells are usually situated on basement floors of police stations; the possibility to adjust electric light within the room is similarly rare, while outdoor spaces are totally absent.



Too often, instead, that is but a routine look for eyes only see the offence, not the experience lived between the moment when it was committed and the present hearing. At least that is what happens when the party meeting with the third institution, the judge, does not receive a look capable of recognising the other's sufferings and to act consequently.

Exactly because of its function – to prevent any possible ill-treatment – the National Guarantor decidedly wishes for much more keen looks during that first interview.

In point of fact, the sacred character that the hearing room receives from its function is increased when it becomes the place where the person imprisoned and the judge who must decide the precautionary measure required at the time of the arrest first meet. The very same space becomes the place where to exert one's own right to defence, where alternatives to detention can be presented, where a different way to approach the trial can be expressed. This determines the fact, almost homogeneously widespread in all Italian institutions, that the hearing room has its own distinct and independent location within penitentiary facilities. Usually it is equipped with a desk, some chairs, a computer and a printer (to draw up the judicial act during the hearing) and closed by a door that can be opened both from the inside and the outside, with an embedded window for outside surveillance but not armoured and without bars.

Thus the hearing is held in an absolutery discreet place, but where neither detained persons nor the judge are 'closed in': a quite significantly different thing from the 'cages' contained in courtrooms, at least at a symbolic level and because of the interlocutory nature of the interview that takes place therein. The peculiarities of such a place advise against the adoption of practices that reduce the symbolic value of a place where a procedural act impacting on liberty takes place. One of the practices observed inside facilities lacking common spaces is the use of the hearing room for other purposes as well, such as interviews with lawyers or other internal or external officials. Even more criticisable is the use of that hall – which the Guarantor verified at least in one instance<sup>64</sup> – for incongruous healthcare purposes or as a place wherein to temporarily isolate a person in borderline situations that need no further comment.

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63. In different cases reported by the press of ill-treatment suffered by persons arrested after their seizure, what had happened did not emerge during the hearing, but was instead highlighted during the subsequent investigation. The hearing room has not been a defacto neutral place, being too much inside the logic of the procedure.

64. The National Guarantor verified that in one institution the hearing room had been used over the course of the year to perform a compulsory healthcare treatment. The Guarantor reported it to health and penitentiary territorial authorities, vouching its strong censure of the fact reported.



## Places

# To Safeguard

To safeguard is a verb used with two deeply united meanings whose application is however quite different. In point of fact, on the one hand it evokes a legal form indicating the protection and the representation took on by a person, by the explicit mandate of a judge, towards another person recognised as particularly vulnerable. In the same semantic framework, the term also indicates supervisory tasks towards public entities, always to the purpose of watching and controlling.

On the other hand, by extending the concept, it evokes the entrustment that – at the international level – accompanies the independence of a territory or of a local associative reality to include the positive actions implemented so that some enunciated rights be actually put into practice and made available for the persons or communities that are formally their beneficiaries. Thus States safeguard the rights enunciated in their Constitutional Charters. Likewise, national and supranational bodies safeguard the rights acknowledged and affirmed through promotion, prevention, and protection actions. Within this framework, to safeguard becomes a synonym for to protect, to defend. The same National Guarantor is an organisation aimed at safeguarding. Its domain is that of the rights of persons deprived of liberty: such rights are asserted by Conventions and Constitutions. Those charged with guaranteeing them must not only monitor their effectiveness, but also help them being recognised as values which have to be a unifying element for a community: a cultural promotion task that represents the prerequisite for their actual enjoyment.

The Guarantor is not alone in this task, being a part of international networks built during the second half of the last century and that current systems must go on recognising as an irreplaceable heritage, first by accepting their 'intrusive' look and applying the recommendations that result from that look. Never yielding to the risk of delegitimising their operation before the public, for a short-sighted political calculation.

## 26. The Place of International Decision-Making

In many occasions, from institutional to educational ones, we repeated that it is impossible to fully grasp the operational characteristic of the National Guarantor if we do not look at it in its natural 'place', that is the international context. The establishment of the Guarantor has actually and essentially honoured the commitment assumed by Italy when the country ratified the Optional Protocol to the UN Convention against Torture (OPCAT) to adopt a national prevention mechanism against serious ill-treatment (torture, cruel, inhuman or degrading treatments or penalties). The Guarantor's headquarters are in Rome. A city which, speaking of international decision-making, was *inter alia* the seat of a fundamental step of the European pathway for the protection of human rights: the European Convention for the Protection of Human Rights and Fundamental Freedoms was signed on 4 November 1950 in the "Hall of Glories" of Palazzo Barberini<sup>65</sup>.

Other than the Office in Rome, two European cities are most frequently attended by the Guarantor because they stand out for their international activity in the domain of the protection of human rights and of the prevention of torture: Geneva and Strasbourg. The former is crowded with offices of international institutions and organisations, even non-governmental, and it hosts the huge European headquarters of the UN, the latter is the seat of the Council of Europe, the so-called *guardian of human rights* of the Old Continent.

In Geneva, the Guarantor was heard by the Sub-Committee for the Prevention of Torture (SPT)<sup>66</sup> acting as a *monitoring body* of OPCAT, which invited its delegation at Palais Wilson, the impressive office of the UN overlooking the lake and rich in history<sup>67</sup>. This location permanently hosts the Office of the UN High Commissioner for Human Rights (OHCHR), a body that provides a logistic-administrative support to UN institutions charged with the defence of such rights, like the SPT. In the same seat the Guarantor had a preliminary hearing with the UN Committee against Torture and Cruel, Inhuman or Degrading Treatment (CAT) within the framework of the review of the latest periodical national report on the application of the Convention that established such Committee in 1984, and participated in the subsequent discussion with the Italian governmental delegation. During the same working session, the Guarantor had a series of institutional meetings in one of the countless halls of the huge Palais des Nations (UNOG, that is the United Nations Office in Geneva).

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65. More recently, on 17 July 1998, another crucial step in the protection of human rights was taken in Rome, at the FAO (United Nations Food and Agriculture Organisation) Palace: the signing of the Statute of the International Criminal Court, which brought about the establishment of the International Court of Justice (ICJ).

66. Subcommittee for the Prevention of Torture and of Cruel, Inhuman or Degrading Treatments or Penalties.

67. *Palais Wilson* was in the past the seat of the League of Nations (before moving to the *Palais des Nations*). In fact, it took its name from Woodrow Wilson, the President of the United States of America who worked hard for the establishment of the League of Nations.





## Places

In the vicinity of the *Palais des Nations* you may find the *Centre Jean-Jacques Gautier*, a very modern and ecologic office, built according to the principles of sustainable development, hosting the *Association pour la prévention de la torture (APT)*, an international non-governmental organisation that in time has been promoting and supporting both the establishment of the CPT and the implementation of the OPCAT. The Guarantor has a constant and profitable exchange of ideas with its managers and contributes to disseminate the culture of the prevention of ill-treatment, as well as to the formulation of evolutive standards and guidelines<sup>68</sup>, which are the mainstay of the APT's activities.

More recently, the Guarantor attended, still in the Palais Wilson, the latest session of the examination of the National Periodic Report related to the application of the International Covenant on Civil and Political Rights (ICCPR), reviewed by the UN Human Rights Committee (HRC). The same Palace also hosted a wide-ranging consultation of experts (the Guarantor was one of them) to tackle the theme of the risk of torture for migrants<sup>69</sup>, in view of the drawing up of a report exactly focussing on such issues.

All these engagements allow us to say that the United Nations Office in Geneva is a 'place' of the Guarantor's activity in its international dimension: a place for discussion and growth, which complements the other places considered in this report who are instead connotated as visited and monitored facilities. If these last are characteristic of the Guarantor's operativeness, the former ones represent the theoretical growth produced by the confrontation with different experiences and in the joint examination of the restraints and potentialities determined by international obligations.

In shifting from the global to the regional – always within the framework of an international confrontation – the other 'place' where the Guarantor implicitly works is Strasbourg, the seat of the Council of Europe with its 47 members<sup>70</sup>. During its mandate, the Guarantor was repeatedly an actor in meetings and hearings in the context of the Council's Member States: to report about the state of implementation of judgments issued by the European Court of Human Rights related to detention conditions<sup>71</sup>, to promote a network of NPMs in European countries, on the occasion of consultations about the adoption of rules to provide form, definition, and guarantees to administrative detention – a relatively new theme in the European landscape, which is being rapidly extended to include the issue of migrants<sup>72</sup>.

68. Recently the Guarantor took part in the discussion for the final draft of the Guidelines for the Protection of LGBTI persons deprived of liberty: *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, published by APT in 2018.

69. *Expert Consultation on Migration-Related Torture*, convened by Nils Melzer, the UN Special Rapporteur on Torture and Cruel, Inhuman or Degrading Treatments or Penalties.

70. It should always be remembered that Belarus is still missing from the list of member countries of the Council of Europe, covering the whole European territory and its Asian parts because of the States that extend into that continent. Belarus is a wide territory located in the central-Western heart of Europe, which is not a member of the Council of Europe because death penalty is still provided for and applied by its national legislation. The fact that it does not belong to the Council of Europe determines the impossibility to act therein for monitoring bodies established by the Council following the adopted Conventions.

71. More specifically, in relation to the well-known and already mentioned "pilot" judgment in the case *Torreggiani et alia vs. Italy*.

72. The Committee of Experts on Administrative Detention of Migrants (CJ-DAM), as part of the Committee on Legal Cooperation (CDCJ) of the Council of Europe, is formulating regulations on the administrative detention of migrants.





The place where consultations and meetings take place in Strasbourg is a triad of stately buildings: the Palace of Europe, inside which the Parliamentary Assembly of the Council of Europe, the Committee of Ministers and the other management bodies all have their offices, the *Agora Building*, which is the place assigned to rights and all the modalities to monitor their effectiveness in the different countries, and the ECHR, whose seat is across the way and which exerts a judicial control over the compliance of the States that adhered to the Convention on Human Rights. A hub of institutions devoted to promotion, prevention, and protection, symbolically and evocatively portrayed by the name of the nearby bus-stop: *Droits de l'Homme*.

These are but some of the places of international and institutional decision-making to be attended by any NPM. These are different places, grand halls designed to host representatives coming from all the States in the world, and more intimate halls where consultations among experts take place. Some are 'transparent', open to cameras and thus visible everywhere simultaneously, others are governed by the *Chatam house rule*<sup>73</sup>. It is worthwhile to notice the layout of halls at Palais Wilson, where discussions on the periodical reports of the States about their application of the obligations provided for in different UN treaties are held, before the committees of experts established by the same agreements (treaty bodies and procedures): generally, in the meeting room the delegation of the country under review is positioned along two long and narrow tables facing one another. The preventive mechanisms of the country are beside them, a small flag indicating their typology; the members of the UN Committee sit at two different tables parallel to those of the delegation. In this way, the two *tranches* of the delegation face away from the two rows of experts. On one side there is a top table: there sits the chairperson, together with the heads of the delegation. Civil society associations are positioned on the other side (or at times next to them).

Sometimes the architecture and the organisation of spaces have a greater effect than expected on the tone of discussions. If it is so, the configuration described could suggest a form of communication not necessarily structured as a speech, with the raised desk, the delegation looking at itself and facing away from the experts of the Committee who, in their turn, can only occasionally look in the eyes of delegates. The resulting discussion sometimes tends to be self-referential, in some cases even more so because of the language barrier. Perhaps a different arrangement of spaces could contribute to a better and less ritualistic communication, to recover a virtuous circularity while listening to others and a "discursive justifiability" in the sense suggested by Jürgen Habermas<sup>74</sup>?

Sometimes the architecture and the organisation of spaces have a greater effect than expected on the tone of discussions. If it is so, the configuration described could suggest a form of communication not necessarily structured as a speech, with the raised desk, the delegation looking at itself and facing away from the experts of the Committee who, in their turn, can only occasionally look in the eyes of delegates.

73. This is a confidentiality rule as concerns the sources but not the content: in other words, all that is said during briefings, meetings or discussions held behind close doors may be used but without quoting the source. The rule was created in the late 1920s at the Royal Institute of International Affairs, a study centre in London, 10 St. James's Square. The London *think tank* has been always called *Chatham House* from the name of the hosting building, whose inscription is conspicuous over the entrance doorframe of the Institute.

74. Referral is generally made to J. Habermas, *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*, MIT Press, 1800.



### 27. The Place of the Guarantors

The question that strikes one immediately is whether there exists or not a 'place of the Guarantors'. To answer it, we find it useful to metaphorically resort to the pictures by Maurits Cornelis Escher: there the tension and the effort are supposed to take us from «impossible perspectives» towards the «interpenetration of simultaneous worlds».

**Territorial guarantors existed well before the National Guarantor was established. Their introduction and their contribution have been significant even to build up a profile of national guarantee.**

Let us consider the state of the art of the matter. Territorial guarantors existed well before the National Guarantor was established. Their introduction and their contributions have been significant even to build up a profile of national guarantee. However the two worlds of the National Guarantor and of territorial guarantors are not completely amalgamated and they do not constitute an accomplished system.

The positivity expressed by territorial guarantors in their close relations with the local realities they operate in is a valuable asset, firstly for the spreading of a well-disseminated awareness of such a figure of guarantee and thus for a higher social awareness about their scopes of operation. Secondly, their intervention in the visited facilities and in the relations with restrained persons are enhanced by their very proximity to them, to the purpose of finding feasible and rapid solutions to emerging problems.

Beside such important positive factors that end up providing corporeity to the action of the same National Guarantor, still territorial guarantors do not constitute a *system*. Such a vision emerges, for instance, in a part of the Italian case-law. An order issued in 2018 by the Surveillance Court of Rome acknowledged that territorial guarantors do not have a national legislative statute. In point of fact, «there is no national and primary legislation that enumerates the minimum prerequisites, the guarantees, and the fundamental principles related to the appointment of territorial guarantors and that designs, even essentially, their *status*. As the legislation now stands any municipality [...] may establish a guarantor for detainees and appoint quite discretionally its head, opening to him/her the access to the prerogatives provided for in Penitentiary Law [...]». In short «the Legislator has not made informed choices on this theme and has had no overall vision of the issues at stake. And this is a problem»<sup>75</sup>.

Actually Guarantors do not have the same institutional appearance, their mandates are differentiated both in extension and in duration, they are appointed by different bodies, their staff is not always personally selected by the figure of guarantee, they have resources at their disposal and thus very differing operational possibilities, some of them are not paid and work voluntarily, their working methods do not always coincide with the one typical of preventive mechanisms, their representativity is entrusted to a self-styled coordination body, and in many instances their way of being implies, in a certain degree, the duty to report to the local body that established them in the first place.

Moreover, if it is true that the one shared mandate is the one related to deprivation of liberty

75. Surveillance Court of Rome, 20 April 2018, S.i.u.s. no. 2017/477.





since all guarantors perform a controlling function as regards the penitentiary domain, it is also true that the very domain of criminal enforcement in Italy is a governmental sector whose competences can hardly be decentralised at the level of territorial authorities, except as concerns training and education, healthcare and, in a sense, social services.

Besides, today the presence of guarantors in the different 'places' where they are supposed to go is uneven. This happens because there is no local law for the guarantors that were unprovided for, for the ones that were not appointed, for those that as NPMS are not fully compliant with OPCAT standards. The map of Italy that emerges from such a situation reminds us of the «black country» of the «night picture from the satellite»<sup>76</sup>.

Notwithstanding this, their presence has been and still is fundamental. In order to create a real system, we need to go back to the national regulations that recommend co-operation relations between National and territorial Guarantors. Relations that, paradoxically, work better in a sector where the controlling function and guarantee is solely entrusted to the National Guarantor. As a matter of fact, on the basis of bilateral co-operation agreements stipulated with some regional guarantors - which may be extended even to local guarantors - the national authority has somehow involved different territorial guarantors in its independent monitoring function on forced returns pursuant to the Directive 16 December 2008 of the European Parliament and of the Council of the European Union<sup>77</sup>.

For the National Guarantor this is a valuable collaboration, a synergy that permits to cover all return phases and thus, at the same time, to obtain an ever more effective monitoring system. The smooth running of the FAMI network<sup>78</sup> demonstrates the possibility to build more successful networks for the protection of human rights with similar features, involving the National Guarantor and territorial guarantors, ensuring that the presence of a national authority strengthens the operation of local guarantors in their respective territories.

The same method of networking good practices is applicable within the framework of deprivation of liberty as regards *care homes* hosting disabled and elderly persons, which are plenty and widespread all over the national territory. Such a capillary action, joined with a regionalised articulation of the social-health system (with their consequences in terms of different regulations adopted in different regions) suggest the usefulness of a working network involving territorial guarantors.

To sum it up, as concerns the places of guarantors, as things now stand it is plausible to assert that the real 'place' must be the *network*. Only through a networking approach, by adopting a co-operative mentality and a spirit of sharing it is possible to reassemble the overall framework in a less irregular and rhapsodic way, thus inverting the chromatic relationships between black and white.

76. Referral is made to a collection of researches and projects on architectural themes «devoted to the abandonment of the inner areas of Italy» where it is noticed how since «the post-war period in Italy people's desires followed urban imageries and thousands of villages were abandoned. The night pictures taken from the satellite reveal the abandonment of the Apennines and of the Prealps: the lights are only shining in urban areas connected by fast roads and railways, beyond that luminous city there is a black country». Cf. [www.ilpaesenero.it](http://www.ilpaesenero.it)

77. Directive 2008/115/CE so-called *Directive on returns*.

78. This is the acronym for the project *Implementation of a Monitoring System on Forced Returns* financed by the accompanying measures of the Asylum and Migration Fund.



## Places

# Non-Places

*The concept of a non-place was first introduced in the debate some years ago by the French sociologist Marc Augé, whose intent was to pit it against the notion of place. «The place – he writes – is a space that men adapted to themselves a long time ago, where one may read, very literally, something of their relations with their own history, with the nature that surrounds them and even more of the relations existing between them». The centrality of this concept lies in recognising oneself: a place can be a place for some and not for others. The classic example of the airport shows how it represents, in fact, a place for those who work in it and a non-place for those who go through it to board an aircraft.*

*In the space that stands as a place the relation is clear; everybody occupies a relational field in it and the mutual expectations of those who inhabit it are quite definite. Conversely, a space becomes a non-place when relations do not have a subjective importance within it: the temporary function that it takes on in a certain context may be relevant, but there is no subjective recognition that could represent a basis for the relations with others, although they are present. Therefore, many spaces occupied by those who are deprived of liberty – even in this case temporarily, but often for a time that is prolonged to the extent of taking away considerable parts of their lives – are as many non-places and one of the first issues to be tackled is how to make them become places so that it may be possible to build a significant experience within them.*

*The anonymity of spaces does not help in this perspective. Many of deprivation of liberty are characteristically anonymous and within them time flows on not as experiential time, but as waiting for an end. This feature signals the impossibility to realise in them a continuity, even critical, with external life as well as the difficulty to recognise oneself as a complete, responsible subject and not as the mere object of a treatment defined by others. If in the most significant experiences of detention space is re-appropriated as one's own place, in most imprisonments, detention cells, and even in healthcare facilities the predominating characteristic is estrangement, the sign of the distance between external personal experience and the days wasting away in such spaces.*

*To restore the characteristic of places to such provisional premises is the prerequisite to build any significant pathway within them. However this is not possible where nothing can be individualised, nothing can be brought back to a relational dimension and all is focussed on the temporary function that such premises fulfil, as if depersonalisation were sought after just to indicate a hiatus with the detainees' 'before' and hopefully with their 'after'. Many of the facilities visited by the National Guarantor during the past year present such a connotation of provisional functionality and intended indifference towards subjects and the relational projects they may build up. Thus are made the airport rooms where the persons not admitted in the territory*



*of the country wait for a flight that will bring them back, the premises where detained persons are kept separate from others to comply with the requirement of order in institutions, the rooms where in some diagnosis and treatment psychiatric wards patients are monitored following acute phases of their distress and even more in the different environments that the National Guarantor examines and visits.*

*The above mentioned French sociologist states that non-places are those where no knowledge of others is possible, where only rules and instructions define the relational process, where one may feel alone even being at the core of a multifarious scheme of other people's attentions that decide how his/her day will be organised. He/she perceives that the risk is the construction of a totally fictitious self, defined by the position within a regulatory universe centred on a network of connections that ends up being a sort of virtual reality, not built as the product of experiences, of other places and, when all is said and done, of a cosmology, but just by an abstract assumption about the requirements of other people's places. Even though Augé applies the concept to situations that are very far from the scope of those whose task is monitoring deprivation of liberty (he refers to situations where the void is thick with fake fullness) the scheme of the non-place is undoubtedly applicable to define the non-relational spaces inhabited by those who can no longer dispose of their time. The risk is quite similar: a progressive transformation of the absence of place into an absence of self.*



### 28. The Empty Room

It may appear senseless to add the *empty room* to our inventory of places that characterise, in their different domains, the life course of those who are deprived of liberty. What is 'empty' seems not to have any features because of its anonymity. It seems to say nothing and it does not contribute to any reasoning helpful to make a situation more akin to its aim and more in line with the rights of those who are its actors. Nonetheless, the void speaks of absence and absence is not just a 'non-presence' since it ends up being a presence itself, although quite different.

For quite some time scientists thought that the void should have no name: in mathematics the definition of 'zero' as a number came late from the East and it was unknown in classic scientific knowledge, even though it was very much developed in Mediterranean civilisations. For a long while to indicate the 'zero' in symbolic writings it was enough to leave a blank space; language took this characteristic from the coincidence between void and nothingness. Some traces of this are still found in contemporary languages that indicate what we call

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These are social micro-systems where often spaces are empty: they are physically empty in situations of temporary separation from others, when a person is locked inside 'smooth' spaces where the one possible point of referral for their looks and thoughts are the walls of the room. They are psychologically empty when people are positioned in a place of which they cannot understand the reason, the way it is organised and its sense. They are emotionally empty when people are deprived of their habits and even more of their emotionality.

'zero' as *null* (German) or *nol'* (ноль - Russian) or *noll* (Swedish), all of which come from the Latin *nihil* (nothing, nought). Conversely, other languages like Italian, French, English and many more revolve around the word *zero* that is but a distortion of the term *sifr* (our word *cypher* also comes from it): what points to the 'void' is close to what points to 'cypher'; somehow it is the word that sums up all other elementary numerical writings. In this extension nothingness represents all the rest.

We apologise for this long preamble, introduced here to underline how often a 'lack' indicates and represents other 'presences': those that contingently are not there. This example, taken from other sciences to bring it back to the analyses of social systems where what is removed says a lot about what there should be and why it was removed.

Deprivation of liberty creates different kinds of closed social universes: one produced by the requirements of the criminal function; one concerning the detainment of a person for temporary necessities; one that intends to welcome fragile situations and often ends up keeping them within a separate world. These are social micro-systems where often spaces are *empty*: they are physically empty in situations of temporary separation from others, when a person is locked inside 'smooth' spaces where the one possible point of referral for their looks and thoughts are the walls of the room. They are psychologically empty when people are positioned in a place of which they cannot understand the reason, the way it is organised and its sense. They are emotionally empty when people are deprived of their habits and even more of their emotionality. These are places where the void easily becomes not just the absence of things, objects, stimulations, but as well absence of dreams, if not of hope.

The logic followed in tackling the criticalities, sometimes very difficult, that evolve within problematic communities – such are intrinsically those where





people are restrained – is often a *subtracting* logic. When confronted with difficulties, which at times are envisioned in an acute form, one removes things, often to avoid that persons harm themselves or others, or because some people think that absence may restore balance. Therefore objects, sometimes clothes, are removed from the person; the room is emptied of its furnishings and the place progressively turns into an ‘empty’ place. Most of the times the purpose is protective and seldom deformed by punitive aspects, at least in the intentions declared. Nonetheless, by the looks of it, the acute situation is often an improper and uncontrolled way to ask for something and as such should find responses centred on *addition*: greater closeness, more possibilities of contact, even more chances to be restored the things that make up our world, although in a monitored way.

That is the reason why the ‘empty’ room tells a story about the strategies adopted to solve criticalities, from the most ordinary bewilderment right after the deprivation of liberty to the most remarkable crises. The room informs us about the ability or inability to harmonise the conflicts that inevitably arise in a closed social microsystem. Surely the ‘void’ as the new location of a person in a crisis, under the concerned and bewildered look of those who are improperly charged with the supervision of his/her reactions, is a false solution. Hence the National Guarantor has been monitoring the existence, improper as well, of ‘smooth cells’ in prison institutions or of equally ‘smooth’ rooms in places of confinement, as well as calling to responsibility those who, from the medical standpoint, resort too frequently to such a location, furthermore entrusting others with the surveillance of what takes place in the void.

Therefore the ‘empty room’ has a full right to be included in this reflection, assigned not only to the Parliament, but to all of us.

## 29. Small Parks

Detainees’ work is certainly a crucial theme in a criminal enforcement system aimed at fostering the reintegration of the person sentenced. In such a perspective we should promote vocational training routes, we should bring within the institution the industrial process of small, medium-sized and large firms through tax benefits, we should support outside work by applying alternative measures, we should uphold the activities of social co-operatives within and without institutions.

The work done by inmates should lose the *penitentiary* adjective to be simply *work*, as a social right enshrined in the Constitution, which can be protected through promotion and by strengthening access to opportunities and procedures. This is especially true for persons who need that their return to the social dimension be ‘reinforced’ – not because they deserve a specific support but because it is in the interest of society that their reintegration be calibrated so as to produce the minimum risk possible of recidivism. Of course this is not a simple task for people charged to administer and organise criminal enforcement: the National Guarantor is aware of it and the penitentiary administration shall always find in it an interlocutor that will be co-operative in searching for ways to translate such a principle into actual practice.





## Places

Notwithstanding this, recently the way people talk about work for restrained persons has quite changed. Such work is now seen as a compensatory activity for the collectivity, as if something else should be added to deprivation of liberty – which is in itself the *content* of the criminal sanction – so that the outside community could be able to see how effective the punishment is. This is what emerges from protocols stipulated between prison institutions and local authorities for the integration of detained persons in community work activities, which are voluntary and free of charge.

Community work is assuredly perceived as another form of criminal penalty for less serious offences and it is an important element of the discussion about the need to provide for penalties that are alternative to detention (this is quite an optimistic forecast if we consider the ‘prison-centric’ approach of Italian criminal law). But things change when work is added to an ongoing criminal enforcement. Certainly in this event, work should be at least anchored to something more, in order not to be just a free-of-charge performance, which could hardly be defined as *work*.

The first Protocol was stipulated with the Municipality of Rome. In the beginning it involved about thirty persons engaged in environmental rehabilitation activities in the gardens of Rome – hence the title of this unit, once again an infantile-looking term. The text actually uses the expression *activity*, not *work*: the legislator was well aware of the fact that the term work would entail, pursuant to Article 36 of the Constitution, a remuneration that is not envisaged. Nor any reduced sentence is provided for, as it had been proposed in the earlier version of the texts of the decrees of the draft law, replacing – in the typical binomial of labour relations (job performance/remuneration) – remuneration with the benefit of a reduced sentence, in line with a case-law trend of the ECHR<sup>79</sup>. Instead certified training pathways are provided for, although without any analysis of the effective supply of work in the sector, once the enforcement of the penalty is over, nor of the projection of such a request in the time terms of the penalty to be expiated. Anyway a reduction of the debt that prisoners shall be in at the end of their detention is provided for, but even in this case without examining the effective and temporally definite enforceability of the reduction.

Similar protocols have been subsequently actuated in different Italian municipalities, kept in high regard by external commentators often searching for something to add to the mere deprivation of liberty, which is considered too ‘comfortable’. These are also highly regarded, as many observers report, by numerous restrained persons, as a way to overcome the passivity that predominates in institutions. This is a marker that highlights the lack of planning for prison life rather than the positivity of the proposed new protocols.

In the process, however, the Penalty Fund intervened to counter the lack of remuneration by allocating about three million euros to cover approximately 2,500-3,000 subsidies in 2019.

In the process, however, the Penalty Fund intervened to counter the lack of remuneration by allocating about three million euros to cover approximately 2,500-3,000 subsidies in 2019. Even in this instance, words matter: this is actually a *subsidy*, not a *retribution*, and thus social security contributions and the other benefits typical of a salary are not envisaged. For the municipalities it is a work done for free, for detainees

79. Case Floroiu vs. Romania – no. 1530310 of 12 March 2013.







it is underpaid work, for the Penalty Fund it means to pay for more subsidies.

The perplexities expressed by the National Guarantor certainly do not concern the intent of the proposers, but the actual situation created with regard to the rights of detained persons, although some territorial guarantors have adhered to some of these protocols.

Two very objectionable aspects add to our general perplexity: voluntarism and security checks. With regard to the former it is hard to consider as free the adhesion of detained persons if we take into account that the participation in such projects falls within treatment activities, as stated in Article 15 P.L. according to the amendment added by the reform of 2018<sup>80</sup>, and that taking part in community work implies to temporarily leave the prison and thus accessing a 'shred' of freedom. To refuse to be involved in such projects may entail consequences on the evaluation of the detainees' treatment route, with inevitable repercussions on their possible access to alternative measures.

As concerns the latter aspect, the model requires that detained persons be escorted to their workplace by armed penitentiary police personnel. Assuredly, such a choice does not favour neither the responsabilisation of prisoners, who are inspected visually, nor an attitude of trust on their part. Conversely, the wall of suspicion and the fear of inmates could be strengthened by the presence of armed escorts supervising their work.

Lastly, the limited numbers of penitentiary Police Stations in institutions is well known. The Guarantor has urged the administration to pay special attention to this issue. Since escort staff is ever more numerically significant as projects are expanded, what further difficulty will this imply for those who are ordinarily called upon to monitor detainees and to interact positively with them in prison units and wings?

## 30. The Window

The 'window' is not a place, it is but an opening towards an outside that is missing but visible, at least in its natural aspects. Certainly it should not be and symbolically represent a place where to put shoes on the drying rack, hard to position within the cramped space of the so-called 'sleeping quarter' that often absorbs the very essence of a detainee's day.

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80. Article 15 P.L. «The treatment of sentenced and restrained persons is implemented mainly by resorting to education, vocational training, work, participation in public utility projects, religion, cultural, recreational, and sports activities, and fostering suitable contacts with the external world and their family relations».



## Places

Such a window is of course ‘checked’, as required by security reasons and as portrayed in every illustration of prisons, even in comic strips. It is positioned in such a way as to hinder outside eyes from peeping in and seeing detained life, thus protecting the privacy of those who are hosted therein. In special cases it also prevents those ‘inside’ from seeing what goes on within other dwellings of public offices, which are too near the detention building in the few and disgraceful situations where housing prioritised the consumption of the land rather than the functionality and the life of those who live and work in those different premises. Nonetheless, as the CPT has repeatedly stressed and recommended, when this occurs the premises necessarily equipped with screened windows could be devoted to activities that are only performed for a few hours a day, surely not become places of everyday life wherefrom prisoners cannot look outside.

The National Guarantor has many a time recommended this, as for instance in Venice, referring to possible screenings only for the windows overlooking the narrow alleys of that peculiar territory, and suggesting the removal of those overlooking the inside; in Genoa Pontedecimo where the panorama on the surrounding valleys is screened; in different situations of special regime detention where the screening was not even justified by the possibility to see something different from the wall across the yard. To sum it up, the Guarantor has always highlighted that the architecture and the situation of buildings within the urban tissue cannot justify any form of deprivation of the feeling of life that a window conveys. There is an ‘elsewhere’ away from prisons and the Italian system is aimed at returning to it, surely not to communicate unavoidability and the absence of a future, even for those who will stay in jail for a long time and perhaps will never come out of it.

However, a particular feature of windows astonished the Guarantor when visiting the Prison of Cuneo, which was included with an annexed design in its thematic report concerning the special regime pursuant to Article 41-bis P.L., since in it the Guarantor saw the paradigm of the endless pursuing of an absolute separation. A window turning from a place of possibilities into a place of

That window, repeated in all the rooms on one side of the corridor was built using five screening layers: an opaque plastic ‘jalousie’ big as the whole window, a thick anti-casting net; a soft iron grate of hexagonal bars; a second grate of hard iron square bars; a fifth screening made up of a part of the bedspring (a metal plate with small round holes) welded to the bars.

impossibility of accessing the outside, air, and light. A window sending out a message of imposed claustrophobia, almost an additional punishment, beyond the perimeter outlined by the Constitutional Court in defining the logic and the constitutionality of the special regime: «The differentiated regime cannot consist of measures that are different from those appropriately attributable to the purposes of order and security informing the ministerial decision; [...] the measures provided for cannot however violate the prohibition of treatments against the sense of humanity nor undermine the re-educational aim of penalties»<sup>81</sup>.

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81. Constitutional Court, Judgment no. 376 of 1997.



small round holes) welded to the bars. The Guarantor was informed that this last cover had been put in place to hinder inmates to exchange objects through the common windows of two different rooms. But those windows are already separated by the jalousie, by the two bars and by the anti-casting net.

For all detained persons, even more for those who spend most of their time – in some cases almost all of it – inside their room, the window is the only ‘authorised’ place wherefrom it is possible to figure out the outside world, to watch the sky, perhaps the top of some tree, glimpses of the reality detainees are dutifully separated from, because of the charge and the judgments hanging over them. For the greater part of the day natural air and light can only come in or out of the sleeping chamber. Several layers of coverings reduce all this: the more the layers increase, the more air and light fade away, with an augmented risk of diminishing many of the physical, especially visual, abilities of restrained persons. Most of all, the sense of an ‘outside’ and of an ‘after’ that the window is supposed to convey disappears, whereas it would be very useful even to reduce the tension on the ‘inside’.

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## 31. The Place in the Unit

In a constitutionally-oriented vision of penitentiary architecture, every space must be destined to the different habits of everyday life that, as pointed out by international supranational standards<sup>82</sup>, must be as similar as possible to life at liberty. This not only implies that there should be no ‘empty’ spaces, deprived of their own functionality but that, in good sense, every place should be fit for the everyday moments and activities that may occur in it.

Seemingly, a unit is one of these ‘empty’ spaces or just a container of other spaces – detention rooms, the unit’s dispensary ... – whose function is well-defined. In many a situation it is in danger of actually being so, a simple passageway for inmates, penitentiary police personnel, other operators, at times professional support figures. Notwithstanding this, if we observe how they really live within the unit, it appears that this is or may be the place where, more than elsewhere, it is possible to grasp the dynamics of the relationships that evolve among detained persons – both in a positive and in a negative sense – and between them and surveillance personnel. The

82. *Minimum Standards for Penitentiary Treatment*, Assembly of the United Nations, 19 December 2015, *Nelson Mandela Rules*, Rule 5: «The prison regime should seek to minimise any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings»; *European Prison Rules Rec(2006)2*, Annex, Part I, point 5: «Life in prison should be as similar as possible to the positive aspects of life in the free society».





## Places

functionality of what is emblematically defined the ‘place in the unit’ comes into play here.

It is undoubtedly a privileged place to understand life in the unit; it should also be a privileged place for the protection of the rights of restrained persons. Some representatives of the penitentiary police force claimed the guarantee role they play, also using an argumentative tone as regards the introduction of figures of guarantee coming from the outside world. The National Guarantor agrees with the statement that in everyday detention life - within the unit in the first place - the first guarantors of the rights of restrained persons are precisely those who are in daily contact with the difficulties, the demands, the lives of people detained in places where they carry out their own function. To this purpose the Guarantor has ever considered the importance to establish a dialogue with those that see everyday life unfolding from their own ‘place in the unit’.

However, this does not detract from the importance of an external eye, which at times can see in a different way from the ‘internal’ one, obviously influenced by custom. Likewise, there is still great need of a dialogue among all different figures operating within segregating institutions and who look at them from different viewpoints, according to their profession and training. Only such a plurality of looks, both internal and external, may restore us the truth within a detention model that is not centred on passivity and withdrawal, but oriented towards the responsabilisation and the proactive engagement of detained persons.

**During the discussions that in recent years have accompanied the amendment of Italian Penitentiary Law, some have stressed that «in the event of units provided with large corridors, these could be set up in such a way as to be used during the day as social spaces and for free time».** : During the discussions that in recent years have accompanied the amendment of Italian Penitentiary Law, some have stressed that «in the event of units provided with large corridors, these could be set up in such a way as to be used during the day as social spaces and for free time. Moreover, the modalities for the use of premises dedicated to study and work should be defined and solutions to set up external areas reserved to ‘strolling’ as social and sports spaces should be sought»<sup>83</sup>. Today this perspective has at least partially been implemented through the new definition concerning the premises of residential zones of prison institutions, imposed by the recent Legislative Decree no. 124, 2 October 2014<sup>84</sup>, and which shall be taken into consideration in the planned re-organisation of existing penitentiary facilities as well as in the building of new institutions.

Certainly, more articulated spaces will increase the importance of the look that comes from the ‘place in the unit’ and of the direction of that look, paying more and more attention to the dynamics established in those spaces. For this to happen, anyway, the numbers and the facilities assigned to those who occupy such a space must be adequate. Sufficient numbers and comfortable premises are an essential pre-condition for the well-being of those who work therein and, by extension, for the positivity of what takes place in the unit.

83. *Estates-General of Criminal Enforcement 2015-2016, Table 1 - Space of the Penalty and Architecture in Prison, Final Report, Operational Proposals* [https://www.giustizia.it/resources/cms/documents/sgep\\_tavolo1\\_relazione.pdf](https://www.giustizia.it/resources/cms/documents/sgep_tavolo1_relazione.pdf)

84. The Legislative Decree no. 124, 2 October 2018, amended paragraph 2 of Article 6 of Law 354/1975, specifying that: «Residential zones must be equipped with common spaces in order to grant detainees and restrained persons a co-operative management of everyday life in the ‘household’ context».



## 32. The Cubicle

*Cubicle* is a term recurring here and there in some prison institutions. It indicates a compartment, often with no window at all, usually used for transits, where secluded persons wait to be moved elsewhere. A very much cramped room, like the burial chambers of the catacombs it is named after. Sometimes this space extends outdoors in so-called yards for the fitness of those who are in a queer situation, usually in solitary confinement. Sometimes these 'fake' outer spaces are cubicular even in the most recently built facilities and the operational know-how of those who work in such units

: *Cubicle* is a term recurring here and there in some prison institutions. It indicates a compartment, often with no window at all, usually used for transits, where secluded persons wait to be moved elsewhere.

leaves them unused, given their inadequacy: we could quote the example of the 'cubicles' for strolling contained in the solitary confinement unit of the Prison of Rovigo – *brand new* – which are appropriately never used<sup>85</sup>.

In the final analysis, *cubicles* are not an exception to the rule, as pointed out by the presence of a specific name to designate them. *Cubicles* are well-known in many institutions, sometimes used as 'reception rooms' for newcomers before they are assigned to a unit and a sleeping chamber. By doing this, the personnel forgets that newcomers, during the short lapse of time when they are locked inside them, are persons in a peculiarly vulnerable moment and need a different welcome.

On other occasions, they are used to 'park' detained persons going out or coming back in for a medical examination, a court hearing, a permission or else. They wait in a *cubicle*. In one institution<sup>86</sup> the Guarantor found some of them large 2 square metres, without windows, with only a thick grid for ventilation over the door provided with a porthole (there is another wooden grid on it for visual surveillance), without an inner ring for emergency calls. They are totally empty or there is just a concrete seat, completely inadequate for short stays that, moreover, seem to be not so short, judging from the writings covering the walls. Other times, some *cubicle* was found in the prison infirmary, used as a waiting room before examinations or medical tests. In these cases they are bigger to allow for the presence of several persons; nonetheless, they little resemble a waiting room in an ordinary infirmary, supposedly attended by persons with health problems. Here's hoping that the indication included in the recent Decree no. 123, 2 October 2018<sup>87</sup> about a mandatory bi-annual visit to be paid by the Local Health Authority in charge of the infirmary may remove these places of waiting from their current improper dimension.

*Cubicles* are below any minimum standard, deprived of any feature that could make them acceptable, from the standpoints of the dignity of persons as well as of functionality: they are places that assuredly do not reduce tensions that are not needed during operations that are frequently complex. Even their name is not acceptable: the *cubicles* of catacombs were burial rooms, whereas in prison live persons have to stay in them.

85. Another example, among many, is the solitary confinement unit of the Prison of Viterbo, repeatedly visited by the National Guarantor.

86. Prison of Avellino - Bellizzi Irpino, visited in March 2017.

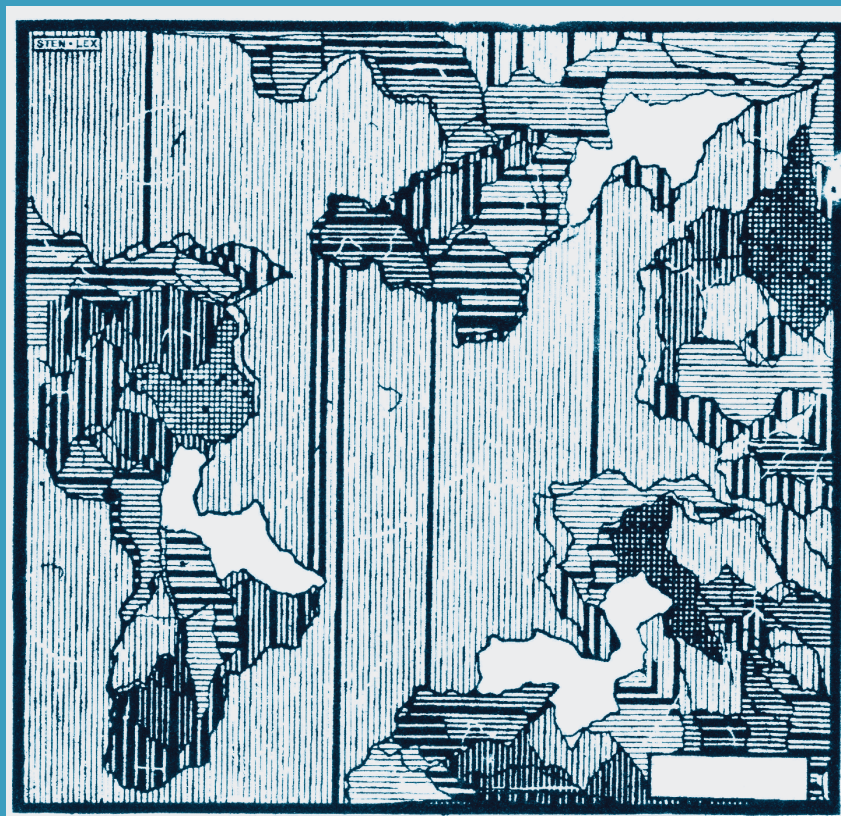
87. Legislative Decree no. 123, 2 October 2018, Article 1, paragraph 13.







# Maps



**Map 1.1 – Map of visits  
(1 January 2018 - 31 January 2019)**

**legend**

- **THEMATIC VISITS**
- **AD HOC VISITS**
- **REGIONAL VISITS**
- **FOLLOW-UP VISITS**

**5 PIEDMONT**

- thematic visits
  - Return Temporary Residence Centre, Turin
  - Penitentiary (41Bis Unit), Novara
- ad hoc visits
  - Penitentiary "Lorusso e Cutugno", Turin
  - Protected Health Ward c/o Hospital "Le Molinette", Turin
- follow-up visits
  - Penitentiary "Lorusso e Cutugno" (Psychiatric Observation Ward "Il Sestante"), Turin

**12 LATIUM**

- thematic visits
  - Penitentiary Rebibbia "Nuovo Complesso" (41Bis Unit), Rome
  - Penitentiary of Viterbo (41Bis Unit)
- ad hoc visits
  - Biomedical Campus, Rome
  - Women's District Penitentiary "G. Stefanini", Rome
  - Penitentiary of Rome Rebibbia
  - Therapeutic Community "Il Merro", Sant'Angelo Romano (Rome)
  - Juvenile Detention Facility "Casal del Marmo", Rome
  - Border Premises of the Harbour of Civitavecchia (Rome)
  - Border Premises of the International Airport, Rome Fiumicino
  - Protected Health Ward c/o Hospital "Belcolle", Viterbo
  - Diagnosis and Treatment Psychiatric Service (Spdc) – Monitoring of CHT at the "Policlinico Umberto I", Rome

**1 UMBRIA**

- thematic visits
  - Penitentiary of Terni (41Bis Unit)

**26 SICILY**

- thematic visits
  - Hotspot , Lampedusa
- ad hoc visits
  - "Diciotti" Ship
- regional visits
  - Cara Mineo, Catania
  - Penitentiary "Bicocca", Catania
  - Penitentiary "Piazza Lanza", Catania
  - Penitentiary, Barcellona Pozzo di Gotto (ME)
  - Penitentiary, Giarre (CT)
  - Penitentiary, Messina
  - Penitentiary, Syracuse
  - Elderly Home S.Lucia, Augusta (SR)
  - Retirement Home "Padre Pio", Catania
  - Elderly Assistance Centre "Maria Regina", Sant'Agata li Battiati (CT)
  - Preliminary Reception Centre, Catania
  - S. Angela Merici Foundation, Syracuse
  - Psycho-Pedagogical Medical Institute "Lucia Mangano", Catania
  - Juvenile Detention Facility, Catania
  - Premises Dedicated to the Detention Requirement of Police Forces c/o Carabinieri Police Station, Syracuse
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Carabinieri Police Station, Catania
  - Port of Augusta, Syracuse
  - Rems, Caltagirone (CT)
  - Rems, Naso (ME)
  - Protected Health Ward c/o Hospital "Cannizzaro", Catania
  - Protected Health Ward c/o Hospital "Papardo", Messina
  - RSA "Arka" S.r.L., Catania
  - SPDC c/o Hospital "Cannizzaro", Catania
  - SPDC c/o Hospital "Papardo", Messina

## VENETO

- 5 *ad hoc* visits
- Penitentiary, Rovigo
  - Penitentiary, Vicenza
  - Penitentiary "Giudecca", Venice
  - Penitentiary, Padua
- follow-up* visits
- Penitentiary, Rovigo

## FRIULI VENEZIA-GIULIA

- 3 thematic visits
- Penitentiary, Tolmezzo (41Bis Unit)
- ad hoc* visits
- Penitentiary, Udine
  - Penitentiary, Trieste

## EMILIA-ROMAGNA

- 2 *ad hoc* visits
- Penitentiary "Costantino Satta", Ferrara
- follow-up* visits
- Penitentiary, Ferrara

## MARCHE

- 1 thematic visits
- Penitentiary (41Bis Unit), Ascoli Piceno

## ABRUZZI

- 2 thematic visits
- Penitentiary Aquila (41Bis Unit)
- follow-up* visits
- Penitentiary, Aquila (41Bis Unit)

## CAMPANIA

- 1 *ad hoc* visits
- Case-study Visit RSA for Disabled Persons "Nazareno Martini" S. Giorgio a Cremano (NA)

## LOMBARDY

- 4 thematic visits
- Penitentiary, Opera (MI) (41Bis Unit)
- ad hoc* visits
- IPM "Beccaria", Milan
  - Border Premises of the International Airport, Milan Malpensa
  - Case-study Visit Stefania Foundation (MI)

## MOLISE

- 9 regional visits
- Penitentiary, Campobasso
  - Penitentiary, Isernia
  - Penitentiary, Larino
  - "Red" Association Community, Montenero di Bisaccia (CB)
  - Co-operative "Nardacchione", Casacalenda (CB)
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Police Headquarters, Campobasso
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Carabinieri Police Station, Campobasso
  - SPDC c/o Hospital "Cardarelli", Campobasso
  - SPDC c/o Hospital S. Timoteo - Termoli (CB)

## APULIA

- 10 thematic visits
- Return Temporary Residence Centre, Brindisi
  - *Hotspot*, Taranto
  - Return Temporary Residence Centre, Bari
  - Universo salute "Opera Don Uva" Bisceglie (BAT)
  - RSSA Nazareth Oasis Foundation - Corato (BAT)
  - RSSA Nazareth Oasis Foundation Retirement Home "San Giuseppe" - Corato (BAT)
- ad hoc* visits
- Premises Dedicated to the Detention Requirements of the Police Forces c/o Municipal Police, Brindisi
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Police Headquarters, Brindisi
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Police Headquarters, Taranto
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Carabinieri Police Station, Taranto

## BASILICATA

- 2 thematic visits
- Return Temporary Residence Centre "Palazzo San Gervasio", Potenza
- ad hoc* visits
- Penitentiary, Potenza

## CALABRIA

- 7 regional visits
- Penitentiary, Castrovillari (CS)
  - Penitentiary, Vibo Valentia
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Carabinieri Police Station, Cosenza
  - Premises Dedicated to the Detention Requirements of the Local Police Forces c/o Carabinieri Police Station, Rende (CS)
  - Premises Dedicated to the Detention Requirements of the Police Forces c/o Carabinieri Station, Rossano (CS)
  - Protected Health Ward c/o Hospital "SS Annunziata", Cosenza
  - Visit to the San Ferdinando Equipped Area for Migrant Seasonal Workers (VV)



**Table 1.1 – Thematic Visits in the National Territory (1 January 2018 – 31 January 2019)**

<b>Region</b>	<b>Facility</b>	<b>Date of visit</b>
Umbria	Penitentiary, Terni (41Bis Unit)	12/01/2018
Marche	Penitentiary, Ascoli Piceno (41Bis Unit)	13/01/2018
Umbria	Penitentiary, Spoleto (41Bis Unit)	14/01/2018
Sicily	Hotspot, Lampedusa	23/01/2018
Latium	Penitentiary Rebibbia "Nuovo Complesso", Rome (41Bis Unit)	13/02/2018
Apulia	Return Temporary Residence Centre, Brindisi	19/02/2018
Apulia	Hotspot, Taranto	20/02/2018
Basilicata	Return Temporary Residence Centre "Palazzo San Gervasio", Potenza	21/02/2018
Apulia	Return Temporary Residence Centre, Bari	22/02/2018
Piedmont	Return Temporary Residence Centre, Turin	01/03/2018
Friuli Venezia-Giulia	Penitentiary, Tolmezzo (41Bis Unit)	13/07/2018
Piedmont	Penitentiary, Novara (41Bis Unit)	06/10/2018
Abruzzi	Penitentiary, Aquila (41Bis Unit)	17/10/2018
Lombardy	Penitentiary "Opera", Milan (41Bis Unit)	24/10/2018
Apulia	Universo salute "Opera Don Uva" Bisceglie (BAT)	14/11/2018
Apulia	RSSA Nazareth Oasis Foundation - Corato (BAT)	15/11/2018
Apulia	"San Giuseppe" RSSA Nazareth Oasis Foundation - Corato (BAT)	15/11/2018
Latium	Penitentiary, Viterbo (41Bis Unit)	20/11/2018

*Source: National Guarantor for the Rights of Persons Detained or Deprived of Liberty*



**Table 1.2 - Ad hoc Visits in the National Territory (1 January 2018 - 31 January 2019)**

<b>Region</b>	<b>Facility</b>	<b>Date of Visit</b>
Latium	Protected Health Ward c/o Hospital "Belcolle", Viterbo	20/01/2018
Veneto	Penitentiary, Vicenza	03/02/2018
Apulia	Premises Dedicated to the Detention Requirements of the Police Forces c/o Municipal Police, Brindisi	19/02/2018
Apulia	Premises Dedicated to the Detention Requirements of the Police Forces c/o Police Headquarters, Brindisi	19/02/2018
Apulia	Premises Dedicated to the Detention Requirements of the Police Forces c/o Police Headquarters, Taranto	20/02/2018
Apulia	Premises Dedicated to the Detention Requirements of the Police Forces c/o Carabinieri Police Station, Taranto	20/02/2018
Basilicata	Penitentiary, Potenza	21/02/2018
Lombardy	Juvenile Penitentiary "Beccaria", Milan	27/02/2018
Piedmont	Protected Health Ward c/o Hospital "Le Molinette", Turin	02/03/2018
Latium	Diagnosis and Treatment Psychiatric Service (SPDC) – Monitoring of a CHT, Colferro (Rome)	06/03/2018
Latium	Biomedical Campus, Rome	10/03/2018
Emilia-Romagna	Penitentiary "Costantino Satta", Ferrara	10/03/2018
Latium	Diagnosis and Treatment Psychiatric Service (Spdc) – Monitoring of CHT at the "Policlinico Umberto I", Rome	28/03/2018
Veneto	Penitentiary, Rovigo	21/04/2018
Latium	Women's Prison "G. Stefanini" Rome Rebibbia, Rome	19/07/2018
Friuli Venezia-Giulia	Penitentiary, Udine	12/07/2018
Friuli Venezia-Giulia	Penitentiary, Trieste	14/07/2018
Sicily	"Ubaldo Diciotti" Ship	23/08/2018
Latium	Penitentiary Rome Rebibbia, Rome	31/08/2018
Latium	Therapeutic Community "Il Merro", Sant'Angelo Romano (Rome)	20/09/2018
Piedmont	Penitentiary "Lorusso e Cutugno", Turin	04/10/2018
Veneto	Penitentiary "Giudecca", Venice	11/10/2018
Campania	Case-study Visit to the RSA for Disabled Persons "Nazareno Martini", S. Giorgio a Cremano (NA)	21/11/2018
Lombardy	Case-study Visit Fondazione Stefania (MI)	05/12/2018
Veneto	Detention Facility, Padua	19/12/2018
Latium	IPM "Casal del Marmo", Rome	01/01/2019
Latium	Border Premises of the Port of Civitavecchia (RM)	15/01/2019
Latium	Border Premises of the International Airport, Roma Fiumicino	15/01/2019
Lombardy	Border Premises of the International Airport, Milano Malpensa	01/02/2019

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

**Table 1.3 - Regional Visits in the National Territory (1 January 2018 - 31 January 2019)**

Region	Facility	Date of visit
Sicily	Juvenile Penitentiary, Catania	18/6/2018
Sicily	Preliminary Reception Centre, Catania	18/6/2018
Sicily	RSA "Arka" S.r.L., Catania	18/6/2018
Sicily	Retirement Home "Padre Pio", Catania	19/6/2018
Sicily	Psycho-Pedagogic Medical Institute "Lucia Mangano", Catania	19/6/2018
Sicily	Elderly Assistance Centre "Maria Regina", Sant'Agata li Battiati (CT)	19/6/2018
Sicily	SPDC c/o Hospital "Cannizzaro", Catania	20/6/2018
Sicily	Protected Health Ward c/o Hospital "Cannizzaro", Catania	20/6/2018
Sicily	Penitentiary "Bicocca", Catania	21/6/2018
Sicily	Penitentiary, Giarre (CT)	22/6/2018
Sicily	Penitentiary, Messina	2/7/2018
Sicily	Premises Dedicated to the requirements of the police forces c/o Carabinieri Police Station, Catania	2/7/2018
Sicily	Penitentiary "Piazza Lanza", Catania	2-3/7/2018
Sicily	REMS, Caltagirone (CT)	3/7/2018
Sicily	Penitentiary, Barcellona Pozzo di Gotto (ME)	3-4/7/2018
Sicily	Elderly Home S.Lucia, Augusta (SR)	4/7/2018
Sicily	Port of Augusta, Syracuse	4/7/2018
Sicily	S. Angela Merici Foundation, Syracuse	5/7/2018
Sicily	Premises Dedicated to the requirements of the police forces c/o Carabinieri Police Station, Syracuse	5/7/2018
Sicily	REMS, Naso (ME)	5/7/2018
Sicily	Penitentiary, Syracuse	5-6/7/2018
Sicily	SPDC c/o Hospital "Papardo", Messina	6/7/2018
Sicily	Protected Health Ward c/o Hospital "Papardo", Messina	6/7/2018
Sicily	Cara, Mineo (CT)	7/7/2018
Molise	Penitentiary, Campobasso	23-24/7/2018
Molise	Premises Dedicated to the requirements of the police forces c/o Police Headquarters, Campobasso	23/7/2018
Molise	SPDC c/o Hospital "Cardarelli", Campobasso	23/7/2018
Molise	Premises Dedicated to the requirements of the police forces c/o Carabinieri Police Station, Campobasso	23/7/2018
Molise	Co-operative "Nardacchione", Casacalenda (CB)	24/7/2018
Molise	"Red" Association Community, Montenero di Bisaccia (CB)	25/7/2018
Molise	Spdc c/o Hospital S. Timoteo - Termoli (CB)	25/7/2018
Molise	Penitentiary, Larino	26/7/2018
Molise	Penitentiary, Isernia	27/7/2018
Calabria	Penitentiary, Vibo Valentia	8 and 10/9/2018
Calabria	Penitentiary, Castrovillari (CS)	8 and 10/9/2018
Calabria	Visit to the equipped area for migrant seasonal workers of San Ferdinando (VV)	09/9/2018
Calabria	Premises Dedicated to the requirements of the police forces c/o Carabinieri Police Station, Rossano (CS)	10/9/2018
Calabria	Premises Dedicated to the requirements of the police forces c/o Carabinieri Police Station, Cosenza	10/9/2018
Calabria	Premises Dedicated to the requirements of the police forces c/o Carabinieri Station, Rende (CS)	11/9/2018
Calabria	Protected Health Ward c/o Hospital "SS Annunziata", Cosenza	11/9/2018

Source: National Guarantor for the Rights of Persons Detained and Deprived of Liberty

*continues*

<b>Region</b>	<b>Facility</b>	<b>Date of Visit</b>
Calabria	Penitentiary, Cosenza	11-12/9/2018
Calabria	Penitentiary, Rossano (CS)	11-12/9/2018
Calabria	SPDC c/o Hospital "SS Annunziata", Cosenza	11/9/2018
Calabria	Penitentiary, Crotona	12/9/2018
Calabria	Rehabilitation Centre "Borgo dei Mastri", Paternò Calabro (CS)	12/9/2018
Calabria	REMS, Santa Sofia d'Epiro (CS)	9/9/2018
Calabria	Therapeutic Community "Il Mandorlo", Cosenza	9/9/2018
Basilicata	Penitentiary, Matera	19 and 20/11/2018
Basilicata	REMS, Tinchì di Pisticci (MT)	21/11/2018
Basilicata	Penitentiary, Melfi (PZ)	22 and 23/11/2018

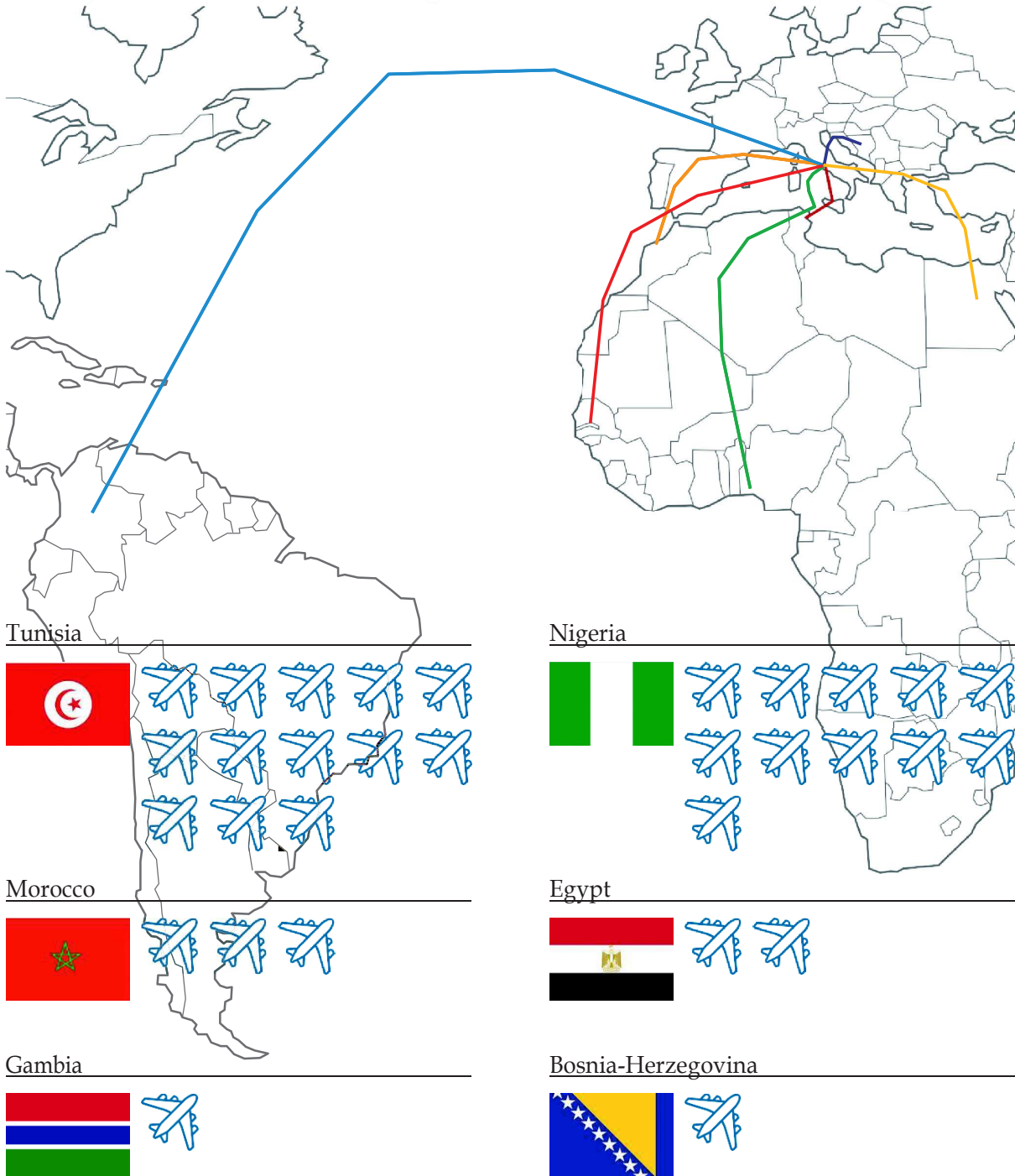
Source: National Guarantor for the Rights of Persons Detained and Deprived of Liberty

**Table 1.4 - Follow-up Visits in the National Territory (1 January 2018 - 31 January 2019)**

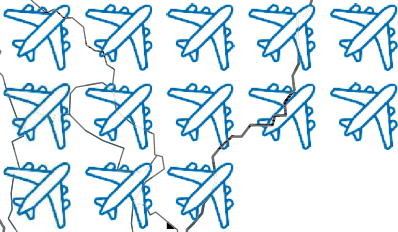
<b>Region</b>	<b>Facility</b>	<b>Date of Visit</b>
Piedmont	Penitentiary "Lorusso e Cutugno", Turin (Psychiatric Observation Ward "Il Sestante")	2/3/2018
Abruzzi	Penitentiary, Aquila (41Bis Unit)	5/3/2018
Emilia-Romagna	Penitentiary, Ferrara	17/12/2018
Veneto	Penitentiary, Rovigo	18/12/2018

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

Map 1.2 – Map of Forced Return Monitoring (1 January 2018 - 31 January 2019)



Tunisia



Morocco



Gambia



Colombia



Nigeria



Egypt



Bosnia-Herzegovina



**Table 1.5 – Monitoring of Forced Returns (1 January 2018 - 31 January 2019)**

Return Country	Activity	Date
Nigeria	Monitoring of pre-return phase at the CPR of Bari	18/1/2018
Nigeria	Monitoring of pre-return and pre-departure phases at the CPR of Rome	19/1/2018
Nigeria	Chartered flight Rome - Lagos	19/1/2018
Morocco	Monitoring of pre-return phase at the CPR of Rome	19/1/2018
Tunisia	Monitoring of pre-departure phase at the airport of Palermo	22/1/2018
Tunisia	Monitoring of pre-departure phase at the airport of Palermo	25/1/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	5/2/2018
Tunisia	Chartered flight Rome - Lampedusa - Palermo - Hammamet	15/2/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	22/2/2018
Morocco	Monitoring of pre-return phase at the CPR of Turin	1/3/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	1/3/2018
Colombia	Monitoring of pre-return phase at the CPR of Turin	1/3/2018
Tunisia	Monitoring of pre-return phase at the CPR of Bari	14/03/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	15/3/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	12/04/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	23/04/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	10/5/2018
Nigeria	Chartered flight Rome - Palermo - Hammamet	15/05/2018
Nigeria	Monitoring of pre-return phase at the CPR of Bari	30/5/2018
Nigeria	Monitoring of pre-return and pre-departure phases at the CPR of Turin	30/5/2018
Nigeria	Chartered flight Rome - Lagos	31/5/2018
Tunisia	Chartered flight Rome - Palermo - Hammamet	4/6/2018
Bosnia-Herzegovina	Monitoring of pre-return phase at the Immigration Office of the Police Headquarters of Rome	8/10/2018
Nigeria	Monitoring of pre-return and pre-departure phases at the CPR of Rome	19/11/2018
Nigeria	Chartered flight Rome - Bari - Lagos	20/11/2018
Nigeria	Monitoring of pre-return and pre-departure phases at the CPR of Bari	19/11/2018
Egitto	Monitoring of pre-return and pre-departure phases at the CPR of Bari	27/11/2018
Egitto	Monitoring of pre-return and pre-departure phases at the CPR of Turin	27/11/2018
Nigeria	Monitoring of pre-return and pre-departure phases at the CPR of Turin	1/12/2018

**Table 1.6 – Visits and Monitorings per Person/Day (1 January 2018 – 31 January 2019)**

	Number of	Number of	Number of Visited	Person/Day*
Regional Visits	7		50	296
Thematic Visits	3		18	82
Ad hoc Visits	28		28	72
Follow-up Visits	4		4	17
Monitorings	-	34	-	95
<b>Total</b>	<b>42</b>	<b>34</b>	<b>100</b>	<b>562</b>

\*This total also includes co-operation with experts who have

**Table 1.7 – External Collaborations for Visits and Monitorings (1 January 2018 – 31 January 2019)**

	Regional Guarantors				Fami l Ex per ts	Extern al Expert s	Obs
	Lati um	Piedmont	Apulia	Sicily			
Regional Visits	1				3	3	2
Thematic Visits		1	1		3	1	
Ad hoc Visits					2		
Monitorings	1	9	16	3			
<b>Total</b>	<b>2</b>	<b>10</b>	<b>17</b>	<b>3</b>	<b>8</b>	<b>4</b>	<b>2</b>

<b>Guarantors Latium</b>	Stefano Anastasia Rita Di Quinzio	Guarantor Region Latium Support Structure Guarantor Region Latium
<b>Guarantors Piedmont</b>	Bruno Mellano Lisa Massaferrò Anna Amorosini	Guarantor Region Piedmont Support Structure Guarantor Municipality of Turin Support Structure Guarantor Region Piedmont
<b>Guarantors Apulia</b>	Piero Rossi Elisabetta De Robertis Alessandro Pascazio	Guarantor Region Apulia Support Structure Guarantor Region Apulia Support Structure Guarantor Region Apulia
<b>Guarantors Sicily</b>	Pietro Valenti Daniela Russo Alfredo Grasso	Guarantor Region Sicily Support Structure Guarantor Region Sicily Support Structure Guarantor Region Sicily
<b>FAMI Experts</b>	Dario Pasquini Salvatore Fachile Antonio Marchesi	Communication Expert Immigration Law and Asylum Expert International Protection of Human Rights Expert
<b>External Experts</b>	Maria Grazia Marinangeli Daniele Piccione Alberto di Martino Ciro Tarantino	Psychiatric Expert Judicial Expert Judicial Expert Sociology Expert
<b>NPM Observatory</b>	Marco Mona	

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

## National

of



### Abruzzo

- The National Guarantor meets Maria Rosaria Paruti, President of the Supervision Court of Aquila,



### Calabria

- The National Guarantor meets Nicola Irtò, President of the Region Calabria, to discuss regional legislation on the appointment of the Regional Guarantor
- The Chairman of the National Guarantor meets the Juvenile Criminal Court



### Campania

- Meeting with the Healthcare Director of the Region Campania to sign the SMOP (Information System to Monitor the Overcoming of OPG) Protocol
- The National Guarantor meets with Giovanni Melillo, Public Prosecutor of Naples, to sign a Memorandum of Agreement and to establish proactive and concrete co-operation forms
- The National Guarantor attends the Convention of Independent Magistracy
- The National Guarantor attends the training course on the reintegration of detainees into the labour market at the Upper-Secondary Establishment "A. Casanova" in Naples
- The National Guarantor attends the meeting organised by the Criminal Division of Naples about the reform of Penitentiary Law
- The National Guarantor attends the Conference "Xenos. The Foreigner and the Voices of the City", organised by the Italian Institute for Philosophical Studies



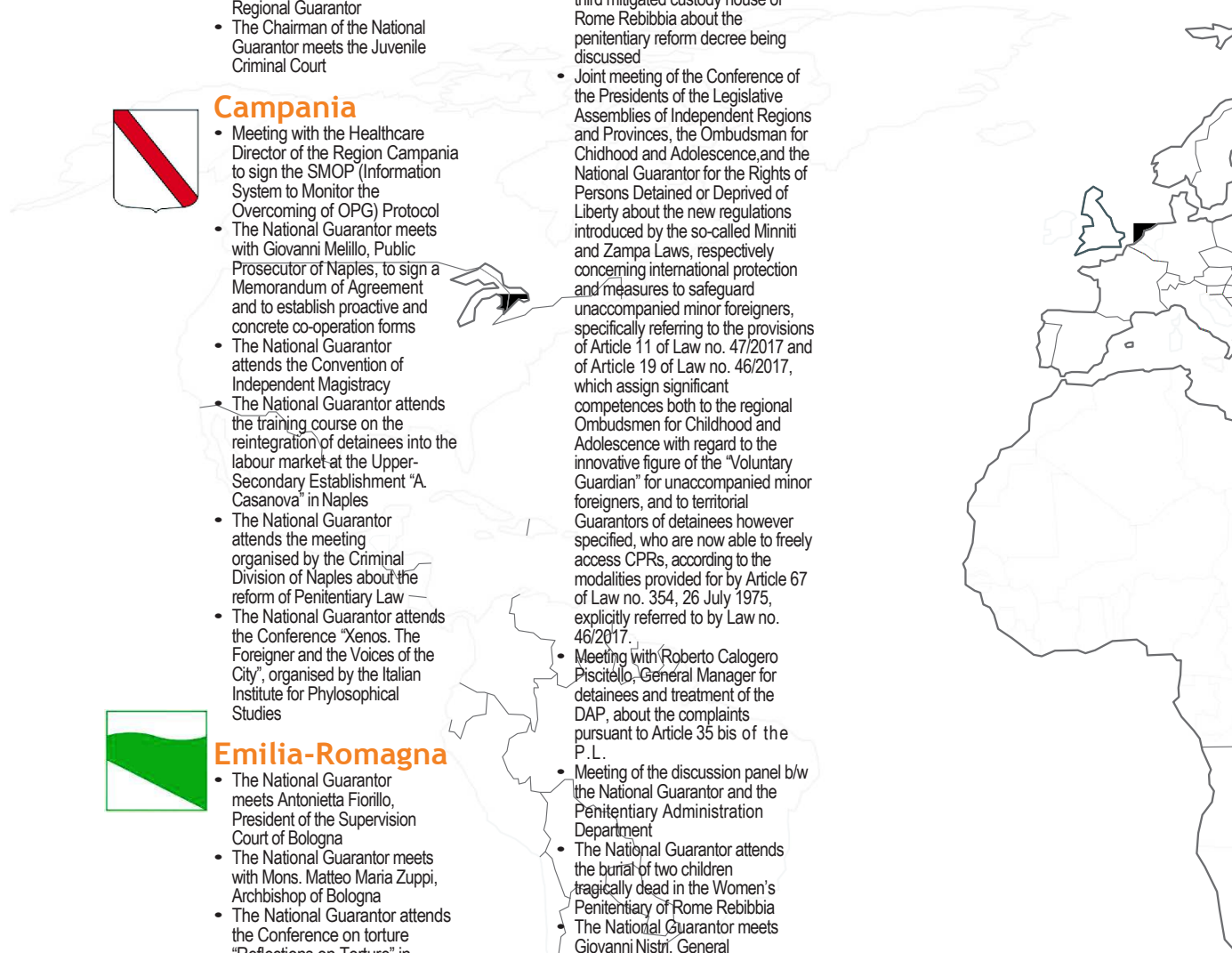
### Emilia-Romagna

- The National Guarantor meets Antonietta Fiorillo, President of the Supervision Court of Bologna
- The National Guarantor meets with Mons. Matteo Maria Zuppi, Archbishop of Bologna
- The National Guarantor attends the Conference on torture "Reflections on Torture" in Ferrara
- The National Guarantor attends the Conference "Community Measures: Knowing them to Correctly Explain them" organised by the Catholic University
- The National Guarantor attends the seminar meeting "Prevention Functions of Guarantors: the National Network and the NPMs"
- The National Guarantor attends the meeting for the launch of the FAIR project "Fighting Against Inmates' Radicalization" jointly with the Regional Guarantor of Emilia-Romagna



### Latium

- The Chairman of the National Guarantor is heard at the Judiciary Committee of the Chamber of Deputies about the decree reforming Penitentiary Law
- Coordination meeting of regional Guarantors to discuss intervention guidelines and prepare the launch of the NPM network
- Meeting with the detainees of the third mitigated custody house of Rome Rebibbia about the penitentiary reform decree being discussed
- Joint meeting of the Conference of the Presidents of the Legislative Assemblies of Independent Regions and Provinces, the Ombudsman for Childhood and Adolescence, and the National Guarantor for the Rights of Persons Detained or Deprived of Liberty about the new regulations introduced by the so-called Minniti and Zampa Laws, respectively concerning international protection and measures to safeguard unaccompanied minor foreigners, specifically referring to the provisions of Article 11 of Law no. 47/2017 and of Article 19 of Law no. 46/2017, which assign significant competences both to the regional Ombudsmen for Childhood and Adolescence with regard to the innovative figure of the "Voluntary Guardian" for unaccompanied minor foreigners, and to territorial Guarantors of detainees however specified, who are now able to freely access CPRs, according to the modalities provided for by Article 67 of Law no. 354, 26 July 1975, explicitly referred to by Law no. 46/2017.
- Meeting with Roberto Calogero Piscitello, General Manager for detainees and treatment of the DAP, about the complaints pursuant to Article 35 bis of the P. L.
- Meeting of the discussion panel b/w the National Guarantor and the Penitentiary Administration Department
- The National Guarantor attends the burial of two children tragically dead in the Women's Penitentiary of Rome Rebibbia
- The National Guarantor meets Giovanni Nistri, General Commander of the Carabinieri Corps
- The National Guarantor meets the President of the CPIA
- The National Guarantor meets with the Parliamentary Group of the Five Star Movement
- The National Guarantor meets with Anna Finocchiaro, Minister for Parliamentary Relations
- The National Guarantor attends the ceremony for the 21st Anniversary of Penitentiary Police
- Meeting with Vito Minoia, International Coordination Manager of "Prison Theatre"
- The National Guarantor meets with Gherardo Colombo, President of the Penalty Fund of the Penitentiary Administration Department
- The National Guarantor attends the coordination table





the Project El PacCto promoted by the Ministry of Foreign Affairs

- Meeting of the discussion panel b/w the National Guarantor and the Penitentiary Administration Department about the circular letter 41bis
- The National Guarantor attends the meeting of the Opera Nomadi Association
- The National Guarantor is received by the President of the Republic
- The National Guarantor attends the Festival of the Carabinieri Corps
- The National Guarantor meets with Federico Cafiero De Raho, National Anti-Mafia Prosecutor
- The National Guarantor meets with Roberto Fico, President of the Chamber of Deputies
- The National Guarantor is received by the President of the Republic
- The National Guarantor meets with Filomena Albano, National Ombudswoman for Childhood and Adolescence
- The National Guarantor attends the National Coordination of Superintending Magistrates
- The National Guarantor meets with the Federsanità ANCI
- The National Guarantor meets with the SIMSPE
- The National Guarantor meets with Alfonso Bonafede, Ministry for Justice
- The National Guarantor meets with Antonello Soro, the Authority for the Protection of Personal Data

- The National Guarantor meets with Fulvio Baldi, Head of Cabinet of the Ministry of Justice
- The National Guarantor is heard at the Senate Judiciary Committee about the Security Decree
- The National Guarantor meets with Francesco Basentini, Head of Cabinet of the Penitentiary Administration
- The National Guarantor meets with the Italian Red Cross
- The National Guarantor attends the coordination meeting of territorial Guarantors at the Region Latium
- The National Guarantor meets with the Office for

the Coordination of the Police Forces about the issue of electronic bracelets

- The National Guarantor attends the coordination panel of the project El PacCto promoted by the Ministry of Foreign Affairs
- The Chairman of the National Guarantor meets with Viktor Elbling, Ambassador of Germany
- The National Guarantor meets with Filomena Albano, the Ombudswoman for Childhood and Adolescence
- The National Guarantor attends a panel organised by ISSA and the Ministry of Health
- The National Guarantor is heard at the Senate Judicial Committee about the Security Decree
- Meeting of the National Guarantor with territorial guarantors
- Updating of the Charter on the Rights of Children of Detained Parents
- The National Guarantor meets Adelmo Lusi, the NAS Commandant of the Carabinieri Corps

## National

- The National Guarantor attends the presentation meeting of the new Permanent Representative of Italy to the European Council in Strasbourg, Minister Plenipotentiary Michele Giacomelli
- The National Guarantor meets Lina Di Domenico, Deputy Head of the Penitentiary Administration Department
- The National Guarantor meets Francesco Basentini, Head of the Penitentiary Administration Department
- The National Guarantor organises the Assembly of Municipal Guarantors at its headquarters
- The National Guarantor meets the President of the Republic
- The National Guarantor meets with the UNDP - Tunisia. Possible future synergies are envisaged
- The National Guarantor meets with the Defence for Children International Onlus - Italy
- The National Guarantor organises a panel of experts to formulate the standards for administrative detention in Italy
- The National Guarantor presents its first collection of Recommendations 2016-2017 "Norms and Normativity - Standards for the Enforcement of Adult Sentencing", in the presence of Andrea Orlando, Minister of Justice
- The National Guarantor attends to the Conference "Men and Machines, Data Protection for Digital Ethics" organised by the Guarantor for the Protection of Personal Data
- The National Guarantor takes the floor at the State Police Convention on "Escorts for Returns. The Attitude Measuring Security"
- The National Guarantor organises a press conference announcing the upcoming start of a monitoring of residential facilities for persons with disabilities and the elderly
- The National Guarantor attends the technical panel with external experts, thus applying the Memorandum of Understanding for Studies and Projects concerning the liberty of persons with disabilities
- The National Guarantor attends the panel "The Mental Health of Adolescents" organised by the Ombudsman for Childhood and Adolescence
- The National Guarantor attends the press conference on hotspots organised at the Chamber of Deputies
- The National Guarantor attends the Conference on "Sports and Prison" organised by the ACLI
- The National Guarantor is one of the speakers at the one-day Conference on the Italian Constitution promoted by Giovanni Maria Flick at the Penitentiary "Raffaele Cinotti" of Rome Rebibbia
- The National Guarantor is one of the speakers at the Conference on "Regions and Local Bodies in Criminal Enforcement and Deprivation of Liberty" organised by the Guarantor of the Region Latium

- The National Guarantor attends the Conference on "Rights Freedom Service. Towards a National Conference on Mental Health"
- The Chairman of the National Guarantor attends the Convention organised by the Pontificia Università Antonianum
- The National Guarantor attends the Convention FISH
- The National Guarantor attends the National Conference of Voluntary Associations in the Justice Sector
- The National Guarantor attends the Convention organised by the Opera Nomadi
- The National Guarantor attends a technical panel with external experts, thus applying the Memorandum of Understanding for Studies and Projects concerning the liberty of persons with disabilities
- The National Guarantor attends the panel organised by the SIMSPE
- Technical panel between the National Guarantor and external experts in accordance with the Memorandum of Understanding for Studies and Projects concerning the liberty of persons with disabilities
- The National Guarantor is part of the working group "Ethics and Dementias" at the National Institute of Health
- The National Guarantor attends the Conference on "Freedom and Mental Health" organised by the Regional Guarantor of Latium
- Conference at Velletri on "Penalties Alternative to Prison, Security and Justice" promoted by the Association Volare
- The National Guarantor attends the Conference on "Protection of Parenting in Prison and of the Rights of Children of Detainees" in Rome
- The National Guarantor attends the Conference on "ANFFAS 60 Years of Future. The New Frontiers of Intellectual Disabilities and Neural Development Disorders"
- The National Guarantor is one of the speakers at the Conference on "The Comeback of Journalism and the Right to the Truth after Fake News"

### Liguria

- The National Guarantor attends the Conference on "Rights and Responsibility in Today's Criminal Enforcement" promoted by the Prison Network of Celivo
- The National Guarantor is one of the speakers at the Conference on "Prison, Rights, and Justice: from Carcere, diritti e giustizia: from Like Imprisonment to Alternative Measures"

### Lombardy

- The National Guarantor attends a meeting at the Architecture and Urban Studies Department of the Polytechnic within the framework of the university project on detention spaces
- The National Guarantor attends the seminar "Prison: Reality, Rights, Misinformation"

- The National Guarantor attends the seminar on "Planning and Experimenting with Social Spaces in Prison" at the Penitentiary of Bollate (Milan)
- The National Guarantor attends the Conference "In the Meantime. Adult-Age Transits"
- The National Guarantor attends the Conference "Compulsory Health Treatments and Reduction of Mechanical Restraint in Mental Health Services" in Milan
- The National Guarantor is one of the speakers at the Conference on Disability and Segregation at the University Bicocca of Milan
- The National Guarantor attends the Conference on "Un-Confined Liberties", National Conference of Waldensians Deacons
- The National Guarantor attends the Regional meeting of NPMs and CSOs of the OSCE region organised by the Association for the Prevention of Torture. The National Guarantor speaks on "De Jure and De Facto Administrative Detention of Migrants in Italy: Observations and Challenges"



### Piedmont

- The National Guarantor meets Nino Boeti, the President of the Region Piedmont

- The National Guarantor meets Armando Spataro, Public Prosecutor at the Court of Turin
- The National Guarantor is one of the speakers at the one-day training on "Immigration and the Right to Asylum Within and Without: Meeting with the Refugee Clinic" in Turin

- The National Guarantor attends the Conference organised 40 years after the Basaglia Law



### Sardinia

- The National Guarantor meets Ida Aurelio Soro, President of the Surveillance Court of Sassari



### Sicily

- The National Guarantor meets Maria Dell'Imperio, Vice-Mayor of Lampedusa, and Alfonso Rizzo, City Counsellor for Health,
- The National Guarantor meets Dario Caputo, the Prefect of Agrigento
- The NPM Observatory, represented by Renate Kicker and Marco Mona, takes part in the monitoring visit to places of deprivation of liberty in Western Sicily
  - At Lampedusa, The National Guarantor meets with some representatives of the Lampedusa Solidarity Forum
  - The National Guarantor holds a press conference on the conditions of the Lampedusa hotspot
  - The National Guarantor meets with representatives and scholars of the Human Rights Legal Clinic (CLEDU) of Palermo
  - The National Guarantor attends the Conference on "Mental Health in Prisons and REMS" organised by the Regional Guarantor for Sicily



## International



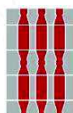
### Tuscany

- The National Guarantor attends the Soroptimist Convention
- The National Guarantor attends the meeting on "Persons Deprived of Liberty and Denied Rights" promoted by SEAC
- The National Guarantor takes part in the presentation of the pilot project for the implementation of the Teleconsultation and Cardiac Screening in the "A Heart for All" prisons
- The National Guarantor is one of the speakers at the 5th National Theatre in Prison Review "Conflicting Destinies"



### Trentino

- The National Guarantor attends the Conference "Prison and Addictions as Seen by the Guarantor" during the 7th District Convention of the Chamber of Lawyers in Trento
- The National Guarantor attends the Conference "A National Human Rights Institution for Italy: Challenges and the Way Forward"
- The National Guarantor attends a Conference organised by Amnesty International
- The National Guarantor presents "Norms and Normativity - Standards for the Enforcement of Adult Sentencing" at the Department of Law, Penitentiary Legal Clinic of the University of Perugia



### Umbria

- The National Guarantor attends the conference "Words are not Stones. The Assisi Charter"
- The National Guarantor attends a conference on social journalism



### Veneto

- The National Guarantor meets Enrico Caterino, Prefect of Rovigo
- The National Guarantor attends the meeting on the Rights of Detained Women's Children at the Prison "Giudecca" in Venice
- The National Guarantor attends the Conference on "The Complexity of the Penitentiary System: Psychological Distress in the Criticality of the System" organised by the Regional Guarantor of Veneto
- The National Guarantor attends the Conference on "Law 180 - Relevance of Franco Basaglia's Thought" organised by the Mental Health Department
- The National Guarantor is one of the speakers at the 31st Convention of the Franciscan Consultation Centre



### Armenia

- The National Guarantor attends the "International High-level Conference Dedicated to the Ten-Year Anniversary of the Human Rights Defenders National Preventive Mechanisms"



### Austria

- The National Guarantor attends the NPM Forum Meeting "Pilot Project for the Building of a European Knowledge Container on Monitoring in Criminal Matters" ("DeMon Base") in Vienna



### Belgium

- The National Guarantor attends the international meeting Fact for Minors



### Francia

- The National Guarantor attends the MGIMO Seminar
- The National Guarantor attends the meeting of the European Project Procram and takes the floor with a speech on "Audiovisual recording as a source for more reliable evidence"
- In Strasbourg the Chairman of the National Guarantor attends a meeting of the Committee of Ministers of the Council of Europe on the enforcement of sentences issued by ECHR, to illustrate the actions implemented by Italy following the Court's judgments with regard to prison overcrowding



### Germany

- The National Guarantor attends the international meeting organised by the National Agency for the Prevention of Torture and the Austrian Ombudsman Board on Monitoring Homes for the Elderly
- The National Guarantor attends the Final Conference of the FREM II Project on forced return monitoring



### Greece

- The National Guarantor attends the international meeting "Informal discussions on 15th October between NPMs about the governance of the Frontex Pool of Monitors for FROs"



### The Netherlands

- The National Guarantor attends the meeting of the Working Group Prison and Probation organised by the *Radicalisation Awareness Network Centre of Excellence (RAN CoE)* on "Il ruolo della famiglia e della rete sociale nella riabilitazione degli autori di reato violenti ed estremisti"



### Switzerland

- The National Guarantor attends the international meeting organised by APT on its *Guide on monitoring the situation of Lgbti persons deprived of liberty*

**Table 1.8 – National and International Training 2018-2019**

Topic	Promoting Authority	Venue
Internal Training Seminar on MSNA regulations (focus on age assessment procedures)	National Guarantor	Headquarters
Protocol Calliope	National Guarantor	Ministry of Justice - Rome
Information Day on "Il concetto di corruzione e trasparenza nella Pubblica Amministrazione"	National Guarantor	Headquarters
Information Day on "La normativa sul whistleblowing"	National Guarantor	Headquarters
Information Day on the Security Decree and the Decree reforming Penitentiary Law	National Guarantor	Headquarters
Information Day on the Information System for monitoring the overcoming of OPGs	National Guarantor	Headquarters
Information Day on the Registry of facilities for persons with disabilities and the elderly	National Guarantor	Headquarters
<i>Forced-Return Pool of Monitor Training</i>	Frontex	Prague

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

**Table 1.9 – Training Provided 2018-2019**

Topic	Promoting Authority	Venue
Training day on forced return targeting the staff of the Regional Guarantor of Sicily	National Guarantor	Palermo
Training Day on forced returns targeting the staff of the Regional Guarantor of Piedmont		Turin
Legal Writing workshop of the University of Perugia. The National Guarantor explains the methodology for writing reports and recommendations, with a view to the definition of national standards	University of Perugia	Perugia
Training Course on "I reclami del Guarantor"	Directorate-General for Training - Dap	High School for Criminal Enforcement "Piersanti Mattarella" - Rome
Training Course targeting officials of the DAP's Central Functions Department	Directorate-General for Training - Dap	High School for Criminal Enforcement "Piersanti Mattarella" - Roma
Training Course targeting officials of the Carabinieri Corps	Ministry of Defence	Scuola di Formazione di marescialli e brigadieri dell'arma dei Carabinieri - Firenze
Training Day on the mandate of the National Guarantor and the protection of human rights	Directorate-General for Training - Dap	Penitentiary Personnel Training School Sulmona
Training Course of the European project FAIR - <i>Fighting Against Inmates' Radicalization</i>	New Village of the Child Foundation	Forlì
Training Course of the European project FAIR - <i>Fighting Against Inmates' Radicalization</i>	New Village of the Child Foundation	Turin
Seminar on "Disabilità e libertà"	National Guarantor	Naples

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

**Table 1.10 –FAMI Events 2018-2019**

Description	Promoting Authority	Venue
Multidisciplinary Training Seminar on the monitoring of forced return operations jointly with State Police	National Guarantor	State Police School - Nettuno (Rome)
International Conference "The National Guarantor: due anni di monitoraggi dei rimpatri forzati"	National Guarantor	Headquarters
Workshop "I processi di emersione e identificazione delle vittime di tratta nelle procedure di rimpatrio forzato"	National Guarantor	Headquarters

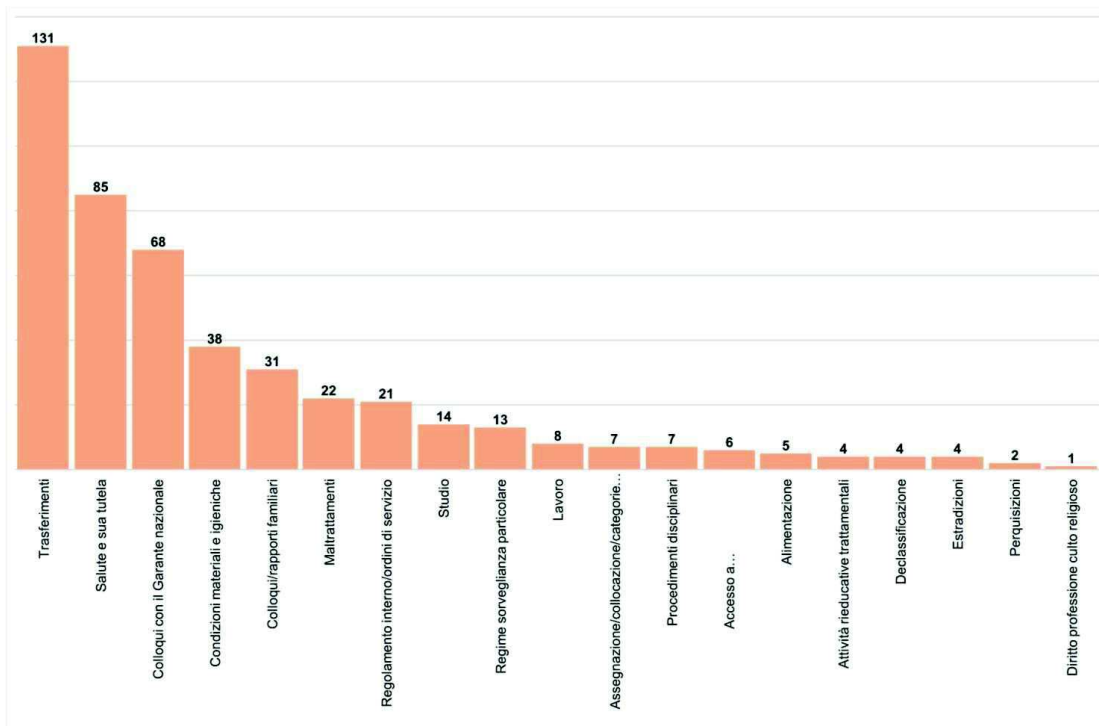


**Table 1.11 – Complaints pursuant to Article 35 P.L. notified to the National Guarantor per criticality area:**

Criticality Area	No. of complaints (Article 35 P.L.)
Transfers	131
Health and healthcare	85
Interviews with the National Guarantor	68
Material and Hygiene Conditions	38
Interviews/Family Relationships	31
III-Treatment	22
Internal Regulation/Service Orders	21
Study	14
Special Surveillance Regime	13
Work	8
Assignment/positioning/categories of restrained persons	7
Disciplinary Proceedings	7
Access to Internet/Videophone/Technology	6
Food	5
Treatment Re-Education Activities	4
Declassification	4
Extraditions	4
Search	2
Right to profess a religious worship	1
<b>Total</b>	<b>471</b>

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

**Chart 1.1 – Complaints pursuant to Article 35 P.L. notified to the National Guarantor per criticality area - Year 2018**



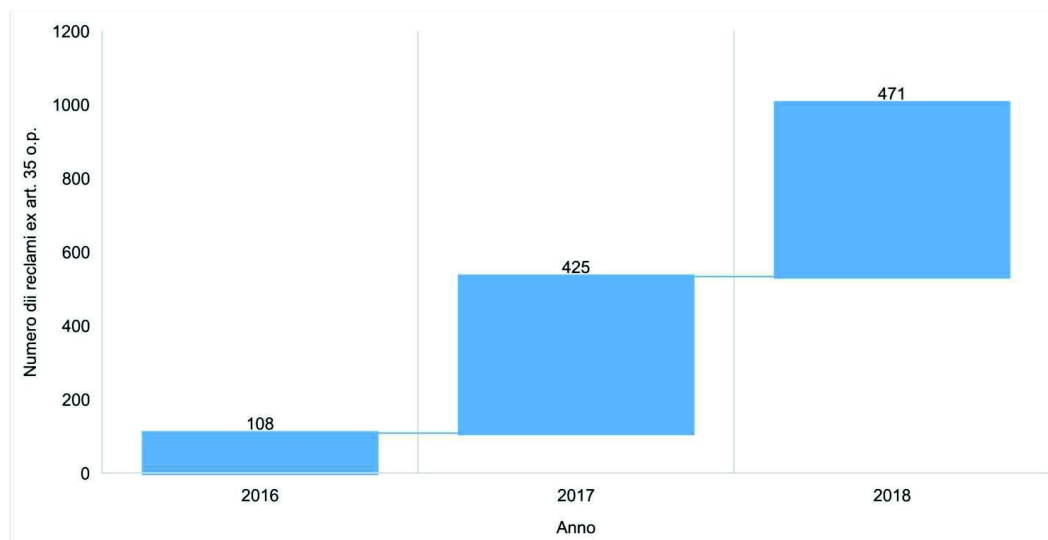
**Table 1.12 – Complaints pursuant to Article 35 P.L. - History 2016/2017/2018**

Year	No. of complaints (Article 35 P.L.)
2016	108
2017	425
2018	471
<b>Total</b>	<b>1.004</b>

As of 31 Dedicembre 2018 the Commission evaluated all complaints pursuant to Article 35 P.L.

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

**Chart 1.2 – Complaints Pursuant to Article 35 P.L. - History 2016/2017/2018**



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

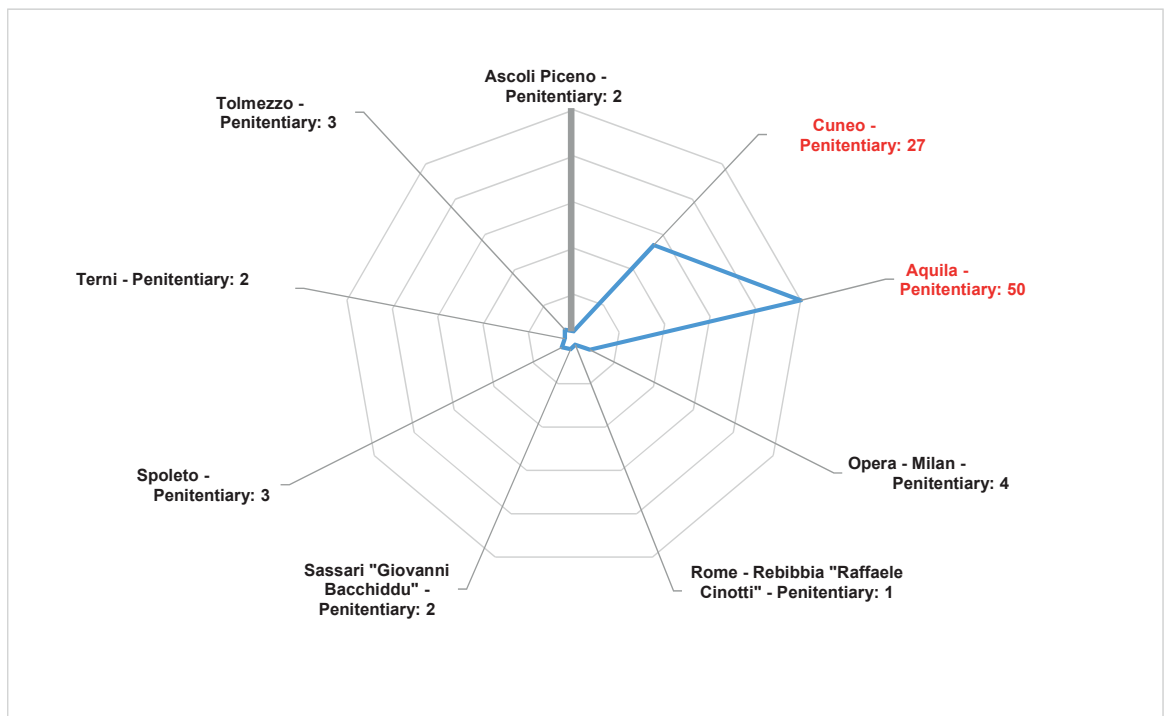


**Table 1.13 – Complaints Pursuant to Article 35 P.L. – 41 bis prison regime -**

Penitentiaries	No. of complaints (Article 35 P.L.)
Ascoli Piceno - Penitentiary	2
Cuneo - Penitentiary	27
Aquila - Penitentiary	50
Opera - Milan - Penitentiary	4
Rome - Rebibbia "Raffaele Cinotti" - Penitentiary	1
Sassari "Giovanni Bacchiddu" - Penitentiary	2
Spoleto - Penitentiary	3
Terni - Penitentiary	2
Tolmezzo - Penitentiary	3

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

**Chart 1.3 – Complaints Pursuant to Article 35 P.L. – 41 bis prison regime - Year 2018**



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

**Table 2.1 – Number of Migrants who Entered Hotspots per Declared Nationality - Year 2018**

<b>Nationality</b>	<b>Men</b>	<b>Wome n</b>	<b>Minor s</b>	<b>Total</b>
Tunisia	4426	108	1104	5638
Eritrea	1407	477	588	2472
Sudan	620	14	125	759
Ivory Coast	274	194	114	582
Nigeria	339	126	43	508
Guinea	257	32	171	460
Mali	288	11	95	394
Morocco	229	50	20	299
Algeria	282	6	6	294
Somalia	120	34	109	263
Bangladesh	228	1	31	260
Pakistan	233	2	25	260
Senegal	184	3	24	211
Lybia	126	19	35	180
Egypt	120	1	34	155
Cameroon	84	56	13	153
Gambia	89	1	42	132
Afghanistan	111	0	10	121
Ghana	82	10	14	106
Comoros Islands	63	25	0	88
Iraq	41	4	25	70
Ethiopia	37	14	11	62
Sierra Leone	31	5	25	61
Iran	48	0	0	48
Syria	18	3	14	35
Chad	24	4	5	33
Burkina Faso	17	2	7	26
Palestine	15	2	4	21
Turkey	15	0	0	15
Liberia	8	0	2	10
India	6	0	3	9
Congo	6	1	0	7
Niger	7	0	0	7
Togo	6	1	0	7
Yemen	6	0	1	7
Nepal	6	0	0	6
Guinea-Bissau	4	0	0	4
Central African Republic	4	0	0	4
Benin	3	0	0	3
Stateless	1	0	0	1
France	1	0	0	1
Jordan	1	0	0	1
Kenya	1	0	0	1
Mauritania	1	0	0	1
Sri Lanka	1	0	0	1
Uganda	1	0	0	1
<b>Combined Total</b>	<b>9871</b>	<b>1206</b>	<b>2700</b>	<b>13777</b>

Source: Elaboration on data provided by the Ministry of Home Affairs – Department of Civil Liberties and Immigration

**Table 2.2 - Number of Migrants who Entered Hotspots per Typology of Facilities and Hosts**

Hotspot	Total	Men	Wome	Minor	of	Accompanied Minors	Unaccompanied Minors
Lampedusa	3,466	2,516	206	744		195	549
Messina	2,649	1,857	259	533		98	435
Pozzallo	3,999	2,538	566	895		297	598
Taranto	978	922	8	48		0	48
Trapani *	2,685	2,038	167	480		108	372
<b>Total</b>	<b>13,777</b>	<b>9,871</b>	<b>1,206</b>	<b>2,700</b>		<b>698</b>	<b>2,002</b>

\* The hotspot of Trapani was in operation until 23 September 2018

Source: Elaboration on data provided by the Ministry of Home Affairs – Department of Civil Liberties and Immigration

**Table 2.3 – Trend of Migrants Entering Hotspots - Years 2016-2017-2018**

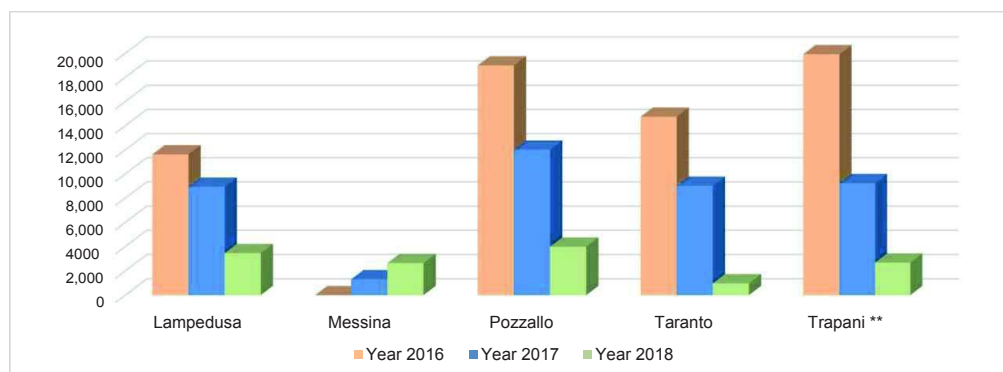
Hotspot	Date of Activation	Year 2016	Year 2017	Year 2018
Lampedusa	28/09/2015	11,632	8,940	3,466
Messina	30/09/2017	*	1,315	2,649
Pozzallo	19/01/2016	19,000	12,010	3,999
Taranto	28/02/2016	14,744	9,022	978
Trapani **	22/12/2015	19,919	9,247	2,685
<b>Total</b>		<b>65,295</b>	<b>40,534</b>	<b>13,777</b>

\* The hotspot of Messina is in operation since 30 September 2017

\*\* The hotspot of Trapani was in operation until 23 September 2018

Source: Elaboration on data provided by the Ministry of Home Affairs – Department of Civil Liberties and Immigration

**Chart 2.1 – Trend of Migrants Entering Hotspots - Years 2016-2017-2018**



Source: Elaboration on data provided by the Ministry of Home Affairs – Department of Civil Liberties and Immigration

**Table 2.4 – Average Permanence in Hotspots Measured in Days - Year 2018**

Hotspot	Average Stay in Days	
	Adults	Minors
Lampedusa	4.5	4.5
Messina	4	1
Pozzallo	3	2
Taranto	1.5	0
Trapani	6.2	3.7

Source: Elaboration on data provided by the Ministry of Home Affairs – Department of Civil Liberties and Immigration

**Table 2.5. – Transits in Return Detention Centres (CPRs) per Declared Nationality – Year 2018**

Nationality	Women	Men	Total	Nationality	Women	Men	Total
Afghanistan	--	5	5	Kosovo	--	13	13
Albania	15	186	201	Lebanon	1	--	1
Algeria	7	146	153	Liberia	1	2	3
Saudi Arabia	--	2	2	Lybia	--	19	19
Argentina	--	2	2	Lithuania	1	1	2
Azerbaijan	--	1	1	Mali	--	7	7
Bahamas	--	1	1	Morocco	34	515	549
Bangladesh	1	28	29	Mauritania	--	1	1
Benin	--	1	1	Mauritius	3	1	4
Bielorussia	--	1	1	Mexico	1	2	3
Bolivia	1	1	2	Moldova	9	11	20
Bosnia-Herzegovina	14	11	25	Mongolia	2	--	2
Brazil	9	9	18	Montenegro	2	1	3
Burkina Faso	--	3	3	Niger	--	5	5
Burundi	1	--	1	Nigeria	146	344	490
Cameroon	--	4	4	Netherlands	--	1	1
Cape Verde	--	2	2	Pakistan	--	54	54
Chile	3	6	9	State of Palestine	--	8	8
China	161	11	172	Peru	5	13	18
Colombia	9	3	12	Poland	1	2	3
Ivory Coast	1	14	15	Rep. Northern Macedonia	5	15	20
Croatia	3	--	3	Republic of Congo	--	2	2
Cuba	10	2	12	Dominican Republic	13	13	26
Dominica	--	1	1	Romania	18	58	76
Ecuador	2	6	8	Ruanda	1	1	2
Egypt	--	150	150	Senegal	6	83	89
El Salvador	5	6	11	Serbia	10	8	18
Eritrea	4	2	6	Serbia Montenegro	--	4	4
Ethiopia	1	--	1	Sierra Leone	--	5	5
Russian Federation	16	3	19	Syria	--	9	9
Philippines	2	2	4	Somalia	3	2	5
France	--	2	2	Sri Lanka	12	20	32
Gabon	--	4	4	United States of America	3	3	6
Gambia	--	80	80	South Africa	--	1	1
Georgia	15	42	57	Sudan	--	6	6
Ghana	5	37	42	Tanzania	--	1	1
Jordan	--	1	1	Thailand	5	--	5
Guatemala	--	1	1	Togo	--	1	1
Guinea	--	8	8	Tunisia	18	1404	1422
India	2	11	13	Turkey	--	4	4
Iran	4	3	7	Ukraine	34	15	49
Iraq	--	5	5	Uruguay	1	--	1
Israel	--	1	1	Uzbekistan	--	1	1
Kyrgyzstan	2	--	2	Venezuela	4	--	4
<b>Combined Total</b>					<b>632</b>	<b>3460</b>	<b>4092</b>

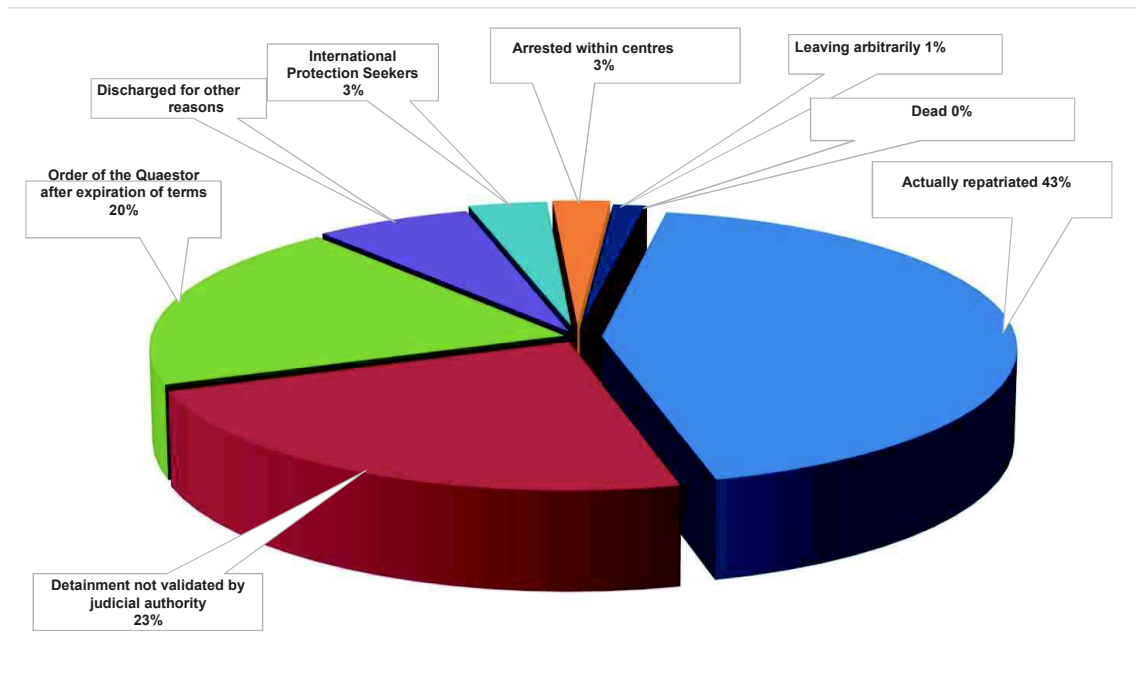
Source: Elaboration on data provided by the Department of Public Security, Central Directorate for Immigration and Border Police

**Table 2.6 – Reasons for Exiting from Return Detention Centres (CPRs) – Year 2018**

Reason for exit	Women	Men	Total
Actually repatriated	83	1685	1768
Detainment not validated by judicial authority	343	611	954
Order of the Quaestor after expiration of terms	119	688	807
Discharged for other reasons	51	220	271
International protection seekers	33	103	136
Arrested within the centres	1	98	99
Leaving arbitrarily	1	55	56
Dead	1		1
<b>Total</b>	<b>632</b>	<b>3460</b>	<b>4092</b>

Source: Elaboration on data of the Department of Public Security, Central Directorate of Immigration and Border Police

**Chart 2.2 - Reasons for exiting from Return Detention Centres (CPRs) – Year 2018**



Source: Elaboration on data of the Department of Public Security, Central Directorate of Immigration and Border Police

**Table 2.7 – First Ten Nations – Reasons for exiting from Return Detention Centres (CPRs) - Year 2018**

Nationality	Leaving arbitrarily	Arrested within centres	Discharged from centres for other reasons	Actually repatriated	Order of the Quaestor after expiration of terms	Internat. protection seekers	Detainment not validated by J.A.	Totals
Tunisia	46	35	109	862	107	56	207	1422
Morocco	5	35	37	168	194	14	96	549
Nigeria	--	4	31	163	81	20	191	490
Albania	--	--	8	139	10	2	42	201
China	--	--	4	24	77	1	66	172
Algeria	1	8	13	30	81	3	17	153
Egypt	2	2	5	94	19	1	27	150
Senegal	--	2	6	15	40	1	25	89
Gambia	--	2	--	23	26	4	25	80
Romania	--	--	--	57	3	--	16	76

Source: Elaboration on data of the Department of Public Security, Central Directorate of Immigration and Border Police

**Table 2.8 – Operation of Return Detention Centres (CPRs) in 2018**

CPR	Actual capacity as of	Transited Persons in 2018	Actually repatriated persons
	5.2.2019		in 2018
Turin *	147	1147	632
Trapani-Milo **	205	479	359
Palazzo S. Gervasio-Potenza ***	100	613	87
Bari-Palese ****	54	868	384
Caltanissetta-Pian del Lago *****	72	33	30
Rome-Ponte Galeria	125	631	83
Brindisi-Restinco	48	321	193

\* Turin: CPR with an actual capacity of 160 places since 1 January 2018, of 147 places since 11 January 2018, of 175 places since 20 February 2018, of 171 places since 18 May 2018, of 147 places since 17 October 2018

\*\* Trapani: CPR in operation since 24 September 2019

\*\*\* Potenza: CPR in operation since 12 January 2018, with an actual capacity of 32 places, increased to 100 places since 5 April 2018

\*\*\*\* Bari: CPR with an actual capacity of 126 places since 1 January 2018, of 90 places since 26 January 2018, of 54 places since 15 December 2018

\*\*\*\*\* Caltanissetta: CPR in operation since 10 December 2018

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

**Table 2.9 – Average Permanence in Return Detention Centres (CPRs) - Year 2018**

CPR	Average days of stay
Turin	41.84
Trapani-Milo	11.98
Palazzo S. Gervasio-Potenza	42.89
Bari-Palese	38.85
Caltanissetta-Pian del Lago	6.88
Rome-Ponte Galeria	30.82
Brindisi-Restinco	56.47

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police





**Table 2.10 – Overall Number of Repatriated Persons per Country of Destination - Year 2018**

<b>Nationality</b>	<b>Repatriated</b>	<b>Nationality</b>	<b>Repatriated</b>
Tunisia	2323	United States of America	6
Albania	1175	Cuba	5
Morocco	935	Iran	5
Egypt	294	Tanzania	5
Nigeria	225	Venezuela	5
Ukraine	133	Belarus	4
Peru	132	Iraq	4
Georgia	104	Mexico	4
Moldova	101	Burkina Faso	3
Senegal	81	Cape Verde	3
Brazil	76	Honduras	3
China	68	Mali	3
Serbia	67	Afghanistan	2
Algeria	49	Cameroon	2
Bangladesh	47	Jordan	2
Gambia	46	Guinea	2
India	44	Guinea Bissau	2
Chile	43	Israel	2
Colombia	41	Lebanon	2
Ecuador	38	Malesia	2
El Salvador	32	Sierra Leone	2
Macedonia	27	Switzerland	2
Pakistan	27	Uruguay	2
Sri Lanka	25	Armenia	1
Ghana	21	Australia	1
Kosovo	20	Benin	1
Bosnia Herzegovina	19	Guatemala	1
Philippines	18	Hong Kong	1
Dominican Republic	18	Kenya	1
Turkey	15	Kyrgyzstan	1
Russian Federation	12	Laos	1
Bolivia	9	Lybia	1
Montenegro	9	Madagascar	1
Sudan	8	Niger	1
Thailand	8	Dem. Rep. of Congo	1
Argentina	7	Singapore	1
Costa d'Avorio	7	Uganda	1
Paraguay	7	Vietnam	1
<b>TOTAL</b>			<b>6398</b>

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

		International escort	
2015	2655	2850	5505
2016	2918	2899	5817
2017	2870	3644	6514
2018	2995	3403	6398

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

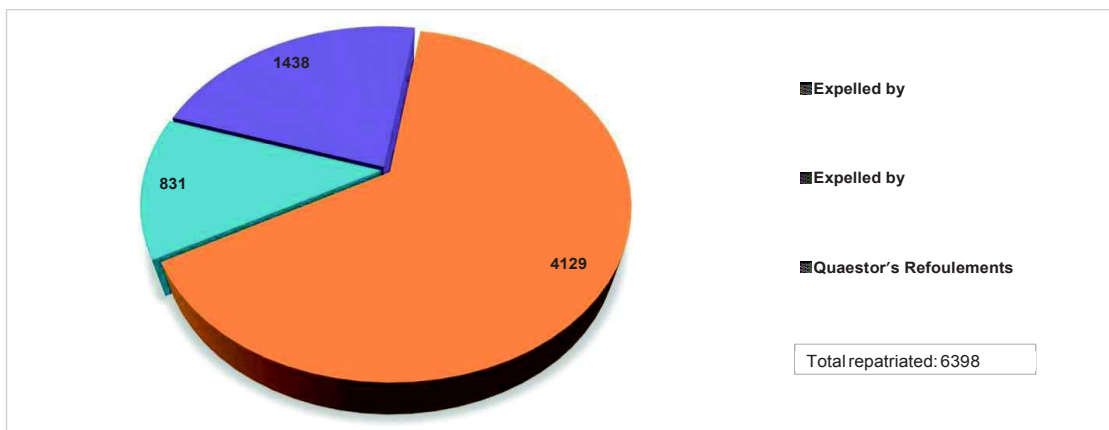
**Table 2.12 – Trend of Returns with International Escort – First Five Nations  
Years 2015-2016-2017-2018**

Nationality	Year 2015	Year 2016	Year 2017	Year 2018
Albania	160	107	186	205
Egypt	667	691	307	148
Morocco	334	329	380	338
Nigeria	221	151	279	189
Tunisia	1002	1268	2125	2127
Others*	466	353	367	396
<b>TOTAL</b>	<b>2850</b>	<b>2899</b>	<b>3644</b>	<b>3403</b>

\* Other nationalities: less than 148 returned persons per year.

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

**Chart 2.3 – Overall Number of Returned Persons per Typology of Measure - Year 2018**



Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

**Table 2.13 – Overall Number of Returned Persons by Province – Year 2018**

Province	Total Repatriated	Province	Total Repatriated
Agrigento	274	Milan	1072
Alessandria	17	Modena	22
Ancona	38	Naples	104
Aosta	28	Novara	36
Arezzo	4	Nuoro	6
Ascoli Piceno	6	Oristano	2
Asti	2	Padua	19
Avellino	6	Palermo	12
Bari	399	Parma	35
Belluno	8	Pavia	21
Bergamo	156	Perugia	81
Biella	33	Pesaro and Urbino	18
Bologna	49	Pescara	4
Bolzano	10	Piacenza	29
Brescia	196	Pisa	3
Brindisi	173	Pistoia	2
Cagliari	2	Pordenone	14
Caltanissetta	29	Potenza	102
Campobasso	6	Prato	35
Caserta	50	Ragusa	208
Catania	7	Ravenna	21
Catanzaro	1	Reggio Emilia	39
Chieti	17	Rieti	10
Como	52	Rimini	14
Cosenza	4	Rome	435
Cremona	54	Rovigo	24
Crotone	4	Salerno	4
Cuneo	46	Sassari	20
Ferrara	18	Savona	1
Florence	11	Siena	12
Foggia	9	Syracuse	7
Forlì	25	Sondrio	1
Frosinone	16	Taranto	8
Genoa	29	Teramo	4
Grosseto	5	Terni	7
Imperia	30	Turin	649
Isernia	1	Trapani	1111
Aquila	7	Trento	18
La Spezia	13	Treviso	40
Latina	1	Trieste	20
Lecce	10	Udine	8
Lecco	5	Varese	95
Livorno	20	Venice	18
Lodi	11	Verbano Cusio Ossola	6
Lucca	13	Vercelli	5
Macerata	5	Verona	9
Mantova	24	Vicenza	31
Massa Carrara	3	Viterbo	27
Matera	2		
<b>TOTAL</b>			<b>6398</b>

**Table 2.14 – Return Chartered Flights - Year 2018**

Nationality	Number of	Number of repatriated
Egypt	3	60
Gambia *	1	4
Nigeria	5	149
Pakistan **	1	2
Tunisia	66	1907
<b>Total</b>	<b>76</b>	<b>2122</b>

\* Joint Frontex flight organised by Germany

\*\* Joint Frontex flight organised by Austria

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

**Table 2.15 – Overall Number of Persons Refouled at Border Crossing Points per Police Station - Year 2018**

Police Station	Typology of Border	
	Air	Sea
Air Border Police Station of Cuneo	11	--
Border Police Station at the airport of Bologna	183	--
Border Police Station at the airport of Ciampino	96	--
Border Police Station at the airport of Florence	54	--
Border Police Station at the airport of Fiumicino	2415	--
Border Police Station at the airport of Lamezia Terme	2	--
Border Police Station at the airport of Milan Linate	47	--
Border Police Station at the airport of Milan Malpensa	2109	--
Border Police Station at the airport of Naples	68	--
Border Police Station at the airport of Orio al Serio	925	--
Border Police Station at the airport of Palermo Punta Raisi	7	--
Border Police Station at the airport of Parma	2	--
Border Police Station at the airport of Pisa	58	--
Border Police Station at the airport of Turin	271	--
Border Police Station at the airport of Treviso	126	--
Border Police Station at the airport of Verona	133	--
Border Police Station at the air and sea border of Ancona	14	31
Border Police Station at the air and sea border of Bari	41	654
Border Police Station at the air and sea border of Brindisi	--	340
Border Police Station at the air and sea border of Cagliari	--	2
Border Police Station at the air and sea border of Catania	7	4
Border Police Station at the air and sea border of Genoa	22	52
Border Police Station at the air and sea border of Olbia	3	--
Border Police Station at the air and sea border of Rimini	24	--
Border Police Station at the air and sea border of Ronchi dei Legionari	2	1
Border Police Station at the air and sea border of Salerno	--	6
Border Police Station at the air and sea border of Trapani	--	1
Border Police Station at the air and sea border of Venice	322	9
Border Police Station at the air and sea border of Civitavecchia	--	15
Border Police Station at the air and sea border of La Spezia	--	1
Border Police Station at the sea border of Livorno	--	7
Border Police Station at the sea border of Naples	--	7
Border Police Station at the sea border of Palermo	--	34
Border Police Station at the sea border of Savona	--	13
Border Police Station at the sea border of Syracuse	--	1
Border Police Station at the sea border of Taranto	--	1
Border Police Station at the sea border of Trieste	--	63
<b>Overall Total</b>	<b>6942</b>	<b>1242</b>

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police



**Table 2.16 – Overall Number of Persons Refouled at Border Points per Declared Nationality - Year 2018**

Nationality	Typology of frontier		Total	Nationality	Typology of frontier		Total
	Air	Sea			Air	Sea	
Albania	2446	958	3404	Jordan	9	--	9
Moldova	560	--	560	Malaysia	9	--	9
Ukraine	437	1	438	Bolivia	8	--	8
Georgia	433	1	434	Mauritius	8	--	8
Brazil	298	1	299	Sudan	8	--	8
Turkey	246	54	300	Tanzania	8	--	8
Morocco	249	38	287	Mali	7	--	7
Egypt	181	1	182	Nepal	7	--	7
China	169	--	169	Republic of Congo	7	--	7
Tunisia	91	75	166	Zimbabwe	6	1	7
Russian Federation	131	6	137	Gabon	6	--	6
India	117	1	118	Kyrgyzstan	6	--	6
Algeria	90	14	104	South Africa	5	1	6
Republic of North Macedonia	50	41	91	Cambodia	5	--	5
Iran	77	7	84	Ecuador	5	--	5
Pakistan	82	--	82	El Salvador	5	--	5
Nigeria	78	--	78	Gambia	5	--	5
Senegal	73	--	73	Qatar	5	--	5
Serbia	54	12	66	United Kingdom	5	--	5
Sri Lanka	65	--	65	Thailand	5	--	5
Ghana	59	--	59	Angola	4	--	4
Paraguay	59	--	59	Saudi Arabia	4	--	4
United States of America	50	--	50	Australia	4	--	4
Chile	40	--	40	Canada	4	--	4
Cuba	39	--	39	Kenya	4	--	4
Ethiopia	38	--	38	Kuwait	4	--	4
Bangladesh	30	1	31	Yemen	4	--	4
Lybia	28	3	31	Comoros	3	--	3
Kosovo	13	15	28	Japan	3	--	3
Ivory Coast	27	--	27	Guatemala	3	--	3
Armenia	26	--	26	Honduras	3	--	3
Argentina	25	--	25	Benin	2	--	2
Philippines	24	--	24	Burkina Faso	2	--	2
Romania	23	--	23	North Korea	2	--	2
Syria	19	4	23	South Korea	2	--	2
Iraq	21	1	22	Costa Rica	2	--	2
Colombia	20	--	20	Jamaica	2	--	2
Mexico	20	--	20	Mongolia	2	--	2
Eritrea	19	--	19	New Zealand	2	--	2
Belarus	18	--	18	Central African Republic	2	--	2
Lebanon	18	--	18	Seychelles	2	--	2
Peru	18	--	18	Sierra Leone	2	--	2
Israel	17	--	17	Taiwan	2	--	2
Venezuela	16	--	16	Uruguay	2	--	2
Palestine	15	--	15	Botswana	1	--	1
Democratic Republic of Congo	15	--	15	Bulgaria	1	--	1
Afghanistan	14	--	14	Burundi	1	--	1
Guinea	14	--	14	Cape Verde	1	--	1
Vietnam	13	--	13	Hong Kong	1	--	1
Bosnia-Herzegovina	7	5	12	Myanmar	1	--	1
Montenegro	11	1	12	Namibia	1	--	1
Dominican Republic	12	--	12	Niger	1	--	1
Azerbaijan	11	--	11	Panama	1	--	1
Somalia	10	0	10	Togo	1	--	1
Uzbekistan	10	--	10	Uganda	1	--	1
Cameroon	9	--	9	Zambia	1	--	1
<b>Total</b>					<b>6942</b>	<b>1242</b>	<b>8184</b>

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

**Table 2.17 – Overall Number of Persons Refouled at Border Points per Reasons of Rejection - Year 2018**

Nationality	Typology frontier		Total
	Air	Sea	
Lacking appropriate documentation attesting aim and condition of stay	3619	454	4073
Reported for purposes of non-admission in the SIS	833	431	1264
Lacking a valid visa or residence permit	1142	54	1196
The person already stayed in the territory of the EU Member States for 3 months out of 6	621	80	701
Lacking valid travel document/s	257	50	307
In possession of false/forged/altered travel documents	148	3	151
Considered as a threat to public policy, internal security, public health or to the International relations of one of the EU Member States	89	58	147
Reported in the National Register for purposes of non-admission	45	96	141
Lacking sufficient livelihood in relation to the period and modalities of the stay, as well as sufficient means to return to the country of origin or transit	101	14	115
In possession of false/forged/altered visa or residence permit	87	2	89
<b>Total</b>	<b>6942</b>	<b>1242</b>	<b>8184</b>

Source: Elaboration on data provided by the Department of Public Security, Central Directorate of Immigration and Border Police

**Table 3.1 – Entries in Juvenile Detention Facilities - Year 2018**

Reason of entry	Total
<b>In pre-trial custody</b>	
From freedom	160
From Temporary Reception Centres	253
From house arrest for modified measure	2
From communities for modified measure	40
From communities for new proceedings	5
From communities for aggravation	344
From Adults' Prison institutions	10
<b>In criminal enforcement</b>	
From freedom	197
From communities	11
For revocation or interruption of alternative measure	79
From house arrest (adults)	8
From Adults' Prison institutions	23
<b>Totale</b>	<b>1.132</b>

**Table 3.2 – Detainees Hosted in Juvenile Detention Facilities**

Date	Detainees hosted
31/1/2018	450
28/2/2018	461
31/3/2018	480
30/4/2018	476
31/5/2018	479
30/6/2018	479
31/7/2018	455
31/8/2018	474
30/9/2018	482
31/10/2018	470
30/11/2018	462
31/12/2018	441

Source: Juvenile and Community Justice Department – Juvenile Justice Information System (SISM)  
Elaborated by the National Guarantor-Operating Unit: Deprivation of Liberty in Criminal Matters

**Table 3.3 – Offences Charged to Minors Hosted in Temporary Reception Centres, According to Category - Year 2018**

Offences	Total
<b>Against the person</b>	<b>181</b>
Of which:	
voluntary manslaughter	10
attempted voluntary manslaughter	37
voluntary personal injuries	92
sexual violence	17
<b>Against the family, public morality and decency</b>	<b>9</b>
<b>Against the property</b>	<b>785</b>
Of which:	
theft	433
robbery	268
blackmail	37
damage to things, animals, terrains	10
Receiving of stolen goods	34
<b>Against public safety</b>	<b>376</b>
Of which:	
narcotics	371
<b>Against public faith</b>	<b>14</b>
Of which:	
false deeds and persons	13
<b>Against the State, other Institutions, public order</b>	<b>39</b>
Of which:	
violence, obstruction, insults	31
<b>Other offences</b>	<b>44</b>
Of which:	
weapons	42
<b>Total</b>	<b>1,448</b>

**Table 3.4 – Monthly Entries in Temporary Reception Centres - Year 2018**

Month	No. Entries
January	111
February	101
March	106
April	91
May	97
June	104
July	97
August	80
September	76
October	91
November	82
December	87
<b>Total</b>	<b>1,123</b>

Source: Juvenile and Community Justice Department – Juvenile Justice Information System (SISM)  
Elaborated by the National Guarantor-Operating Unit: Deprivation of Liberty in Criminal Matters

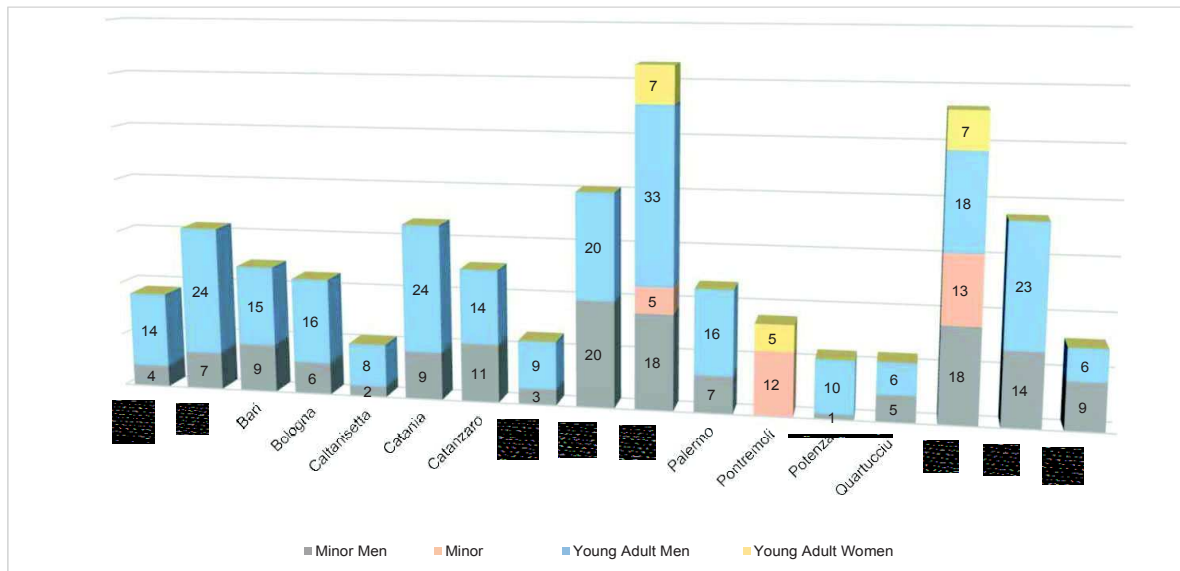


**Table 3.5 - Typologies of Inmates in Juvenile Detention Facilities (Recorded on 7/1/2019)**

Juvenile Detention Facilities	Minor		Young adults	
	Men	Women	Men	Women
Acireale	4	0	14	0
Airola	7	0	24	0
Bari	9	0	15	0
Bologna	6	0	16	0
Caltanissetta	2	0	8	0
Catania	9	0	24	0
Catanzaro	11	0	14	0
Florence	3	0	9	0
Milan	20	0	20	0
Nisida	18	5	33	7
Palermo	7	0	16	0
Pontremoli	0	12	0	5
Potenza	1	0	10	0
Quartucciu	5	0	6	0
Rome	18	13	18	7
Turin	14	0	23	0
Treviso	9	0	6	0
<b>Total</b>	<b>143</b>	<b>30</b>	<b>256</b>	<b>19</b>

Source: Juvenile and Community Justice Department – Juvenile Justice Information System (SISM)  
 Elaborated by the National Guarantor-Operating Unit: Deprivation of Liberty in Criminal Matters

**Chart 3.1 - Typologies of Inmates in Juvenile Detention Facilities - (Recorded on 07/01/2019)**



Source: Juvenile and Community Justice Department – Juvenile Justice Information System (Sism)

**Table 3.6 – Nationality of Inmates in Juvenile Detention Facilities  
(Recorded on 7/1/2019)**

<b>Nation</b>	<b>Young adults</b>	<b>Minors</b>	<b>Total</b>
Italy	176	103	279
Romania	20	19	39
Morocco	14	8	22
Egypt	15	6	21
Tunisia	10	7	17
Albania	7	4	11
Serbia	1	4	5
Spain	1	4	5
China	2	2	4
Croatia	2	2	4
Bosnia - Herzegovina	2	1	3
Ecuador	3	0	3
Lybia	3	0	3
Senegal	3	0	3
Ukraine	2	1	3
Algeria	1	1	2
El Salvador	2	0	2
France	0	2	2
Gambia	1	1	2
Republic of North Macedonia	2	0	2
Nigeria	2	0	2
Peru	2	0	2
Belgium	0	1	1
Bulgaria	0	1	1
Ivory Coast	0	1	1
Dominican Republic	1	0	1
Ethiopia	0	1	1
Ghana	0	1	1
Greece	1	0	1
Kosovo	1	0	1
Russia	0	1	1
Syria	0	1	1
Slovakia	0	1	1
Not Identified	1	0	1
<b>Total</b>	<b>275</b>	<b>173</b>	<b>448</b>

*Source: Juvenile and Community Justice Department – Juvenile Justice Information System (SISM)*

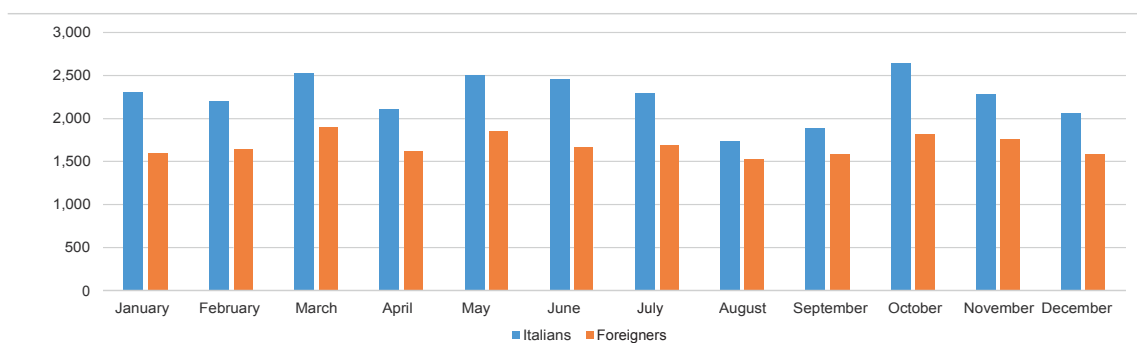
*Elaborated by the National Guarantor - Operating Unit: Deprivation of Liberty in Criminal Matters*

**Table 3.7 – Entries in Prison Institutions from Freedom - Year 2018**

Month	Italians	Foreigners	Total
January	2,305	1,596	3,901
February	2,201	1,646	3,847
March	2,531	1,902	4,433
April	2,104	1,620	3,724
May	2,500	1,851	4,351
June	2,458	1,666	4,124
July	2,294	1,692	3,986
August	1,737	1,525	3,262
September	1,891	1,586	3,477
October	2,641	1,817	4,458
November	2,283	1,759	4,042
December	2,067	1,585	3,652
<b>Total</b>	<b>27,012</b>	<b>20,245</b>	<b>47,257</b>

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit

**Chart 3.2 – Entries in Prison Institutions from Freedom - Year 2018**



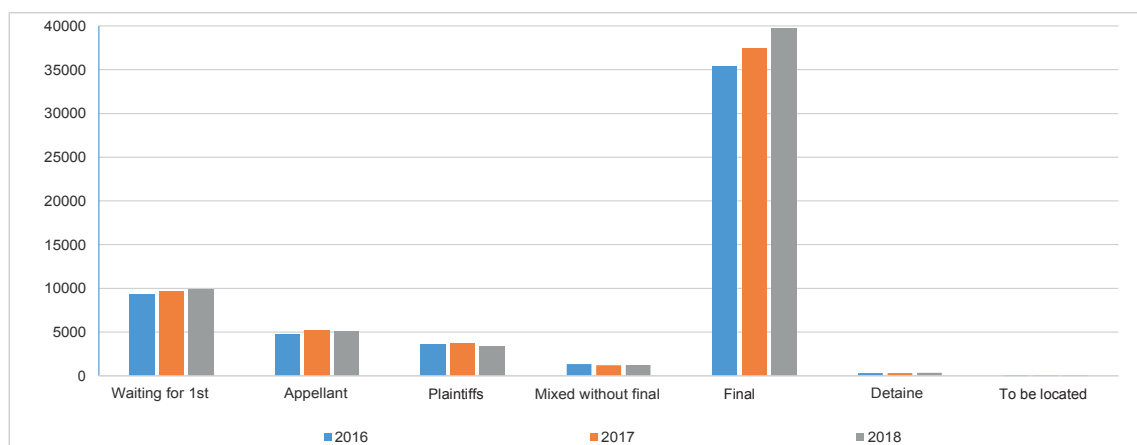
Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit

**Table 3.8 - Detainees Present by Legal Position – History Year 2016/2017/2018**

Year	Waiting for 1st judgment Mixed without	Appellants	Plaintiffs	Final to be located	United Patients	Detainees present
2016	9,337	4,714	3,552	1,320	35,400	295
2017	9,634	5,235	3,743	1,203	37,451	304
2018	9,838	5,104	3,395	1,228	39,738	330

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit

**Chart 3.3 - Detainees Present by Legal Position – History Year 2016/2017/2018**



Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit

**Table 3.9 – Entries in Adults' Prison Institutions from Freedom  
Historical Data of the Years 1991-2018**

Year	Entries from freedom of Italians			Entries from freedom of foreigners			Total entries from freedom		
	Men	Women	Total	Men	Women	Total	Men	Women	Total
1991	57,809	4,835	62,644	12,168	974	13,142	69,977	5,809	75,786
1992	71,249	6,360	77,609	14,398	1,321	15,719	85,647	7,681	93,328
1993	71,535	5,861	77,396	19,122	1,601	20,723	90,657	7,462	98,119
1994	67,980	5,550	73,530	22,613	2,102	24,715	90,593	7,652	98,245
1995	59,948	4,744	64,692	21,692	2,031	23,723	81,640	6,775	88,415
1996	58,632	4,365	62,997	22,174	2,478	24,652	80,806	6,843	87,649
1997	57,109	4,220	61,329	24,678	2,298	26,976	81,787	6,518	88,305
1998	54,575	3,828	58,403	26,316	2,415	28,731	80,891	6,243	87,134
1999	54,424	4,077	58,501	26,586	2,775	29,361	81,010	6,852	87,862
2000	49,098	3,678	52,776	25,781	2,840	28,621	74,879	6,518	81,397
2001	47,191	3,344	50,535	25,334	2,780	28,114	72,525	6,124	78,649
2002	47,522	3,513	51,035	27,250	2,900	30,150	74,772	6,413	81,185
2003	46,434	3,504	49,938	28,206	3,646	31,852	74,640	7,150	81,790
2004	46,531	3,495	50,026	28,581	3,668	32,249	75,112	7,163	82,275
2005	45,755	3,526	49,281	35,202	5,404	40,606	80,957	8,930	89,887
2006	44,225	3,201	47,426	38,516	4,772	43,288	82,741	7,973	90,714
2007	43,328	3,253	46,581	39,943	3,917	43,860	83,271	7,170	90,441
2008	46,078	3,623	49,701	39,451	3,648	43,099	85,529	7,271	92,800
2009	44,554	3,439	47,993	36,719	3,354	40,073	81,273	6,793	88,066
2010	43,907	3,436	47,343	34,308	2,990	37,298	78,215	6,426	84,641
2011	40,458	3,219	43,677	30,571	2,734	33,305	71,029	5,953	76,982
2012	33,364	2,650	36,014	24,765	2,241	27,006	58,129	4,891	63,020
2013	31,150	2,422	33,572	23,705	2,113	25,818	54,855	4,535	59,390
2014	25,511	1,959	27,470	20,981	1,766	22,747	46,492	3,725	50,217
2015	23,537	1,765	25,302	18,949	1,572	20,521	42,486	3,337	45,823
2016	24,419	1,821	26,240	19,534	1,568	21,102	43,953	3,389	47,342
2017	25,110	1,957	27,067	19,528	1,549	21,077	44,638	3,506	48,144
2018	25,097	1,915	27,012	18,682	1,563	20,245	43,779	3,478	47,257

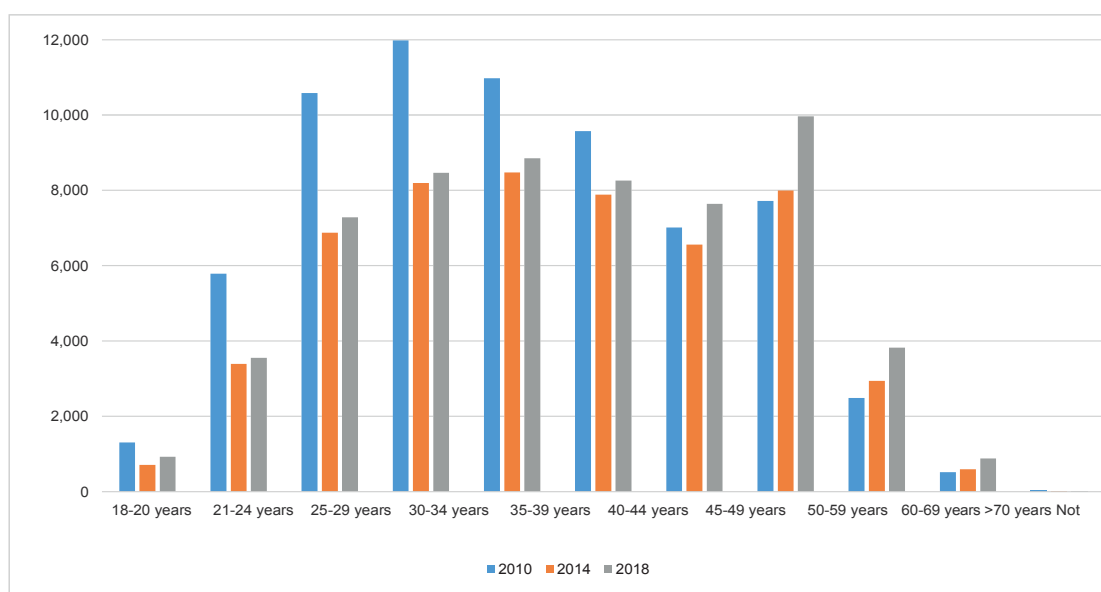
Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit - Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.10 – Detainees per Age Group - Years 2010-2014-2018**

Year	18-20 years	21-24 years	25-29 years	30-34 years	35-39 years	40-44 years	45-49 years	50-59 years	60-69 years	>70 years	Not recorded Total	
<b>2010</b>	1,302	5,788	10,580	11,981	10,977	9,573	7,011	7,713	2,489	517	30	<b>67,961</b>
<b>%</b>	1.9	8.6	15.6	17.6	16.1	14	10.3	11.3	3.7	0.8	0.1	<b>100%</b>
<b>2014</b>	710	3,390	6,872	8,194	8,473	7,884	6,558	7,995	2,946	594	7	<b>53,623</b>
<b>%</b>	1.3	6.3	12.8	15.3	15.8	14.7	12.25	14.9	5.5	1.1	0.05	<b>100%</b>
<b>2018</b>	925	3,550	7,283	8,469	8,855	8,255	7,639	9,962	3,824	881	12	<b>59,655</b>
<b>%</b>	1.55	5.95	12.2	14.25	14.8	13.8	12.8	16.7	6.4	1.5	0.05	<b>100%</b>

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Chart 3.4 – Detainees per Age Group - Years 2010-2014-2018**



Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

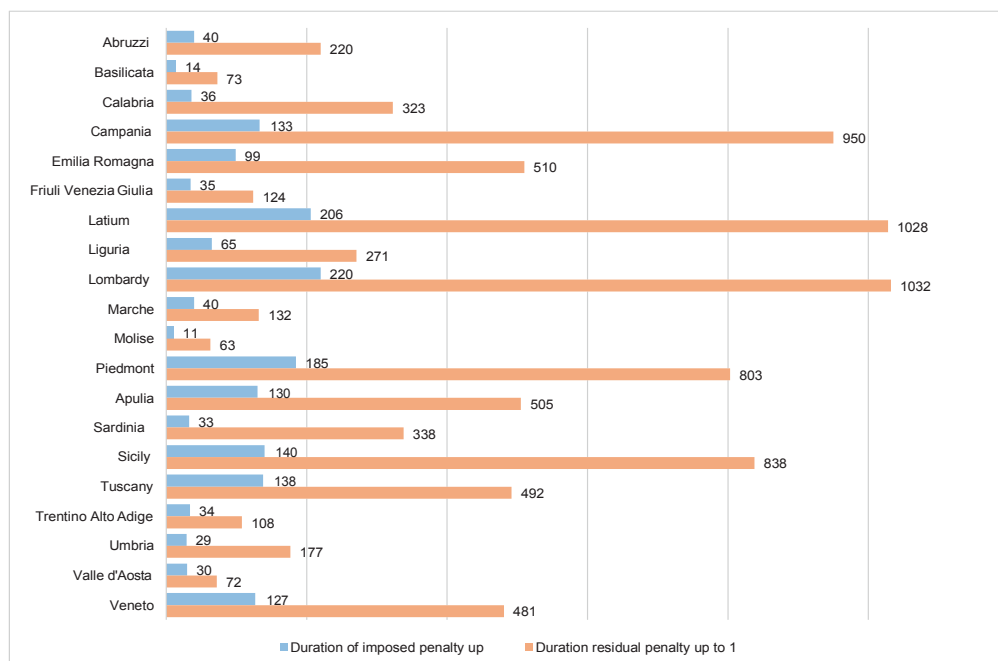
**Table 3.11 – Detainees subjected to final Conviction per Region of Detention with Duration of the Imposed and Residual Penalty up to 1 Year – Recorded on 07/01/2019**

Region of detention	Duration of imposed penalty up to 1 year	Duration of residual penalty up to 1 year
Abruzzi	40	220
Basilicata	14	73
Calabria	36	323
Campania	133	950
Emilia Romagna	99	510
Friuli Venezia Giulia	35	124
Latium	206	1028
Liguria	65	271
Lombardy	220	1032
Marche	40	132
Molise	11	63
Piedmont	185	803
Apulia	130	505
Sardinia	33	338
Sicily	140	838
Tuscany	138	492
Trentino Alto Adige	34	108
Umbria	29	177
Valle d'Aosta	30	72
Veneto	127	481
<b>National Total</b>	<b>1,745</b>	<b>8,540</b>

On 9 January 2019 the detainees present in prison were 59,669: those finally sentenced with an "imposed penalty " up to 1 year were 1,745 (2.92%) of the whole detained population; those finally sentenced with a "residual penalty" up to 1 year were 8,540 (14.31%) of the whole detained population.

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Chart 3.5 – Detainees Subjected to Final Sentence per Region of Detention with Duration of the Imposed and Residual Penalties up to 1 Year – Recorded on 07/01/2019**



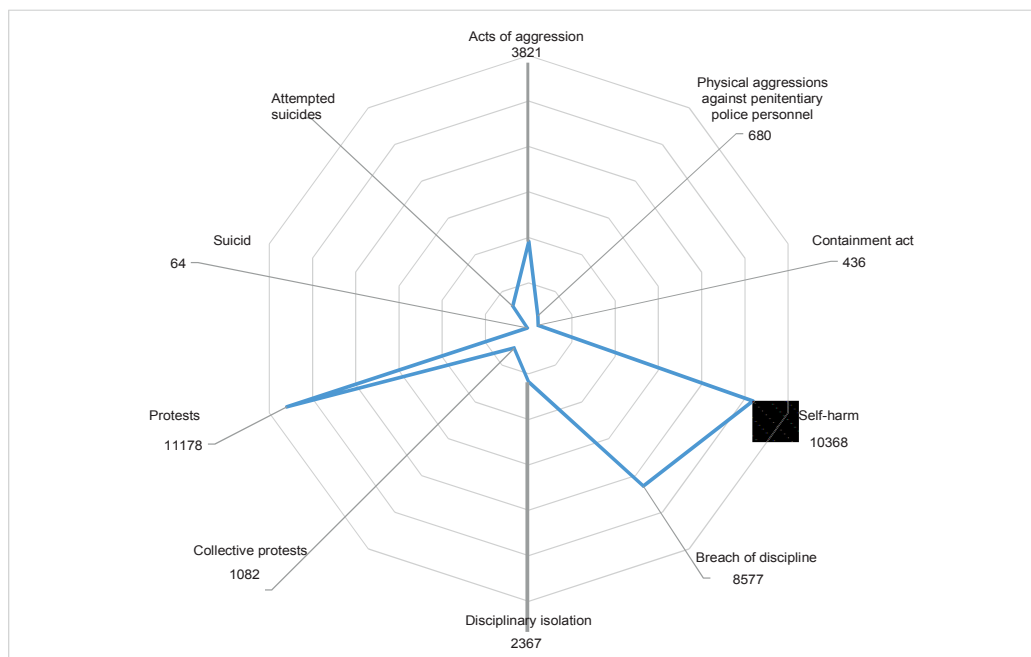
Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.12 – Critical Events – Adults – Historical Data 2014-2018**

Critical events	2014	2015	2016	2017	2018
Acts of aggression	2,039	2,520	3,296	3,664	3,821
Physical aggressions against penitentiary police personnel	387	421	543	587	680
Containment act	0	84	279	305	436
Self-harm	6,889	6,986	8,539	9,442	10,368
Breach of discipline	1,127	2,574	4,817	6,754	8,577
Disciplinary isolation	238	590	2,194	1,946	2,367
Collective protest	1,057	639	1,022	1,089	1,082
Protests	8,970	9,057	9,467	10,427	11,178
Suicides	43	39	40	50	64
Attempted suicides	930	955	1,008	1,132	1,197

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Chart 3.6 – Critical Events – Adults - Year 2018**



Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit -  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

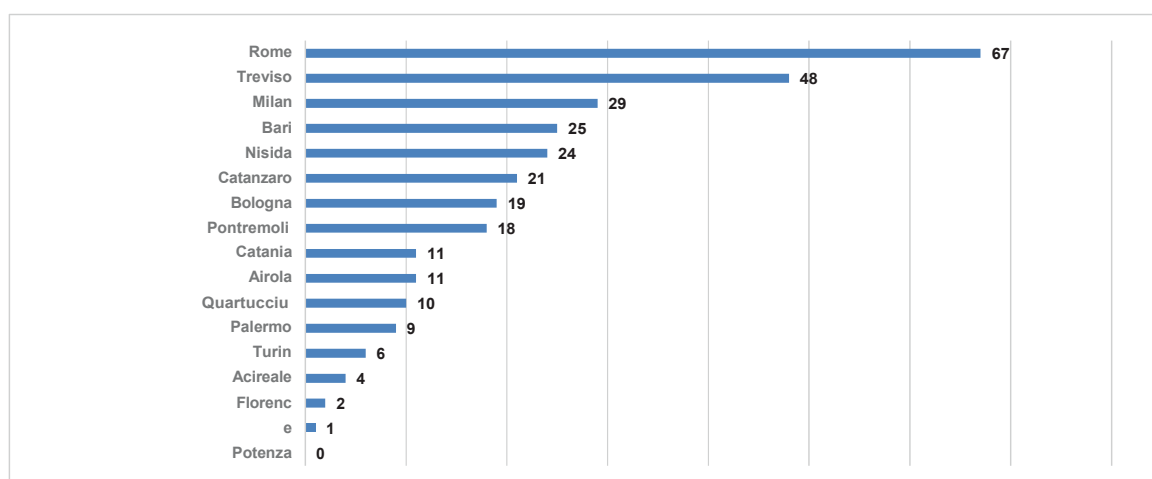
**Table 3.13 – Critical Events in Juvenile Detention Facilities - Year 2018**

Juvenile Detention Facility (IPM)	Self-Harm	Attempted Suicide	Escape	Violent Action	Total Events
Caltanissetta	0	0	0	0	0
Potenza	1	0	0	0	1
Florence	0	0	0	2	2
Acireale	0	0	0	4	4
Turin	4	1	0	1	6
Palermo	2	0	3	4	9
Quartucciu	1	2	0	7	10
Airola	2	6	3	0	11
Catania	2	2	3	4	11
Pontremoli	2	3	0	13	18
Bologna	2	1	5	11	19
Catanzaro	0	4	4	13	21
Nisida	3	4	16	1	24
Bari	7	0	0	18	25
Milan	4	2	0	23	29
Treviso	34	2	1	11	48
Rome	33	2	8	24	67
<b>Total</b>	<b>97</b>	<b>29</b>	<b>43</b>	<b>136</b>	<b>305</b>

Source: Juvenile and Community Justice Department – Juvenile Justice Information System (SISM)

Elaborated by the National Guarantor-Operating Unit: Deprivation of Liberty in Criminal Matters

**Chart 3.7 – Critical Events in Juvenile Detention Facilities - Year 2018**



Source: Juvenile and Community Justice Department – Juvenile Justice Information System (Sism)

Elaborated by the National Guarantor-Operating Unit: Deprivation of Liberty in Criminal Matters

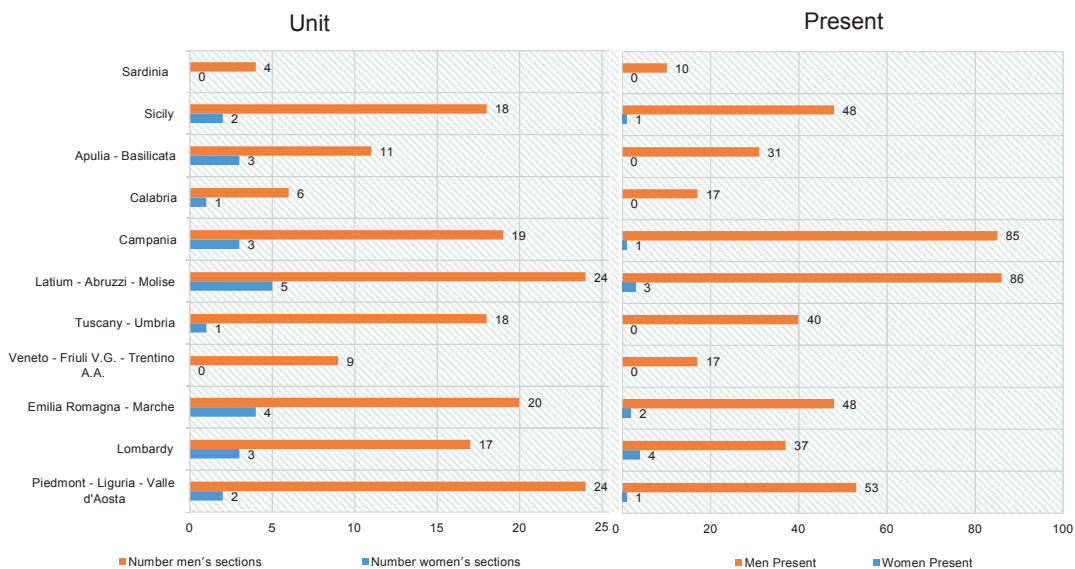


**Table 3.14 – Units and Persons in Solitary Confinement – Recorded on 17/1/2019**

Regional Education Offices	Present			
	Women's	Men's	Women	Men
Piedmont - Liguria - Valle d'Aosta	2	24	1	53
Lombardy	3	17	4	37
Emilia Romagna - Marche	4	20	2	48
Veneto - Friuli V.G. - Trentino A.A.	0	9	0	17
Tuscany - Umbria	1	18	0	40
Latium - Abruzzi - Molise	5	24	3	86
Campania	3	19	1	85
Calabria	1	6	0	17
Apulia - Basilicata	3	11	0	31
Sicily	2	18	1	48
Sardinia	0	4	0	10
<b>Total</b>	<b>24</b>	<b>170</b>	<b>12</b>	<b>472</b>

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Chart 3.8 – Units and Persons in Solitary Confinement – Recorded on 17/1/2019**



Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.15 – Suicides Year 2018**

Prison institution	Sex	Nationality	Age	Detention Unit of Death	Legal Position
Sassari	M	Foreign	28	Open custody unit	Plaintiff
Cagliari	M	Foreign	43	Ordinary unit	Final
Civitavecchia N.C.	M	Foreign	36	Open custody unit	Waiting for 1st judgment
Barcellona p.g.	M	Foreign	21	Mental Health ward	Waiting for 1st judgment
Como	M	Italy	45	Ordinary unit	Final
Rebibbia	F	Foreign	51	Women's open custody detention *	Waiting for 1st judgment
Isili	M	Foreign	32	Open custody detention	Plaintiff
Lecce N.C.	M	Foreign	59	Open custody detention *	Plaintiff
Barcellona P.G.	M	Foreign	26	Mental Health ward	Appellant
Ravenna	M	Foreign	51	Initial reception	Waiting for 1st judgment
Piacenza	M	Foreign	23	Ordinary unit	Plaintiff
Trieste	M	Foreign	62	Open custody unit	Appellant
Florence Sollicciano	M	Foreign	26	Prison's infirmary	Waiting for 1st judgment
Treviso	M	Italy	41	Open custody unit	Final
Chieti	M	Italy	37	Protected	Appellant
Busto Arsizio	M	Foreign	20	Ordinary unit	Waiting for 1st judgment
Pescara	M	Italy	41	Ordinary unit	Final
Cagliari	M	Foreign	24	Open custody unit	Appellant
Viterbo	M	Italy	36	Solitary confinement unit	Final
Verona	M	Foreign	39	Open custody unit	Appellant
Livorno	M	Italy	58	High security 3	Mixed subjected to final
Taranto	M	Italy	38	Solitary confinement unit	Waiting for 1st judgment
Mantua	M	Foreign	28	Protected	Waiting for 1st judgment
Ivrea	M	Foreign	43	Ordinary unit	Final
Cagliari	M	Italy	30	REMS (Capoterra)	Internee
Verona	F	Italy	38	Women's open custody unit	Appellant
Naples Poggioreale	M	Italy	37	Protected	Mixed without final
Naples Poggioreale	M	Italy	34	High security 3	Mixed subjected to final
Viterbo	M	Foreign	21	Open custody unit	Final
La Spezia	M	Italy	60	Initial reception	Waiting for 1st judgment
La Spezia	M	Foreign	33	Detention - Article 32 DPR 230/2000	Final
Udine	M	Foreign	33	Solitary confinement unit	Waiting for 1st judgment
Genoa Marassi	M	Foreign	31	Initial reception	Waiting for 1st judgment
Naples Poggioreale	M	Italy	29	Ordinary unit	Appellant
Naples Poggioreale	M	Italy	65	Disabled - SAI	Plaintiff
Lodi	M	Italy	38	Open custody unit	Appellant
Taranto	M	Italy	38	Ordinary unit	Waiting for 1st judgment
Udine	M	Foreign	18	Solitary confinement unit	Waiting for 1st judgment
Genoa Pontedecimo	F	Foreign	35	Women's ordinary unit	Waiting for 1st judgment
Lecce N.C.	M	Foreign	44	Protected	Waiting for 1st judgment
Civitavecchia N.C.	M	Italy	36	Infirmary unit	Waiting for 1st judgment
Civitavecchia N.C.	M	Foreign	26	Open custody unit	Appellant
Naples Secondigliano	M	Italy	32	Mental Health ward	United patient
Carinola	M	Italy	30	Detention - Article 32 DPR 230/2000*	Appellant
Lucera	M	Foreign	41	Initial reception	Final
Trieste	M	Foreign	46	Solitary confinement unit	Waiting for 1st judgment
Naples Poggioreale	M	Italy	31	Ordinary unit	Mixed subjected to final
Palermo Pagliarelli	M	Italy	39	Solitary confinement unit	Waiting for 1st judgment
Palermo Pagliarelli	M	Italy	26	Ordinary unit	Mixed subjected to final
Vigevano	M	Foreign	24	Detention in infirmary*	Final
Grosseto	M	Italy	66	Solitary confinement unit	Final
Salerno	F	Italy	44	Women's open custody unit	Final
Velletri	M	Italy	33	Solitary confinement unit	Waiting for 1st judgment
Avellino	M	Italy	39	Ordinary unit	Final
Brindisi	M	Italy	43	Ordinary unit	Final
Verona	M	Foreign	33	Detention - Article 32 DPR 230/2000	Final
Trento	M	Foreign	19	Protected	Appellant
Pavia	M	Italy	43	Infirmary unit	Final
Catania Bicocca	M	Italy	47	High security 3	Waiting for 1st judgment
Pisa	M	Foreign	30	Detention - Article 32 DPR 230/2000	Waiting for 1st judgment
Catania Piazza Lanza	M	Italy	47	Ordinary unit	Waiting for 1st judgment
Messina	M	Italy	43	High security 3	Mixed without final
Trento	M	Foreign	32	Open custody unit	Final

\*Detention Unit Present in the Prison

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.16 – Analysis of Suicides year**

In 2018 suicides were **64**  
(60 inside and 4 outside)

**Age**

The average age of detainees who committed suicide is **37** (the youngest person, who committed suicide in the Penitentiary of Udine, was **18** years old, the oldest, who committed suicide in the Penitentiary of Grosseto, was **66** years old).

**Nationality**

**32** Italian detainees (30 men and 2 women)  
**32** foreign detainees (30 men and 2 women)

**Gender**

**4** women ; **60** men

**Place of death**

**56** Penitentiaries  
**1** Detention Facility  
**2** REMS  
**1** House arrest  
**4** Hospitalised

**Prison Institutions with the Highest Number of Suicides**

**5** Penitentiary of Poggioreale - Naples (4 inside the institution and 1 outside);  
**4** Penitentiary of Cagliari (2 inside the institution and 2 outside, at the REMS of Capoterra)  
**3** Penitentiary of Civitavecchia and Verona with 3 suicides each.

**Detentive Unit where Casualties Occurred**

**27** Ordinary  
**8** Solitary confinement  
**4** High security 3  
**4** Initial reception;  
**3** Mental Health Ward  
**5** Infirmary  
**8** Protected - promiscuous  
**3** Confinement  
**2** REMS

**Legal Position**

**22** Waiting for 1st judgment  
**18** Final  
**11** Appellants  
**5** Plaintiffs  
**4** Mixed subjected to final  
**2** Mixed without final  
**2** Internees

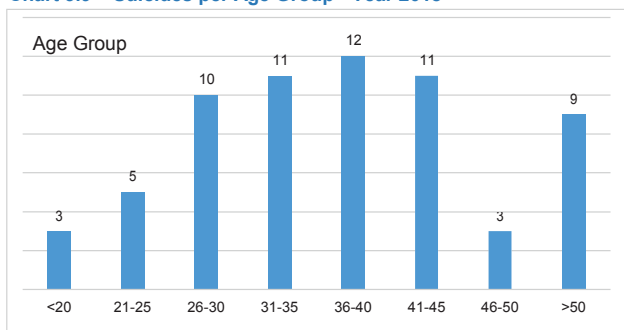
**Final term of sentence**

**3** Within the year  
**17** Less than 2 years  
**7** From 3 to 5 years  
**37** Over 5 years  
The most significant continuous number of suicides occurs within 2 years from the final term of the sentence .

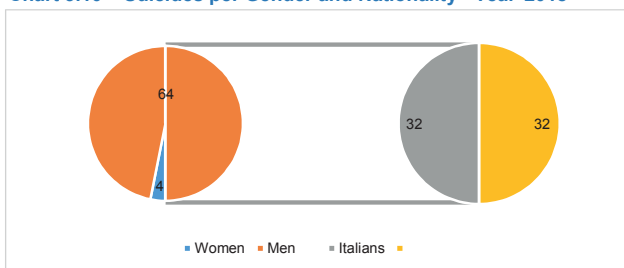
**Modalities**

Hanging is the preferred modality, adopted for **59** suicides out of 64, **1** by severing of veins, **1** by suffocation; the other **3** modalities have not been reported.

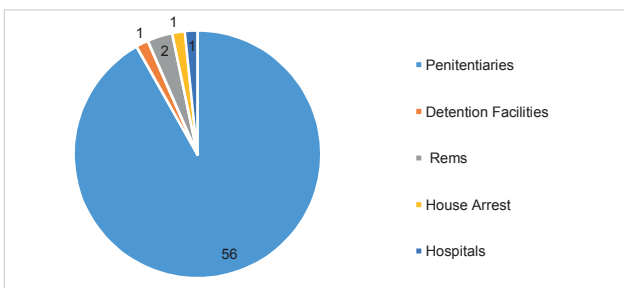
**Chart 3.9 – Suicides per Age Group - Year 2018**



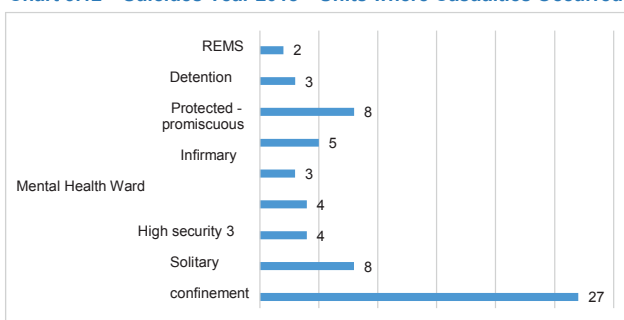
**Chart 3.10 – Suicides per Gender and Nationality - Year 2018**



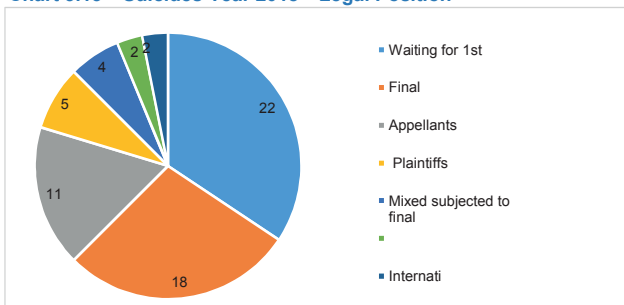
**Chart 3.11 – Suicides Year 2018 – Places of Death**



**Chart 3.12 – Suicides Year 2018 – Units where Casualties Occurred**



**Chart 3.13 – Suicides Year 2018 – Legal Position**



Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

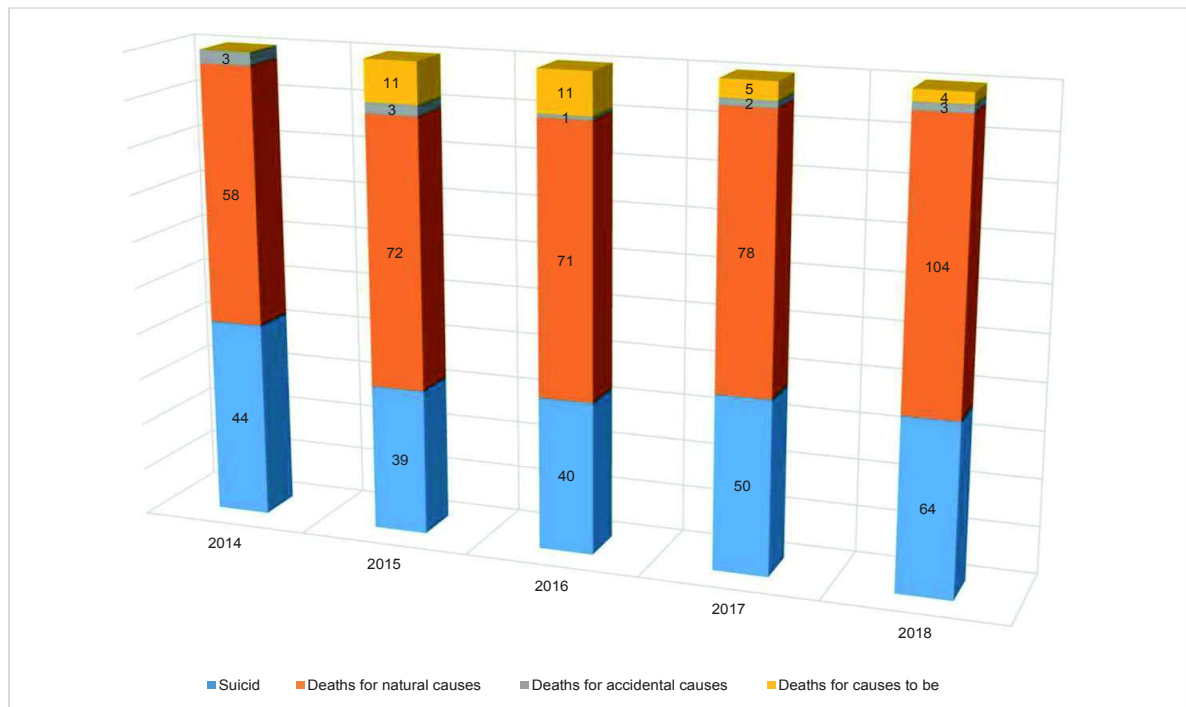


**Table 3.17 – Casualties in Prison – History Years 2014-2018**

Years	Deaths for natural causes	Suicides	Deaths for natural	Deaths for accidental causes	Deaths for causes to be ascertained
2014	44	58	3	0	
2015	39	72	3	11	
2016	40	71	1	11	
2017	50	78	2	5	
2018	64	104	3	4	
<b>Total</b>	<b>226</b>	<b>322</b>	<b>12</b>	<b>31</b>	

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Chart 3.14 - Casualties in Prison – History Years 2014-2018**



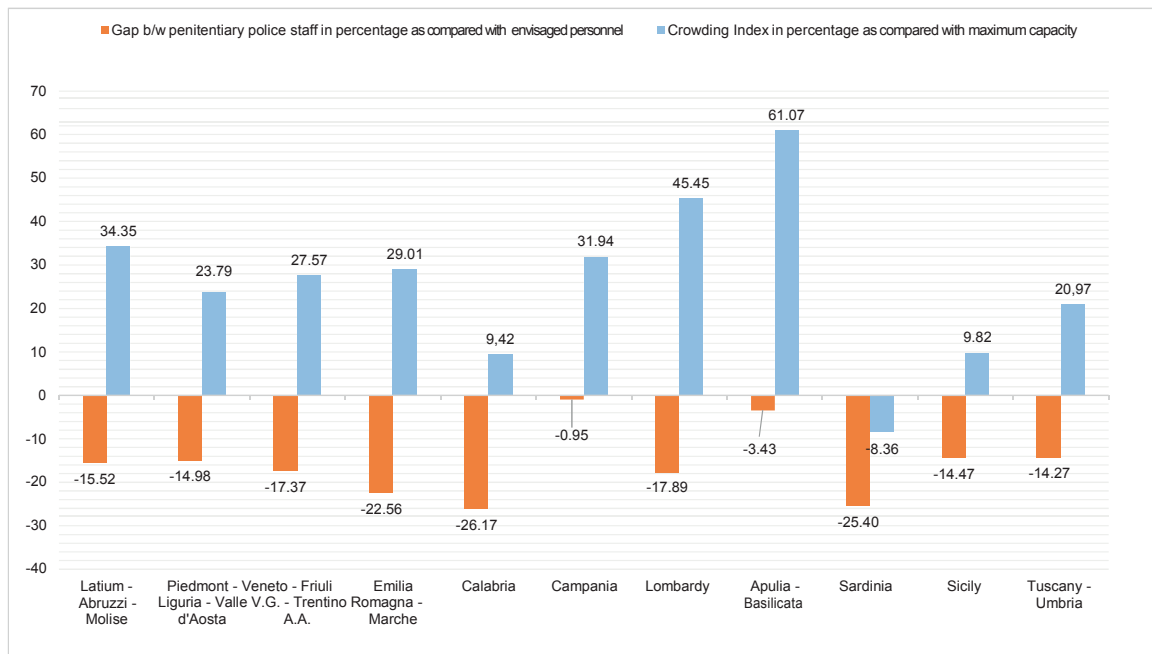
Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit  
Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.18 – Ratio between Crowding Index of Detainees and Penitentiary Police Personnel – Updated to 25/1/2019**

Superintenden	Detainees	% crowding	Envisaged staff Pen. Pol.	Actual staff Pen. Pol.	Gap Pen. Pol.	% gap Pen. Pol.
Latium - Abruzzi - Molise	8,944	134.35	5,116	4,322	-794	- 15.52
Piedmont - Liguria - Valle d'Aosta	6,192	123.79	4,065	3,456	-609	- 14.98
Veneto - Friuli V.G. - Trentino A.A.	3,507	127.57	2,660	2,198	-462	- 17.37
Emilia Romagna - Marche	4,500	129.01	3,161	2,448	-713	- 22.56
Calabria	2,891	109.42	1,991	1,470	-521	- 26.17
Campania	7,770	131.94	4,003	3,965	-38	- 0.95
Lombardy	8,509	145.45	4,594	3,772	-822	- 17.89
Apulia - Basilicata	4,220	161.07	2,329	2,249	-80	- 3.43
Sardinia	2,138	91.64	1,815	1,354	-461	- 25.4
Sicily	6,553	109.82	4,203	3,595	-608	- 14.47
Tuscany - Umbria	4,834	120.7	3,244	2,781	-463	- 14.27
<b>Total</b>	<b>60,058</b>	<b>127.30</b>	<b>37,181</b>	<b>31,610</b>	<b>-5,571</b>	<b>14.98</b>

F Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Chart 3.15 – Ratio between Crowding Index of Detainees and Penitentiary Police Personnel Updated to 25/1/2019**



Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.19 - No. of Secondary School Courses in Prison Institutions - Year 2018**

Secondary school	No. courses 1st school term	No. courses 2nd school term	No. courses 3rd school term
Art colleges	26	24	13
Other colleges	17	10	6
Vocational schools in the services sector	122	87	41
Vocational schools in the industry and craft sectors	19	12	4
Technical colleges in the economic sector	86	55	31
Technical colleges in the technological sector	61	47	26
<b>Total</b>	<b>331</b>	<b>235</b>	<b>121</b>

*F Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit - Elaboration by the National Guarantor – Operating Unit: Deprivator of Liberty in Criminal Matters.*

**Table 3.20 - No. Enrolled in Secondary School Courses in Prison Institutions - Year 2018**

Secondary school	Enrolled				Total
	Men	Women	Italians	Foreigners	
Art colleges	563	94	544	113	<b>657</b>
Other colleges	300	13	215	98	<b>313</b>
Vocational schools in the services sector	2,622	10	2139	493	<b>2632</b>
Vocational schools in the industry and craft sectors	438	20	298	160	<b>458</b>
Technical colleges in the economic sector	1,86	61	1606	441	<b>2047</b>
Technical colleges in the technological sector	1,499	74	1203	370	<b>1573</b>

*Source: Office for the Development and Management of the Automated Information System – Statistics unit - Elaboration by the National Guarantor – Operating Unit: Deprivator of Liberty in Criminal Matters.*

**Table 3.21 - No. of Students who Passed Secondary School Courses in Penitentiary Institutions - Year 2018**

Secondary school	Passed					Total
	Men	Women	N.R.	Italians	Foreigners	
Art colleges	357	20	-	311	66	<b>377</b>
Other colleges	113	16	-	95	34	<b>129</b>
Vocational schools in the services sector	1172	7	191	1133	237	<b>1370</b>
Vocational schools in the industry and craft sectors	238	10	-	156	92	<b>248</b>
Technical colleges in the economic sector	947	26	-	778	195	<b>973</b>
Technical colleges in the technological sector	874	20	-	732	162	<b>894</b>

*F Source: Office for the Development and Management of the Automated Information System – Statistics unit - Elaboration by the National Guarantor – Operating Unit: Deprivator of Liberty in Criminal Matters.*





**Table 3.22 – University Centres or University-Level Educational Activities – Updated to 27 April 2018**

Universities	Prison institutions
University of Turin	Turin "Lorusso e Cutugno" - Penitentiary Ivrea - Penitentiary
University of Western Piedmont	Asti – Detention Facility Alessandria "San Michele" – Detention Facility
University of Genoa	Genoa "Marassi" - Penitentiary Genoa "Pontedecimo" - Penitentiary
University of Milan Bicocca	Milan Bollate – Detention Facility Milan Opera – Detention Facility Milan San Vittore "Francesco Di Cataldo" – Detention Facility Monza - Penitentiary Lodi - Penitentiary
State University of Milan	Milan Bollate – Detention Facility Milan Opera – Detention Facility
University of Brescia	Brescia Canton Monbello "Nerio Fischione" - Penitentiary Brescia "Verziano" – Detention Facility
University of Bergamo	Bergamo - Penitentiary
University of Verona	Verona "Montorio" - Penitentiary
University of Padua	Padua – Detention Facility Padua - Penitentiary Venice "Giudecca" – Women's Penitentiary Rovigo – Detention Facility
University of Trento	Trento "Spini di Gardolo" – Penitentiary
University of Bologna	Bologna "Rocco D'Amato" - Penitentiary
University of Ferrara	Ferrara "Costantino Satta" - Penitentiary
University of Parma	Parma – Detention Facility
University of Florence	Prato - Penitentiary Florence Sollicciano – Penitentiary Florence "Mario Gozzini" - Penitentiary Porto Azzurro "Pasquale De Santis" – Detention Facility San Gimignano – Detention Facility Pisa - Penitentiary
University of Pisa	Pisa – Penitentiary Volterra – Detention Facility Livorno – Penitentiary Massa – Detention Facility Porto Azzurro "Pasquale De Santis" – Detention Facility
University of Siena	San Gimignano – Detention Facility
University for Foreigners of Siena	Siena - Penitentiary
University "La Sapienza" Rome	Rome Rebibbia "Raffaele Cinotti" - Penitentiary Rome Rebibbia – Detention Facility
University Tor Vergata Rome	Rome Rebibbia "Raffaele Cinotti" - Penitentiary Frosinone - Penitentiary
University Roma Tre	Rome Rebibbia "Raffaele Cinotti" – Penitentiary Rome Rebibbia – Detention Facility Viterbo - Penitentiary N.C. Rieti - Penitentiary N.C. Velletri - Penitentiary
University of Perugia	Terni - Penitentiary Spoleto – Detention Facility
University of Urbino Carlo Bo	Fossombrone – Detention Facility
University "G. D'annunzio" Chieti - Pescara	Pescara - Penitentiary Chieti - Penitentiary
University "Luigi Vanvitelli" - Naples	Santa Maria Capua Vetere "Francesco Uccella" - Penitentiary
University "Federico II" - Naples	Napoli Secondigliano - Penitentiary Napoli Poggioreale "Giuseppe Salvia" - Penitentiary Santa Maria Capua Vetere "Francesco Uccella" - Penitentiary Pozzuoli – Women's Penitentiary
University of Calabria - Rende	Paola - Penitentiary Cosenza "Sergio Cosmai" – Penitentiary Rossano – Detention Facility N.C.
University "Magna Grecia" - Catanzaro	Catanzaro "Ugo Caridi" – Penitentiary
University of Sassari	Sassari "Giovanni Bacchiddu" – Penitentiary Alghero "Giuseppe Tomasiello" – Detention Facility Tempio Pausania "Paolo Pittalis" – Detention Facility Oristano - Penitentiary Nuoro – Penitentiary
Università di Cagliari	Cagliari "Ettore Scaldas" - Penitentiary Quartucciu – Juvenile Detention Facility

Source: Conference of Italian University Chancellors  
Elaborated by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters

**Map 3.1 - Number of Institutions by Regions with University Centres or University-Level Educational Activities – Updated to 25 January 2019**



Source: Conference of Italian University Chancellors

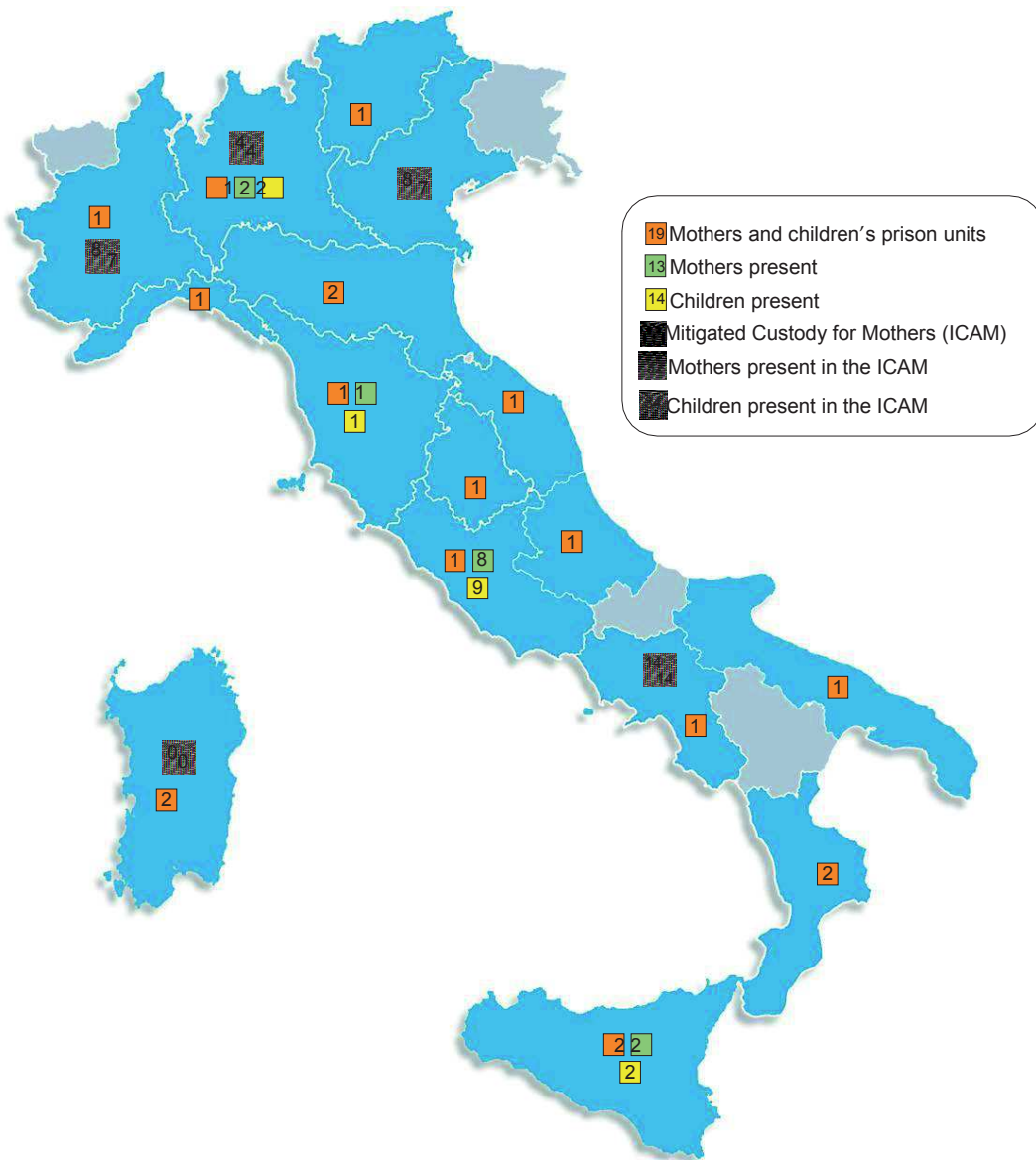
Elaborated by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.23 – Mothers and Children’s Prison Units / Mitigated Custody Institutions for Mothers (ICAM) Updated to 16 January 2019**

Mothers and Children's Units in Prison institutions	Italians	Foreigners	Total presences		Children
			Childless women	Women with children	
Agrigento "Pasquale Di Lorenzo" - Penitentiary	0	0	0	0	0
Avellino "Antimo Graziano" Bellizzi - Penitentiary	0	0	0	0	0
Bologna "Rocco D'Amato" - Penitentiary	0	2	2	0	0
Cagliari "Ettore Scalas" – Women's Penitentiary	0	0	0	0	0
Castrovillari "Rosa Sisca" - Penitentiary	0	0	0	0	0
Firenze Sollicciano - Penitentiary	2	2	3	1	1
Foggia - Penitentiary	0	0	0	0	0
Forlì - Penitentiary	0	0	0	0	0
Genoa "Pontedecimo" - Penitentiary	0	0	0	0	0
Messina - Penitentiary	1	2	1	2	2
Milan "Bollate" – Detention Facility	1	1	0	2	2
Perugia "Capanne" – New Penitentiary Complex	0	0	0	0	0
Pesaro - Penitentiary	0	0	0	0	0
Reggio Calabria "Giuseppe Panzera" - Penitentiary	0	0	0	0	0
Rome Rebibbia "Germana Stefanini" – Women's Penitentiary	4	4	0	8	9
Sassari "Giovanni Bacchiddu" - Penitentiary	1	0	1	0	0
Teramo - Penitentiary	3	1	4	0	0
Turin "G.Lorusso L.Cutugno" - Penitentiary	0	0	0	0	0
Trento "Spini di Gardolo"- Penitentiary	0	0	0	0	0
<b>TOTAL</b>	<b>12</b>	<b>12</b>	<b>11</b>	<b>13</b>	<b>14</b>
Mitigated Custody for Mothers' Institutions (ICAMs)	Italians	Foreigners	Total mothers		Children
Lauro - ICAM	10	4	14		14
Milano "F. Di Cataldo" – Women's Penitentiary femminile	0	4	4		4
Senorbi (Cagliari) - ICAM	0	0	0		0
Turin "G.Lorusso L.Cutugno" - Penitentiary	4	3	7		8
Venice "Giudecca" – Women's Detention Facility	1	6	7		8
<b>TOTAL</b>	<b>15</b>	<b>17</b>	<b>32</b>		<b>34</b>

Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit - Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Map 3.2 – Mothers and Children’s Prison Units and Mitigated Custody for Mothers’ Institutions (ICAMs)**



Source: Penitentiary Administration Department – Office of the Head of the Department - General Secretariat – Statistics Unit - Elaboration by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters.

**Table 3.24 – Mothers and Children’s Prison Units: Material Conditions.**

Prison institution	Separated unit or nursery	Adjustment of rooms/units to the needs of children and mothers	Separate kitchen for mothers	Playground equipped for children	Playroom	Adequate premises for interviews with family
Agrigento "Pasquale Di Lorenzo" - Penitentiary	Unit	YE	NO	YE	YE	YE
Avellino "Antimo Graziano" Bellizzi - Penitentiary	Unit	S	NO	S	S	S
Bologna "Rocco D'Amato" - Penitentiary	Rooms	NO	NO	NO	NO	NO
Cagliari "Ettore Scaldas" - Penitentiary femminile	Unit	NO	NO	YE	YE	YE
Castrovillari "Rosa Sisca" - Penitentiary	Unit	NO	NO	S	S	S
Firenze Sollicciano - Penitentiary	Unit	NO	YE	NO	NO	NO
Foggia - Penitentiary	Unit	YE	S	NO	NO	NO
Forlì - Penitentiary	Rooms	S	YE	YE	YE	YE
Genoa "Pontedecimo" - Penitentiary	Rooms	YE	S	S	S	S
Messina - Penitentiary	Unit	S	NO	YE	NO	YE
Milan "Bollate" - Detention Facility	Unit	NO	NO	S	NO	S
Perugia "Capanne" - New Penitentiary Complex	Unit	YE	YE	NO	YE	NO
Pesaro - Penitentiary	Rooms	S	S	YE	S	YE
Pesaro - Penitentiary	Unit	YE	YE	S	YE	S
Reggio Calabria "Giuseppe Panzera" - Penitentiary	Unit	S	S	YE	S	YE
Rome Rebibbia "Germana Stefanini" - Women’s Penitentiary	Rooms	YE	YE	S	YE	S
Sassari "Giovanni Bacchiddu" - Penitentiary	Rooms	S	S	NO	S	NO
Teramo - Penitentiary	Rooms	YE	NO	YE	YE	YE
Torino "G.Lorusso L.Cutugno" - Penitentiary	Unit	S	YE	S	S	S

Source: The monitoring of Detention Units for Mothers and Children was effected online by regional, provincial, and local guarantors  
Elaborated by the National Guarantor – Operating Unit: Deprivator of Liberty in Criminal Matters

**Table 3.25 – Mothers and children’s Prison Units: Quality of Detention Life.**

Prison institution	Specialised Personnel	Specialised Medical and Healthcare Personnel	Agreements with local authorities for the integration of children in local schools	Presence of volunteers	Possibility for children to go out accompanied
Agrigento "Pasquale Di Lorenzo" - Penitentiary	NO	NO	NO	YES	YES
Avellino "Antimo Graziano" Bellizzi - Penitentiary	NO	NO	NO	NO	NO
Bologna "Rocco D'Amato" - Penitentiary	NO	NO	NO	YES	NO
Cagliari "Ettore Scaldas" – Women’s Penitentiary	NO	NO	NO	NO	NO
Castrovillari "Rosa Sisca" - Penitentiary	NO	NO	NO	NO	NO
Florence Sollicciano - Penitentiary	YES	YES	NO	YES	YES
Foggia -Penitentiary	NO	YES	NO	NO	NO
Forlì - Penitentiary	NO	NO	NO	YES	NO
Genoa "Pontedecimo" - Penitentiary	NO	YES	NO	YES	YES
Messina - Penitentiary	NO	NO	NO	YES	NO
Milan "Bollate" – Detention Facility	YES	YES	YES	YES	YES
Perugia "Capanne" – New Penitentiary Complex	NO	NO	YES	NO	NO
Pesaro - Penitentiary	YES	YES	YES	YES	YES
Reggio Calabria "Giuseppe Panzera" - Penitentiary	NO	YES	NO	YES	YES
Roma Rebibbia "Germana Stefanini" – Women’s Penitentiary	YES	YES	YES	YES	YES
Sassari "Giovanni Bacchiddu" - Penitentiary	NO	NO	NO	NO	NO
Teramo - Penitentiary	YES	YES	NO	YES	NO
Turin "G.Lorusso L.Cutugno" - Penitentiary	NO	NO	NO	NO	NO
Trento "Spini di Gardolo" - Penitentiary	NO	NO	NO	NO	NO

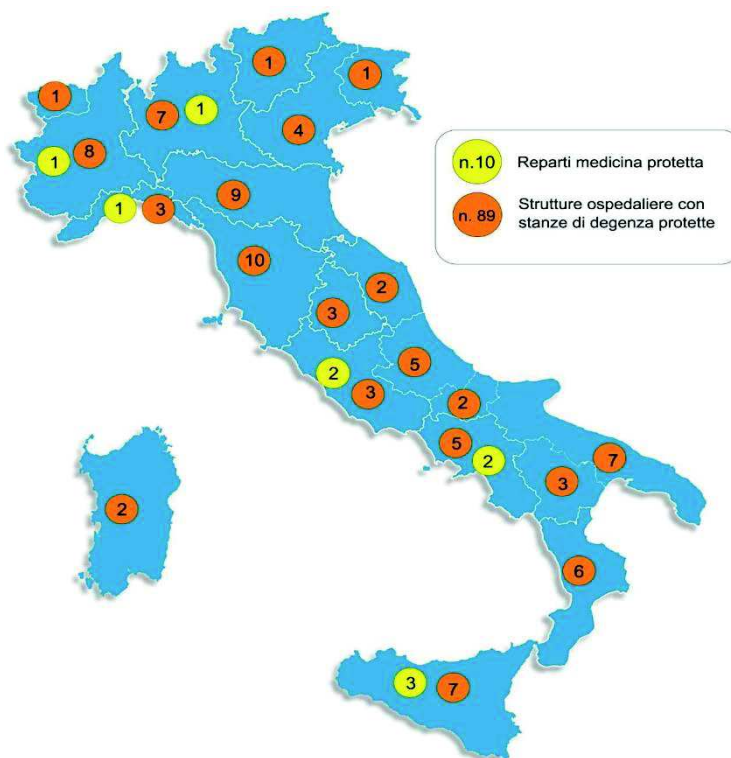
Source: The monitoring of Detention Wards for Mothers and Children was effected online by regional, provincial, and local guarantors  
Elaborated by the National Guarantor – Operating Unit: Deprivator of Liberty in Criminal Matters

**Table 3.26 – Secured Healthcare Wards and Hospital Facilities with Protected Rooms - Year 2018**

Regions	Secured Healthcare Wards	Beds	Hospital Facilities	Protected Hospital Rooms	Beds
Calabria	0	0	6	6	12
Campania	2	19	5	9	18
Lombardy	1	22	7	13	23
Piedmont	1	19	8	13	19
Liguria	1	8	3	3	4
Valle d'Aosta	0	0	1	1	1
Emilia Romagna	0	0	11	21	31
Marche	0	0	2	0	4
Tuscany	0	0	10	10	18
Umbria	0	0	2	3	6
Sardinia	0	0	4	4	12
Veneto	0	0	5	12	19
Friuli Venezia Giulia	0	0	3	3	3
Trentino Alto Adige	0	0	2	5	11
Basilicata	0	0	3	6	9
Apulia	0	0	7	16	35
Sicily	3	26	7	11	17
Abruzzi	0	0	5	10	13
Molise	0	0	2	3	7
Latium	2	30	3	3	4
<b>Total</b>	<b>10</b>	<b>124</b>	<b>96</b>	<b>152</b>	<b>266</b>

Source: Regional Superintendencies of the Penitentiary Administration  
 Elaborated by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters

**Map 3.3 – Secured Healthcare Wards and Hospital Facilities with Protected Rooms - Year 2018**



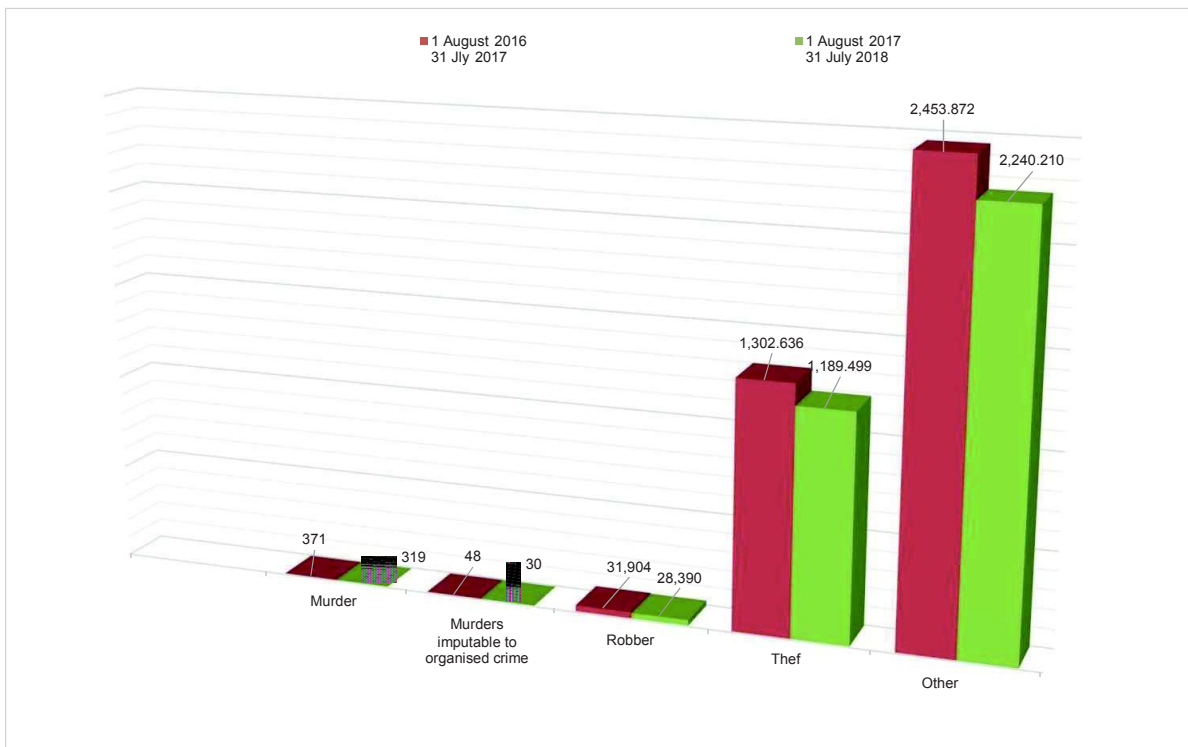
Source: Regional Superintendencies of the Penitentiary Administration  
 Elaborated by the National Guarantor – Operating Unit: Deprivation of Liberty in Criminal Matters

**Table 3.27 – Trend of Crimes from 1 August 2016 to 31 July 2017 and from 1 August 2017**

Offe	1 August 2016	1 August 2017
	31 July 2017	31 July 2018
Murders	371	319
Murders imputable to organised crime	48	30
Robberies	31.904	28.390
Thefts	1.302.636	1.189.499
Other offences	2.453.872	2.240.210

Source: Ministry of Home Affairs - Dossier Viminale (1 August 2016 - July 2018)  
 Elaborated by the National Guarantor – Operating Unit: Deprivaton of Liberty in Criminal Matters

**Chart 3.16 – Trend of Crimes from 1 August 2016 to 31 July 2017 and from 1 August 2017 to 31 July 2018**



Source: Ministry of Home Affairs - Dossier Viminale (1 August 2016 - July 2018)  
 Elaborated by the National Guarantor – Operating Unit: Deprivaton of Liberty in Criminal Matters

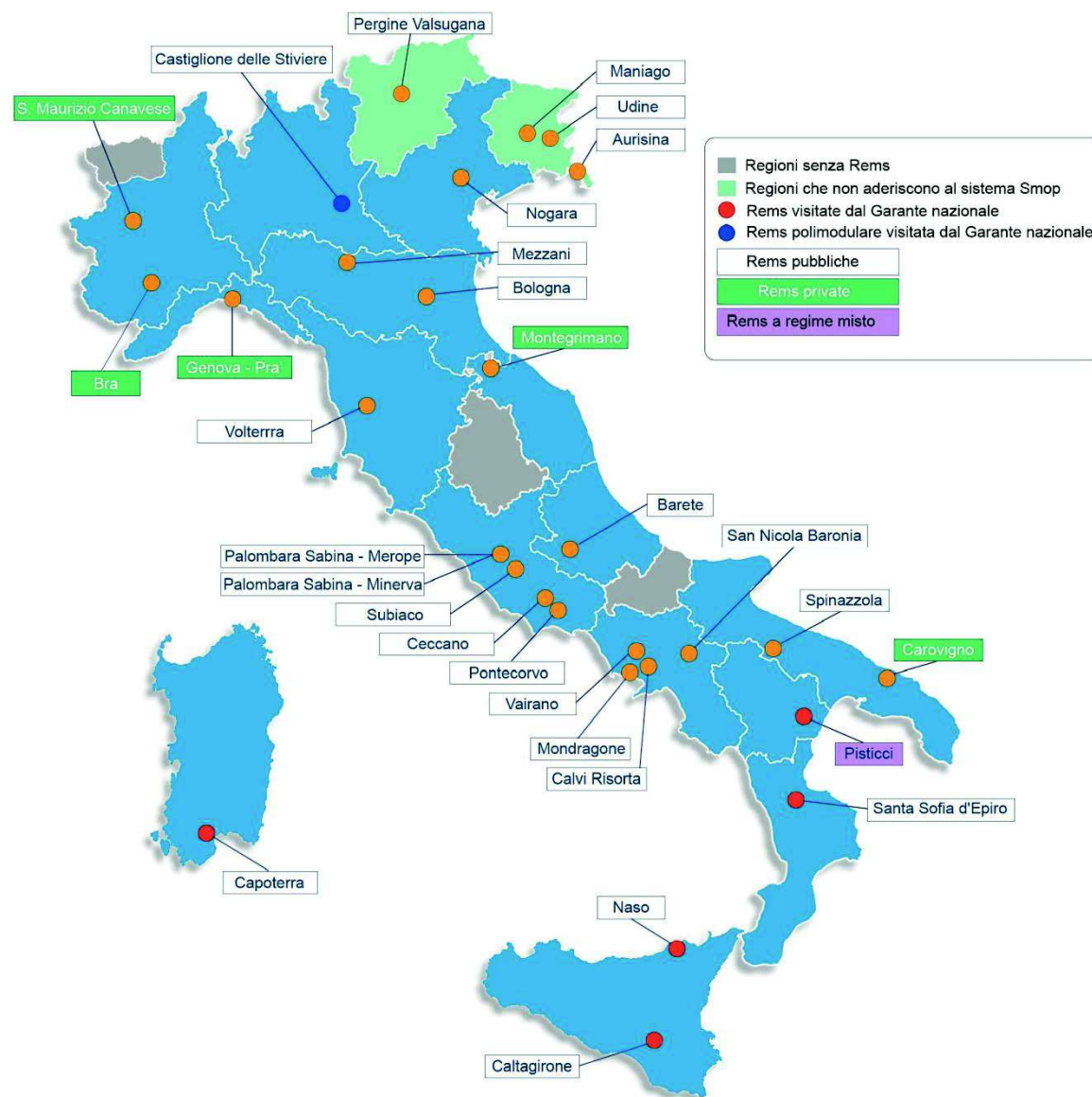
**Table 4.1 –Residential Facilities for the Enforcement of Security Sanctions**

<b>Name</b>	<b>City</b>	<b>Region</b>
Casa di Cura San Michele - Bra	Bra (CN)	Piedmont
Anton Martin	S. Maurizio Canavese (TO)	Piedmont
Castiglione	Castiglione Delle Stiviere (MN)	Lombardy
Pergine Valsugana	Pergine Valsugana (TN)	Trentino Alto Adige
Nogara	Nogara (VR)	Veneto
Aurisina	Aurisina (TS)	Friuli Venezia Giulia
Udine	Udine (UD)	Friuli Venezia Giulia
Maniago	Maniago (PN)	Friuli Venezia Giulia
Genoa - Pra'	Genoa (GE)	Liguria
Bologna	Bologna (BO)	Emilia Romagna
Casale di Mezzani	Mezzani (PR)	Emilia Romagna
Volterra - Padiglione Morel	Volterra (PI)	Tuscany
Casa Gemelle	Monte Grimano Terme (PU)	Marche
Pontecorvo	Pontecorvo (FR)	Latium
Ceccano	Ceccano (FR)	Latium
Subiaco - Castore	Subiaco (RM)	Latium
Palombara - Merope	Palombara Sabina (RM)	Latium
Palombara - Minerva	Palombara Sabina (RM)	Latium
Barete	Barete (AQ)	Abruzzi
Mondragone	Mondragone (CE)	Campania
Calvi Risorta	Calvi Risorta (CE)	Campania
San Nicola Baronia	San Nicola Baronia (AV)	Campania
Vairano Patenora	Vairano Patenora (CE)	Campania
Spinazzola	Spinazzola (BT)	Apulia
Carovigno	Carovigno (BR)	Apulia
Pisticci	Pisticci (MT)	Basilicata
Santa Sofia d'Epiro	Santa Sofia d'Epiro (CS)	Calabria
Caltagirone	Caltagirone (CT)	Sicily
Naso	Naso (ME)	Sicily
Capoterra	Capoterra (CA)	Sardinia

Source: Information System to Monitor the Overcoming of OPGs (SMOP)



**Mappa 4.1 - Residenze per l'esecuzione delle misure di sicurezza (Rems)**



Fonte: Sistema informativo per il monitoraggio del superamento degli Opg (Smop)

**Table 4.2 – REMS' Hosts per Region, Age Group and Gender - Year 2018**

Region	Age Group												Overall Total
	18-25		26-35		36-45		46-55		56-65		>65		
	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	
Abruzzi	--	--	2	3	1	8	--	4	--	1	--	--	19
Basilicata	--	--	1	3	--	4	1	4	--	1	--	--	14
Calabria	--	3	--	5	--	6	--	4	--	2	--	1	21
Campania	--	4	--	9	2	14	--	21	--	4	--	--	54
Emilia Romagna	--	2	--	6	3	4	1	3	--	3	--	--	22
Friuli Venezia-Giulia	--	2	--	--	--	1	--	2	--	--	--	--	5
Latium	1	3	1	16	2	17	4	21	--	9	--	1	75
Liguria	--	1	--	8	--	4	--	4	--	1	--	2	20
Lombardy	1	12	4	45	10	38	3	28	--	14	1	1	157
Marche	1	3	--	4	2	4	--	2	--	5	--	--	21
Piedmont	--	5	--	9	--	10	1	10	--	3	--	--	38
Apulia	1	2	--	7	--	11	1	12	--	1	--	1	36
Sardinia	--	3	--	3	--	5	--	4	--	2	--	--	17
Sicily	--	--	4	7	6	12	2	8	--	4	1	1	45
Tuscany	1	4	--	7	--	3	1	9	--	3	--	--	28
Trentino Alto-Adige	--	2	--	4	--	7	--	2	--	3	--	--	18
Veneto	--	6	--	2	1	8	3	13	2	4	--	--	39
<b>Overall Total</b>	<b>5</b>	<b>52</b>	<b>12</b>	<b>138</b>	<b>27</b>	<b>156</b>	<b>17</b>	<b>151</b>	<b>2</b>	<b>60</b>	<b>2</b>	<b>7</b>	<b>629</b>

Sources: Information System to Monitor the Overcoming of OPGs (SMOP); Survey by the National Guarantor

**Table 4.3 – REMS' Hosts per Region and Legal Position - Year 2018**

Region	Final Security Sanction			Temporary Security Sanction	Cases of Interruption or Change of Security Sanction
	Article 219 c.c.	Article 222 c. c.	Total	Article 206 c.c.	Article 212 c.c.
Abruzzi	1	2	3	15	1
Basilicata	--	5	5	9	--
Calabria	4	5	9	12	--
Campania	2	30	32	22	--
Emilia Romagna	3	8	11	11	--
Friuli Venezia-Giulia	1	1	2	2	1
Latium	8	35	43	29	3
Liguria	6	3	9	2	9
Lombardy	37	77	114	43	--
Marche	3	7	10	5	6
Piedmont	15	7	22	15	1
Apulia	--	12	12	24	--
Sardinia	--	14	14	3	--
Sicily	--	20	20	25	--
Tuscany	3	15	18	10	--
Trentino Alto-Adige	6	7	13	3	2
Veneto	--	20	20	19	--
<b>Total</b>	<b>89</b>	<b>268</b>	<b>357</b>	<b>249</b>	<b>23</b>

Key and epigraph criminal code (name unmodified yet):

Article 206 c.c.: Temporary application of security sanction

Article 212 c.c.: Cases of interruption or change of security sanction

Article 219 c.c.: Assignment to a nursing and custody home

Article 222 c.p.: Hospitalisation in a Judicial Mental Hospital

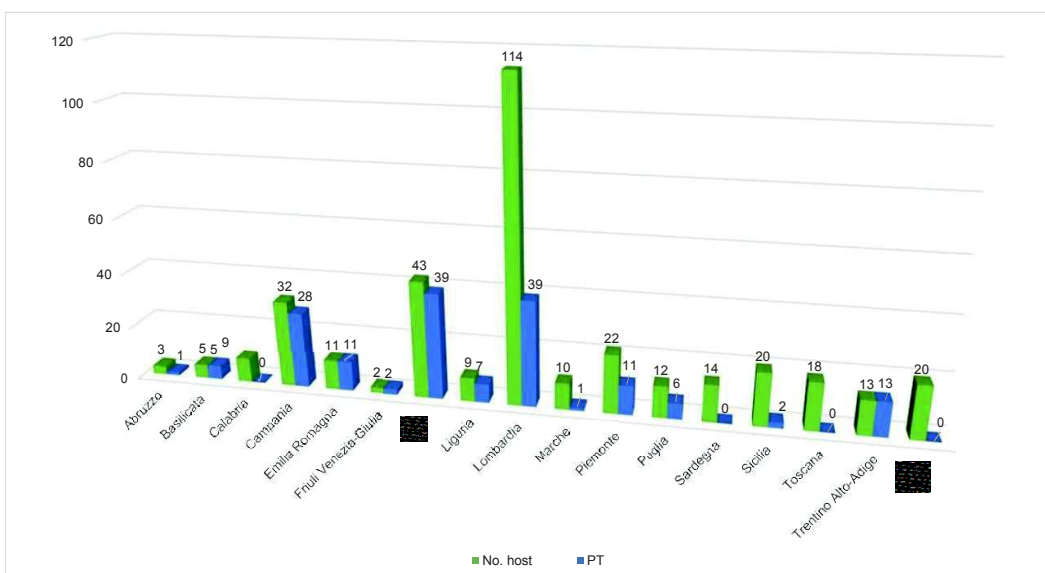
Sources: Information System to Monitor the Overcoming of OPGs (SMOP); Survey by the National Guarantor

**Table 4.4 – REMS Hosts with Final Legal Position - Year 2018 and presence of an Individual Rehabilitation Therapeutic Project (PTRI)**

Region	No. Hosts	PT RI	PTRI %
Abruzzi	3	1	33,33
Basilicata	5	5	100,00
Calabria	9	0	0,00
Campania	32	28	87,50
Emilia Romagna	11	11	100,00
Friuli Venezia-Giulia	2	2	100,00
Lazio	43	39	90,70
Liguria	9	7	77,78
Lombardy	114	39	34,21
Marche	10	1	10,00
Piedmont	22	11	50,00
Apulia	12	6	50,00
Sardinia	14	0	0,00
Sicily	20	2	10,00
Tuscany	18	0	0,00
Trentino Alto-Adige	13	13	100,00
Veneto	20	0	0,00
<b>Total</b>	<b>357</b>	<b>165</b>	<b>46,22</b>

Sources: Information System to Monitor the Overcoming of OPGs (SMOP); Survey by the National Guarantor

**Chart 4.1 – REMS Hosts subjected to Final Legal Position and Presence of an Individual Rehabilitation Therapeutic Project (PTRI) - Year 2018**



Sources: Information System to Monitor the Overcoming of OPGs (SMOP); Survey by the National Guarantor

**Table 4.5 – Persons Subjected to Measures for the Application of Security Sanctions\* - both Temporary and Final - Waiting to be Hospitalised in REMS as of 31 December 2018**

Region of residence	REMS	Tot. persons waiting in prison institutions	
Piedmont	San Maurizio Canavese (TO) San Michele Brà (CN)	29	n. 3 temporary in Turin "Lorusso e Cutugno" Prison n. 1 final Turin "Lorusso e Cutugno" Prison n. 1 final in Biella Prison
Lombardy	Temporary REMS Polymodular System of Castiglione delle Stiviere (MN)	56	n. 3 temporary in Monza Prison n. 3 temporary in Milan San Vittore Prison n. 1 temporary in Sondrio Prison n. 1 temporary in Pavia Prison
Trentino Alto Adige	Rehabilitation Centre of Pergine (TN)	4	n. 1 final in Castelfranco Emilia Prison
Friuli Venezia Giulia	Aurisina (TS) Maniago (PN) Udine	1	
Veneto	Nogara (VR)	10	n. 1 temporary in Bergamo Prison
Liguria	Genoa Prà "Villa Caterina"	17	n. 1 final in Massa Prison
Emilia Romagna	"Casa degli Svizzeri" Bologna "Casale di Mezzani" Parma	29	n. 1 final in Milan Opera Prison n. 2 temporary in Reggio Emilia Prison n. 1 temporary in Parma Prison
Tuscany	"Padiglione Morel" Hospital of Volterra (PI)	43	n. 2 temporary in Pisa Prison n. 1 temporary in Florence "Sollicciano" Prison
Umbria	"Padiglione Morel" Hospital of Volterra (PI)	6	
Latium	Pontecorvo (FR) Ceccano (FR) Palombara Sabina (RM) Subiaco (RM)	58	n. 2 temporary in Rome Rebibbia Prison n. 8 temporary in Rome "Regina Coeli" Prison n. 1 temporary in Latina Prison n. 1 temporary in Foggia Prison n. 1 temporary in Civitavecchia Prison n. 1 temporary in Velletri Prison n. 1 definitivo in Pescara Prison
Marche	Montegrimano Terme (PU)	7	n. 1 temporary in Pesaro Prison
Abruzzi	Barete (AQ)	21	n. 2 temporary in Pescara Prison
Molise	Barete (AQ)	1	
	Mondragone (CE)		n. 2 temporary in Santa Maria Capua Vetere Prison n. 1 final in Santa Maria Capua Vetere
Campania	San Nicola Baronia (AV) Calvi Risorta (CE) Vairano Patenora (CE)	86	n. 7 temporary in Napoli "Poggioreale" Prison n. 1 temporary in Napoli "Secondigliano" Prison n. 1 temporary in Salerno Prison n. 1 temporary in Benevento Prison
	Spinazzola (BT)		n. 1 temporary in Foggia Prison n. 1 final in Foggia Prison
Apulia	Carovigno (BR)	43	n. 1 final in Vasto Prison n. 1 temporary in Trani Prison n. 1 final in Trani Prison
Basilicata	Tinchi - Pisticci (MT)	6	n. 1 temporary in Matera Prison
Calabria	Santa Sofia d'Epiro (CS)	67	
Sicily	Naso (ME) Caltagirone (CT)	114	n. 1 temporary in Palermo Pagliarelli Prison n. 1 temporary in Barcellona Pozzo di Gotto Prison n. 1 temporary in Catania "Piazza Lanza" Prison
Sardinia	Capoterra (CA)	5	
<b>Total</b>		<b>603</b>	<b>63</b>

\* Measures issued by the Judicial Authority for the Application of Detention Sanctions – both final and temporary – of the Hospitalisation in a Judicial Mental Hospital and of the assignment to a nursing and custody home with hospitalisation in REMS, and waiting to be hospitalised in territorially competent facilities for lack of beds.

Source: DAP – Directorate General of Detainees and Treatment - Office VI



**Table 4.6 – Security Sanctions Enforced per Year**

	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017	1st Half of 2018
<b>Nursing and Custody</b>						
Homes Opened in the period	255	235	170	184	153	
Closed in the period	169	274	221	199	158	
Opened at the end of the period	384	366	300	278	273	289
<b>Judiciary Psychiatric Hospitals</b>						
Opened in the period	225	229	179	253	123	
Closed in the period	185	296	201	227	126	
Opened at the end of the period	400	366	319	336	334	343
<b>Parole</b>						
Opened in the period	2.031	2.017	1.980	1.729	1.749	
Closed in the period	1.291	1.427	1.495	1.475	1.712	
	4.386	4.950	5.393	5.564	5.554	5.693
<b>Proposed Aggravations of Parole (Article 232 c.c.)</b>						
Supervised		45	55	48	52	
Defined		37	53	47	52	
Of which:						
Accepted		7	31	20	21	
Rejected		9	8	10	18	

**Methodologic Note:**

Data are acquired through a biannual survey of Surveillance offices, which extrapolate them from the computerised register. This register has not been updated yet as concerns the new REMS measure. Interviewed members of such offices state they use the *nomen* "Nursing and Custody Home" or "Judicial Hospital" to record final security sanctions being enforced in REMS. The item "opened in the period" measures the numbers of entries in the facilities, the item "closed in the period" the number of exits and the item "opened at the end of the period" the presences in the facilities at the final date of the period taken into consideration. For the sake of completeness the table also takes into account parole sanctions. During our survey at the offices, parole emerged as the alternative measure of choice in the event there are no available places in REMS.

Source: Ministry of Justice - DOG – Directorate General of Statistics

**Table 4.7 – Requests to Apply Security Sanctions Made to the Judge of the Jurisdiction (Public Prosecutor Offices of Bologna, Florence, Milan, Naples)**

Type of measure	Year	Number	Requests accepted by the judge	
			Total	Final
Nursing and Custody Home	2016	25	19	16
	2017	27	16	12
	2018	20	12	2
Judiciary psychiatric hospital	2016	17	9	8
	2017	27	18	12
	2018	10	8	1

**Methodologic Note:**

Data were acquired through an *ad hoc* survey the National Guarantor entrusted to the Directorate General of Statistics. The register of criminal jurisdiction has not been updated yet as regards the new REMS measure. Interviewed members of such offices stated that they use the *nomen* "Nursing and Custody Home" or "Psychiatric Hospital" to record such security sanctions and that they specify in a note that these are actually REMS. Data refer to legal actions and can be referred to the same subject.

Source: Ministry of Justice - DOG – Directorate General of Statistics

**Table 4.8 - Deprivation of Liberty Violations in Health Protection Reported to the National Guarantor**

Origin of the report	2017	2018
Elderly homes	0	2
Residential facilities for disabled persons	0	5
SPDC (TSO)	2	9
REMS	3	3
Other	0	1
<b>Total</b>	<b>5</b>	<b>20</b>

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

**Table 4.9 – Distribution of Compulsory Health Treatment (TSO) Hospitalisations in the Facilities of Latium, Years 2013-2017**

Year	Total TSO hospitalisations	TSO Hospitalisations with primary or secondary diagnosis of mental disorders				
		No. hospitalisations	No. hospitalisations with stays >7days	Average stay (days)	Average age at hospitalisation (years)	No. casualties during hospitalisation
2013	1691	986	615	12,2	43,9	0
2014	1545	894	589	13,2	41,9	0
2015	1157	723	473	13,2	41,6	2
2016	1062	615	433	13,7	42,1	3
2017	925	544	369	13,2	41,8	1

Methodologic note:

This is a regional focus, made possible thanks to the co-operation for the signing of a study and research protocol with the Department of Epidemiology of the Region of Latium.

Source: Hospital Information System of the Region of Latium

Data elaborated by: U.O.C. Evaluative Epidemiology - Department of Epidemiology of the Regional Health Service - ASL Rome 1 - Region of Latium

**Table 4.10 – Distribution by Region of Health and Social Care Institutions (Residential or Mixed) and Population**

Region	No. health and social care institutions (residential or mixed) *	Total population per region	Elderly population **	Population of persons with disabilities (6-64 years old)	Number of disabled persons compared with the number of facilities***	Surface area of the region (km <sup>2</sup> )	Population density of the region (dwellers per km <sup>2</sup> )	Density of facilities per km <sup>2</sup>
Piedmont	2.435	4.375.865	1.106.054	192.000	79	25.387,07	172	0,096
Valle d'Aosta	39	126.202	29.664	5.000	128	3.260,90	39	0,012
Lombardy	2.105	10.036.258	2.247.703	413.000	205	23.863,65	421	0,088
Trentino Alto Adige	37	1.067.648	219.880	219.000	5.919	13.605,50	78	0,002
Veneto	968	4.903.722	1.108.596	219.000	226	18.345,35	267	0,052
Friuli-Venezia Giulia	190	1.216.853	315.728	60.000	315	7.924,36	154	0,024
Liguria	433	1.556.981	442.279	85.000	196	5.416,21	287	0,079
Emilia-Romagna	2.585	4.452.629	1.061.208	241.000	93	22.452,78	198	0,115
Tuscany	2.098	3.736.968	943.311	200.000	95	22.987,04	163	0,091
Umbria	126	884.640	222.815	59.000	468	8.464,33	105	0,014
Marche	41	1.531.753	375.511	86.000	2.097	9.401,38	163	0,004
Latium	870	5.896.693	1.261.167	280.000	321	17.232,29	342	0,050
Abruzzi	99	1.315.196	309.808	75.000	757	10.831,84	121	0,009
Molise	73	308.493	74.740	19.000	260	4.460,65	69	0,016
Campania	290	5.826.860	1.062.671	333.000	1.148	13.670,95	426	0,021
Apulia	354	4.048.242	877.754	281.000	794	22.452,78	207	0,015
Basilicata	29	567.118	128.177	32.000	1.103	10.073,32	56	0,002
Calabria	187	1.956.687	414.610	120.000	642	15.221,90	129	0,012
Sicily	388	5.026.989	1.047.694	325.000	838	25.832,39	195	0,015
Sardinia	191	1.648.176	381.849	105.000	549	24.100,02	68	0,008
<b>Italy</b>	<b>13.538</b>	<b>60.483.973</b>	<b>13.631.219</b>	<b>3.167.000</b>	<b>294</b>	<b>302.072,84</b>	<b>200</b>	<b>0,034</b>

\* present in the GNPL National Register

\*\* population aged 65 or more, including self-sufficient, non-self-sufficient and disabled subjects

\*\*\* one facility every x persons with disabilities

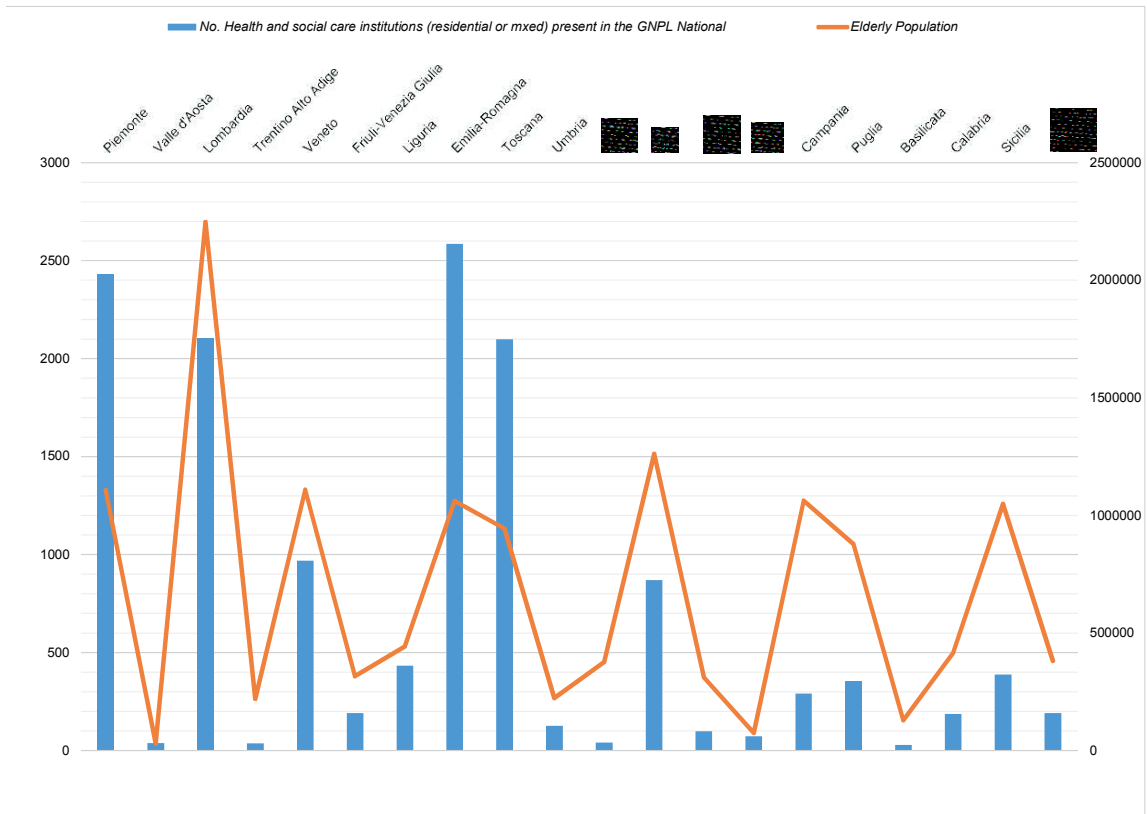
Caption of labels: Persons with disabilities: persons aged 6 and over living with their families and who, excluding conditions caused by temporary limitations, declared not to be able to perform everyday functions, even taking into account the possible aid of medical equipment (prostheses, canes, glasses, etc.). Everyday functions include personal grooming activities (to get dressed, to wash, to take a bath or shower, to eat), mobility and locomotion activities (to walk, climbing and going down stairs, to bend down, to go to bed, etc.) and communication activities (to hear, to see, to speak).

Source: ISTAT data and GNPL National Register



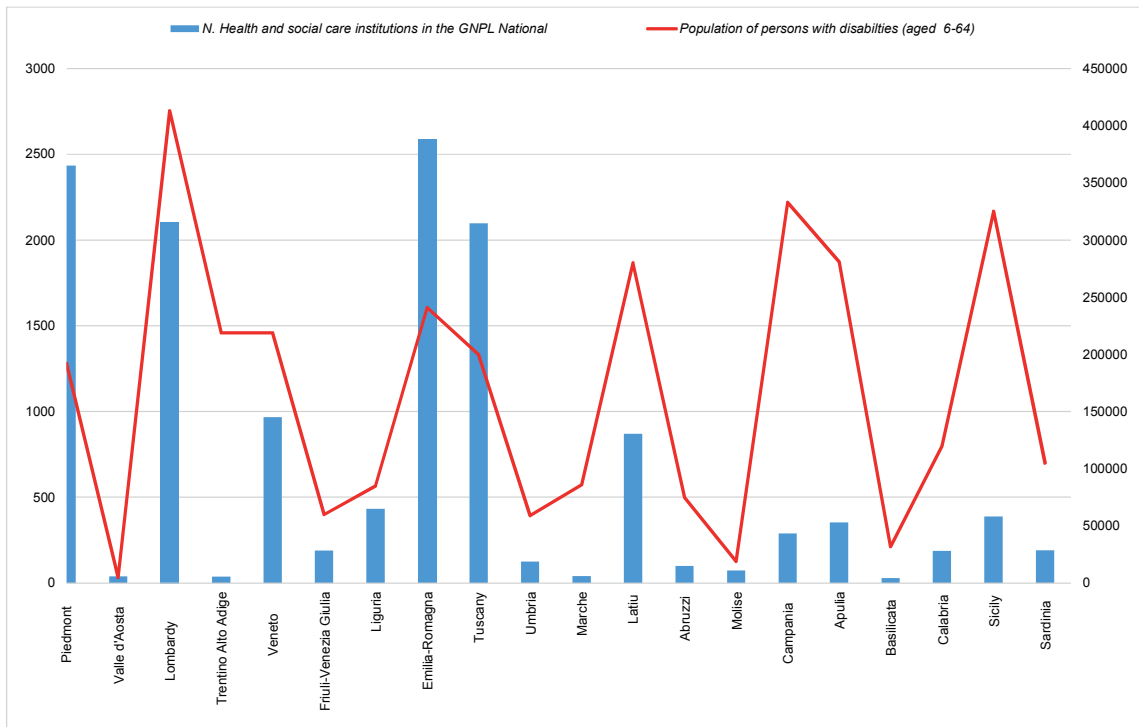


**Chart 4.2 – Ratio between Number of Health and Social Care Institutions and Population**



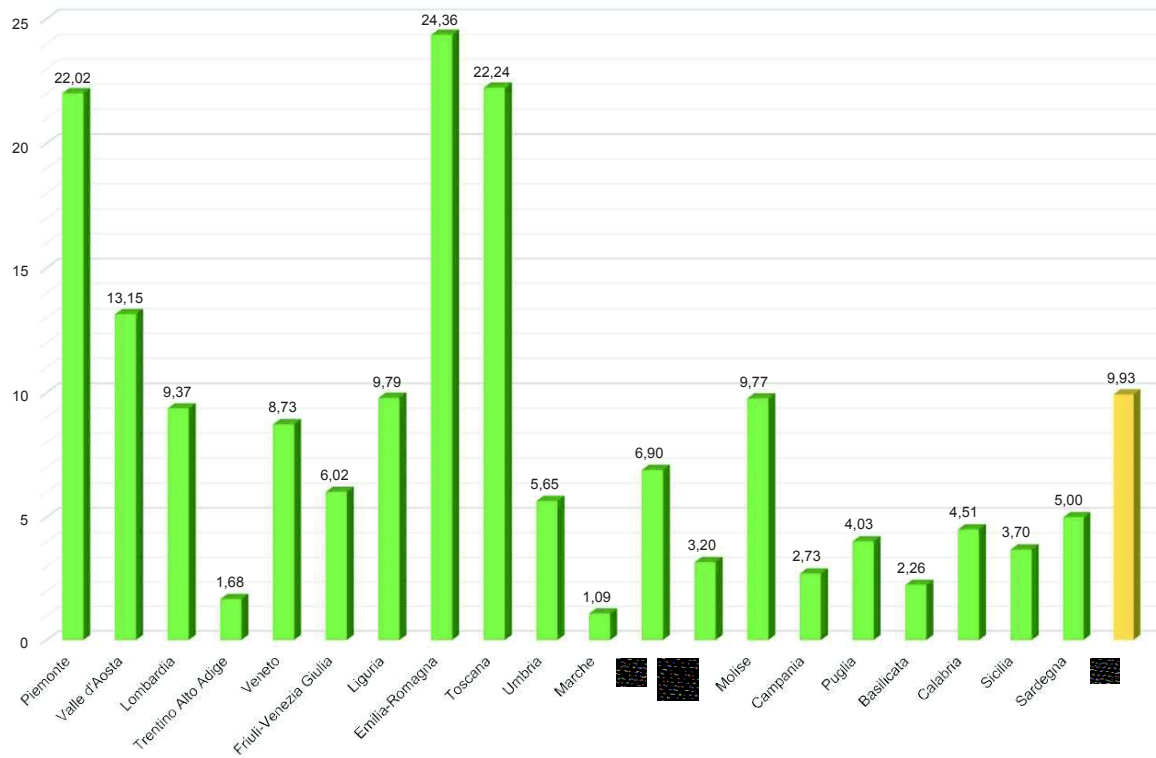
\* population aged 65 and over, including self-sufficient, non-self-sufficient and disabled subjects  
 Source: ISTAT data and GNPL National Register

**Chart 4.3 – Number of Health and Social Care Institutions and Population with Disabilities**



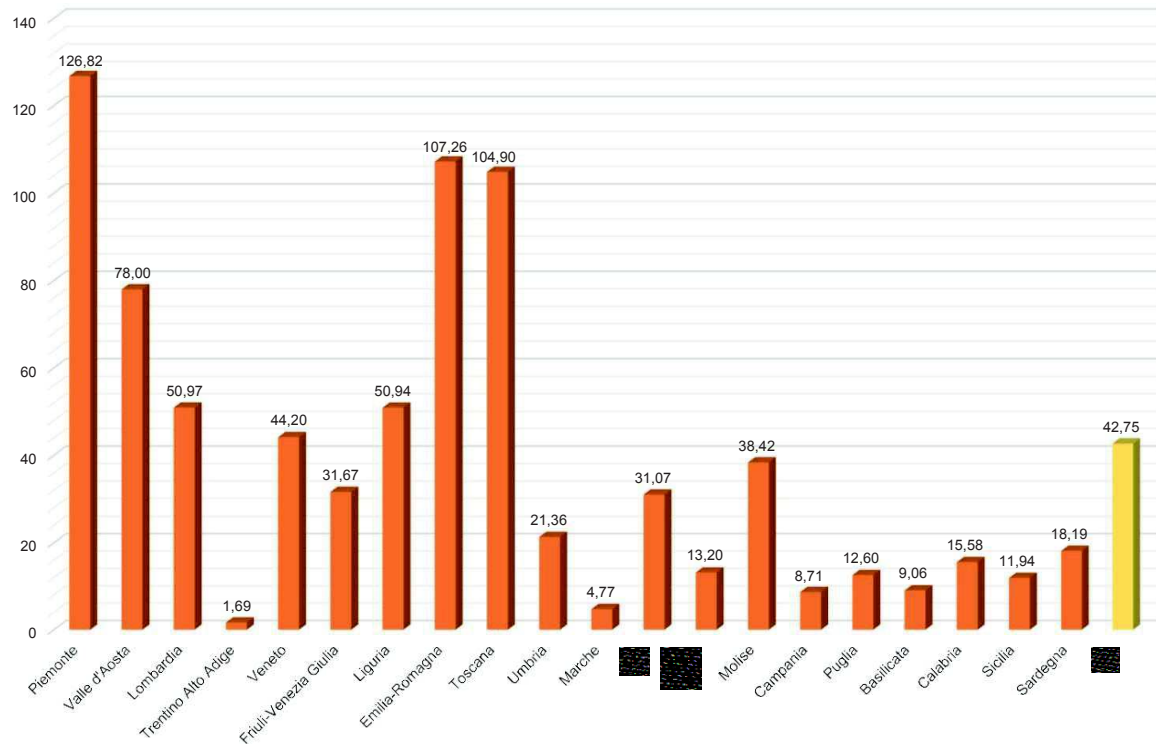
Source: ISTAT data and GNPL National Register

**Chart 4.4 – Number of Health and Social Care Institutions (Residential or Mixed) every 10,000**



Source: ISTAT data and GNPL National Register

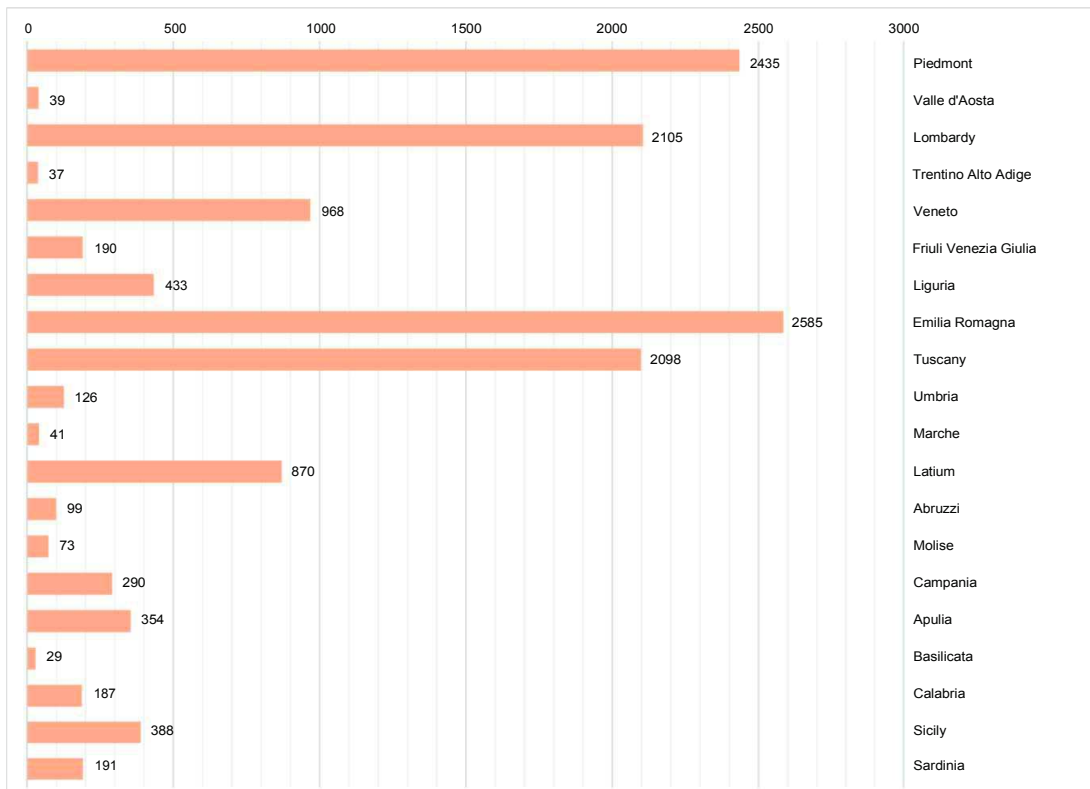
**Chart 4.5 – Number of Health and Social Care Institutions (Residential or Mixed) every 10,000 Disabled Persons**



Source: ISTAT data and GNPL National Register

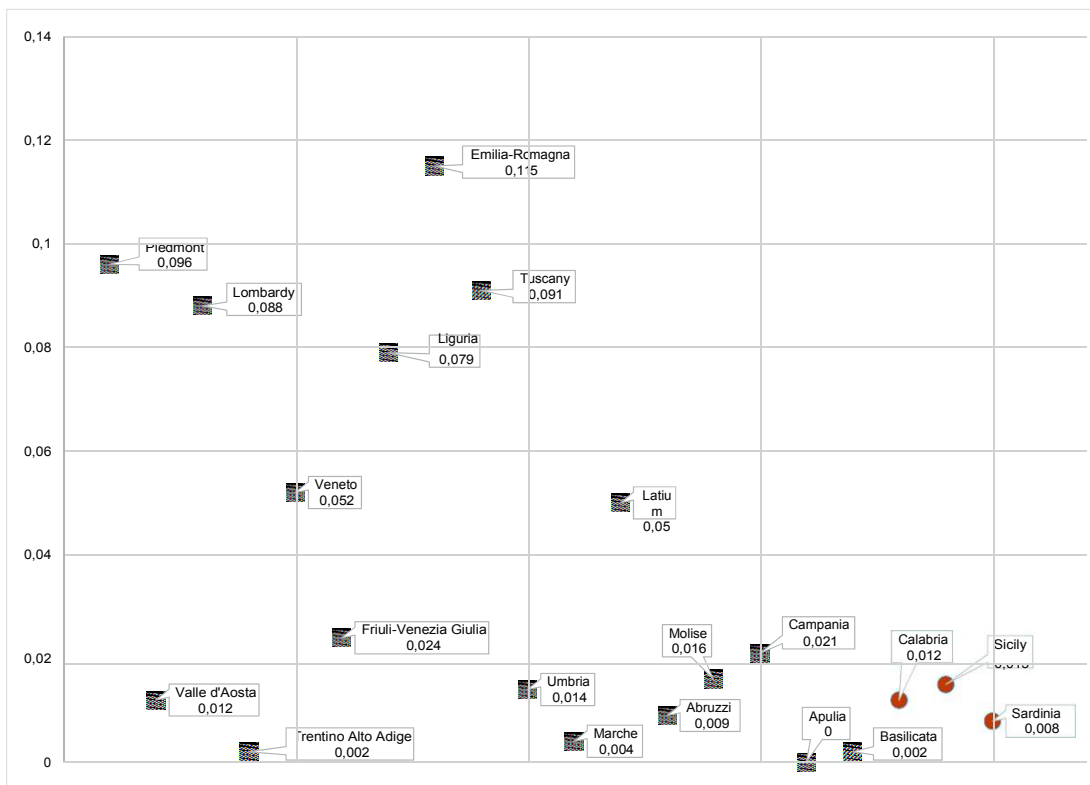


**Chart 4.6 - Health and Social Care Institutions by Region (Absolute Figures)**



Source: ISTAT data and GNPL National Register

**Chart 4.7 - Regional Density Rate of Health and Social Care Institutions**



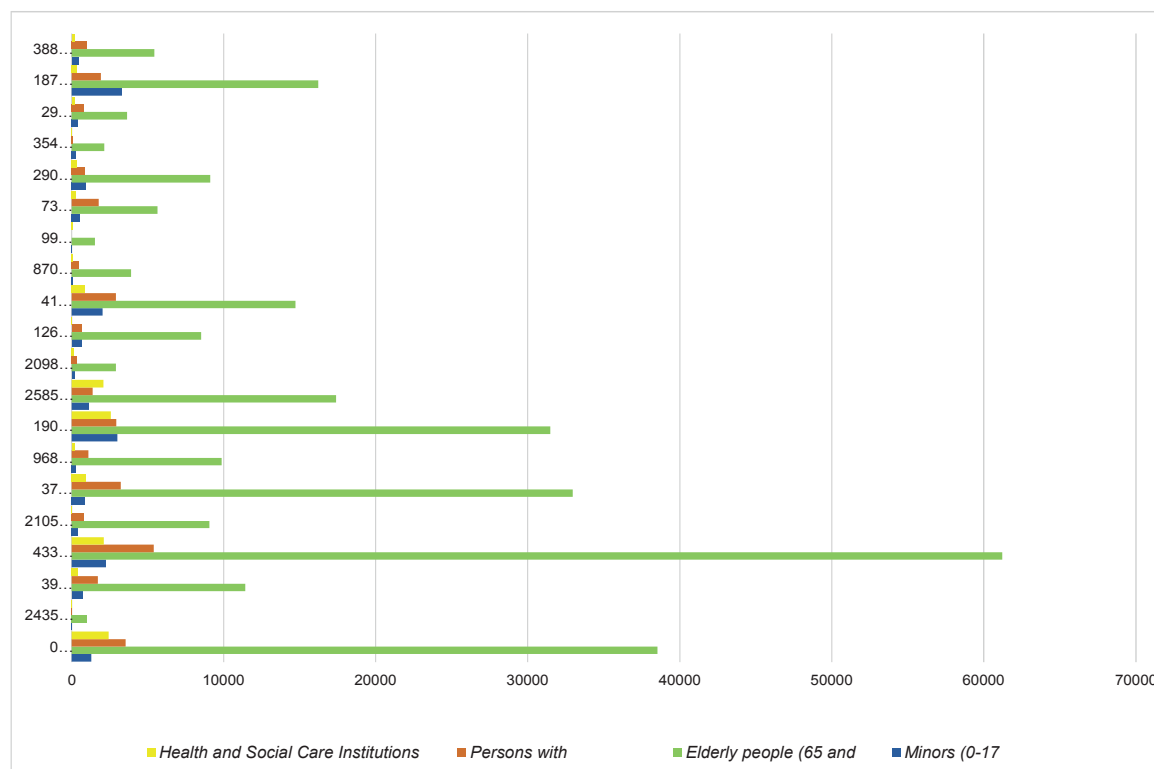
Source: ISTAT data and GNPL National Register

**Table 4.12 – Beds per Main Users and Number of Health and Social Care Institutions**

Region	Minors (0-17 years)	Elderly (65 and over)	Persons with disabilities	Health and social care institutions
Piedmont	1.298	38.527	3.557	2.435
Valle d'Aosta / Vallée d'Aoste	29	1.038	32	39
Liguria	715	11.421	1.731	433
Lombardy	2.261	61.216	5.409	2.105
Trentino Alto Adige / Südtirol	431	9.065	842	37
Veneto	876	32.967	3.237	968
Friuli-Venezia Giulia	283	9.874	1.109	190
Emilia-Romagna	3.014	31.491	2.935	2.585
Tuscany	1.141	17.402	1.399	2.098
Umbria	202	2.916	386	126
Marche	653	8.520	659	41
Latium	2.039	14.731	2.913	870
Abruzzi	110	3.916	514	99
Molise	27	1.531	0	73
Campania	570	5.650	1.770	290
Apulia	970	9.129	855	354
Basilicata	295	2.168	72	29
Calabria	431	3.658	804	187
Sicily	3.314	16.226	1.914	388
Sardinia	451	5.447	994	191

Source: ISTAT data and GNPL National Register

**Chart 4.8 – Beds per Main Users and Number of Health and Social Care Institutions**



Source: ISTAT data and GNPL National Register

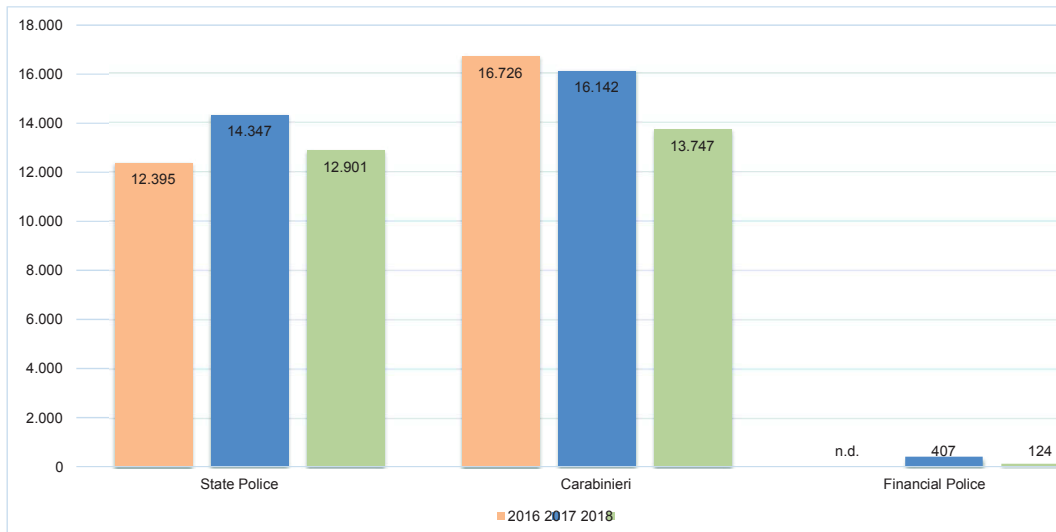
**Table 5.1 – Persons Temporarily Hosted in Detention Cells in Italy - Years 2016-2017-2018**

	Transits		
	2016	2017	2018
State Police	12.395	14.347	12.901
Carabinieri	16.726	16.142	13.747
Financial Police	n.d.	407	124

\* Data from 01 January 2018 to 31 January 2019

Source: Elaborated by the National Guarantor based on data from State Police, Carabinieri, and Financial Police

**Chart 5.1 – Persons Temporarily Hosted in Detention Cells in Italy - Years 2016-2017-2018**



Source: Elaborated by the National Guarantor based on data from State Police, Carabinieri, and Financial Police

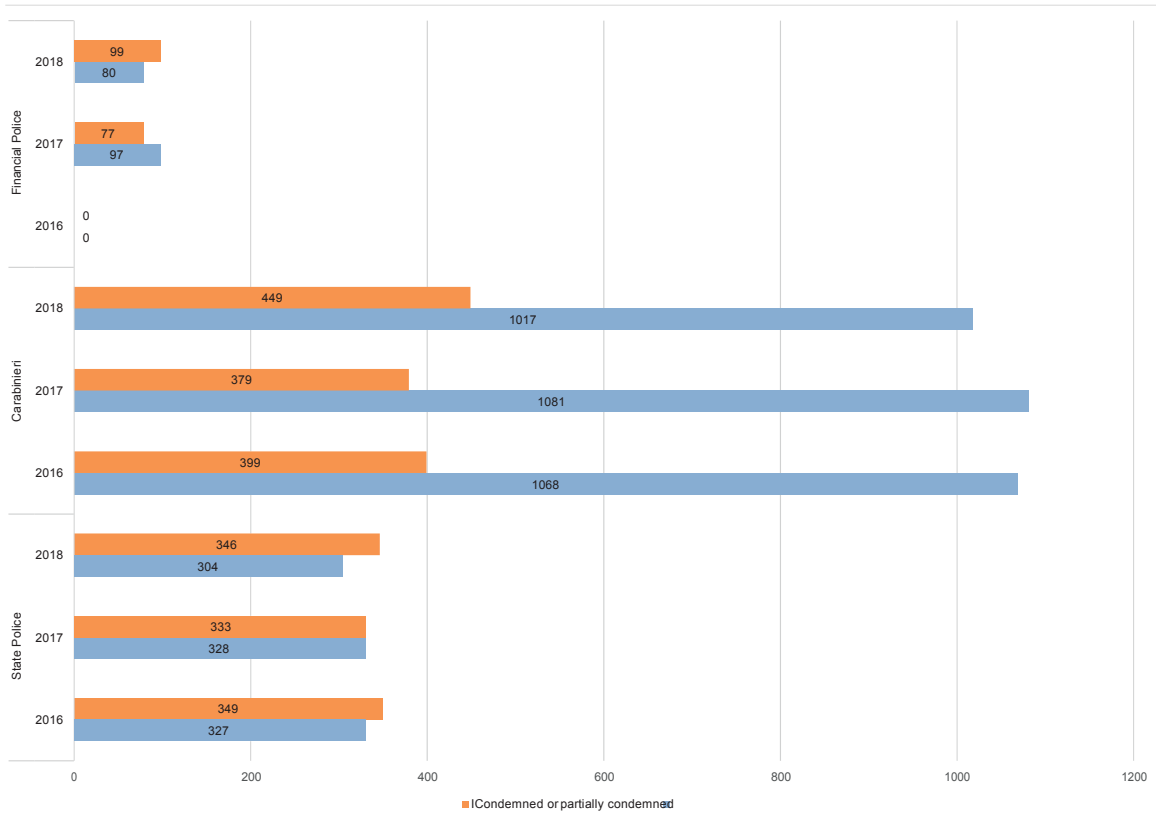
**Table 5.2 – Detention Cells in Italy - Years 2016-2017-2018**

	Total rooms			Habitable			Condemned*		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
State Police	676	661	650	327	328	304	349	333	346
Carabinieri	1.467	1460	1466	1068	1081	1017	399	379	449
Financial Police	n.d.	174	179	n.d.	97	80	n.d.	77	99

\* State Police: condemned or partially condemned

Source: Elaborated by the National Guarantor based on data from State Police, Carabinieri, and Financial Police

**Chart 5.2 – Detention Cells in Italy - Years 2016-2017-2018**



Source: Elaborated by the National Guarantor based on data from State Police, Carabinieri, and Financial Police



**Table 5.3 – Detention Cells and Transits per Region – State Police - Years 2016-2017-2018**

Region	Habitable rooms			Condemned or partially condemned rooms			Persons transited		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
Abruzzi	12	13	16	7	5	5	111	207	80
Basilicata	0	0	5	7	5	5	0	0	0
Calabria	5	7	27	18	16	20	32	35	26
Campania	18	17	77	62	61	59	625	838	677
Emilia Romagna	41	39	46	6	7	9	2.633	2.696	2.389
Friuli Venezia Giulia	6	6	15	9	9	8	7	46	45
Latium	44	42	86	44	45	43	1.838	2.330	2.003
Liguria	15	14	17	2	3	4	339	403	448
Lombardy	44	51	75	33	24	32	3.357	4.129	3.801
Marche	11	11	20	8	8	9	123	94	93
Molise	3	3	5	2	2	2	8	8	4
Piedmont	15	15	25	10	10	8	935	1097	1129
Apulia	8	1	43	41	42	43	0	20	0
Sardinia	14	14	34	18	18	24	139	136	192
Sicily	36	36	56	31	31	21	513	465	380
Tuscany	22	25	39	17	14	20	813	728	769
Trentino Alto Adige	2	2	14	13	13	12	55	82	52
Umbria	10	10	14	4	4	4	146	147	126
Valle d'Aosta	0	1	3	3	2	3	2	14	1
Veneto	21	21	33	14	14	15	719	872	686
<b>Total</b>	<b>327</b>	<b>328</b>	<b>650</b>	<b>349</b>	<b>333</b>	<b>346</b>	<b>12.395</b>	<b>14.347</b>	<b>12.901</b>

Source: Ministry of Home Affairs – Public Security Department – Secretariat of the Department - Analysis, Programmes and Documentation Office

**Table 5.4 – Detention Cells and Transits per Region - Carabinieri - Years 2016-2017-2018**

Region	Habitable rooms			Condemned rooms			Persons transited		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
Abruzzi	38	38	38	5	5	21	145	115	89
Basilicata	10	10	11	2	2	3	22	8	13
Calabria	38	37	35	23	21	26	328	210	208
Campania	122	122	116	49	49	53	1.523	1.453	518
Emilia Romagna	77	78	79	33	32	25	1.025	1.530	1.552
Friuli Venezia Giulia	16	15	12	12	13	16	99	75	56
Latium	108	106	112	72	69	60	5.270	4.076	4.312
Liguria	35	35	35	8	8	8	753	858	635
Lombardy	142	139	132	23	25	29	3.111	3.133	2.714
Marche	22	19	19	8	11	8	173	150	142
Molise	10	10	12	4	4	2	35	23	13
Piedmont	66	70	72	13	7	6	892	993	704
Apulia	50	74	8	33	8	74	55	56	2
Sardinia	41	41	41	30	30	30	283	292	254
Sicily	129	129	135	43	42	36	804	665	592
Tuscany	61	57	58	11	21	20	920	1.053	929
Trentino Alto Adige	16	14	14	20	22	22	57	79	58
Umbria	15	14	16	7	8	6	148	148	101
Valle d'Aosta	4	4	4	0	0	0	6	6	3
Veneto	68	69	68	3	2	4	1.077	1.219	852
<b>Total</b>	<b>1.068</b>	<b>1.081</b>	<b>1.017</b>	<b>399</b>	<b>379</b>	<b>449</b>	<b>16.726</b>	<b>16.142</b>	<b>13.747</b>

Data from 01 January 2018 to 31 December 2018

Source: Ministry of Defence – General Command of the Carabinieri Corps - 2<sup>nd</sup> Department - SM-Operation Office



**Table 5.5 – Detention Cells and Transits by Region – Financial Police - Years 2016-2017-2018**

Region	Habitable rooms			Condemned rooms			Persons transited		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
Abruzzi	n.d.	5	5	n.d.	1	3	n.d.	2	1
Basilicata	n.d.	0	0	n.d.	0	0	n.d.	0	0
Calabria	n.d.	5	0	n.d.	8	9	n.d.	0	0
Campania	n.d.	3	3	n.d.	7	9	n.d.	3	6
Emilia Romagna	n.d.	8	8	n.d.	3	3	n.d.	16	6
Friuli Venezia Giulia	n.d.	4	3	n.d.	7	5	n.d.	1	2
Lazio	n.d.	10	6	n.d.	7	11	n.d.	265	20
Liguria	n.d.	1	0	n.d.	0	0	n.d.	0	0
Lombardy	n.d.	12	5	n.d.	6	13	n.d.	5	3
Marche	n.d.	3	4	n.d.	1	0	n.d.	0	1
Molise	n.d.	2	1	n.d.	0	1	n.d.	0	0
Piedmont	n.d.	7	0	n.d.	6	13	n.d.	0	0
Apulia	n.d.	8	11	n.d.	6	3	n.d.	0	0
Sardinia	n.d.	4	8	n.d.	1	1	n.d.	3	15
Sicily	n.d.	11	12	n.d.	7	8	n.d.	40	12
Tuscany	n.d.	5	4	n.d.	9	12	n.d.	2	1
Trentino Alto Adige	n.d.	0	0	n.d.	0	0	n.d.	0	0
Umbria	n.d.	3	3	n.d.	0	0	n.d.	18	18
Valle d'Aosta	n.d.	0	0	n.d.	6	6	n.d.	0	0
Veneto	n.d.	6	7	n.d.	2	2	n.d.	52	39
<b>Total</b>	<b>n.d.</b>	<b>97</b>	<b>80</b>	<b>n.d.</b>	<b>77</b>	<b>99</b>	<b>n.d.</b>	<b>407</b>	<b>124</b>

Data from 01 January 2018 to 31 January 2018

Source: General Command of the Financial Police – 3rd Operation Department – Economy and Security Safeguard Office – Public Security and SAGF Unit.

**Table 5.6 – Visits to Detention Cells - Years 2016-2017-2018**

<b>Visits</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
State Police	7	7	3
Carabinieri	8	8	7
Financial Police	0	1	0
Courts	1	2	0
Local Police	0	2	1
<b>Total</b>	<b>16</b>	<b>20</b>	<b>11</b>

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

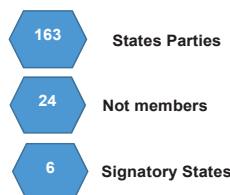
**Table 6.1 - UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

CAT States Parties*				Signatory	
Afghanistan	Congo	Iraq	New Zealand	Spain	Angola
Albania	South Korea	Ireland	Nicaragua	Sri Lanka	Brunei
Algeria	Ivory Coast	Comoros Islands	Niger	United States of America	Haiti
Andorra	Costa Rica	Marshall Islands	Nigeria	State of Palestine	India
Antigua and Barbuda	Croatia	Israel	Norway	South Africa	Palau
Saudi Arabia	Cuba	Italy	Netherlands	South Sudan	Sudan
Argentina	Denmark	Kazakhstan	Pakistan	Sweden	
Armenia	Ecuador	Kenya	Panama	Switzerland	
Australia	Egypt	Kirgyzstan	Paraguay	Swaziland	
Austria	El Salvador	Kuwait	Peru	Tajikistan	
Azerbaijan	United Arab Emirates	Laos	Poland	Thailand	
Bahamas	Eritrea	Latvia	Portugal	East Timor	
Bahrain	Estonia	Lebanon	Qatar	Tunisia	
Bangladesh	Ethiopia	Lesotho	United Kingdom and Northern Ireland	Turchia	
Belgium	Fiji	Liberia	Czech Republic	Turkmenistan	
Belize	Philippines	Lybia	Central African Republic	Ukraine	
Benin	Finland	Liechtenstein	Democratic Republic of Congo	Uganda	
Belarus	France	Lithuania	Republic of Macedonia	Hungary	
Bolivia	Gabon	Luxembourg	Republic of Moldova	Uruguay	
Bosnia and Herzegovina	Gambia	Madagascar	Dominican Republic	Uzbekistan	
Botswana	Georgia	Malawi	Romania	Vanuatu	
Brazil	Germany	Maldives	Ruanda	Venezuela	
Brunei	Ghana	Mali	Russia	Vietnam	
Bulgaria	Djibouti	Malta	San Marino	Yemen	
Burkina Faso	Japan	Mauritania	Holy See	Zambia	
Burundi	Jordan	Mauritius	Saint Vincent and the		
Grenadines					
Cambodia	Greece	Mexico	São Tomé and Príncipe		
Cameroon	Guatemala	Monaco	Senegal		
Cape Verde	Guinea	Mongolia	Serbia		
Canada	Guinea-Bissau	Montenegro	Seychelles		
Chad	Equatorial Guinea	Morocco	Sierra Leone		
Chile	Guyana	Mozambique	Syria		
China	Honduras	Namibia	Slovakia		
Cyprus	Iceland	Nauru	Slovenia		
Colombia	Indonesia	Nepal	Somalia		

Adopted by the General Assembly on 10 December 1984  
Come into force on 26 June 1987  
Italy ratified the CAT on 12 January 1989.

**Control mechanisms:** Committee against Torture. The Convention against Torture provides for the establishment of the Committee against Torture, made up of 10 independent experts who monitor the application of the Convention by its States Parties. They are obliged to present periodical reports to the Committee concerning the way the rights sanctioned in the Convention are applied in their country

\* Data updated to 23 January 2019.



Caption: ↓ decreasing as compared with 2018  
↑ increasing as compared with 2018

The Member States of the United Nations are 193 for a total population of 7,704,746.796\*

↑ The States that have signed and ratified the CAT are 163, for a total population of 6,001,119.527 (77,89% of all UN States)

↓ The States that have not ratified the CAT are 24, for a total population of 248,883.598 (3,23% of all UN States)

↓ The States considering whether to ratify the CAT are 6, for a total population of 1,454,743.671 (18,88% of all UN States)

\* The State of Palestine is included in this total

All data on population are updated to 23 January 2019 [www.worldometers.info/world-population/population-by-country/](http://www.worldometers.info/world-population/population-by-country/)

**Map 6.1 - UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

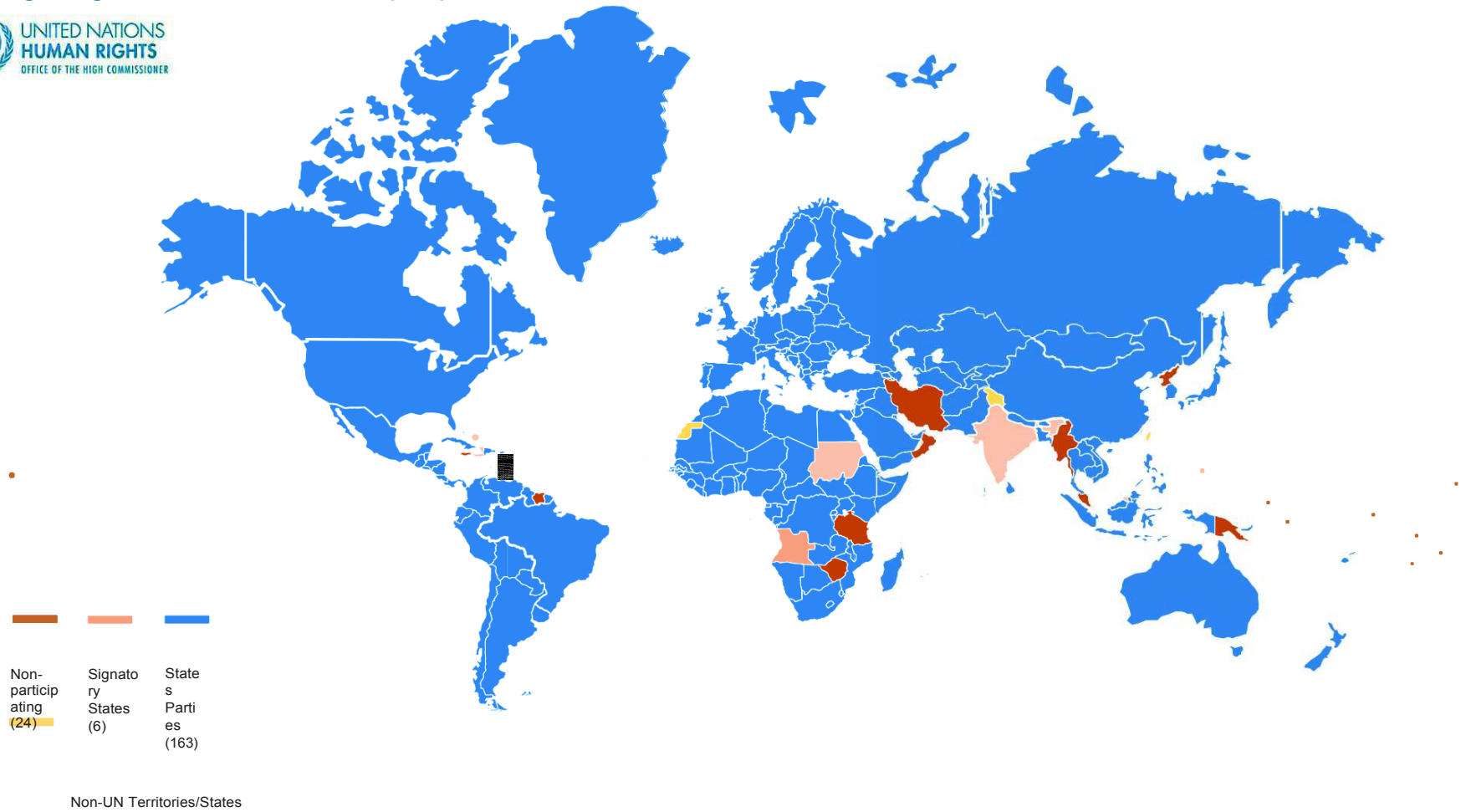



Table 6.2 - Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman

OPCAT States Parties and National Prevention						Firmatari
Afghanistan	Cambodia*	Ghana	Malta*	Netherlands*	Slovenia*	Angola
Albania*	Cape Verde*	Greece*	Morocco*	Panama*	Spain*	Belgium
Argentina*	Chile*	Guatemala*	Mauritania*	Paraguay*	Sri Lanka*	Camerun
Armenia*	Cyprus*	Honduras*	Mauritius*	Peru*	State of Palestine	Ciad
Australia	Costa Rica*	Italy*	Mexico*	Poland*	South Sudan	Guinea-Bissau
Austria*	Croatia*	Kazakhstan*	Moldova*	Portugal*	Sweden*	Guinea Equatoriale
Azerbaijan*	Denmark*	Kyrgyzstan*	Mongolia	United Kingdom*	Switzerland*	Irlanda
Belize*	Ecuador*	Lebanon*	Montenegro*	Czech Republic*	Togo*	Islanda
Benin*	Estonia*	Liberia	Mozambique*	Central African Republic	Tunisia*	Rep. del Congo
Bolivia*	Philippines	Liechtenstein*	Nauru	Dem. Rep. of Congo	Turkey*	Sierra Leone
Bosnia and Herzegovina	Finland*	Lithuania*	Nicaragua*	Rep. of North Macedonia*	Ukraine*	Sudafrica
Brazil*	France*	Luxembourg*	Niger	Romania*	Hungary*	Timor Est
Bulgaria*	Gabon	Madagascar	Nigeria*	Ruanda	Uruguay*	Venezuela
Burkina Faso*	Georgia*	Maldives*	Norway*	Senegal*		Zambia
Burundi	Germany*	Mali*	New Zealand*	Serbia*		

\* OPCAT States Parties who have designated their own NPM. Source: www.ohchr.org. Updated to 23 January 2019.


The **Optional Protocol to the Convention**, adopted by the UN General Assembly on 18 December 2002 and internationally come into force on 22 June 2006, provides for the establishment of a **Subcommittee on Prevention of Torture (SPT)** and of independent national bodies, the **National Prevention Mechanisms (NPM)**, whose task is to prevent torture and other cruel, inhuman and degrading punishments and treatments through a system of periodic visits to places where persons are deprived of liberty. Italy ratified the Protocol with Law 195/2012 and it came into force on 3 May 2013.


An **NPM** is an independent national system for monitoring places of deprivation of liberty, established to comply with the ratification of the OPCAT, which provides for this in Article 3. The Guarantor is the Italian National Prevention Mechanism. Among its tasks, it must promote and favour co-operation relations with territorial guarantors and the civil society, as well as co-ordinate the NPM system. It monitors the enforcement of measures depriving of liberty so that it is in accordance with the laws and principles established by the Constitution and by international conventions on human rights ratified by Italy, by state laws and regulations. It may access with no restriction places of deprivation of liberty, see the persons therein detained and their documents.

Caption:  diminishing as compared with 2018  
 increasing as compared with 2018  
 no change as compared with 2018


88 States Parties 70 Designed NPMs 14 Signatory States


UN Member States are 193 with a total population of 7,704,746.796\*\*

 The States that have not signed the OPCAT are 91, with a total population of 5,379,687.556 (69,82% of all UN States)

 The States that have signed and ratified the OPCAT are 88, with a total population of 2,107,880.670\*\* (27,36% of all UN States)

 The States that have signed the OPCAT and are considering whether to ratify it are 14, with a total population of 216,793.234 (2,81% of all UN States)

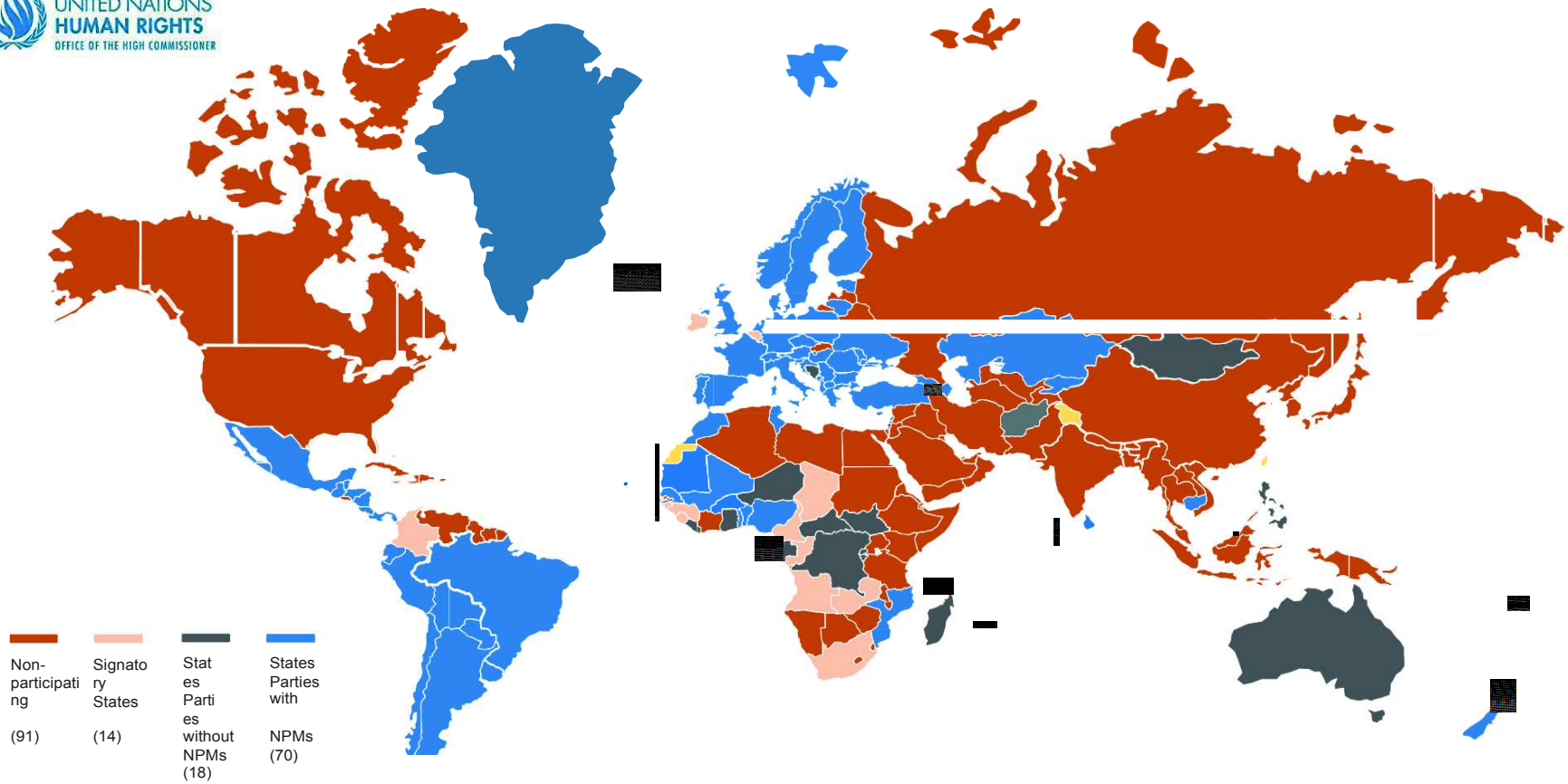
 The States that have ratified the OPCAT but have not designated their NPM yet are 18, with a total population of 403,448.199 (5,24% of all UN States that have ratified the OPCAT)

 The States that have designated their NPM are 70, with a total population of 1,704,432.471 (22,12% of all UN States that have ratified the OPCAT)

\*\* This total includes the State of Palestine, which has ratified the OPCAT.

Data on population are updated to 23 January 2019 [www.worldometers.info/world-population/population-by-country/](http://www.worldometers.info/world-population/population-by-country/)

**Map 6.2 – Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatments or Punishments (OPCAT) and National Prevention Mechanisms (NPM)**





### Map 6.3 – NHRIs in the Territory of the Council of Europe

\*Estonia: The Law came into force on 1 January 2019

\*Holy See: Observer State in the COE

\*Belarus: Non-member State of the Council of Europe (COE)

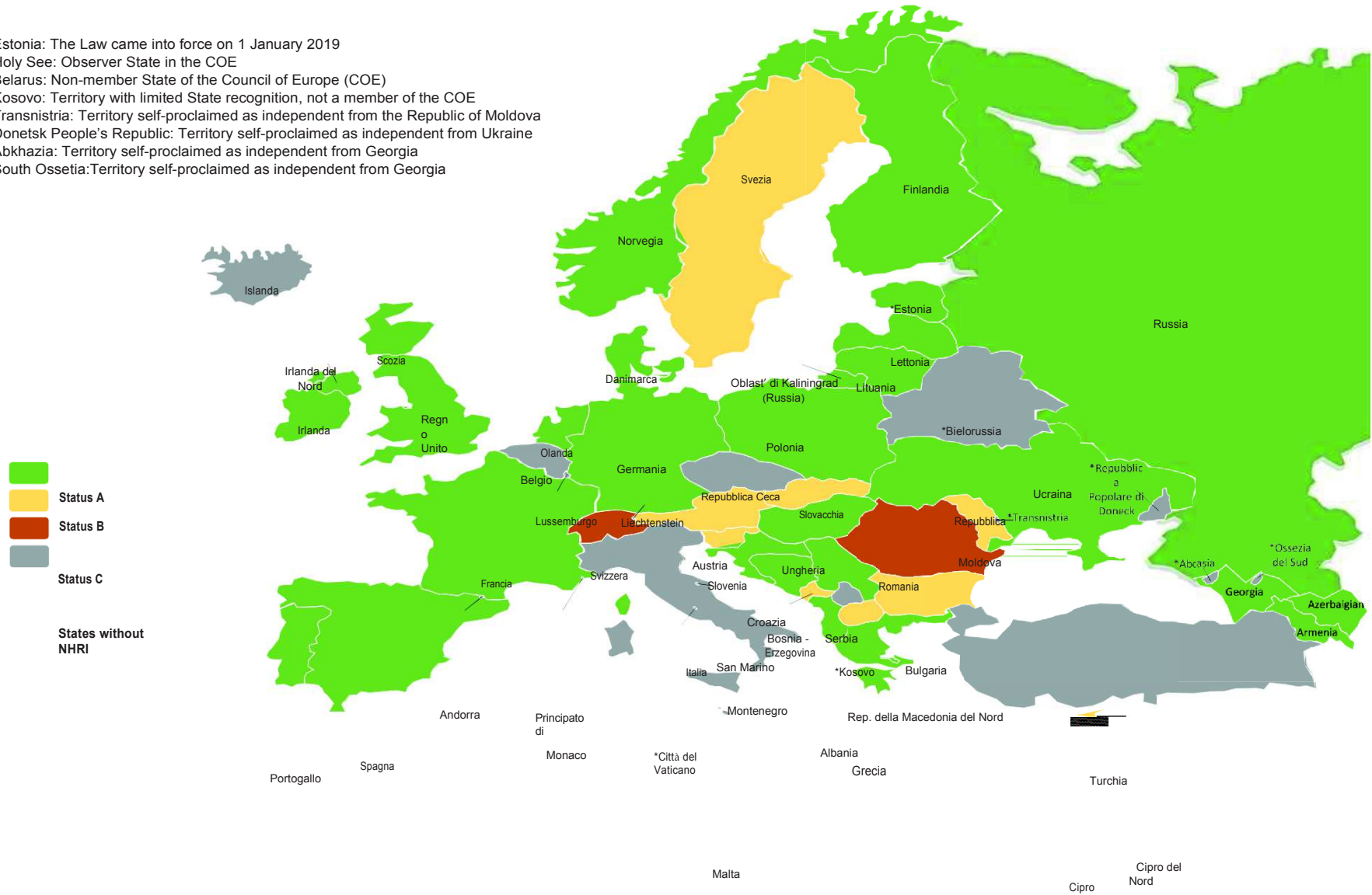
\*Kosovo: Territory with limited State recognition, not a member of the COE

\*Transnistria: Territory self-proclaimed as independent from the Republic of Moldova

\*Donetsk People's Republic: Territory self-proclaimed as independent from Ukraine

\*Abkhazia: Territory self-proclaimed as independent from Georgia

\*South Ossetia: Territory self-proclaimed as independent from Georgia

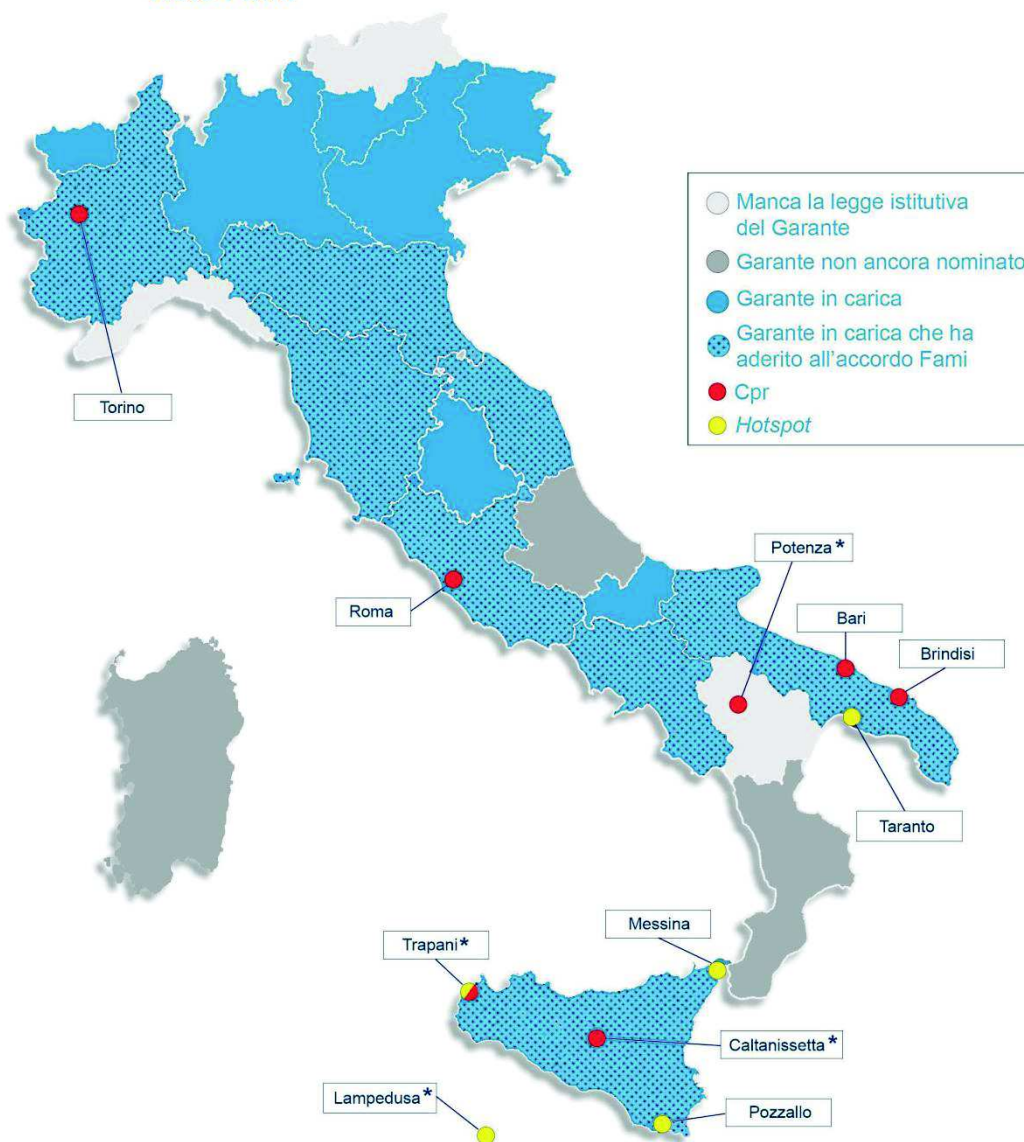


**Table 6.3 – The Network of Local Guarantors**

Region	Category	City	Name	Surname
Calabria	Municipal Guarantor	Crotone	Federico	Ferrero
Calabria	Municipal Guarantor	Reggio Calabria	Agostino	Siviglia
Campania	Regional Guarantor	Campania	Samuele	Ciambriello
Campania	Provincial Guarantor	Avellino	Carlo	Mele
Emilia Romagna	Regional Guarantor	Emilia Romagna	Marcello	Marighelli
Emilia Romagna	Municipal Guarantor	Bologna	Antonio	Ianniello
Emilia Romagna	Municipal Guarantor	Ferrara	Stefania	Carnevale
Emilia Romagna	Municipal Guarantor	Parma	Roberto	Cavalieri
Emilia Romagna	Municipal Guarantor	Piacenza	Antonello	Faimali
Emilia Romagna	Municipal Guarantor	Rimini	Ilaria	Pruccoli
Friuli Venezia Giulia	Regional Guarantor	Friuli V. Giulia	Fabia	Mellina Bares
Friuli Venezia Giulia	Municipal Guarantor	Trieste	Elisabetta	Burla
Friuli Venezia Giulia	Municipal Guarantor	Udine	Nataschia	Marzinotto
Latium	Regional Guarantor	Latium	Stefano	Anastasia
Latium	Municipal Guarantor	Rome	Gabriella	Stramacconi
Lombardy	Regional Guarantor	Lombardy	Carlo	Lio
Lombardy	Provincial Guarantor	Lodi	Paolo	Muzzi
Lombardy	Provincial Guarantor	Milan	Fabrizia	Berneschi
Lombardy	Provincial Guarantor	Pavia	Vanna	Jahier
Lombardy	Municipal Guarantor	Bergamo	Paola	Bianchi Cassina
Lombardy	Municipal Guarantor	Brescia	Luisa	Ravagnani
Lombardy	Municipal Guarantor	Busto Arsizio	Matteo Luigi	Tosi
Lombardy	Municipal Guarantor	Lecco	Alessandra	Gaetani
Lombardy	Municipal Guarantor	Milan	Alessandra	Naldi
Lombardy	Municipal Guarantor	Sondrio	Francesco	Racchetti
Marche	Regional Guarantor	Marche	Andrea	Nobili
Molise	Regional Guarantor	Molise	Leontina	Lanciano
Piedmont	Regional Guarantor	Piedmont	Bruno	Mellano
Piedmont	Municipal Guarantor	Alba	Alessandro	Prandi
Piedmont	Municipal Guarantor	Alessandria	Marco	Revelli
Piedmont	Municipal Guarantor	Asti	Paola	Ferlauto
Piedmont	Municipal Guarantor	Biella	Sonia	Caronni
Piedmont	Municipal Guarantor	Cuneo	Mario	Tretola
Piedmont	Municipal Guarantor	Fossano	Rosanna	Degiovanni
Piedmont	Municipal Guarantor	Ivrea	Paola	Perinetto
Piedmont	Municipal Guarantor	Novara	Dino	Campiotti
Piedmont	Municipal Guarantor	Saluzzo	Bruna	Chiotti
Piedmont	Municipal Guarantor	Turin	Monica Cristina	Gallo
Piedmont	Municipal Guarantor	Verbania	Silvia	Magistrini
Piedmont	Municipal Guarantor	Vercelli	Roswitha	Flaibani
Apulia	Regional Guarantor	Apulia	Piero	Rossi
Apulia	Municipal Guarantor	Lecce	Maria	Mancarella
Apulia	Municipal Guarantor	San Severo	Maria Rosa	Lacerenza
Sardegna	Municipal Guarantor	Nuoro	Giovanna	Serra
Sardegna	Municipal Guarantor	Oristano	Paolo	Mocci
Sardegna	Municipal Guarantor	Sassari	Mario	Dossoni
Sardegna	Municipal Guarantor	Tempo Pausania	Edvige	Baldino
Sicily	Regional Guarantor	Sicily	Giovanni	Fiandaca
Sicily	Provincial Guarantor	Trapani	Lillo	Fiorello
Tuscany	Regional Guarantor	Tuscany	Franco	Corleone
Tuscany	Provincial Guarantor	Massa Carrara	Umberto	Moise
Tuscany	Municipal Guarantor	Florence	Eros	Cruccolini
Tuscany	Municipal Guarantor	Livorno	Giovanni	De Peppo
Tuscany	Municipal Guarantor	Lucca	Angela	Pisano
Tuscany	Municipal Guarantor	Pistoia	Antonio	Sammartino
Tuscany	Municipal Guarantor	Porto Azzurro	Nunzio	Marotti
Tuscany	Municipal Guarantor	Prato	Ione	Toccafondi
Tuscany	Municipal Guarantor	San Gimignano	Emilio	Santoro
Trentino Alto Adige	Guarantor Provincia Autonoma	Trento	Antonia	Menghini
Trentino Alto Adige	Municipal Guarantor	Bolzano	Franca	Berti
Umbria	Regional Guarantor	Umbria	Stefano	Anastasia
Valle D'aosta	Regional Guarantor	Valle D'aosta	Enrico	Formento Dojot
Veneto	Regional Guarantor	Veneto	Mirella	Gallinaro
Veneto	Provincial Guarantor	Padua	Gianfranco	Parolin
Veneto	Municipal Guarantor	Rovigo	Giulia Luisa	Bellinello
Veneto	Municipal Guarantor	Venice	Sergio	Steffenoni
Veneto	Municipal Guarantor	Verona	Margherita	Forestan
Veneto	Municipal Guarantor	Vicenza	Rosario	Vigneri

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

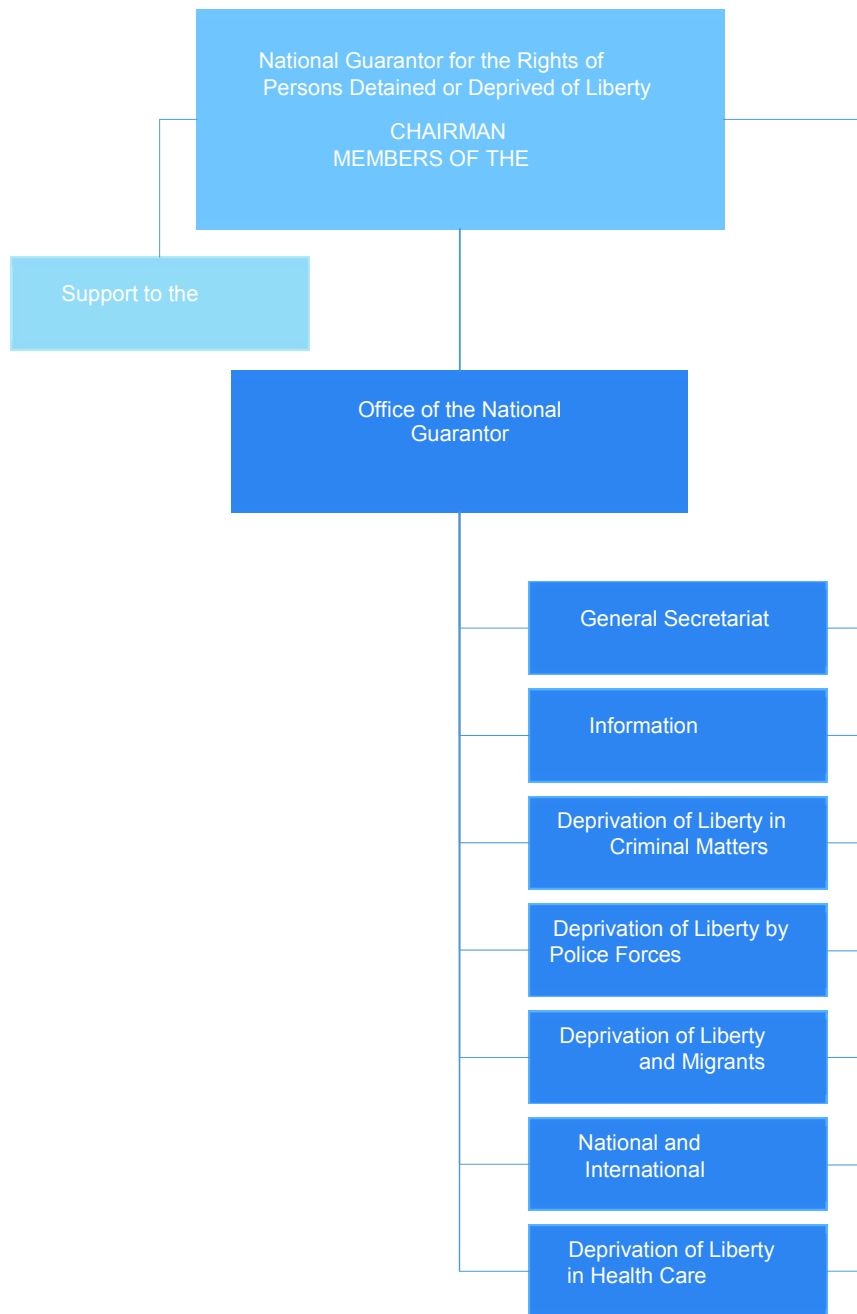
**Mappa 6.4 - Garanti regionali e delle province autonome  
Rete Fami**



\*  
Potenza: operativo dal 12 gennaio 2018  
Caltanissetta: operativo dal 10 dicembre 2018  
Lampedusa: operativo con capienza ridotta a 96 posti da marzo 2018  
Trapani - Milo: fino al 23 settembre 2018 hotspot, dal 24 settembre 2018 Cpr

Fonte: Garante nazionale dei diritti delle persone detenute o private della libertà personale  
Ministero dell'interno - Dipartimento libertà civili e immigrazione

**Chart 7.1 – Organisation Chart of the Office**



**Table 7.1 – Composition of the**

Personnel by Areas/Roles and			
Area/Profile - Role/Qualification	Wome	Men	Total
<b>Central Functions Department, Area 2</b>		<b>1</b>	<b>1</b>
Administrative Assistant		1	1
<b>Central Functions Department, Area 3</b>	<b>6</b>	<b>2</b>	<b>8</b>
Administrative Director	1		1
Administrative Officer	1		1
Accounting Officer	1		1
Social Service Professionalism Officer	1		1
Judicial and Pedagogical Officer	1	1	2
Information Officer		1	1
Linguistic Officer	1		1
<b>State Police, leading role</b>		<b>1</b>	<b>1</b>
Deputy Commissioner		1	1
<b>Penitentiary Police, role of Agents and Assistants</b>		<b>7</b>	<b>7</b>
Chief Assistant to the Coordinator		1	1
Select Agent		2	2
Agent		4	4
<b>Total</b>	<b>6</b>	<b>11</b>	<b>17</b>

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

**Table 7.2 – FAMI Counsellors**

Name	Professional Activity	Type of collaboration
Laura D'Antonio	Counsellor	Expert in European project accounting
Dario Pasquini	Freelance Journalist	Expert in communication
Salvatore Fachile	Lawyer	Legal Expert specialised in issues related to the right to immigration and asylum
Antonio Marchesi	Tenured Professor	Expert in issues related to the international protection of human rights
Agatino Lipara	Statutory Auditor	Auditor
Michele Gorga	Lawyer	Legal Expert
Silvia Casiraghi	Counsellor	Expert in European project accounting
Aldo Morrone	Counsellor	Forensic scientist expert in the application of the UN Istanbul Protocol of 2004

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



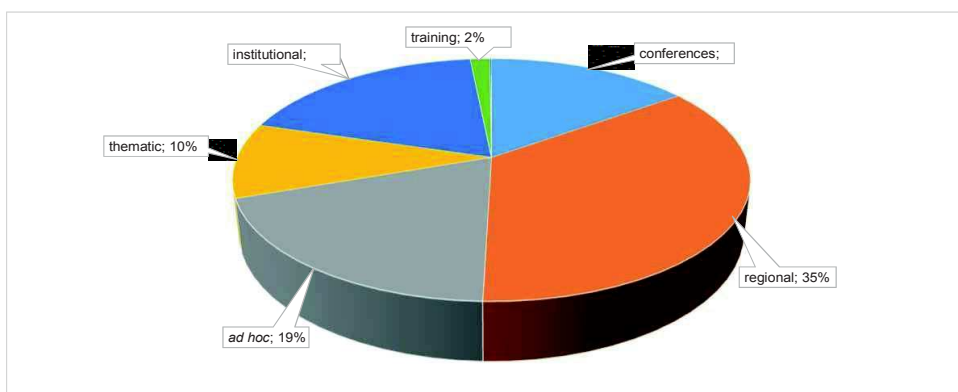
**Table 7.3 – Balance Sheet as of 31 December 2018**

Item of Expenditure	Amount
<b>Personnel Costs</b>	
GROSS Allowance for the Members of the Guarantor's Council	135,000.00
GROSS salaries for members of the Guarantor's Office	(borne by their national administrations)
<b>Operating Expenditures</b>	
Expenses for the publishing of the annual report and dossiers by the Guarantor	88,919.28
Press review service	13,054.00
Miscellaneous (stationery, flags, coating machine, pointers)	17,812.00
Attendance to conferences	8,339.80
Missions:	
→ Regional	19,502.97
→ Ad hoc	10,599.76
→ Thematic	5,526.22
→ Institutional	10,356.16
→ Training	802.61
→ Case-study	69,00
<b>Total Expenditure</b>	<b>309,981.80</b>

For the sake of completeness we would like to point out that the amount of EUR 90,000.00 – allowing to achieve the original allocation provided for in the Budget Law, equal to EUR 400,000.00 - was destined to the FAMI Project, management plan 2 of chapter 1753.

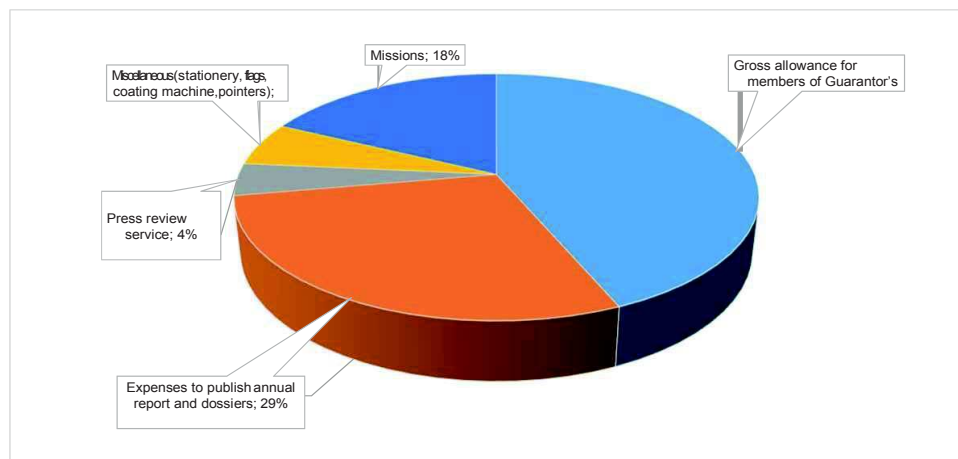
Source: National Guarantor for the Rights of Persons Detained or Deprived of Liberty

**Chart 7.2 – Travel Costs 2018**



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

**Chart 7.3 – Distribution of Expenditure Year 2018**



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

**Table 7.4 – List of Experts Working Free of Charge for Consultancy Assignments and Monitoring Activities of Places of Deprivation of Liberty (Updated to 22 February 2019)**

<b>a) Psychiatric and Assistance to Disabilities</b>		
Mrs	Antonella	Calcaterra
Dr	Luigi	Colaiani
Dr	Francesca	Columbano
Dr	Carlotta	Craveri
Dr	Giovanna	Cuzzola
Mr	Michele Giacomo Carlo	Passione
Dr	Paola	Poeta
Dr	Pieritalo Maria	Pompili
Dr	Adriano Raffaele	Principe
<b>b) Health Protection in Prison Area</b>		
Dr	Laura	Baccaro
Mrs	Antonella	Calcaterra
Dr	Ludovico	Grasso
Dr	Michele	Miravalle
Dr	Pieritalo Maria	Pompili
Dr	Daniela	Ronco
<b>c) Reception and Detainment of Irregular Migrants and Completion of Related Procedures Area</b>		
Mrs	Ilaria	Boiano
Mrs	Francesca	Cancellaro
Dr	Ettore	D'Ascoli
Mr	Maria Donatella	Laricchia
Mr	Elisa	Maimone
<b>d) Police Custody Area</b>		
Mr	Annamaria	Alborghetti
Gen.	Antonio	Labianco
Mr	Ferdinando	Lajolo di Cossano
Dr	Silvia	Talini
<b>e) Deprivation of Liberty in Criminal Matters for Adults and Minors Area</b>		
Mrs	Annamaria	Alborghetti
Dr	Laura	Baccaro
Mrs	Maria	Brucale
Dr	Laura	Crescentini
Dr	Giulia	Fiorelli
Dr	Ludovico	Grasso
Gen	Antonio	Labianco
Mrs	Maria Donatella	Laricchia
Dr	Michele	Miravalle
Dr	Maria Domenica Liliana	Montereale
Mr	Michele Giacomo Carlo	Passione
Mrs	Giovanna	Perna
Dr	Paola	Poeta
Dr	Daniela	Ronco
Mr	Nicola	Rossi
Dr	Silvia	Talini
Mr	Giulio	Vasaturo

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