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Response

**of the Italian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on the visit to Italy**

from 13 to 25 May 2012

The Italian Government has requested the publication of this response. The report of the CPT on its May 2012 visit to Italy is set out in document CPT/Inf (2013) 32.

Strasbourg, 19 November 2013

**ITALY'S RESPONSE
TO THE PERIODIC VISIT REPORT
BY THE EUROPEAN COMMITTEE
FOR THE PREVENTION
OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT
(CPT)
(MAY 13 TO 25, 2013)**

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INTRODUCTION

Further to your query by letter, dated December 12, 2012, Italy is in a position to provide the following relevant information:

1. The protection and promotion of human rights – be it civil and political, economic, social and cultural, be it referred to freedom of expression or to the fight against racism or to the rights of the child and of women – is one of the fundamental pillars of both domestic and foreign Italian policies.
2. As recalled in Government's remarks dated October 2009, the domestic constitutional system, governing the organization of the State, includes the following principles: democracy (Article 1); the so-called *personalistic* principle (Article 2), which guarantees the full and effective respect for human rights; the pluralist principle, within the framework of the value of democracy (Arts. 2 and 5); the principle of social solidarity (Article 2); the principle of equality and non-discrimination (Article 3); and above all, welfare and rule of law.
3. The **Italian Basic Law** guides the political framework for action and organization of the State.
4. Within this framework, we would like to inform you that Italy signed and ratified the Optional Protocol to the UN Convention Against Torture, which entered into force last May 3rd, 2013.
5. As far as the **crime of torture is concerned**, besides recalling our previous information, we would like to reiterate as follows: Article 606 and other provisions, contained in the same section of the criminal code, safeguard the individual against illegal arrest, as undue restriction of personal liberty, abuse of office against detainees and prisoners, illegal inspections and personal searches. These safeguards are supplemented by provisions under Article 581 (battery), Article 582 (bodily injury), Article 610 (duress, in cases where violence or threat are not considered as a different crime) and Article 612 (threat) of the criminal code. Even more so, the provisions under Article 575 (homicide) and Article 605 (kidnapping), to which general aggravating circumstances apply, regarding brutality and cruelty against individuals and the fact of having committed these crimes by abusing of power and violating the duties of a public office or public service, respectively (Article 61, paragraph 1, number 4 and 9 of the criminal code). The code of criminal procedure contains principles aiming at safeguarding the moral liberty of individuals: its Article 64, paragraph 2, and Article 188 set out that, “during interrogation and while collecting evidence, methods or techniques to influence the liberty of self-determination or to alter the ability to remember and to value facts cannot be used, not even with the consent of the person involved” (paragraph 6).

A. POLICE CUSTODY

6. (paras. 13-21) Ad hoc orders were issued for all Stations, especially of the Carabinieri Corps, with the aim, inter alia, of drawing the attention to the correct use and constant update of "the so-called Register of persons detained in the security rooms" and of "the so-called Sheet of rights"¹. It is also worth-recalling that the person detained or apprehended shall declare and confirm in writing that s/he received a copy of such a Sheet. The whole staff has been sensitized about that.¹ More generally, with regard to ethics, professionalism and conduct, ad hoc directives have been issued in order to prevent whatsoever inadequate conduct by the personnel under reference.

7. Persons deprived of their liberty shall be fully informed of their rights. All cases in which a person is deprived of liberty are recorded by the Police custody and the Registers are updated accordingly. The ministerial Memos, dated 4 January 2007 and 19 July 2007 respectively set out the requirements for the proper use of the "Register of the rights of the person arrested or apprehended" and of the "Register of the persons restricted in security rooms". The Code of Criminal Procedure states unequivocally the procedures and deadlines which must comply with the police officers who carried out the arrest or the apprehension.

8. The Carabinieri Corps General Regulation envisages that the military servicemen shall always maintain an attitude appropriate to his/her status. Whatsoever form of ill-treatment, abuse or harassment by the military servicemen towards the population or those arrested must be considered as a very serious fault, to be pursued in accordance with applicable provisions. In this regard were issued specific directives aimed at ensuring that any "overbearing" attitude and / or "arrogant" shall be the subject of rigorous investigations and severe sanctions.

9. Plus, with specific regard to the Carabinieri Corps, no complaints for alleged beatings cases were lodged, in 2012 (paragraph 9).

10. On a more general note, it should be stressed that training activities, including HRE-related courses, have been introduced for all law enforcement agencies. Along these lines, all Italian Forces pay the utmost attention to international humanitarian and human rights law, within the framework of the ad hoc training and educational curricula.

11. The Department of Public Safety underlines that the Police staff is periodically sensitized on HR Law, in order to ensure full compliance with legal/judicial safeguards, especially in the event of those people put under arrest or detention. Likewise, the Prison Administration extensively provides the staff of the prisons with training and a continuous refresher courses, including on the respect for the dignity and rights of the person, as well as on the management and treatment of the various types of people restricted (i.e. collaborators of justice, minors, "41-bis" interned).

12. With regard to the invitation to amend the legislation contained in Art. 582 of the Criminal Code on the ill-treatment of persons deprived of their liberty, it is noted that the law enforcement officials' conduct is often pursued *ex officio*, even in cases of minor injuries, as it entails acts which constitute offences that may be prosecuted *ex officio*, such as the offence of *Abuso di autorità contro arrestati o detenuti* [Abuse of authority over arrested or detained persons] (Art. 608 of the Criminal Code), *Violenza privata* [Private violence] (Art. 610 of the Criminal Code), *Abuso di ufficio* [Abuse of office] (Art. 323 of the Criminal Code) or the offence of *Falso in atto pubblico* [Forgery of documents].

¹ In this regard, see also mission's report (in particular paras. 11-15) by UN WGAD, dated November 28, 2008 (A/HRC/10/021/Add.5).

13. As regards the advocated introduction into the Italian criminal system of the offence of torture, many have been the legislative proposals already formulated, however not yet approved by Parliament. According to one of such proposals, the offence takes place whenever there is a repetition of the criminal conduct over time (in its judgment no. 30780 of 27 July 2012, the Court of Cassation proposed a broad interpretation of the ill-treatment offence set forth in Art. 572 of the Criminal Code), so that if the violence has been exhausted in one sole action, the factual situation would not be included in the provision of the new legal instrument.

14. Since June 1998, D.A.P. [Department of Penitentiary Administration] ordered that where the medical personnel working in the prison facilities verifies the presence of bodily injuries during the medical examination of a prisoner's first entry or of an inmate, not only are they obliged to take note (in the register defined as model 99: register of the medical examinations, observations and proposals) of the outcome of the medical examination carried out, but also of the statements made by the concerned party in relation to the circumstances of the ill-treatment suffered. The annotations included in the register, accompanied by any other observation useful for ascertaining the facts, must be immediately transmitted to the judicial authority, insofar as they fall within its competence.

15. The problem detected by the CPT will appear on the agenda of the first possible meeting of the *Tavolo di Consultazione Permanente* [Permanent Working Group] for prisoners' health care: medical staff will be invited to make use of the register and to comply with the necessary communications, even where the injuries are curable in less than 20 days (and a complaint has not been filed) and the use of the register shall be also solicited where the injuries have been detected during medical examinations subsequent to those made at the prisoners' first entry (pursuant to Art. 11 of law no. 354/75, a medical examiner is obliged to examine whoever may requests it).

16. A monitoring system of all the critical events, among which the injuries suffered by the inmates, has been instituted at the "*Sala Situazioni*" [Situations room] of the *Ufficio per l'Attività Ispettiva e del Controllo del DAP* [Office for the Inspection and Control Activity of the Department of Penitentiary Administration]: the information are transmitted in real time by all the prison facilities in Italy and afterwards the Office performs the required thorough checks relating to the most serious and repeated episodes and transmits the relevant information to the competent Offices of the Supervisory Magistrates.

17. With regard to the failure to transmit the certificates and to initiate investigations, in the framework of a renewed action of the Department aimed at strengthening the cooperation with the judiciary, new and more adequate information practices shall be adopted.

18. The Prison Administration Department provided to inform all the prison facilities on the Istanbul Protocol, i.e. "Manual for an effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment", translated into Italian by the *Ufficio Studi Ricerche Legislazione e Rapporti Internazionali del Dipartimento* [Office for Studies Research Legislation and International Relations of the Department] in April 2008 (Paragraph 12 (-81)).

19. (paras. 13-21) **The Constitution prohibits arbitrary arrest and detention (Art. 13).** The Italian legal system provides that a person may be placed under police custody when s/he is arrested in the act (*flagrante delicto*) or apprehended (Arts. 380 et seq. of the code of criminal procedure) or under enforcement of an order of preventive custody, as issued by the judge, upon request of the Public Prosecutor (Art. 272 et seq, Art. 285 et seq of the code of criminal procedure). Art. 13 of the Italian Constitution states that the inviolability of personal liberty may be restricted by the judicial authority, only on motivated grounds and only for the cases and with the modalities provided for by the Law. Moreover, under exceptional circumstances of necessity and urgency, strictly defined by

law, said Article provides that the authority for public security might adopt provisional measures to be submitted to the judicial authority's approval within the peremptory deadline of 96 hours, after which it will immediately lose its effects.

20. In the cases provided for in Articles. 380 and 381 of Code of Criminal Procedure - Shutdown, obligatory or optional, in the act - are governed specific requirements of the police after the arrest or detention, which is always exercised control by the prosecutor. Received the minutes of arrest or detention, the prosecutor operates initially screened on the work of the police having to provide three alternative options: The first option is represented by the provision of Article. 389 Code of Criminal Procedure, which provides that the prosecutor can lay in the freedom arrested or stopped in case of: a) mistaken identity, b) ineffectiveness of measures to expiry of deadlines for the transmission of documents to his office; c) arrest or detention carried out in the cases provided by law. In these situations, of course, the prosecutor did not ask the judge to validate the arrest or detention. The second option provided for in Article. 121 disp. att. cpp, is available to the public prosecutor in the case, he may decide to request the court to validate the arrest or detention, but not the application for interim measures under Article .391, co. 5 °, Code of Criminal Procedure (In this case he is, even considering the lawful arrest or detention, provides for the release of the person detained or arrested and sends the documents to the judge for validation, in order to "see that it is law"). The third option is configured in the case of full membership to the result of the judicial police: it consists in the validation request to the court of the arrest or the apprehension and application of a coercive measure.

21. Within this framework, it should be recalled that: Warrants are required for arrest (Art. 386 of the code of criminal procedure) unless there is a specific and immediate danger to which the police must respond; Detainees are allowed prompt and regular access to lawyers of their choosing and to family members; The State provides a lawyer to indigents (Art. 97 of the code of criminal procedure). In fact, in line with both Art.24 of the Constitution and Art.98 of the code of criminal procedure - which envisages the defence of the indigents -, Presidential Decree No. 115/2002 provides for legal aid in criminal proceeding (Art. 74 et ff.): For being admitted to legal aid, no particular conditions or formalities are required (a mere self-certification is sufficient, pursuant to Art. 79, para1, letter c).

22. Art. 386 of the criminal proceeding code sets out as a general provision that the judicial police executing the arrest measure or guarding the person arrested must promptly inform the competent public prosecutor, accordingly. **They also inform the person under arrest about the right to choose a legal counsel²**. Pursuant to Art. 111 of the Italian Constitution, as amended by Constitutional Law No. 2/1999, the law guarantees that a person, who has been accused of an offence, must be promptly informed, in a confidential manner, of the nature and the grounds of the charges moved against him/her, and be placed in the condition necessary for preparing his/her defence, as well as his/her right to be assisted by an interpreter, should s/he does not understand or speak the language used during the trialⁱⁱ. Pursuant to Art.143 of the code of criminal procedure, the defendant has the right to be assisted by an interpreterⁱⁱⁱ, free of charge. Art. 387 of the code of criminal procedure provides that the judicial Police, with the consent of the person arrested or apprehended, must inform without any delay the person's family of said person's arrest or apprehension^{iv}. Besides, the Italian legal system includes a general provision on the basis of which no waiver of legal defence is allowed to those who are put under arrest.

² In implementing such constitutional rules, Art. 386 of the code of criminal procedure provides that "the judicial Police officers and agents who have carried out the arrest or the apprehension, or to whom the arrested person has been surrendered, expeditiously inform the Public Prosecutor of the place where the arrest or the apprehension took place. They must also inform the person put under arrest or apprehended of his/her right to appoint a defense counsel. The Judicial Police must promptly inform the private defense counsel or the Court-appointed defense counsel, as designated by the Public Prosecutor, pursuant to Art. 97 of the occurred arrest or apprehension."

23. Art. 24 of the Italian Constitution stipulates that the right of defense is a fundamental right; and Art. 27 lays down the principle of the assumption of innocence, up to the final judgment. In this context, the Italian legal system considers **the right of being assisted by a defense counsel as an inalienable right, from the very outset** (the technical-legal defense is mandatory, see Art. 97 and 98 of the code of criminal procedure). Thus, **meetings with the defense counsel cannot be limited in any way and are possible since the very beginning of the imprisonment**. **The visual meetings with duly entitled family members also take place at fixed time and days, after having ascertained the actual family relationship – even by means of a self-declaration.**

24. Along these lines, the Prison Rules [Ordinamento Penitenziario] (Act No. 355/1975) and the relating Implementing Regulation [Regolamento di esecuzione] (Decree of the President of the Republic, D.P.R. No. 230/2000) contain specific provisions aimed at ensuring that every person, as from his/her first contact with the prison, is granted the recognition of some fundamental rights. It is therefore provided that upon his/her first arrival (Art. 23, para.3, of the above Regulation), the prisoner be given a medical examination and meet an expert in prison treatment, in order to “verify whether, and should it be the case with what precautions, s/he can adequately cope with the state of restriction”, and also in order to ascertain whether there are any situations of risk or other type of problems. Art. 23, para. 5, also provides that the Prison Warden, or his/her delegate, have a further talk with the prisoner “in order to give him/her the information provided for in Art. 32, para.1, of the (cited)Act”, and to also give him/her a copy of the regulations governing life in prison (Article 69 of the Regulation expressly provides that the regulations be made available in several languages).

25. Art. 388 of the code of criminal procedure sets out **the rules governing the questioning** of the person arrested or apprehended **by the public prosecutor**. S/he shall proceed with the questioning, in compliance with Art. 64 of the code of criminal procedure, and timely inform of said questioning the person’s private or Court-appointed defense counsel (Arts. 96 and 97 of the code of criminal procedure). S/he shall also inform the person arrested or apprehended of the acts under investigation, the grounds on which the measure is based, the evidence gathered against him/her and – provided that this does not cause any prejudice to the investigations – the sources of said evidence.

26. Specifically, Art. 391 of the code of criminal procedure entails the obligatory participation of the defense counsel in the validation hearing of provisional arrest or the arrest. Art. 294 of the code of criminal procedure rules the questioning of the arrested person or the person under provisional arrest on behalf of the judge, who, generally speaking, has to proceed immediately to the questioning, or, at any rate, no more than five days after the start of the custody measure, if s/he did not do so during the validation hearing (para. 1). The precautionary custody loses immediately its efficacy in case the judge does not proceed with the questioning by said deadline (Art. 302, para.1, of the code of criminal procedure).

27. The **questioning before the judge** shall take place with the mandatory participation of the defense counsel (para.4) and according to the terms provided for by Art. 64 and Art. 65 of the code of criminal procedure, which contain the general provisions on questioning, in compliance with the constitutional writs mentioned above).

28. Art. 104 of the code of criminal procedure, the person who has been arrested while in the act of committing an offence or subject to provisional arrest (according to Art. 384 of the code of criminal procedure) and the accused under precautionary custody, have the right to talk to the defense counsel immediately after their arrest, or provisional arrest or the starting of the execution of the precautionary custody in prison. Art. 104, para. 3, of the code of criminal procedure, provides

for an exception to said general rule: the possibility that the judicial authorities, by means of a motivated decree, defer the exercise to confer with the defense counsel for a period of time not exceeding five days. Said postponement is allowed, as specified under the same Article, only in the presence of precise assumptions on which the measure is grounded, i.e. “the existence of specific and exceptional reasons for precaution”.

29. The only case under which there could be a **temporary limitation of meetings**, even with the defense counsels, occurs when the prisoner is subject to a measure of judicial isolation (Art. 22 of the Regulation). Such a condition stems from an act of the prosecuting judicial authority and is connected with very strict precautionary and investigative requirements when there is the risk of tampering with evidence. In this case, the decree imposing such measure shall indicate in detail the length and modalities thereof. In any case, if there is an order of deferral of the meetings with the defense counsel, such deferral shall not last more than five days (Art. 104 of the code of criminal procedure). **Even during the period of judicial isolation, the prisoner may have contacts with the prison guards, the surveillance magistrate and the medical staff.**

30. In case of arrest or provisional arrest, the same power is exercised by the Public Prosecutor until the arrested person or the person subject to provisional arrest is put at the disposal of the judge for the validation hearing (Art. 104, para. 4).

31. According to the Supreme Court, “the illegitimate postponement of the hearing with the defense counsel and hence the infringement of the right provided for under Art. 104 para. 1 and 2 of the code of criminal procedure, entails the infringement of the right to defense, to be considered within the framework of general nullity provided for under Art. 178, letter c, of the code of criminal procedure; nullity, which, according to Art. 185 para. 1 of the code of criminal procedure, makes invalid the questioning rendered by the arrested person, who has been illegally denied the right to talk before the defense counsel, with the consequences provided for under Art. 302 of the code of criminal procedure, i.e. the loss of efficacy of precautionary custody (judgement N° 3025/1992, confirmed by judgment division VI- 04/20/2000 Memushi Refat). The exceptional provision contained in Art. 104, paras. 3 and 4, of the code of criminal procedure does not affect the right of the arrested person to be questioned in the presence of the defense counsel: the above-mentioned Articles 391 and 294 of the code of criminal procedure expressly provide for the obligatory participation of the defense counsel in the validation hearing and the questioning before the judge.

32. Along these lines, the **right of access to medical care** is always guaranteed when the person under arrest or detained requires medical assistance or when s/he explicitly requests it. The State police underlines that the person deprived of his/her freedom has the right to request the presence of a physician who, regardless of such a request, shall be present in any case when the Police officer deems it to be necessary. Moreover, on the basis of the internal practice, the access to medical services for persons under arrest must be reported in the ad hoc register devoted to record individuals who are placed in security rooms, the so-called “*Registro delle persone ristrette*”, under the item “AOB”.

33. Article 11 of the Penitentiary Legislation (Act No. 354/1975) and Art. 17 of the relating Regulation envisage that **medical and pharmaceutical assistance be constantly provided through the presence in prison of specialist doctors and the possibility of being hospitalized either in the prison administration’s medical centres (Centres for diagnosis and treatment/Centri Diagnostici e Terapeutici) or in external health-care facilities.**

34. (paras. 21-24) The competent offices of the General Command of the Carabinieri Corps, provide that the risk of self-damage persist, have identified, with the aim of ensuring an adequate

level of comfort and ease of sanitation treatments, a type of mattress made of suitable material. The purchase is under definition, whose costs will be the subject of a transaction to be finalised by the Ministry of the Interior. In this regard, it should be noted that it is under definition by settlement agreement, the dispute between the Department and the company "1M Srl" on the supply of cyto-artifacts purchased by the Ministry in 2009. In the event of a rapid amicable settlement, the mattresses so purchased shall be placed in the logistics cycle, presumably, by the end of the current year.

35. The Carabinieri Corps has also purchased "on the cheap" a lot of mattresses that will be placed in the logistics cycle in the course of the current month (June 2013).

36. With specific regard to **the Gazzi (ME) station**, the General Command of the Carabinieri Corps has ensured the start of a dispute with the supplier of mattresses and – pending the definition of such a situation has urgently ordered a supply of mattresses

37. Both the Police Headquarters in **Palermo and Florence** have discontinued the use of the security rooms under reference. The former has created a new structure with a suitable environment for the temporary detention in accordance with current regulations – being already in use since the end of last year; the latter has identified other places to be used for new security rooms and for which necessary works are about to be launched;

38. With regard to the request for the revision of the conditions of detention of the security rooms supplied to the police offices, it should be noted that it has been recently established a technical Committee, consisting of various relevant Departments at the Central Directorate for General Affairs of the State Police. The technical Committee has the following tasks, inter alia: monitoring the situation of security rooms; verifying that they meet the requirements of the applicable provisions, with special emphasis on the structural conditions and the modalities for the performance of the relevant obligations by the relevant personnel, also in view of a subsequent inter-forces exchange of views – to be organized by the Central Directorate of the Criminal Police

B. DETENTION OF FOREIGN NATIONALS UNDER ALIENS LEGISLATION

39. (paras. 25 et ff.) Nobody has been any-longer accommodated in the Identification and Expulsion Centre (CIE) in Bologna, since the facility is undergoing emergency maintenance works, following the assessment by the ad hoc Working Group, established under and coordinated by the Public Works Agency, having focused especially on structural, sanitary and management conditions.

40. With regard to the recommendations made under paragraphs 28, 29, 30 and 40 of the Report, the Department of Public Safety stressed that the representations made by the Tunisian national, named Mr. B. M. to the CPT Delegation, does not correspond to the truth. Following the non-repatriation of Mr. B., scheduled for April 20, 2012, with a normal flight departing from Bologna, due to the batteries ingested by the person concerned, the Police Station Staff of Bologna promptly assisted him who was immediately transferred to a hospital, before returning him to the Centre for identification and Expulsion. During the transfer, Mr. B. maintained an aggressive behaviour which degenerated into a physical assault against a police officer. For this reason, of Mr. B.'s behaviour resulting in the offenses of indecent assault and resistance to a public officer were duly informed the competent Judicial Authorities (paragraph 28);

41. As already mentioned, the Center for Identification and Expulsion in Bologna has been closed down last 8 March 2013, due to the urgent realization of restoration works aimed at improving both the sanitary conditions and the safety of the structure.

42. With regard to the condition of detention rooms and related equipment: 10 rooms for men and 9 rooms for women are available in the CIE; each room has a five-bed capacity and is equipped with built-in beds and shelves, a lavatory and a TV set. However, due to the poor structural and sanitary conditions, all rooms underwent emergency management works.

43. Works are ongoing at the Bologna CIE in order to restore hygienic and sanitary conditions and to better implement safety measures: such interventions are funded by the Directorate Central for approx. 150.000,00 Euros.

44. With regard to the alleged lack of recreational activities within the Centre, it will be the managing Authority, in accordance with the Tender Scheme for the management of the reception Centre, "to organize socio-cultural entertainment activities through active participation of the beneficiaries, as well as those dedicated to carry out religious functions. For the purpose of the service is necessary to ensure adequate physical space as a place of reference taking into account in particular vulnerable groups"(paragraphs 29 and 30)

45. Minimum standards for the assistance services to be provided by government Centre's managing bodies are set out in the Technical Document approved by decree of the Ministry of Interior and intended for all centres located on the national territory.

46. Regarding third-country nationals held in the CIEs, technical specifications of general assistance services to migrants provide also for information on migration-related regulations, rights and duties of the hosts, the aliens' condition as well as on the behavioral rules to be followed in the centres.

47. The managing Authority confirmed that one of the two sports grounds (the one intended for volleyball) is not used; only the one intended for football is being used. Such use is allowed only in the afternoon and during the winter season, due to very low temperatures, it was considerably restricted. Every room is equipped with a television set: playing cards and draughts boards are often purchased and distributed to the inmates . Furthermore, an MoU was signed by the Prefecture, the Municipality of Bologna and volunteers' associations through which the associations committed themselves – among other things – to set up a series of laboratories involving the inmates of the Centre, with the aim, inter alia, of transmitting language competences, that is to say notions of spoken Italian language.

48. Since 1 January 2012, the Organizations involved in the so-called “*Praesidium VII*” Project (IOM/IRC/UNHCR/Save the Children), funded by the Ministry of Interior, Department for civil liberties and immigration, have been acting, each of them according to its institutional mandate, in the main landing spots as well as in the government Centres and have been making themselves available for the hosts' needs. In this regard, the ongoing audit activity in the government centres stressed that, in relation to the first six months of 2012, services were regularly offered by the staff not only upon arrival at the facility but also every time the hosts required them. With regard to 2013, “*Praesidium VIII*” contains a new feature which consists of an *addendum* to the related convention according to which, in order to strengthen the monitoring and control actions carried out by the local Prefecture through the audit procedures, a Commission is established in each government Centre where it is tasked to monitor and check the reception standards. Each Commission is composed of representatives of each organisation involved in the project, of the Prefectures and of Police Headquarters³.

49. (paragraph 33) In conformity with the above Technical Document, Bologna CIE, which has a formal capacity of 95 places, must ensure the presence of a nurse h24 and of a physician h8 a day, for 6 days a week, respectively. The absence of medical and nursing staff was spotted on specific dates, notified to the Managing Authority last February 12th and subjected to a penalty levied last April 30th.

50. Pending the adoption of the related provision, the Managing Authority ensured that, as a general rule, until the closure of the CIE due to maintenance works, a doctor was present in the Centre round the clock, seven days a week; the nursing staff are present twelve hours a day, seven days a week.

51. The managing Authority also ensured that, as soon as the facility is re-opened, it will be attended by health-care staff, in accordance with the above Technical Document.

52. (*paragraph 37*) The Managing Authority informed that whenever the medical staff identify injuries consistent with allegations of ill-treatment made by a CIE's host, the record is transmitted to the police officer on duty at the permanent police station within the Centre, who forwards it to the Judicial Authority.

53. The Managing Authority informed that the inmates' medical records are kept in a closed metal filing cabinet and that only health-care staff may have access to it. Such records can be shown only to the concerned foreign national or to his/her lawyer. The software for treating health files can be exclusively installed onto computers which are protected by access passwords.

54. The nursing register (where all interventions made on each host must be recorded) has to be regularly updated, as provided for by the above-mentioned Technical Document. Moreover, in

³ Both bodies are peripheral offices of the Ministry of Interior, based in 103 provinces.

conformity with the penal code, all the physicians are bound to report to the judicial authority cases of ill-treatments and injuries detected. Sanctions are issued in the event of omission of medical report and omitted denunciation.

55. (paragraph 35) Within the above-mentioned “*Praesidium Project*”, the Italian Red Cross (IRC) performs the monitoring of health assistance standards and carries out, together with the health units operating in the facilities, interventions and/or procedures aimed at improving the health conditions of the inmates. The IRC, besides promoting the best health and assistance standards, also provides guidance and information on health education, also by disseminating information material in several languages. Furthermore, an affective and relational support is offered to the migrants, consisting in actively listening to their psychological and social needs. The IRC helps the institutional actors detect vulnerable cases and/or those in need of treatment, which are then reported to the territorial health units.

56. Finally, since 14 June 2012, an MoU with Medecins sans Frontières has been signed, with the aim of controlling and preventing the spread of TB in the CIEs in Milan, Rome, Trapani and Caltanissetta. MSF made itself available to renew the protocol, which is going to expire soon, until 31 December 2013, and also to extend its action to some CARAs (Reception Centres for Asylum Seekers).

57. The identification of the foreigner put under detention starts from the outset of his/her entrance into the prison, with the transmittal of the fingerprint cards to the appropriate diplomatic Missions. However, many third countries do not have a central record of identity. Plus, they issue the necessary travel document only upon interview of the person concerned; and usually are not willing to perform these interviews in prison. Furthermore, the measures of early and/or transfer of foreign prisoners from one prison facility to another – to reduce the prisons overcrowding - affect both the communication and registration of those people destined to expulsion, whose release. In this regard, since August 9, 2012, in the SDI database, it has been envisaged a system managed by the Immigration Police Headquarters, with the aim of tracing the identification scheme followed by each foreign prisoner, in order to reduce any problems that might arise from the transfer from one prison to another (paragraph 40).

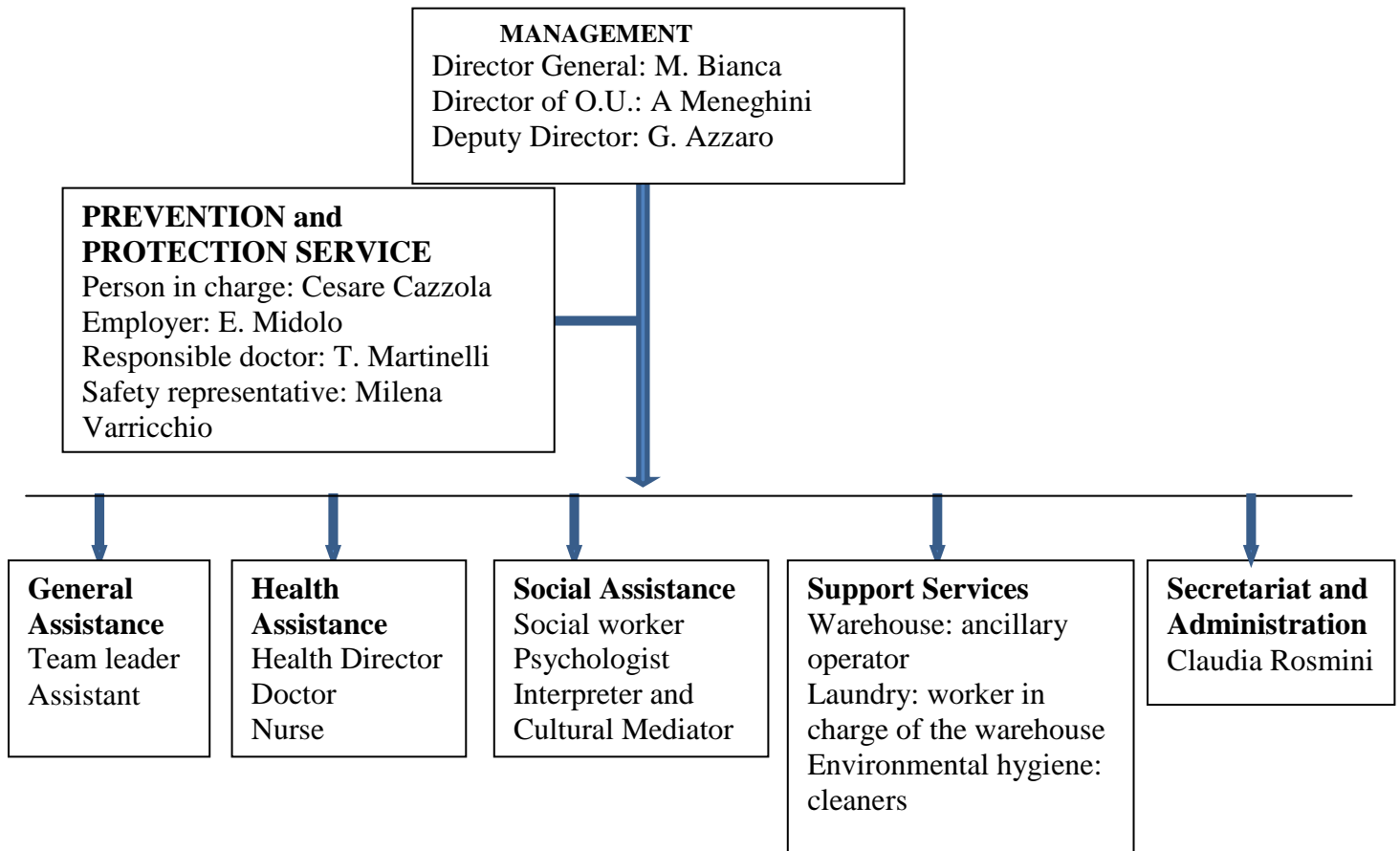
58. The former Under-Secretary of State, S. Ruperto, during his institutional mandate, prepared a policy Document on Identification and Expulsion Centres containing proposals for improvement with a view to implementing more effective forms of coordination and cooperation between the Ministry of Justice, the Ministry of Interior and the Ministry of Foreign Affairs. In compliance with an inter-ministerial directive (Ministry of Justice in agreement with the Ministry of the Interior), the Italian Penitentiary Administration issued a circular for the regulation of the “Identification procedure of non-EU detainees pending expulsion”. This procedure provides that the prison governors transmit, on a bi-monthly basis, to the competent Police Headquarters the information relating to the release date of the non-EU detainees against whom expulsion orders must be adopted, as well as all elements useful for their identification, which have been gathered during their detention. For this purpose, the Registration offices of the prisons will begin to set up specific lists of prisoners who satisfy the conditions for expulsion, which shall be then transmitted to the competent supervisory magistrate and the Police Headquarters, so that a verification of the correct identification of the prisoner, the recovery of the travel documents and a verification of any obstacles to the expulsion may be made.

59. The procedure described above does not, for the time being, guarantee a rapid exhaustion of the formalities. An intervention is therefore required in order to make the coordination of the bodies involved more efficacious and the supervisory magistrate’s jurisdictional procedure more fluid. This

Administration aims at achieving, through appropriate inter-ministerial agreements, a system which would allow to immediately initiate the investigation and a timely expulsion in respect of a considerable number of prisoners. A legislative amendment entailing an expansion of the potential recipients of the measure at issue is also advocated.

60. Consortium “THE OASIS”
 O. U. Identification and Expulsion Center in Bologna

Company organizational chart



B. PRISONS

61. Act No. 199/2010 introduced a new regulation aimed at enabling the execution of prison sentences shorter (before term not exceeding one year, time of eighteen months) to locations outside the prison (home of the offender or other public or private care , assistance and welcome) that fall within the definition of residence and abode as introduced by relevant regulation. As a result of raising the threshold from twelve to eighteen months of minimum penalty of imprisonment, including residual one, for access to house detention, provided for by Article 3 of Law Decree No. 211/2011, the number of inmates admitted to home detention has increased significantly.

62. At the core of the relevant regulatory intervention there is the emergency situation in which Italian prison facilities are, whose overcrowding has led the European Court of Human Rights, initially by the judgment in the case Sulejmanovic against Italy, issued on July 16, 2009, and then with the pilot judgment Torreggiani against Italy, to condemn Italian Authorities for the violation of Article 3.

63. The composition of the prison population included about 32% of inmates who, as a result of a final judgment, were serving prison sentences not exceeding one year. This percentage resulted in constant growth (about 25 percent in June 2007 to 31 percent in June 2008) so as to cause an uncomfortable condition that, besides exposing Italian Authorities to the convictions by the European Court, do not allow to fully implement the rehabilitative function of the penalty provided for in Article. 27 of the Italian Constitution. It should be also noted that the rate of inmates to whom to address the above measures is reduced in the event of foreign prisoners since they undergo the process of identification of an abode or residence if the former lacks.

64. The assessment required by the legislation to the surveillance judge is therefore a discretionary assessment to be made on a case by case basis - in analogy to the assessment of the elements deemed necessary for the purpose of checking the existence of the precautionary requirements provided for by art. 274 lett. b) and c) of the Criminal Procedure, Code or for the application of the criterion of suitability of specific measures, in accordance with art. 275 of Criminal Proceeding Code. This assessment will entail an individualized content exercise, in which to include the problem of the effective protection of the victims.

65. A different path follows the procedure for the application of the benefit, depending on whether the offender is detained or not. Assuming that the person is a condemned inmate, the initiative has to be taken by the prison centre - otherwise by the prosecutor. In both cases, relevant documentation and any suspension of the order of detention shall be forwarded without delay to the supervising judge who has the power to decide that the punishment is carried out at home. Ultimately, Art. 1 of Law 199/2010, as amended by the above Legislative Decree, provides for the suspension of sentences of imprisonment not exceeding eighteen months just in case the convicted person is not eligible for one of the alternative measures to detention in prison, to be granted through the procedure provided for in Article 656 of the Code of Criminal Procedure.

66. With regard to the data relating to the impact of the aforementioned provisions, the computerization of the records of the courts and on-site supervision for the processing of the relevant data is newly implemented. The standardization of registration and cases management allows just this year to be able to have some meaningful data, although not exhaustive, of judicial activity in this area.

67. The judicial activity is aimed, on the one hand, to the identification of alternatives to detention, on the other hand, to the monitoring of compliance of individual rights of detainees. The latter activity, primarily under the responsibility of the supervising judge, does not present particular problems as shown by relevant data (See below). With regard to the evaluation of alternative measures, over the past few years there has been an extension of the competence and growing by the court office. This extension, if on the one hand, was decided in agreement with the expectations of the legislator to lighten the prison density; on the other hand has determined some counter-indication with regard to the increase in the workload of the oversight magistrates (See below).

68. In relation to the assessment of the suitability of the security rooms, this action has been agreed with the administration of the Interior and of Defence. The Minister of the Interior has agreed to restore the use by the police, of the security rooms, even before the entry into force of Law Decree No.211/2011.

69. By the above Law Decree, the arrested person, for acts of lesser social alarm, can wait for the validation of the arrest in home detention (Please also refer to Annex No.1).

Tab.S.1 Concessione misure - dati di flusso e di stock degli oggetti delle istanze Anni 2010-2011
(Totale Nazionale)

| | Anno 2011 | | | Anno 2010 | | |
|--|-----------|----------|-----------------------|-----------|----------|-----------------------|
| | Iscritti | Definiti | Pendenti fine periodo | Iscritti | Definiti | Pendenti fine periodo |
| Oggetti delle istanze* | | | | | | |
| Misure alternative | | | | | | |
| Affidamento al Servizio Sociale | 27.838 | 26.278 | 16.292 | 30.035 | 27.658 | 14.786 |
| Affidamento Servizio Sociale ex art. 94 DPR 309/90 | 6.270 | 6.131 | 2.778 | 7.039 | 6.756 | 2.668 |
| Affidamento art. 47 quater O.P. | 170 | 155 | 95 | 204 | 195 | 88 |
| Detenzione Domiciliare art. 47 ter O.P. | 17.735 | 16.971 | 9.191 | 20.395 | 18.987 | 8.588 |
| Detenzione Domiciliare art. 47 ter 1 bis | 10.472 | 9.848 | 5.231 | 11.433 | 10.582 | 4.662 |
| Detenzione domiciliare art. 16 nonies D.L. 8/1991 | 141 | 131 | 69 | 125 | 102 | 61 |
| Detenzione Domiciliare art. 47 quater o.p. | 73 | 71 | 31 | 122 | 109 | 30 |
| Detenzione domiciliare per recidivi | 7 | 7 | 2 | 15 | 14 | 2 |
| Detenzione domiciliare per ultrasessantenni | 53 | 61 | 14 | 80 | 71 | 24 |
| Detenzione Domiciliare Speciale | 165 | 138 | 68 | 140 | 132 | 44 |
| Esecuzione presso domicilio della pena detentiva | 17.799 | 18.118 | 2.460 | 1.615 | 801 | 2.814 |
| Semilibertà | 11.385 | 10.889 | 5.851 | 12.190 | 11.596 | 5.376 |
| Sanzioni sostitutive | | | | | | |
| Libertà Controllata | 655 | 549 | 295 | 474 | 415 | 190 |
| Semidetenzione | 67 | 53 | 55 | 76 | 54 | 42 |
| Altre misure | | | | | | |
| Estensione straniero e titolo di sanzione alternative (art. 16 comma 5 D.Lgs 286/1998 e succ.mod.) | 5.035 | 4.926 | 1.733 | 5.562 | 5.656 | 1.672 |
| Sospensione Condizionata della Pena Detentiva Art. 2 L. 207/2001 | 575 | 591 | 229 | 853 | 863 | 247 |
| Sospensione Esecuzione Pena ex art. 90 DPR 309/90 | 571 | 544 | 295 | 609 | 616 | 272 |
| Liberazione Condizionale | 657 | 660 | 226 | 751 | 768 | 230 |
| Lavoro Esterno Art. 21 O.P. | 2.209 | 2.208 | 55 | 1.795 | 1.775 | 75 |

* L'unità della rilevazione è l'oggetto/misura della istanza.

Ogni istanza può contenere uno o più oggetti/misura. Il totale oggetti/misure potendo quindi essere maggiore del totale istanze non può essere preso come indicatore del numero di istanze presentate.

La stessa avvertenza vale nei confronti dei soggetti, dato che possono presentare più di una istanza.

In corsivo le misure di competenza dell'ufficio di sorveglianza

Tab.5.2 Concessione misure -esito delle decisioni in % sul totale definiti degli oggetti delle istanze nell'anno 2011
(Totale Nazionale)

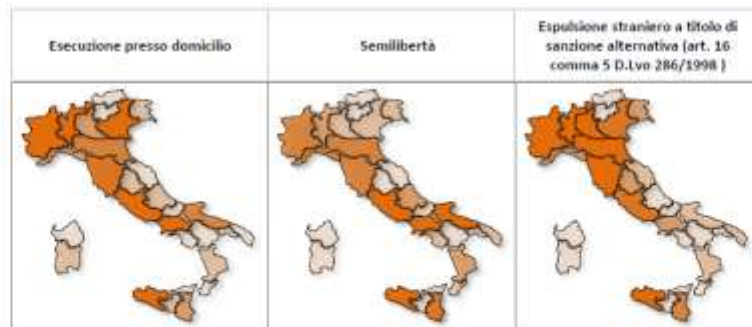
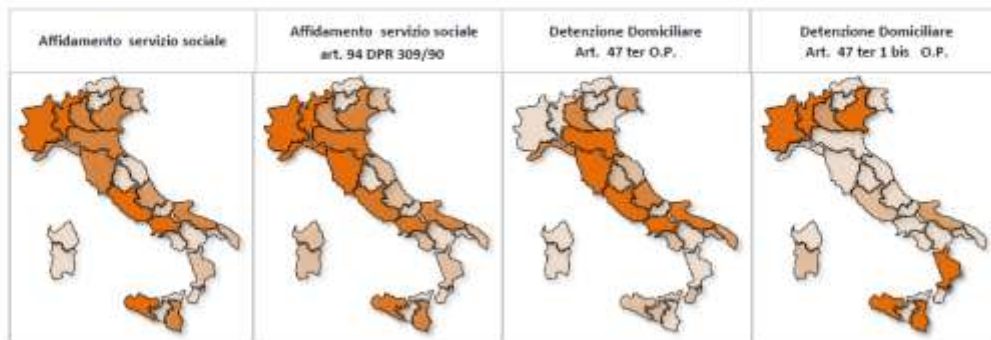
| Anno 2011 | | | | | | | |
|---|-----------|-------------|-----------|-------------------|-----------------------|---------|----------------|
| Oggetti delle Istanze* | % accolti | % rigettati | % NLP_NDP | % Inammissibilità | % altrimenti definito | Totale | Totale in v.a. |
| Misure alternative | | | | | | | |
| Affidamento al Servizio Sociale | 26,46% | 43,49% | 12,64% | 10,80% | 6,60% | 100,00% | 26.278 |
| Affidamento Servizio Sociale ex art. 94 DPR 309/90 | 37,29% | 22,51% | 9,15% | 21,82% | 9,23% | 100,00% | 6.131 |
| Affidamento art. 47 quater O.P. | 13,55% | 28,19% | 14,19% | 10,97% | 32,90% | 100,00% | 155 |
| Detenzione Domiciliare art. 47 ter O.P. | 23,58% | 22,54% | 23,27% | 22,12% | 8,49% | 100,00% | 18.971 |
| Detenzione Domiciliare art. 47 ter 1 bis | 22,35% | 19,01% | 11,43% | 21,20% | 6,01% | 100,00% | 9.848 |
| Detenzione domiciliare art. 16 nonies D.L. 8/1991 | 32,82% | 35,11% | 6,87% | 16,79% | 8,40% | 100,00% | 131 |
| Detenzione Domiciliare art. 47 quater o.p. | 11,27% | 22,54% | 18,11% | 32,39% | 15,49% | 100,00% | 71 |
| Detenzione domiciliare per recidivi | 14,29% | 14,29% | 0,00% | 14,29% | 57,14% | 100,00% | 7 |
| Detenzione domiciliare per ultrasettantenni | 32,79% | 14,75% | 16,19% | 21,11% | 14,75% | 100,00% | 61 |
| Detenzione Domiciliare Speciale | 11,59% | 39,86% | 15,94% | 19,57% | 13,04% | 100,00% | 138 |
| <i>Esecuzione presso domicilio della pena detentiva</i> | 30,40% | 28,13% | 17,89% | 21,98% | 6,51% | 100,00% | 18.118 |
| Semilibertà | 8,76% | 28,01% | 34,49% | 21,71% | 7,03% | 100,00% | 10.889 |
| Sanzioni sostitutive | | | | | | | |
| <i>Libertà Controllata</i> | 77,78% | 0,00% | 6,19% | 0,36% | 15,66% | 100,00% | 549 |
| <i>Semidetenzione</i> | 54,72% | 0,00% | 18,87% | 1,89% | 24,51% | 100,00% | 53 |
| Altre misure | | | | | | | |
| <i>Esibizione straniera a titolo di sanzione alternativa (art. 16 comma 3 D.Lvo 286/1990 e succ.mod.)</i> | 23,10% | 13,36% | 41,51% | 15,71% | 6,31% | 100,00% | 4.926 |
| <i>Sospensione Condizionata della Pena Detentiva Art. 2 L. 202/2003</i> | 1,35% | 15,40% | 4,57% | 69,88% | 8,80% | 100,00% | 591 |
| <i>Sospensione Esecuzione Pena ex art. 90 DPR 309/90</i> | 2,02% | 21,12% | 16,91% | 42,10% | 17,65% | 100,00% | 544 |
| <i>Liberazione Condizionale</i> | 6,06% | 41,67% | 10,91% | 32,12% | 9,24% | 100,00% | 660 |
| <i>Lavoro Esterno Art. 21 O.P.</i> | 92,07% | 3,08% | 1,09% | 0,12% | 3,44% | 100,00% | 2.208 |

* In corsivo le misure di competenza dell'ufficio di sorveglianza

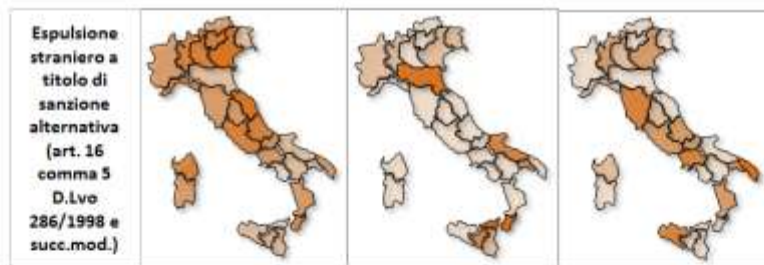
Tab.S.3 Richieste per esercizio/limitazione dei diritti delle persone nell'anno 2011
(Totale Nazionale)

| Anno 2011 | | | | | |
|--|----------|----------|---------------------|-------------------------|--|
| Richieste per esercizio/limitazione diritti | Iscritte | Definite | di cui accolte in % | Pendenti a fine periodo | |
| Diritti personali | | | | | |
| Autorizzazione Corrispondenza Telefonica | 3.257 | 3.328 | 88% | 2 | |
| Autorizzazione al controllo auditivo e registrazione colloqui (art. 41 bis c.2quater lett. b) | 173 | 170 | 75% | 3 | |
| Controllo del contenuto delle buste che racchiudono la corrispondenza | 88 | 92 | 74% | 1 | |
| Limitazioni nella corrispondenza epistolare e telegrafica e nella ricezione della stampa | 952 | 950 | 88% | 16 | |
| Sottoposizione della corrispondenza a visto di controllo | 305 | 304 | 87% | 13 | |
| Proroga sottoposizione della corrispondenza a visto di controllo | 1.932 | 2.050 | 96% | 37 | |
| Trattenimento corrispondenza | 1.170 | 1.246 | 58% | 10 | |
| Diritto alla salute | | | | | |
| Visite Specialistiche in Luogo Esterno di Cura | 46.880 | 46.817 | 98% | 517 | |
| Ratifica Visita Specialistica in Luogo Esterno di Cura | 4.446 | 4.245 | 97% | 48 | |
| Ratifica Ricovero in Ospedale Civile o Luogo Esterno di Cura | 2.258 | 2.224 | 97% | 52 | |
| Revoca ricovero in Opg | 26 | 23 | 30% | 8 | |
| Revoca Ricovero in Ospedale Civile o Luogo Esterno di Cura / Nulla osta al rientro in carcere | 449 | 452 | 87% | - | |
| Ricovero in Ospedale Civile o Luogo Esterno di Cura | 3.410 | 3.406 | 92% | 95 | |
| Ricovero Day Hospital in struttura sanitaria pubblica | 1.109 | 1.099 | 98% | 11 | |
| Ricovero in Opg | 84 | 78 | 62% | 11 | |
| Ricovero in Opg per Osservazione Psichiatrica | 423 | 415 | 87% | 18 | |
| Prosecuzione Ricovero Opg | 16 | 15 | 53% | 1 | |
| Permessi | | | | | |
| Permesso Premio | 43.161 | 42.777 | 48% | 4.888 | |
| Permesso Necessità | 7.943 | 7.985 | 43% | 334 | |
| Modifica Permesso | 340 | 341 | 84% | 1 | |
| Revoca Permesso Necessità | 81 | 80 | 95% | 2 | |
| Revoca Permesso Premio | 243 | 244 | 95% | 3 | |
| Ruolo genitoriale | | | | | |
| Assistenza dei Figli All'Esterno | 152 | 177 | 34% | 19 | |

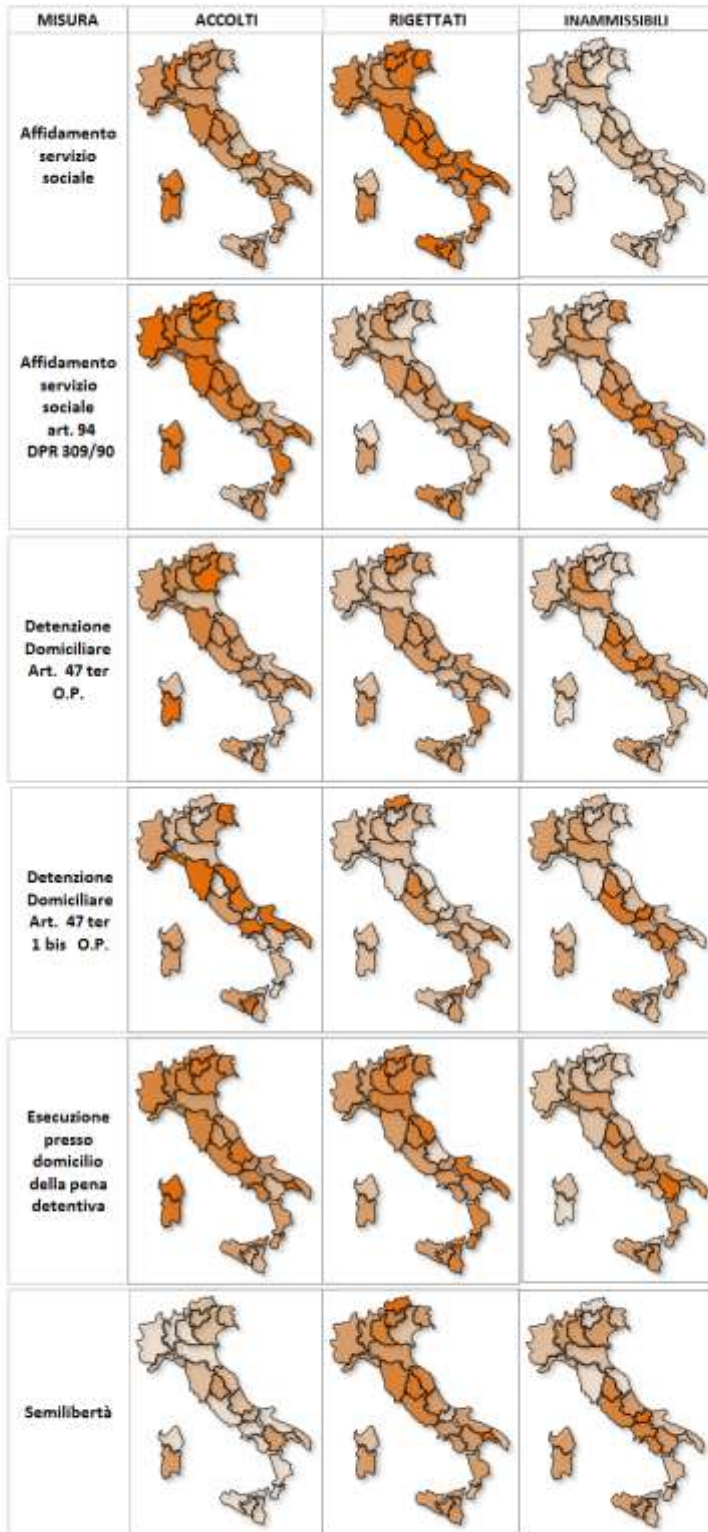
Graf. 1 Oggetti delle istanze per le principali misure alternative detenzione iscritti per distretto in % su totale nazionale
 Tribunali e uffici di sorveglianza
 anno giudiziario 2011/2012



Graf. 2 Esito decisioni oggetti istanze misure alternative detenzione per distretto in % su totale decisioni
 Tribunali e uffici di sorveglianza
 anno giudiziario 2011/2012 (2/2)



Graf. 2 Esito decisioni oggetti istanze misure alternative detenzione per distretto in % su totale decisioni
 Tribunali e uffici di sorveglianza
 anno giudiziario 2011/2012 (1/2)



70. (Paragraph 45) The overall maximum **capacity** of prisoners that the 207 Italian prison facilities could accommodate on 6 May 2013 was **47,045** and the number of **prisoners present** on that same date was **65,894**. Following the recent completion of the realization of new blocks, which will be consigned on December 2013, a capacity of **2,301** places will increase the data relevant to the overall capacity.

71. During the last months, great efforts have been made in order to carry out interventions in the preservation and appreciation activities of the existing prison properties and to realize, as quickly as possible, new prison facilities and blocks. The completion of the realization of new blocks will allow, by December 2013, the availability of **2,301** more places.

72. Always by December 2013, the interventions carried out in the framework of the so-called “Prison plan” will put at the disposal of our Administration **1,430 more** places.

73. The restructuring (achieved almost always thanks to the employment of the detainees’ hand-labor) of the unsafe blocks will allow, by March 2014, an overall availability of **1,960** more places.

74. By the end of March 2014, the judicial psychiatric hospitals will be closed and, by transferring the individuals who are currently under their care, may be transformed in new prison facilities which will accommodate **900** prisoners.

75. In consideration of the ratio between the number of inmates and the surface of cells and considering that the regular capacity is defined by referring to a greater amplitude with respect to the minimum one based on the CPT criteria (9 sq. meters for single cells and 14 sq. meters for double ones), it is obvious that the current non-rational distribution of the inmates on the national territory contributes to the overcrowding of prisons.

76. The Penitentiary Administration undertakes to identify the blocks which are closed or under-utilized and to assess the re-distribution of part of the spaces currently used for high-security prisoners (where overcrowding conditions do not exist).

77. A **deep, complex reorganization of the prison system** is already at an advanced phase and it aims at achieving a more rational use of the prison spaces and distribution of the prisoners.

78. The creation of more homogeneous **prison circuits**, differentiating the prisoners on the basis of their legal status, the length of their sentence and their “dangerousness”, will enable to facilitate the treatment activities and improve the conditions of the prisoners and the staff. The application of the principle of territoriality of criminal enforcements will make a prisoner’s socio-affective links with his/her place of origin less complicated so that when released, he/she may receive the right support and reduce his/her risk of re-offending.

79. The spaces which may be used for common activities will be increased in those prison facilities hosting prisoners with a low degree of dangerousness and the surveillance exercised by the prison personnel will be based on a form of “dynamic” surveillance, consistent with what is provided for by the European Prison Rules.

80. By strengthening the habit of developing the sense of responsibility, the inmates will be prepared, through the stimulation of their active and participative commitment, to be reintegrated into society, with the consequent **reduction of recidivism** (as has been already shown by the flows

related to the prisons where this model has already been applied about a decade ago, like, for example, the Bollate Prison, in Milan).

81. For the first time, therefore, not only a program for prison building construction has been chosen, but also a radical reform of an organizational nature which will initially concern the selection of prisoners on the basis of their degree of dangerousness.

82. In parallel, the implementation of Art. 6 of Law no. 354/75 on Penitentiary Act (which mentions the “**areas used as sleeping quarters**”) will also enable a greater application of the CPT recommendations, which call for a guarantee of the prisoners’ rights to spend most of the day time outside their cells, engaged in various types of significant activities (at least 8 hours for prisoners pending trial and even more favorable conditions for those whose judgment has become final).

83. This will take place through the spreading of constructing criteria and organizational methods which are such as to enable the prisoners, within each wing, to spend most of their hours in a common context where the surveillance is more efficacious and the prison personnel’s observation more useful. This will contribute to improve the overall life conditions inside the prisons.

84. As regards the application of pre-trial custody in prison, account should be taken of the fact that the considerable difference with other European countries (where the number of prisoners pending a final judgment is much lower than the one in Italy) is explained as follows: elsewhere prosecution is based on a discretionary principle, the first instance judgment is enforceable, appeals are very rare or reduced, the trial is inquisitorial in nature with more rapid fact finding. Moreover, Italian statistics include among the “accused prisoners” even those who have already been convicted, even though their judgment has not yet become final.

85. The Department of Penitentiary Administration will continue, also for the purpose of spreading the conviction that it is necessary to reduce the application of pre-trial custody as much as possible, the dialogue it successfully started with the judges and public prosecutors during the 17th CDAP held in Rome on 22-24 November 2012. In this regard, mention must be made of the recent internal circulars issued by the State Prosecutors at the Courts of Milan and Turin and the indications given by the Prosecutor General at the Court of Venice, aimed at limiting the application of pre-trial custody measures only to cases held absolutely indispensable.

86. Under the profile of the legislative interventions, the above Department advocates:

- a. the amendment of the early release mechanism, which may be applied indistinctly to all prisoners provided that they give proof that they are on their way towards rehabilitation, extending the reduction of penalty from 45 to 60, 75 or 90 days per semester. Through an assessment based on estimates, it can be held that the amendment may entail an increase in the releases of prisoners between **1,500 and 3,000** convicts within a three-year period. This “*safeguard clause*”, aimed at avoiding incarcerations in inhumane conditions, would allow, within these limits, to obtain a deflationary effect through the strengthening of a re-education measure. If the expansion effect of the measure were to be extended to the last two years of detention, the effect of the reduction of the prison population would be doubled and would involve the release of at least 6,000 prisoners;
- b. the removal of some generalized barriers which preclude the access to prison benefits and alternative measures deriving from the strict rules regarding repeated recidivism regulated today by Art. 99, paragraph four, of the Criminal code;

- c. the expansion of the hypothesis of the suspension of the enforcement of the punishment, pursuant to Art. 656 of the Code of Criminal Procedure, so as to apply alternative measures to imprisonment directly to the offender at liberty;
- d. the suppression of the “compulsory” cases of pre-trial custody provided for by Art. 275, paragraph 3, of the Code of Criminal Procedure (pre-trial custody must be *extrema ratio*);
- e. the amendment of the law regarding the offence of unlawful possession of narcotic substances for marketing purposes provided for by Art. 73 of Presidential Decree no. 309/90, which entails a differentiated sanctioning treatment based on the type of narcotic substance, and a less strict law for the cases specified in paragraph 5 (less serious cases);
- f. the application of probation mechanisms also to adults in relation to those offences punished by a five-year maximum prison term, and conferring on the judge autonomous initiative;
- g. a more radical reform of the sanctioning system by introducing the possibility, as regards the judge, to impose alternative measures to pre-trial custody in respect of those offences for which the law prescribes a five-year maximum prison term. Greater results could also be achieved if the legislative intervention were coordinated by means of a reform of the conditional suspension of the sentence mechanism and by means of a consequential anticipation of the State’s “undertaking responsibility” for the offender, beginning from the very first criminal proceedings. Moreover, where the prisoner expresses his/her interest, it would be necessary, pending other legal remedies, to anticipate the criminal enforcement after the judgment of conviction. The strengthening of the *Uffici di Esecuzione Penale Esterna* [Offices for the Execution of Sentences in the Community] and the realization of an efficient *probation* system would finally allow to ensure the security requirements and those of support and social reintegration.

87. (Paragraph 46) Recently, on the occasion of a visit made last December to the Vicenza Prison, the *Ufficio per l’attività ispettiva e del controllo* [Office for the Inspection and Control Activity] lodged a report. Situations of concern as regards the overall management of prisoners, anchored to strict custodial systems, have emerged. Several episodes of ill-treatment, of which an information report was filed with the local State Prosecutor’s Office, have been reported. The management of said prison facility is obviously “*marked by a custodialistic connotation and based on a strict application of the order and security concept*”.

88. At the end of the visit, the governor of the Vicenza Prison was invited to reconsider the rigidity of the methods adopted, intensify the treatment-type interventions and not address the distress, which often manifests itself through acts of self-punishment, by sanctioning-type mechanisms, which at times take place without the actual participation of the prisoner.

89. During a meeting held by the *Provveditore Regionale* [Regional Director], the prison governor communicated that the changes had begun (by letter dated 12 March 2013).

90. By letter dated 18 April 2013, addressed to the prison governor, this Administration recommended that the personnel be informed that any form of ill-treatment suffered by prisoners shall not be tolerated and shall be punished, and recommended as well that any episode relating to injuries inferring ill-treatment must be reported to the Public Prosecutor.

91. (Paragraph 47) As regards the Bari Prison, works for the restructuring of the II wing are on-going and will be finished by December 2013. Between 2011 and 2012, the prison was subject to various interventions entailing, for example, the creation of social spaces and rooms for treatment activities, the restructuring of the CDT areas, the areas used as depots and warehouses, and of the visitors’ room, the renewal of the sleeping quarters’ sanitary facilities.

92. Thanks to the “Dash Project”, financed by the association “*Il Carcere Possibile*” [“A Possible Prison”], a series of restructuring works and general cleaning were carried out in the women’s wing.

93. The “Sollicciano” Prison, in Florence, requires indeed consistent maintenance and modernization interventions.

94. Based on the *Piano Carceri* [Prison Plan], a new prison block, which would accommodate 200 prisoners, should be built in the Vicenza Prison. This prison complex has already been subjected to many and important maintenance and restructuring interventions and further maintenance and restructuring interventions are yet to be performed.

95. For what concerns the Palermo Ucciardone Prison, the governor has issued a service order according which the wing nurse will provide once a month to lay in supplies of necessary cleansing agents and tools, will keep them in the infirmary and will provide them to the working prisoner; the nurse working in the pharmacy will provide for the infirmaries in wing IV. In each wing, the staff will provide every day at 7.30 a.m. to make available the working inmate entrusted with the cleaning.

96. Wing II of the Palermo Ucciardone Prison was recently restored (together with wings IV and VIII). In the framework of the Prison Plan, restoration works in wings V and VI have already been planned: the works will begin within this year and will conclude in 2014. The restoration of wing VII will be completed in March 2014. The interventions of restoration and modernization of wings III and IX are currently being examined (for the latter the removal of the metal shutters from cell windows has already been envisaged) as well as of the buildings intended for *intra* and *extra moenia* services.

97. The monumental estate will become a modern prison facility for the advanced treatment of about 750/800 prisoners, 100 of which will be women (in wings II and III).

98. (Paragraph 48) **The examination of the data detected through an information program named “Monitoring of cells and custody spaces” on 1.5.2013 at 12 pm, reveals that the situation described by the CPT did not improve very much: In the Bari Prison more than one cell measuring about 20m² accommodate 10 or 11 prisoners. For what concerns the female wing unfortunately the cell nr. 2, measuring about 6m², is occupied by 3 prisoners. In Palermo Ucciardone, Wing VIII, the cell nr. 23, measuring 22 m², is occupied by 7 prisoners, in Wing IX on the first, second and third floor, some cells of 8m² contain 4 or 5 prisoners, and in Wing II some cells measuring from 10 to 14m² accommodate 4 or 5 prisoners. In Vicenza, actually, cells of 13m² accommodate even 3 prisoners and in a single case 4 prisoners (in some cells works are ongoing). It should be recalled what we said at point 47 about the forthcoming opening in the Bari Prison of a second wing with 117 places (within December 2013). Moreover when the restoration works of wings V, VI and VII – which are currently closed – are completed the places available in Palermo Ucciardone within 2014 will be in all 501.**

99. (Paragraph 51) For what concerns the Florence Sollicciano Prison, in two wings accommodating finally sentenced prisoners, the doors of the cells remain open during the common activities time, in order to enable the prisoners to move freely in the wing corridor and outdoor activities are allowed, generally for 4 hours per day (two hours in the morning and two hours in the afternoon).

100. The participation in treatment activities enables in any case the prisoners attending training or educational courses, and those who work, to spend a part of the day outside of the custody wing.

101. To increase the work opportunities and the number of prisoners employed in remunerated work activities, albeit on a part-time basis, the criterion of a rotation system for a definite length of time has been recently adopted. The number of prisoners who work remains in any case inferior to the demand and to the number of prisoners, and, as of 3 April 2013, the number of working prisoners was 130.

102. The pedagogical program for the year 2013 envisages training courses intended both for female and male prisoners; tailoring courses and courses for cleaners of industrial premises, addressed to female prisoners, and IT and gardening courses, plumbing, building and electronic courses for male prisoners, are being carried out.

103. In the Palermo Ucciardone Prison the prisoners can spend 4 hours per day outside of their cells (two hours in the morning and two hours in the afternoon). The development of treatment activities – which the Direction has lately intensified – enables the prisoners taking part in them to spend a part of their day outside of their cells; currently, two institutional schools courses are being carried out (a course providing 150 hours of education, and a scientific secondary school), as well as about ten vocational courses, each of them attended on the average by 8 prisoners. 70 prisoners are occupied in part-time work activities.

104. An important contribution to the satisfaction of the most urgent material needs complained by indigent prisoners is provided by voluntary organizations, and in particular by the ASVOPE, a voluntary association with which the Directorate made a convention envisaging, among other things, the supply of clothes and hygiene and personal care products to the indigent. Works of remediation of the library, the school classes and the gymnasium have been completed.

105. Directorate's objective is that of guaranteeing the carrying out of treatment activities reducing the stay of prisoners in the cells, providing, meanwhile, the implementation of minimum security conditions; such objective requires the arrangement of systems of video-surveillance and of systems preventing prisoners from jumping over the boundary wall, video-surveillance in the visiting rooms, as well as the automation of gates, a security defense the installment of which has been planned.

106. In Bari, where unfortunately the work concerns only the "home" sector, and is performed on a rotation basis, last 14 December a Protocol of Understanding was agreed between the PRAP and the Apulia Region, aimed at creating job and professional opportunities for prisoners.

107. As to the Vicenza Prison, the major issues concern the difficulty in establishing complete and satisfactory relations with foreign prisoners, who are the majority; such difficulty is caused by reasons connected with their language, culture and habits.

108. To front the situation, the prison governor has availed himself, and still avails, of cultural and linguistic mediators (CLM) who started their activity towards the end of 2012.

109. The Vicenza Prison has reached a good level of integration in the territory, establishing good relations of cooperation with agencies, associations and cooperatives.

110. The internal work activity is featured by work in the prison under the Prison Administration. In all 125 people worked in 2012.

111. The *Cooperativa Saldo & Mecc* and the *Cooperativa S. Bernardo* operate inside the Prison, offering work and professional training to a group of prisoners. Also the “*Consorzio Prisma*” cooperates with the Directorate, it groups several cooperatives and offers work opportunities to the prisoners eligible for alternative measures who can work outside of the prison.

112. As to the vocational training courses, in the first semester of 2012 a course for “house painter and decorator” and a 80 hours course for “welder”, funded by the Chamber of Commerce of Vicenza, have been carried out.

113. School courses concern literacy for foreigners (4 courses); an intensive middle school course (from September to January) mostly attended by foreigners, and an annual middle school course and, finally, a secondary education course for “agricultural operator”.

114. The Library service is efficient thanks to the *Bertoliana* Library of Vicenza which has supplied the Prison with several texts. The cooperation with volunteer associations has always been remarkable, thanks to the activity of several associations.

115. (Paragraph 59) Article 41-b of Prison Rules, recently amended by Law 94/2009, envisages a number of restrictions for prisoners who have a top role within Mafia-type, terrorist or subversive criminal organizations, in custody for one of the offences indicated in the first sentence of article 4-bis of Penitentiary Act, paragraph 1. In particular, the prisoners subjected to article 41-b can spend two hours per day outside of their cell, one of which in outdoor exercise, and one in the areas intended for common activities, in groups consisting of a maximum of four people. They can have one visit per month (instead of 4 or 6) by their family, lasting one hour (which cannot be extended either where the family reside in an another Municipality or in the event of exceptional circumstances) in premises equipped so as to prevent the passage of objects, and the video-recording is mandatory, or, alternatively, where they did not benefit from a visit, they can have a telephone call. Such restrictions, which are all provided for directly by the law and cannot be modified either by the administrative or the judicial authority, have been examined by the Constitutional Court, which has ruled their lawfulness (judgment no 190 of 28.5.2010). The Department of Penitentiary Administration will consider the possibility of submitting to the Legislative Office proposals for amendment of these rules in the part in which restrictions that are not functional to the aim of limiting the contacts with the external world can possibly be found in the law.

116. The prisoners subjected to the 41-b regime can, within the limits indicated above, carry out work, education and recreation activities provided for by the Penitentiary Act and, in particular in the Terni Prison, they can carry out work activities within their wing, can study (a lot of prisoners subjected to 41-b regime are presently studying at university and regularly take examinations) and can take part in recreational activities (drawing and painting, etc); moreover they can avail themselves of the library and the gymnasium which are in the wing.

117. (Paragraph 60) For what concerns the installation of closed circuit cameras in the cells of the 41-b wing of Terni Prison, the Directorate has reported that such a system of permanent surveillance is present only in the so-called “reserved area”. Only in the latter custody space the cameras are connected with a video-recording system whose purpose is that of enabling a better supervision and document any possible critical event and anomaly.

118. The video-recorded data are placed on file automatically and are kept for a limited period of time, with a progressive overwriting and consequent deletion. In the sanitary facilities a blurred ray

of the image is envisaged, enabling only the visualization of the outline of a person, without distinguishing the details, in order to safeguard the prisoners' privacy requirement.

119. (paragraph. 61) As to the screening of the cell windows of the mentioned semi-wing, the Directorate of the Terni Prison has assured that it will provide to replace the boards in Plexiglass with others which let the natural light through.

120. (paragraph 65) As communicated by the Governor of the Palermo Ucciardone Prison, in order to remedy the serious lack of cleaning noted during the CPT visit both in the central infirmary and the other infirmaries placed in the other custody wings, a detailed service order has been issued, reasserting the need of a greater care in cleaning operations in the wing infirmaries, and also recommending the presence of the wing nurse, in order to give appropriate instructions to the prisoners entrusted with the task.

121. (paragraph 66) The Governor of the Bari Prison has communicated that he has suggested that the cell nr. 20 of the CDT could be used for the transit of the prisoners released awaiting the transfer to another prison, or for the recovery where places lack in the unit and in any case for a limited period of stay. The widening of the window has been requested.

122. (paragraph 70) It should be highlighted that the service of internal medical assistance has been transferred to the National Health Service, which depend on the Regions. The passage has taken place as a matter of fact in all Regions, except in those under special statutes, among which Sicily, which is providing to it only in this period. Therefore the Regions have to answer of the efficiency and functionality of the same service. The Head of the Department of Penitentiary Administration has invited the competent Regional Directorates and the Governors of the Bari and Palermo Ucciardone prisons to implement, through the cooperation with the Regions and the competent Local Health Services, an assistance service which satisfies the health needs of prisoners and an effective cooperation aimed at getting over the remarks made by the CPT. Please see, in this respect, also the reply provided in the subsequent paragraph.

123. For what concerns the scarce availability in the budget item relative to specialist examinations, the governor of the Palermo Ucciardone Prison has communicated to the Regional Directorate the requirements in the item relevant to the "health service" necessary until the month of June of this year, which corresponds to the sum of €320,238,00 which, compared to the budget allocated for the 2012 financial year, envisages a further sum of € 10,000,00 aimed at the increase of specialist examinations, with particular reference to dental care.

124. (paragraphs 72 and 77) The DPCM [Translator's note: Decree of the President of the Council of Ministers] dated 1.4.2008, governing the transit of the internal health assistance to the National Health Service, envisages in Annex A that the Local Health Service guarantees the specialist services that have to be provided inside prisons; the resort to external structures is limited to the cases in which cares or diagnostic ascertainments that cannot be provided by the health services within the prisons are necessary (therefore when sophisticated and diagnostic equipments which cannot be transported are required, as clarified by this Administration, by circular dated 13.4.2011).

125. By letter dated 4 April 2013, the Head of Department of the Penitentiary Administration requested to urgently put on the agenda of the first available meeting of the Permanent Consultation Table for Prison Health the issue noted by the CPT, relating to the increase in examinations and ascertainments in external treatment centers. He has also submitted to the Regional Directors the need to increase the financial allocations for the Bari and Palermo Ucciardone Prisons, providing to

find Penitentiary Police staff resources to assure the transfers of prisoners for external medical examinations and consultations, when it is not possible to carry out them in prison.

126. By letter dated 10 April 2013, the Apulia Regional Director of the Penitentiary Administration assured that he will provide, through the Security and Transfer Office of the same Regional Directorate, to constantly monitor the service of Transfers and Surveillances of the Bari Prison (carried out by a Unit composed of 90 individuals), and where necessary he will provide to the due supplements, identifying and removing any obstacle of organizational nature in order to assure the efficiency of the prisoners accompanying service to the possible consultations in an external treatment center.

127. The Directorate of the Bari Prison assured that it will provide to effect meetings with the penitentiary Health Manager in order to optimize times and procedures relating to specialist examinations (that in the specific case fall under the strict competence of the health area). The Directorate informs, moreover, that the system is based on a nurse, entrusted with collecting the applications for reservation of medical examination submitted by the prisoners, and who subsequently forwards them to the doctor in charge.

128. The Directorate of the Palermo Ucciardone Prison has communicated that the Unit for Transfers and Surveillance stationed at the Palermo Pagliarelli Prison, on ground of countless engagements, first among everything those connected with justice, has sometimes to put off specialist examinations in external treatment centers.

129. (paragraph 74) With reference to the inadequacy of living conditions, to the lack of rooms equipped for disabled persons and to the existence of barriers to mobility, the Department of Penitentiary Administration, with a letter dated 13 November 2012, has recommended to prison governors, in agreement with the physicians of the local Healthcare Services, to bring to the attention of the Judicial Authorities all the situations where it is clear and evident that the status of detention and its prorogation can anyway bring to situations contrary to the sense of humaneness of the sentence.

130. The Apulia Regional Director of the Penitentiary Administration, with reference to the lack of specialised hospital beds for disabled prisoners accommodated at the Bari CDT, asked the Bari prison governor to contact the local Healthcare Service in order to identify and to agree upon the types and the characteristics of the necessary equipment. As for the presence of prisoners on wheelchairs who are accommodated in inadequate cells outside the CDT, the prison governor was urged to agree with the Building Service at the Regional Penitentiary Administration upon the solutions to build adequate rooms, starting from those wings which currently accommodate the largest number of disabled prisoners.

131. (paragraph 75) The Penitentiary Administration specifies that the so-called "*piantone*" carries out tasks limited to rooms cleaning and to help the disabled persons in their movements (disabled prisoners who are in need of healthcare assistance are assigned to one of the wings for disabled prisoners established in the prisons of Parma, Bari, Busto Arsizio and Catanzaro); the DAP commits itself to bring in the Agenda of the Permanent table the training of the "*piantoni*". As for the training of the "*piantoni*", the Bari remand prison governor has communicated that an integrated project of training was drafted in agreement with the local Healthcare Services in Bari, to be submitted for regional funding, as soon as the financial forms will be completed.

132. (paragraph 83) As for medical examination confidentiality, since July 2000, general directions were issued (circular letter n. 3256/59 reference n. 653521 -1/12.1 of 11.7.2000 concerning “*Directives in matter of healthcare service in prisons aiming at overcoming some observations by the European Committee for the Prevention of torture (CPT)*”). Such document, issued while prison healthcare was being reorganized, expresses the need that the health protection of persons deprived of their personal liberty occurs in the same conditions of equality and equal dignity as free persons, even under the aspect of confidentiality of medical examinations. The exceptions to such principle are allowed only upon request of the physician carrying out the examination or for particular security reasons even in relation to the various types of prisoners.

133. The dutiful and necessary supervision activity shall be applied, while enabling the exercise of the right to health respecting the prisoner dignity, taking care that penitentiary police staff is close enough to intervene immediately, if necessary, but so as to avoid listening the contents of the interview between the physician and the patient.

134. The staff on duty in all the prisons has to scrupulously comply with such rule.

135. As for the access to sensitive data of medical nature, we outline what follows.

- By the entry into force of the legislation on the privacy of personal data, the Penitentiary Administration has requested and obtained by the Guarantor for the protection of privacy the authorization to process sensitive and very sensitive data concerning persons submitted to measures depriving them of their personal liberty. Subsequently, the transfer of penitentiary healthcare to the National Healthcare Service has highlighted the opportunity to proceed to a study-in-depth of the subject-matter concerning the access to medical data of prisoners and internees.
- Upon approval of an Agreement during a Unified Conference on 20 November 2008 the sharing of medical data and the access to them by the Penitentiary Administration were agreed to carry out the institutional tasks and in particular to adopt appropriate measures for the assignment and the treatment of persons with particular health problems.
- According to the Agreement approved by the Unified Conference on 26 November 2009 the Penitentiary Administration has access to all medical data in order to correctly carry out its functions and namely to enable the transfer of prisoners and a correct assignment of them.

136. (paragraph 65) The Governor of Palermo-Ucciardone prison, in order to remedy the deplorable state of hygiene found during the CPT visit both in the central infirmary and in the other infirmaries located in the other detention areas of Palermo-Ucciardone prison, has issued detailed instructions, in which the necessity of taking greater care of hygiene in the ambulatories of the wings is underlined, and the presence of a nurse in each wing is recommended, in order to give appropriate directions to working prisoners.

137. (paragraph 66) As for the technical equipment for physiotherapy, the governor of Bari prison has communicated that said equipment is provided according to law and is regularly working. In a few events it has not been possible to perform the therapy due to lack of penitentiary police staff who has to escort the prisoners to be submitted to said treatment.

138. (paragraph 68) The Apulia Regional Director of the Penitentiary Administration, by letter dated 10 April 2013, has involved the Directorate General of the Local healthcare service, the Directorate of Bari remand prison and the competent offices of the Regional Directorate, to carry out the necessary interventions to cope with the problematic issues identified. In particular, the

Regional Directorate has highlighted the necessity of the competent local healthcare service and of the Regional Assessor to increase the funds for a greater efficiency and functionality of intramural assistance which, as per Decree of the President of the Council of Ministers dated 1.4.2008, has been already transferred to the National Healthcare Service (see previous paragraphs).

139. The Directorate of Bari remand prison has committed itself to monitor the critical issue concerning the presence of nursing staff at the Therapeutic Diagnostic Centre and to urge the intervention of the Directorate General of Bari local healthcare Service in order to increase specialist services, the equipment and the nursing staff.

140. (paragraph 80) The Directorate General for Prisoners and Treatment of the Department of Penitentiary Administration constantly cooperates and supports initiatives aiming at encouraging prison population to take care of their health as well as those ones of Local bodies or scientific associations. To this purpose, it has to be underlined that good practices concerning the prevention of transmissible diseases, observed by the CPT at Palermo Ucciardone Prison, fall within the framework of a planned intervention named “Health has not borders, information campaign and promotion of awareness-raising activities on HIV and other chronicle viral pathologies in prisons”, proposed by the Italian society of Infectious and Tropical diseases (SIMIT) the Italian society of Medicine and Prison Healthcare (SIMSPE-ONLUS), the Network of seropositive persons (NPS ONLUS) and DONNE IN RETE, involving in 2012 other 18 Italian prisons throughout the national territory. The possibility to widen such initiative in 2013 in other 10 prisons is studied with said associations.

141. (paragraph 84) As communicated by Bari prison governor, the accommodation of prisoners in medical seclusion rooms concerned one single case for a limited period of time, as provided for by the Judicial Authority.

142. (paragraph 88) In the crèche of the Sollicciano Remand Prison, as of 3rd April 2013, there were 2 female inmates with their two children. In connection to that, it must be remarked that, as a consequence of the entry into force of the Law nr. 62 of 21st April 2011, starting from 1st January 2014, the Penitentiary Administration shall open Low-security penal establishments (so-called “*Istituti a custodia attenuata*”) for accused persons who need to be held in custody and finally sentenced persons of both genders having children up to 6 years of age. Such establishment shall have structural characteristics different from traditional prisons and inspired to normal houses; in those structures, one specific homely regime will be established, focusing on raising the inmates’ responsibility as for their parental duties. The new law is inspired to the need of ensuring an adequate protection of parenthood and of children during the execution of detention sentences, while ensuring that children grow up harmoniously and without shocks. The above-mentioned Law 62/2011 also provides for the possibility that the parents imprisoned in Low-security penal establishments keep their children with them up to the age of 10, waiting to access home detention under articles 47-c and 47-e of the Penitentiary Act.

143. Those measures alternative to detention can be enforced at the offenders’ domicile or in a public health care centre or attendance centre or housing centre, including the newly established protected housing structures (so-called *case-famiglia protette*), not belonging to the penitentiary circuit; those housing structures have been introduced by the Law 62/2011 and are specifically intended for the enforcement of house arrests or of home detention of parents who need to keep their children with them.

144. Those protected housing structures will enable also those offenders without family links and without housing solutions to benefit from alternative measures.

145. New Low-security prisons for Mothers (s.-c. “*ICAM*”) are under construction, in Florence and in Venice (which is going to be opened soon and which will accommodate up to 12 female offenders with their children up to six years of age), in Turin and in Rome. A number of organisations and bodies in several Regions of Italy are working on the opening of protected housing structures. Among those initiatives, it is worth mentioning the National Project of Housing for Female prisoners with their children up to 6 years of age, promoted by the *Caritas Italiana* together with the *Centri Diocesani Migrantes* (diocesan centres for Migrants) and the Italian Prison Chaplains: that Project ensures a network of available housing structures, throughout our country, and carefully provides for a plan of intervention which tailors, depending upon the judicial status of imprisoned mothers, customised paths for their social resettlement.

146. (paragraph 89) We ensure that what has been reported will be taken into due consideration, as soon as procedures are activated in order to plan possible interventions to increase the number of custodial staff in prisons, upon the ending of training courses for penitentiary Agents, in July and September 2013. The custodial staff of Bari, Firenze Sollicciano and Vicenza prisons and the Judicial Psychiatric Hospital of Barcellona has been partially increased.

147. (paragraph 90) The Directorate General for staff and training in all the initial training courses addressed to the penitentiary police staff puts particular care on the subject-matters related to the intramural treatment of prisoners, the protection of legality and security as well as the protection of human rights. More particularly, in all the curricula a workshop on the management of mental disease is provided for.

148. The training includes technical, operational and legal aspects necessary to perform one’s duties, a psychophysical training preparatory to the maintenance of the wellness of prison workers in order to develop the necessary psychological stability and physical energy to face critical events, and also to deal with the psychic troubles of prisoners, through self-defence and self-control skills. Such training is supplemented by the study of appropriate communication techniques applied to various relationships, with particular reference to the management of aggressions, self-harming events, suicide attempts, difficulties in communicating. It also includes the training on methods of listening and decoding behaviours and spoken and non spoken signs of prisoners to the purpose of preventing possible problems, even concerning psychic troubles, or on effective interventions to solve possible emergency situations.

149. During the three-year training 2007-2009 the central training agencies have encouraged to deal with the topic of the handling of psychic troubles in prisons, even within the training and continuous training initiatives of the staff at local level, proposed and carried out through Annual Regional Training Plans.

150. In the three-year planning 2007-2009 there have been several initiatives concerning the reception of persons arriving for the first time in prison, according to the various legislative amendments, as such reception is decisive for an adequate assignment and an initial careful observation of persons arriving in prison, to the purpose of detection, prevention and analysis of any problematic issues concerning them. Unfortunately, said initiatives regarded a small number of beneficiaries because of the almost chronic lack of funds available for the training at local level, therefore the outcome of CPT’s report underlining this difficulty is easily understandable.

151. The Higher Institute of Penitentiary Studies has delivered initial training courses for officers dealing with the execution of sentences in the Community and for officers belonging to the juridical-pedagogical sector. This category of staff members was mainly trained on the handling of

particular typologies of prisoners such as: foreigners, drug-addicts, prisoners with dual diagnosis, sex offenders. A particular care has been placed on female detention.

152. On the complex subject-matter of workers' discomfort and on the wider topic of organizational welfare, the Higher Institute has carried out various interventions which today constitute a true system of actions. It is committed in the training on "*The contact person of the organizational welfare in a managerial structure*" since 2011. The first training course involved all the prisons of first and second levels as per Ministerial decree 26 September 2007 and in the years 2012-2013 it involved the prisons of third level and the Judicial Psychiatric Hospitals. Even on this occasion, appropriate importance has been given to the enhancement of the capacity of organizational listening and to the technical and relationship skills.

153. In the year 2013, in its articulated training Plan, as for the complex issues pointed out in the Committee Report and the consequent interventions, the Higher Institute of Penitentiary Studies will answer those requests through the delivery of courses where the above-mentioned subject-matters will be widely dealt with.

154. (paragraph 92) The Apulia Regional Director of the Penitentiary Administration – with a letter dated April 8th 2013 – urged the Governor of the Bari Remand Prison to identify adequate solutions for the adjustment of the visiting room, aimed at allowing also prisoners with disabilities to benefit from decent conditions in their contacts with their visitors; any relevant proposal concerning building interventions shall be submitted to the Building Service at the Regional Penitentiary Administration.

155. (paragraph 95) As per art. 69 paragraph 6 of Law 354/75 the Supervisory Judge shall make decisions "*on the complaints of prisoners concerning the conditions for exercising the disciplinary power, the establishment and competence of the disciplinary body, the charging of violations, and the defence*". As for art. 71-b Law 354/75, before the Supervisory Judge the prisoner is defended by his/her defence counsel or by a defence counsel appointed ex-officio and can submit defence briefs; the supervisory Judge can acquire the documents concerning the observation and treatment and, if necessary, carry out further inquiries. The Penitentiary Administration has issued specific directions in order that each disciplinary measure be adequately motivated and communicated to the prisoner. As for the avenues for lodging an appeal and any other right, each prisoner at his/her arrival at prison shall receive the Charter of Prisoners' and Internees' Rights and Duties, introduced by Decree of the President of the Republic 5 June 2012, n.136, amending art.69, paragraph 2 of the Decree of the President of the Republic 230/2000 (Penitentiary Regulations). Such Charter aims at ensuring that prisoners and internees of any nationality (to this purpose, the "Charter" has been translated into the main languages) be informed on the provisions concerning their rights and duties as well as the disciplinary aspects and the treatment in prisons. The prison governor is not entitled to challenge the measure by which the supervisory judge has repealed a disciplinary sanction in the complaint proceeding.

156. (paragraph 95) To this purpose, it has to be pointed out that, for the majority of case-law, the Supervisory Judge cannot merely review the merits of said measures, being able also to assess if the prisoner's behavior can be included under one of the disciplinary infractions provided for and can ascertain if the penitentiary administration has complied with the rules peremptorily imposing preconditions and types of sanctions (see Supervisory Judge Alessandria 15/09/1995).

157. (paragraphs 96 and 97) The role of the physician within the disciplinary Council is in reality a guarantee. Only the physician can assess if at the basis of the behavior examined by the competent authority applying the sanction, there is a medical reason. To this purpose, it has to be underlined

the importance of the physician's assessment with regard to self-harming acts which sometimes can be considered a protest to be sanctioned rather than symptoms of a discomfort. As the CPT considered unacceptable that provision, and given that this specific recommendation has been made several times, and has been implemented in the European Prison Rules, the Department of Penitentiary Administration will take into consideration the possibility of proposing an amendment of art. 40 of Law 354/75 so as to ensure that the physician member of the discipline Committee is a different person from the physician carrying out the medical examinations.

158. (paragraph 98) Art. 72 of the criminal code provides that life sentence be aggregated to the sentence of continuous solitary confinement, for offenders having committed more than one crime, each of them entailing life sentence, or crimes which respectively entail life sentence and temporary sentences for an overall term exceeding 5 years. As highlighted by the Court of Cassation, such provision not only governs the modalities of execution of prison sentence, but it constitutes a true criminal sanction for crimes concurring to life sentence.

159. The Constitutional Court (n.115/64) in expressing the decision of compliance of said provision with the Constitution, has stressed that the execution of the solitary confinement must be carried out in compliance with the principle of the re-education of the finally sentenced person provided for by art. 27 of the Italian Constitution. As provided for by the law and the Regulations, during the solitary confinement the prisoner has the right to communicate by means of ordinary, face-to-face, epistolary and telephonic interviews and to meet volunteers and the ministers of faith. He/she can participate in working, educational or training activities and has free access to daily newspapers, magazines and television.

160. The law has significantly adjusted the provisions as per art. 72 of the criminal code to the constitutional principle of art. 27, in particular considering it inconsistent with the penitentiary benefits in the community (Court of Assize of Rome 14.5.2001) and with the optional postponement of the execution of the penalty as per art. 147 of the criminal code (Palermo Court of Assize 22.1.2007).

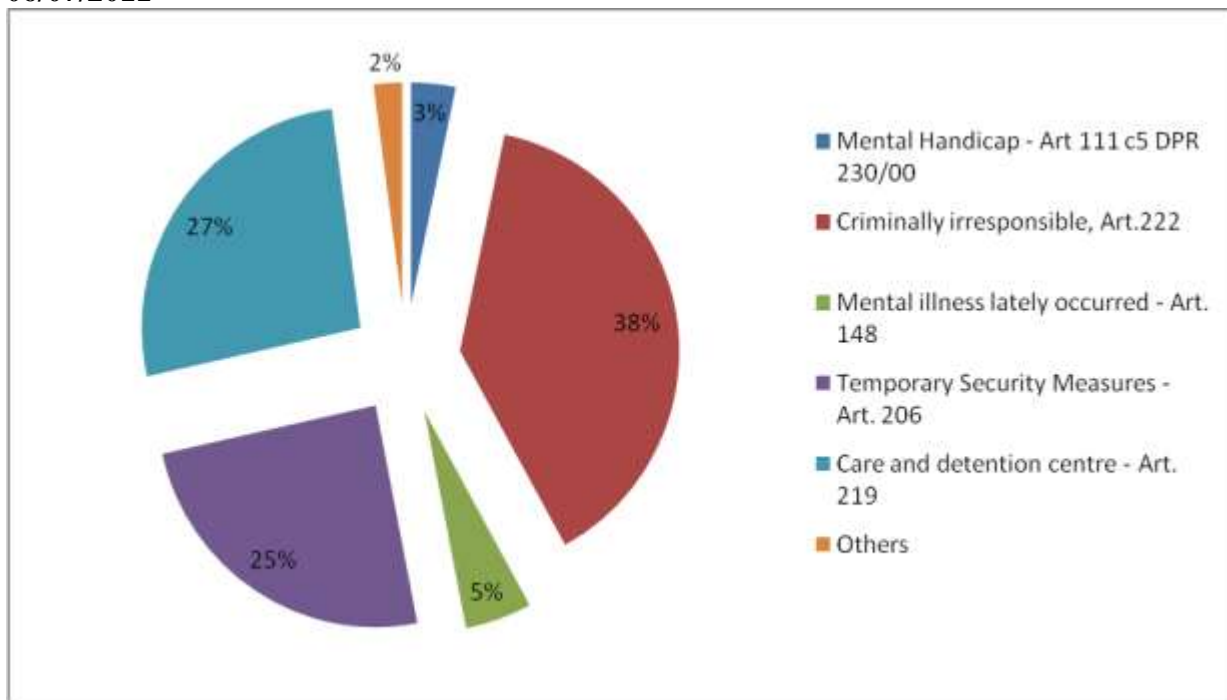
161. Recent case-law has to be mentioned (see the supervisory judge of L'Aquila on 22.6.2012) which, applying constitutional principles, has interpreted the provision in that the prohibition to communicate with the other inmates must not be applied (only provided for the disciplinary solitary confinement and in the cases of written indications by the physician certifying that the prisoner can bear such prohibition).

D. PSYCHIATRIC ESTABLISHMENTS

162. **Forensic hospitals (OPG) and mental health.** Since the mid-1970's 'Judiciary Psychiatric Hospitals' (*Ospedali Psichiatrici Giudiziari* – OPG, the Italian forensic inpatient units) have replaced the former criminal asylums in Italy. There are currently 6 forensic inpatient units in Italy: the Judiciary Psychiatric Hospital of Barcellona Pozzo di Gotto (Sicilia); the Judiciary Psychiatric Hospital of Reggio Emilia (Emilia Romagna); the Judiciary Psychiatric Hospital of Montelupo Fiorentino (Toscana); the Judiciary Psychiatric Hospital of Castiglione delle Stiviere (Lombardia); the Judiciary Psychiatric Hospital of Napoli (Campania) and the Judiciary Psychiatric Hospital of Aversa (Campania). Due to the implementation of Law 9 (see below) and the current process of closure of all OPGs, the number of inmates decreased from 1 378 in July 2011 to 972 inmates in June 2012 and the figure is continuing to decrease.

162. As at July 2011, the patients' legal status was the following: 534 patients declared criminally irresponsible and involuntarily placed in an OPG under Section 222 of the Penal Code; 338 patients whose provisional placement in an OPG had been ordered under Section 206 of the Penal Code (Temporary Security Measures); 68 sentenced prisoners requiring psychiatric care placed in the OPG under Section 148 of the Penal Code; 364 patients declared partially criminally irresponsible and placed in a 'care and detention centre' (*Casa di Cura e Custodia*) under Section 219 of the Penal Code; 45 patients declared mentally handicapped under Section 111 c5 DPR 230/00 of the Penal Code (see Figure 1).

**Figure 1. Inmates' legal status within OPGs–
06/07/2011**



Source: ITALIAN PARLIAMENT (2011), *Revisione sulle condizioni di vita e di cura all'interno degli Ospedali Psichiatrici Giudiziari [Review on life conditions and health care standards within OPGs]*.

Available:

http://www.senato.it/documenti/repository/commissioni/servizio_sanitario16/Relazione_OOPPGG_doc_XXII-bis_4.pdf Italian Parliament, Senate, 2011

163. Formerly linked to the Penitentiary Administration, the Italian forensic inpatient units were put under the responsibility of the Ministry of Health with the Prime Ministerial Decree/2008 (Ministry of Health & Ministry of Justice, 2008a). More precisely the Prime Ministerial Decree/2008, that took effect on the 14th June 2008, entrusted Regions and Local Health Authorities with health care responsibilities over prisons, juvenile justice services, as well as OPGs (Ministry of Health & Ministry of Justice, 2008a). ‘Guidelines for the operations of the NHS to protect the health of detainees and inmates in prisons and minors subjected to penal measures’ (*Linee di indirizzo per gli interventi del Servizio sanitario nazionale a tutela della salute dei detenuti e degli internati negli istituti penitenziari, e dei minorenni sottoposti a provvedimento penale*) (Ministry of Health & Ministry of Justice, 2008a) and the ‘Guidelines for the interventions in Judicial Psychiatric Hospitals and Care Homes’ (*Linee di indirizzo per gli interventi negli Ospedali Psichiatrici Giudiziari e nelle case di cura e custodia*) (Ministry of Health & Ministry of Justice, 2008b) were approved as a complement to the Prime Ministerial Decree/2008. The former identifies optimal paths for the prevention and treatment on mentally disordered offenders, in order to achieve the LEAs; the latter is the programmatic document which defines a three-phase process for the harmonisation of safety and sanitary requirements within OPGs (Ministry of Health & Ministry of Justice, 2008b). Nevertheless, the implementation of the Prime Ministerial Decree/2008 was disregarded by the Sicily Region, which have not transferred health competencies to the NHS for the administration of the Psychiatric Hospital of Barcellona Pozzo di Gotto.

164. The National Strategic Plan for Mental Health (Ministry of Health, 2008a) mentioned forensic inpatient units as one of the elements in mental health services requiring special attention. In this respect the National Strategic Plan for Mental Health suggested that:

- People admitted in OPGs (especially people acquitted with total/partial mental default) should be reassessed and a category of inmates should be set up for rapid discharge and possible use of the NHS services, especially mental health services;
- Inmates should be taken care of from their first admission in an OPG in the perspective of managing their rehabilitation and social reintegration, with active collaboration with the concerned Departments of Mental Health;
- The discharge of inmates who have come to the term of their security measure should be planned with the concerned Regions and local actors in order to ensure effective social inclusion;
- All necessary actions must be taken on a Regional level to enforce alternative projects to the admission in OPGs through the continuity of the relationship between the Departments of Mental Health and the Courts of Justice;
- Inmates formerly admitted in penitentiary facilities before being admitted to OPGs should reintegrate their former facilities with guarantee that all health interventions and rehabilitative programmes would be performed in the institutes of punishment.

165. Under Art. 82 of the Italian Constitution, a Parliamentary Commission of Inquiry into the efficacy and the efficiency of the National Health Service (*Commissione Parlamentare di Inchiesta sull’efficacia e l’efficienza del Servizio Sanitario Nazionale*) (hereafter the ‘Commission’), was set in 2008 in order to monitor the quality of both public and private health services provided in the whole territory and to control the actual implementation of health policies, thus providing the Parliament and the Public Administration with comprehensive indications on the state of health services provision in Italy. The Commission was composed by 20 senators and 1 President and holds, for the entire period of the legislature (5 years), the same powers and limitations conferred to legal authorities. Following the abovementioned recommendations of the National Strategic Plan for Mental Health (Ministry of Health, 2008a), part of the work undertaken by the Commission was devoted to the investigation of OPGs’ operations in Italy. The Commission organized regular unannounced on-the-spot inspections during the years 2008-2011 into each of the 6 OPGs and carried out interrogations with OPGs’ directors and consumers’ associations.

166. Following the inspections, the Commission published in July 2011 an evidence-based ‘Review of life conditions and health care standards within OPGs’ (‘*Revisione sulle condizioni di vita e di cura all’interno degli Ospedali Psichiatrici Giudiziari*’) (Italian Parliament, 2011). In addition to encouraging the actual transfer of responsibilities from the penitentiary administration to the NHS in the Psychiatric Hospital of Barcellona Pozzo di Gotto (Sicily) as required by the Prime Ministerial Decree/2008, the review provided a number of recommendations for the renewal of the mental health legislation and the subsequent overrun of the OPG model:

- Specific legislation on mentally disordered offenders should be approved as a complement to Law 180. The new model should couple mental health treatment with adequate security measures.
- Departments of Mental Health (DMH) should be directly responsible for taking charge of mentally disordered offenders. The new model should be based on the provision of evidence-based mental health treatments used as a form of health care, rather than restraint and control measures used as a form of punishment. For this to happen, additional resources should be allocated to DMHs. With the financial and human resources thus achieved, DMHs should provide mentally disordered offenders with small therapeutic communities (maximum 20 hosts) across a range of security levels in the whole territory.
- In order to avoid the perpetual extension of temporary security measures, which in some cases results in the so-called ‘*ergastolo bianco*’⁴, the Penal Code should be substantially modified. In this respect, the length of security measures should be clearly defined when the sentence is pronounced, as is the case in Spain. This is in line with the broader idea that the length of the detention period within an OPG should not exceed the penalty provided in prison for the same violation. A valuable alternative to this proposal would be to ensure that the level of social dangerousness of inmates is established by an adequate psychiatric medical board, rather than being assessed by the surveillance judge.
- Even following beyond the scope and the legal powers of the Commission, the Review suggests that the actual duality of the Penal Code, adopting distinct custodial measures with respect to sane and insane patients, should be replaced by a univocal approach.

167. Other concrete actions for the overrun of OPGs in Italy were undertaken between 2009 and 2011, through the establishment of National Committees (*Tavolo di Consultazione permanente sull’attuazione del DPCM 1 aprile 2008* and the *Comitato Paritetico per le problematiche degli Ospedali psichiatrici giudiziari*).

168. Legislation was approved in February 2012 (Law 9) by the Italian Government, according to which all OPGs should be closed within the 31st March 2013. Law 9 also required that, following the closure of OPGs, people who are no longer considered to be socially dangerous are taken over by Mental Health Departments, whilst other patients are integrated into new security mental health facilities of smaller size. The Ministry of Health established a working group with the aim of defining the structural, technological and organisational requirements for the construction of the new security mental health facilities, among which:

- New structures should be differentiated by the severity of the pathology;
- New facilities should be publicly owned, in virtue of the fact that in Italy the execution of a penal sentence is under the responsibility of the public administration;
- New services should host a maximum of 20 inmates.

⁴ *Ergastolo Bianco*, literally ‘white life sentence’. It is the situation under which security measures are continuously extended up until the point detained people are in security facilities for all their lives.

169. In order for the legislation to be timely implemented, the Italian Government earmarked funding totaling EUR 272 million, of which some EUR 174 million for the construction of new infrastructures destined to host socially dangerous OPG inmates and the remaining EUR 38 million for 2012 and EUR 55 million for 2013 to be allocated to Regions and provinces for running and managing activities.

170. Due to the impossibility to timely create alternative mental health infrastructures, the closure of OPGs was postponed to the 31st of March 2014. The programs designed by any single Italian region have been evaluated by the Ministry of health and in many cases adjustments have been required. As soon as modifications in the planning will be submitted, money will be transferred to the Region for starting works.

171. (paragraph 109) The process to overcome the Judicial Psychiatric Hospitals (OPG) started on the 1st April 2008 with the Decree of the President of the Council of Ministers (DPCM), establishing to shift to the Regions the responsibility of the penitentiary healthcare service, and providing for:

- to establish and to implement wings, within prisons, dedicated to the care of mental health and intended to accommodate:
 - o accused prisoners and finally sentenced prisoners affected with mental illness which intervened before or during the execution of the sentence (as per art. 148 of the Criminal Code);
 - o those offenders submitted to psychiatric observation as per art. 112, paragraph 1 of the Decree of the President of the Republic (DPR) 230/2000;
 - o finally sentenced persons having their sentence reduced because of their partial mental illness as per art. 111, paragraphs 5 and 7 of the DPR 230/2000. Those wings have been just partially established so far;
- the internees coming from the OPGs will be assigned to the Italian Region of their origin and the Mental Health Departments of the Regional Healthcare Services will take them under their responsibility and care, through therapeutic and rehabilitation programs aimed at their resettlement into community upon release, either in healthcare structures or under assignment to ambulatory local psychiatric services;
- for those subjects who are assessed as very dangerous to society, the security measures of hospitalisation in OPG and of assignment to prison hospital will be enforced in Residential facilities for the enforcement of security measures (so-called REMS – *Residenze per l'Esecuzione delle Misure di Sicurezza*), where those subjects will be gathered, according to territorial criteria.

172. That process dragged on during 2012 without coming to an end because of the problems met by the Regions in arranging the necessary structures, so that the recent law-by-decree of 25th March 2013 nr. 24 postponed the deadline for the closing of OPGs to 1st April 2014, in order to allow the Regions to establish the substitutive healthcare structures and to arrange the individual therapeutic-rehabilitation paths.

173. (paragraphs 106 and 109) The situation in Barcellona Pozzo di Gotto OPG is constantly carefully monitored by the Department of Penitentiary Administration. Despite the penitentiary healthcare services had not been transferred to Sicily Region yet (see reply to paragraph 70 above), the new Regional Government and the new President of the Sicily Region have recently showed their availability and a particular awareness on implementing the above-mentioned DPCM of 1st April 2008 as well as on identifying residential healthcare structures meeting the requirements provided for by the Ministerial Decree of 1st October 2012, also as a consequence of the visit

carried out in December 2012 by the Parliamentary Inquiry Commission presided over by Senator Ignazio Marino.

174. The Department of Penitentiary Administration urged Regional Authorities so that the healthcare structures under article 3-c of the Law 9/2012 were put at the disposal of the internees residing in Sicily Region. During the first months of 2013, some interventions have been carried out for those internees held in Barcellona P. G. OPG along with some renovation interventions of the structure, and namely:

- The internees able to be released have been identified; for them, tailored individual projects of release and assignment to regional psychiatric structures have been drafted;
- The typologies of “protected structures” have been identified, where patients will be accommodated who are not yet in the position of being released and followed by local services, given the danger which they represent to society;
- The healthcare activity has been widened, waiting for the establishment of protected structures, in the OPG wings, by increasing the number of hours of duty for psychiatrists and psychologists, by introducing a fair number of social-healthcare workers and two technicians of psychiatric rehabilitation; that was possible thanks to an increase in the budget, as suggested by the CPT in paragraph 107 of its Report);
- Sicily Region was urged to acknowledge the DPCM of 1st April 2008 and to transfer the Penitentiary Healthcare Service to the Regional Healthcare Service.

175. The Director of Barcellona Pozzo di Gotto OPG ordered, with the purpose of re-structuring the logistics and healthcare services within the structure, to evacuate the ground floor of the 8th Wing in order to quickly carry out renovation works, and, at the same time, to open the 7th Wing which became a “low-security” wing inside the establishment, where internees are entrusted to and managed by an autonomous team of physicians and nurses (without the physical presence of Penitentiary Police staff); such team was implemented thanks to the increase of economic resources and of staff.

176. The synergic actions carried out by both the Regional Authorities and the Department of Penitentiary Administration brought to a drastic reduction in the number of internees: the patients present in that OPG decreased from 237 in December 2012 to 150 in April 2013.

177. The above-mentioned Parliamentary Commission ascertained the good result of the interventions carried out, thus ordering the revocation of the building seizure which had been carried out in the previous months as a consequence of the lacks ascertained in the Barcellona Pozzo di Gotto OPG.

178. The renovation works carried out in some wings implied the temporary transfer of some internees to the female wing which was intended to accommodate the female internees coming from the OPG of Castiglione delle Stiviere, and the consequent postponement of the necessary works of sanitation of that wing (as requested by the Committee in paragraph 106 of its Report).

179. In the last years, an experience was started to accommodate in one low-security wing named “Carmen Salpietro” – established as a support to the Barcellona OPG – some internees who could be directed towards a therapeutic-rehabilitation path and who could subsequently be followed by local competent healthcare authorities. That structure today accommodates 12 internees.

179. On a more general note, with regard to joint training, this has been included in all official Agreements between relevant (health and justice) State and Regional Authorities

180. Those general issues raised by the CPT delegation, involving inter-institutional discussion aimed at sharing the answers between Ministry of health, ministry of Justice and Regions, have been reported by the MoH to the “Permanent Committee on Health in Prison” to be taken into account for common solutions. A working group has been established for addressing them together with other urgent matters

181. Prevention programs against transmissible diseases is already ongoing in some prisons, according to local programs. The above-mentioned Permanent Committee is considering to promote a National general framework, in line with the previous one on HIV (Agreement dated 15/3/2012).

CONCLUSIONS

Italian Authorities take this opportunity to reiterate their firm willingness to continue its cooperation fully with the Committee’s experts.

ⁱ In this regard it is worth recalling that Carabinieri General Command has adopted and distributed to all its dependent Commands, a register in order to record individuals who are placed in security rooms (“*Registro delle persone ristrette nelle camere di sicurezza*”) which collects all relevant information. The document is a sort of check-list for high-ranking officers when inspecting the Commands. Similar instructions were given in the past to the Police offices and recently updated by means of the Ministerial Directive mentioned below concerning the system of registration of persons being detained in the security rooms, by which it was reiterated that the following data should be recorded in said registers: full personal details of the detained persons; hour and reason of the arrest or detention, and of the subsequent release, as well as a list of personal belongings, indication of any person authorized to access and reporting of any information emerging from the carrying out of their duties. It was also recommended that the register, whose pages shall be numbered and authenticated, should be maintained by an officer entrusted with the registration operations – possibly the surveillance shift foreman – and periodically checked by the responsible officer.

ⁱⁱ a) Warrants are required for arrests (Art. 386 of the code of criminal procedure) unless there is a specific and immediate danger to which the police must respond without waiting for a warrant; b) Detainees are allowed prompt and regular access to lawyers of their choosing and to family members; c). The State provides a lawyer to indigents (Art. 97 of the code of criminal procedure). Art. 386 of the criminal proceeding code sets out as a general provision that the criminal investigation department officers executing the arrest measures or guarding the person arrested must give prompt notice about that to the competent public prosecutor. They also inform the person under arrest about the right to choose a legal counselling. Thus, the criminal investigation department officers must give prompt notice of the arrest to the legal counsel who may be appointed *ex officio* by the public prosecutor unless chosen by the person under arrest, pursuant to Art. 97 of the criminal proceeding code. Besides, the Italian legal system includes a general provision on the basis of which **no waiver of legal defense is allowed** to those who are put under arrest.

ⁱⁱⁱ The Act enforcing Article 111 of the Constitution provides, in its present wording, that any person, since his/her first contact with the judicial authorities, shall be informed of his/her rights in the language s/he knows. The Supreme Court (*Corte di Cassazione*) recently reaffirmed that any judicial act regarding the suspect (*indagato*) and/or the accused (*imputato*) shall be null and void if it has non been translated in his/her mother-tongue. Article 143 of the code of criminal procedure envisages that the accused who does not understand the Italian language has the right to be assisted, free of charge, by an interpreter, in order to understand the accusations against him/her and to be able to follow the conclusions of the case in which s/he is involved. Besides, the competent Authority appoints an interpreter, when necessary, to translate a printed document in a foreign language, a dialect not easily comprehensible, or upon request of the person who want to make a declaration and does not understand the Italian language. The declaration can also be in a written form. In such case it will be integrated in the report with the translation made by the interpreter. An interpreter is nominated even when the judge, the Public Prosecutor or the officer of the Criminal Investigations Police have personal knowledge of the language or of the dialect that are to be interpreted. Along these lines, due attention is also paid to the institution of legal aid, the system of which was amended by Legislative Decree No.115/02, with the aim at ensuring adequate and effective legal defense (More specifically, this Decree simplifies and extends the access to legal aid in civil and administrative proceedings. Access to this institution is guaranteed to whoever has an income below 9.296,22 € per year). As to the criminal proceedings, Act No.134/01 envisages the self-certification procedure for the income of the defendant. Such procedure is also extended to those foreigners who have an income abroad (In this regard, ad hoc information desks have been established at Bar Associations).

^{iv} More specifically, Art.387 of the criminal proceeding code envisages that upon agreement with the person under arrest or detained, the criminal investigation police must promptly inform his/her family members.

**Annex No.1 - The granting of measures - stock and flow data regarding the subjects of the applications for the years 2010-2011
(national total)**

| | Year 2011 | | | Year 2010 | | |
|---|-----------|---------|--------------------------------------|-----------|---------|--------------------------------------|
| | recorded | Decided | Pending at the end of the year | recorded | Decided | Pending at the end of the year |
| subjects of the applications* | | | | | | |
| Alternative measures | | | | | | |
| Probation under the supervision of social services | 27,838 | 26,278 | 16,292 | 30,035 | 27,658 | 14,786 |
| Probation under the supervision of social services pursuant to Art. 94 of Presidential Decree 119/2005 | 6,270 | 6,131 | 2,778 | 7,039 | 6,756 | 2,668 |
| Probation pursuant to Art. 47 quater of Prison Rules | 170 | 155 | 95 | 204 | 195 | 88 |
| Home detention pursuant to Art. 47 ter of Prison Rules | 17,735 | 16,971 | 9,191 | 20,395 | 18,987 | 8,588 |
| Home detention pursuant to Art. 47 ter 1 bis | 10,472 | 9,848 | 5,231 | 11,433 | 10,582 | 4,662 |
| Home detention pursuant to Art. 16 nonies of Decree- Law 8/1991 | 141 | 131 | 69 | 125 | 102 | 61 |
| Home detention pursuant to Art. 47 quater of Prison Rules | 73 | 71 | 31 | 122 | 109 | 30 |
| Home detention for recidivists | 7 | 7 | 2 | 15 | 14 | 2 |
| Home detention for persons over 70 years of age | 53 | 61 | 14 | 80 | 71 | 24 |
| Special home detention | 165 | 138 | 68 | 140 | 132 | 44 |
| <i>Enforcement of a custodial sentence at home</i> | 17,799 | 18,118 | 2,460 | 3,615 | 801 | 2,814 |
| Semiliberty | 11,385 | 10,889 | 5,851 | 12,190 | 11,596 | 5,376 |
| Substitute sanctions | | | | | | |
| <i>Monitored liberty</i> | 655 | 549 | 295 | 474 | 415 | 190 |
| <i>semidetention</i> | 67 | 53 | 55 | 76 | 54 | 42 |
| Other measures | | | | | | |
| <i>Expulsion of a foreign national as an alternative sanction (pursuant to Art. 16 para 1 of Law 30/2003)</i> | 5,035 | 4,926 | 1,733 | 5,562 | 5,656 | 1,672 |
| <i>Conditional suspension of a custodial sentence pursuant to Art. 2 of Law 207/2003</i> | 575 | 591 | 229 | 853 | 863 | 247 |
| <i>Suspension of sentence execution pursuant to Art. 90 of Presidential Decree 309/90</i> | 571 | 544 | 295 | 609 | 616 | 272 |
| Parole | 657 | 660 | 226 | 751 | 768 | 230 |
| <i>Work release pursuant to Art. 21 of Prison Rules</i> | 2,209 | 2,208 | 55 | 1,795 | 1,775 | 75 |

* the subject/measure of the application is the the data collection unit

Each application can contain one or more subjects/measures, therefore the total number of subjects/measures can be more than the total number of applications and cannot be regarded as indicating the number of applications submitted.

The same is true with regard to the number of applicants since each one of them can submit more than one application

In italics the measures falling within the competence of the Supervisory Office

**ANNEX No.1 - The granting of measures - outcome of the decisions expressed as a percentage of the total application subjects decided for the year 2011
(National total)**

| | Year 2011 | | | | | | |
|--|-----------|------------|--|----------------|---------------------|---------|-------------------------|
| | % granted | % rejected | % dismissed because there was "no reason to decide" or "no need to decide" | % inadmissible | % otherwise decided | total | Total in absolute value |
| subjects of the applications* | | | | | | | |
| Alternative measures | | | | | | | |
| Probation under the supervision of social services | 26.46% | 43.49% | 12.64% | 10.80% | 6.60% | 100.00% | 26,278 |
| Probation under the supervision of social services pursuant to Art. 94 of Presidential | 37.29% | 22.51% | 9.15% | 21.82% | 9.23% | 100.00% | 6,131 |
| Probation pursuant to Art. 47 quater of Prison Rules | 13.55% | 28.39% | 14.19% | 10.97% | 32.90% | 100.00% | 155 |
| Home detention pursuant to Art. 47 ter of Prison Rules | 23.58% | 22.54% | 23.27% | 22.12% | 8.49% | 100.00% | 16,971 |
| Home detention pursuant to Art. 47 ter 1 bis | 22.35% | 19.01% | 31.43% | 21.20% | 6.01% | 100.00% | 9,848 |
| Home detention pursuant to Art. 16 nonies of Decree- Law 8/1991 | 32.82% | 35.11% | 6.87% | 16.79% | 8.40% | 100.00% | 131 |
| Home detention pursuant to Art. 47 quater of Prison Rules | 11.27% | 22.54% | 18.31% | 32.39% | 15.49% | 100.00% | 71 |
| Home detention for recidivists | 14.29% | 14.29% | 0.00% | 14.29% | 57.14% | 100.00% | 7 |
| Home detention for persons over 70 years of age | 32.79% | 14.75% | 16.39% | 21.31% | 14.75% | 100.00% | 61 |
| Special home detention | 11.59% | 39.86% | 15.94% | 19.57% | 13.04% | 100.00% | 138 |
| <i>Enforcement of a custodial sentence at home</i> | 30.49% | 28.13% | 12.89% | 21.98% | 6.51% | 100.00% | 18,118 |
| Semiliberty | 8.76% | 28.01% | 34.49% | 21.71% | 7.03% | 100.00% | 10,889 |
| Substitute sanctions | | | | | | | |
| <i>Monitored liberty</i> | 77.78% | 0.00% | 6.19% | 0.36% | 15.66% | 100.00% | 549 |
| <i>semidetention</i> | 54.72% | 0.00% | 18.87% | 1.89% | 24.53% | 100.00% | 53 |
| Other measures | | | | | | | |
| <i>Expulsion of a foreign national as an alternative sanction (pursuant to Art. 16 para. 5</i> | 23.10% | 13.36% | 41.51% | 15.71% | 6.31% | 100.00% | 4,926 |
| <i>Conditional suspension of a custodial sentence pursuant to Art. 2 of Law 207/2003</i> | 1.35% | 15.40% | 4.57% | 69.88% | 8.80% | 100.00% | 591 |
| Suspension of sentence execution pursuant to Art. 90 of Presidential Decree 309/90 | 2.02% | 21.32% | 16.91% | 42.10% | 17.65% | 100.00% | 544 |
| Parole | 6.06% | 41.67% | 10.91% | 32.12% | 9.24% | 100.00% | 660 |
| <i>Work release pursuant to Art. 21 of Prison Rules</i> | 92.07% | 3.08% | 1.09% | 0.32% | 3.44% | 100.00% | 2,208 |
| In italics the measures falling within the competence of the Supervisory Office | | | | | | | |

**Table.S.3 applications concernig the exercise or the limitation of the rights of persons in the year 2011
(National total)**

| | Year 2011 | | | |
|--|-----------|---------|-----------|--------------------------------|
| Applications for the exercise/limitation of a right | recorded | decided | % granted | pending at the end of the year |
| Personal rights | | | | |
| Permission to make phone calls | 3,257 | 3,328 | 88% | 2 |
| Possibility of listening to and recording prisoner meetings (pursuant to Art. 41 bis para.2 quater le | 173 | 170 | 75% | 3 |
| Checking the contents of the envelopes containing letters | 88 | 92 | 74% | 1 |
| Limiting the exchange of letters and telegrams and the access to press | 952 | 950 | 88% | 16 |
| Subjecting letters to a seal of approval | 305 | 304 | 87% | 13 |
| delaying affixing a seal of approval on letters | 1,932 | 2,050 | 96% | 37 |
| Withholding letters | 1,170 | 1,246 | 58% | 10 |
| Right to health | | | | |
| Specialist examination in an outside treatment facility | 46,880 | 46,817 | 98% | 517 |
| Approving a specialist examination in an outside treatment facilitiy | 4,446 | 4,245 | 97% | 48 |
| Approving hospitalization in a civil hospital or in an outside treatment facility | 2,258 | 2,224 | 97% | 52 |
| Revoking hospitalization in a forensic psychiatric hospital | 26 | 23 | 30% | 8 |
| Revoking hospitalization in a civil hospital or outside treatment facility/authorisation to go back to | 449 | 452 | 87% | - |
| Hospitalization in a civil hospital or outside treatment facilitiy | 3,410 | 3,406 | 92% | 95 |
| Day hospitalization in public health facility | 1,109 | 1,099 | 98% | 11 |
| Hospitalization in a forensic psychiatric hospital | 84 | 78 | 62% | 11 |
| Hospitalization in a forensic psychiatric hospital for psychiatric observation | 423 | 415 | 87% | 18 |
| Extension of hospitalization in a forensic psychiatric hospital | 16 | 15 | 53% | 1 |
| Leaves of absence | | | | |
| Bonus leave of absence | 43,161 | 42,777 | 48% | 4,888 |
| Emergency leave of absence | 7,943 | 7,985 | 43% | 334 |
| Modification of leave of absence | 340 | 341 | 84% | 1 |
| Revocation of emergency leave of absence | 81 | 80 | 95% | 2 |
| Revocation of bonus leave of absence | 243 | 244 | 95% | 3 |
| Parental role | | | | |
| Assisting children outside prison | 152 | 177 | 34% | 19 |