



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

The recent positive developments in the fight against overcrowding in the Italian penitentiary system: some good practices

During the last three years, the Italian Penitentiary Administration made several efforts aimed at achieving a sustainable solution to the problem of prison overcrowding.

Thanks to a program of specific structural, legislative and managerial interventions, and with the precious collaboration of all the relevant stakeholders, we have achieved meaningful and important results, which are pushing us forward on the same way and still with the same commitment.

I would like to share with you, distinguished colleagues, the most meaningful experiences, procedures and actions – which I would call “good practices” – that enabled us to achieve those positive goals.

The issue of overcrowding has always oriented the actions of our Administration, but I have to acknowledge that the consequences of the pilot-judgment *Torreggiani and others versus Italy* (28th May 2013) of the European Court of Human Rights gave a new decisive boost to identifying and implementing the measures necessary to overcome that big problem.

Indeed, as a consequence of that judgment, the Italian government undertook a huge and complex program of interventions aimed at a global review of the system of sentences enforcement and of the way of organizing life in prisons, in order to ensure that detention is compatible with the respect of human dignity and that inmates do not undergo a condition of discomfort exceeding the normal level of suffering connected with imprisonment.

First of all, **legislative actions** were taken, aimed at reducing prison entry flows and enabling inmates to progressively leave the prison system also through the adoption of measures alternative to detention facilitating their reintegration into the external community. In particular, through an urgent procedure¹, some substantial legislative amendments were brought which introduced different forms of punishments, made the recourse to pre-trial detention more difficult and widened the conditions to access alternative measures: all of these measures positively affected the flows of both entries and exits of prison population, thus enabling a considerable decrease in the number of prisoners present.

¹Law-by-decree of 23 December 2013 nr. 146 (*Urgent measures on protection of prisoners' fundamental rights and on controlled reduction of the prison population*) converted into law by the Law 21 February 2014, nr. 10.



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

If on the one hand, the Italian legislators acknowledged the public's convictions that prison must not be the only – nor even the first – sanctioning reaction, on the other hand the Penitentiary Administration has planned and implemented a new type of organization of the prisons, focused on the inmates' change, giving to prisoners wide margins of self-determination in order to encourage them to mature and to take their responsibilities upon themselves in relation to the rules of social cohabitation inside the prisons: this is the first crucial step towards their positive reintegration into society.

Then, a number of **initiatives of management and organization** were implemented, aimed at giving prisoners a new sense of identity and dignity.

One of our first interventions was to remove the main complaint of the European Court, that is the too restricted detention spaces available to prisoners.

A crucial and decisive tool in our fight against overcrowding is a **software for Detention Spaces**². That software enables to monitor – at the level of Department Headquarters – the daily presence of prisoners in every penal establishment, as well as to survey the detention spaces available to each inmate, with the exact measurement of the cells: the result is that no prisoner is anymore assigned to a cell with less than 3 square meters at his disposal, and this is true also for the most complex prisons, such as the remand prisons in big cities. It was possible to achieve that result and to maintain it thanks to the introduction in the software of an ALERT designed to prevent anomalous assignments against the law.

During this year, the software was enhanced with further possibilities to know elements connected with the quality of detention life and, very recently, with the possibility of reconstructing the inmates' previous detention situation as for any days spent “in suffering”, so as to correctly and precisely reply to the requests of the Supervisory Judges for the aim of compensation, in term of article 35-c of the Penitentiary Act.

All the supervisory judges in Italy can access that software and thus can have at their disposal a set of information useful to effectively and timely process and decide on the inmates' complaints.

A new modality of prison management was introduced providing for an organization of life in prison based on making inmates to feel more and more responsible. Also to that purpose, a database was established (**DETENTION CONDITIONS MONITORING**) to enable each prison to monthly input the most meaningful data for progresses; those data are

² Applicativo 15 Spazi Detentivi, ASD



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

processed both from an analytical and a synthetic point of view. That tool enables to have both at Central and Regional levels, a periodically updated “picture” of the most important aspects in each prison, useful for planning further improvements.

Another early intervention ensured that inmates stay outside their cells for at least eight hours a day so that cells become a place where inmates only have rest and not the place where they spend most of the day. In that new organizational model, the inmate can choose how to organize his time (working, studying, participating in educational activities, in vocational training courses, in sport and leisure activities); this implies a new modality of carrying out surveillance, based upon the knowledge of the inmate through the observation of his behaviour with co-inmates.

Currently, **95% of the medium security prisoners spend at least 8 hours a day outside their cells**. The exclusion of the remaining 5% is determined by health, trial or precaution reasons. By the way, we intend to go ahead in that process of humanization of prisons, and we are applying this detention modality also to some High Security wings, although such a modality cannot be regulated yet: indeed, for that specific circuit, we need a period of assessment of the organizational and management system based on open custody.

Particular care was given to the inmates' contacts with their families or with close persons, which affect the quality of the visits and of contacts – also by phone –with them.

In this sense, our organizational effort also included:

- The removal of all the few separations which remained in visit halls (except for the rooms for visits to the inmates undergoing the special regime of 41-b); in a very few number of prisons there are still some screens, which are either to be removed or to be substituted with other types, if security requirements still exist;
- The visits are spread on several days a week and also in the afternoon and in Sundays and holidays;
- The system of visits reservation has been implemented;
- In almost all prisons the telephone card was introduced.

Also, **particular care is given to minors** confronted with prison environment as children of imprisoned parents (in the first semester we had almost 120 thousand entries of minors in our establishments). To that purpose, in order to lessen the effects of children's entry in an alien world which they are afraid of, a number of arrangements were made, such as: the establishment of play rooms where they can meet their imprisoned parents; the arrangement



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

of “children spaces”, that is premises decorated with murals, equipped with plays and toys, arranged in waiting rooms or in visit rooms when the visits cannot be held in specific premises; organization of visits also in the afternoon and in holidays in order not to hinder children’s normal school activities; the organization of visits in the so-called “green areas”, that are specially equipped spaces where prisoners and family members can also have a meal together.

In the perspective of a fruitful occupation of prisoners’ time in detention, last November I issued the circular letter concerning the “possibility for inmates to access the Internet” to regulate the use of PCs by inmates and the modality to access the Internet for reasons of study, education, training as well as to facilitate family relations. My initiative aims at supporting the reintegration plans and at widening the possibilities of our treatment projects activated in cooperation with the enterprises worlds, with the third sector and with Local Bodies.

A great attention was paid to the **penitentiary work**, trying to put into value both its **rehabilitating** and **productive** aspects. This was possible also by the implementation of several projects financed by the Fines Fund and carried out by inmates’ workforce. Those works aimed at improving the life conditions of our penal establishments.

Thanks to all those interventions (in 2015, 267 projects were financed, while in the first five months of 2016, 148 similar projects were already submitted for approval), our Administration carried out works of conservation and refurbishment of our real estate, and also offered meaningful employment opportunities to prisoners who became direct protagonists, along with our Administration, of this important process of change. The inmates thus acquired –and some of them for the first time –the sense of their potentials and of their skills, which is a first crucial step towards their reintegration into society and into the job world.

The primary objective of said works was to improve detention spaces, and namely to eliminate the toilet in open sight in the cells, as well as to recover other spaces.

We put a great care on the premises dedicated to family visits, to the equipment of green areas and to the maintenance of the rooms dedicated to education, culture, sport and work activities as crucial elements for social rehabilitation of offenders, where they should fruitfully spend most of their day.

Under that perspective, the long-lasting cooperation between the prison and the local community was enhanced, by re-financing a special law providing for incentives and tax



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

reductions for those enterprises and cooperatives which recruit prisoners or organize vocational training courses for them.

Still under the perspective of increasing job possibilities for prisoners, we are currently evaluating the possibility to restart the functioning of some prisons in Sardinia: these establishments include very large State properties for a total amount of 6,000 hectares, to be transformed into modern and productive organic and bio-energetic farms which could produce food for the needs of the penitentiary Administration.

Besides the interventions aimed at recovering and exploiting our existing real estate, in our fight against overcrowding we made a big effort to recover detention spaces and to open new prisons and new prison wings, as the Remand Prison in Rovigo.

Thanks to the interventions carried out so far, on the basis of the data provided by our Software for Detention Spaces, we achieved the objective to reduce to 8% the percentage of the number of unavailable places in cells, in comparison with 9.14 % registered on 1st March 2015. In fact, as of 29 April 2016, more than 1000 places were recovered with respect to 5005 not available places on 27 January 2015. Our next goal is to achieve, through planned building actions, a further decrease to 6% of the unavailable places, a percentage which could be steady for the next two years.

I want now to share with you a proposal which I made to our political authorities in matter of prison capacity. In our country, the current prison regular capacity is calculated on the basis of a Decree of the Ministry of Health of 1975 relevant to civil houses. The parameters indicated in said Decree have fully been received by the Penitentiary Administration: in particular, a minimum surface of 9 square meters is provided for a single cell, plus 5 m² per each further bed place. Keeping into account that the European Court of Human Rights never indicated an imperative number (considering 3 m² as a minimum space below which there is the absolute presumption of violation of article 3 of the Convention) and that CPT in its 2013 report recommended as minimum space acceptable 6 m² per single cell (7 m² as minimum standard) and that the CPT itself confirmed that parameter in its document dated 15 December 2015, I proposed, last April, to introduce in our system the new parameters of 7 m² per single cell plus 4 square meters per each further bed place.



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

A slight reduction in the spaces would allow to obtain a space for toilets in the cells which do not have a separate bathroom yet; it also would allow to join two rooms to transform them into a mini-house with a private bathroom for 2-3 prisoners.

I agree with Mr McManus who yesterday invited all the countries to use the same criteria of calculation of capacity.

In the action plan for the general improvement of the Italian penitentiary system, in the last two years, we boosted the implementation of international agreements facilitating **the execution of sentences of foreign prisoners in their countries of origin**, such as the Strasbourg Convention and the EU Framework Decision 909/2008, as well as of existing bilateral agreements, in particular with Romania and Albania, while an agreement is currently under definition between Italy and Morocco.

I strongly believe in the rehabilitation aim of the punishments, which comes true also by enabling the maximum number of offenders to serve their sentence as close as possible to their families and their social environments; this is why I take the liberty to urge all of you to incentive that form of cooperation among States.

We have activated a working group for identifying finally sentenced prisoners who are eligible for executing their judgment in their country of origin on the basis of the Framework Decision. Procedures have been started with communications to all the competent judicial authorities. Unjustified refusals to comply with our requests cannot fall within the responsibility of the Italian Penitentiary Administration. The enforcement of sentences in the country of origin also complies with evident requirements of security.

Italy not only implemented a more evolved and advanced penitentiary system, as the European Judges asked for, but also provided for a system of **preventive remedies**, to avoid that situations of violation of Article 3 occur, and of **compensatory remedies** for those persons who suffered a degrading treatment.

Very shortly, that protection is composed of two different actions, provided for by two new articles introduced in the Italian Penitentiary Act (35-b and 35-c), which enable the inmates to be delivered from a situation violating their fundamental right not to undergo inhuman treatments or to be compensated for the violation they suffered.

Those two remedies are not alternative to each other. An inmate deeming to suffer or to have suffered detention conditions contrary to article 3 of ECHR can address the Supervisory Judge in order to get the immediate re-establishment of legality as well as a



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

sentence reduction (that is the reduction of 1 day every 10 days served under those conditions) or a money compensation (8 Euros for each day of violation suffered); this is in compliance with the request of European Judges in the above-mentioned Torreggiani judgment.

Finally, as a further reaction to the critical issues highlighted by the Torreggiani judgment concerning the need of effective instruments for the protection of the right of persons deprived of their liberty, the **National Ombudsperson of persons imprisoned or deprived of their liberty** was established, as a consequence of the implementation, in our Country, of the Additional Protocol of the United Nations Convention against torture. The Ombudsperson Office is composed of three members, including its President. Last 6th February, Mr. Mauro Palma, former President of the CPT and of PC-CP, was appointed as national Ombudsman of persons imprisoned or deprived of their liberty.

The national Ombudsperson acts in coordination with local Ombudspersons and performs functions of monitoring of all the places where persons can be deprived of their liberty, including Identification and Removal centres, carrying out visits without the need of authorisation, making recommendations when he ascertains violations to the norms or the foundation of the complaints in terms of art. 35 of the Penitentiary Act.

A confirmation of the proactive commitment of Italy and of its effective actions is the resolution adopted on the 1250th Session, on 8-10 March 2016, by the Committee of Ministers, which finally closed the monitoring on the cases *Sulejmanovic*, the first judgment against Italy for overcrowding, and *Torreggiani and others*.

Indeed, that Committee, after having analysed the action report submitted by the Italian Government, not only deemed it opportune to close the cases, but even congratulated Italian authorities for the response given to the pilot judgement Torreggiani and others and highly appreciated the commitment of our country in finding a steady solution to prison overcrowding.

Also the introduction of jurisdictional internal remedies, both preventive and compensatory, was praised, which since they offered a fair compensation to the complaints concerning bad detention conditions.



Ministero della Giustizia

DEPARTMENT OF PENITENTIARY ADMINISTRATION

The Italian Plan of Action was cited as an “example of serious measures taken to deal with prison overcrowding” by the CDPC in its *White Paper on prison overcrowding*. That Committee, in particular, in describing the lines of action taken by the Italian government after the Torreggiani judgement, acknowledged the effectiveness of those measures, keeping into account the meaningful reduction in the prison population, with a decrease of more than 13.000 inmates as well as of the meaningful increase in the recourse to measure alternative to detention.

President Santi CONSOLO
Head of Department of Penitentiary Administration
Ministry of Justice – Italy