COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

CPT/Inf (2017) 23

Report

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

from 8 to 21 April 2016

The Italian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2017) 24.

Strasbourg, 8 September 2017

CONTENTS

Copy of the letter transmitting the CPT's report

Mr Fabrizio Petri
Minister Plenipotentiary
President of the Interministerial Committee
for Human Rights
Ministry of Foreign Affairs
Piazzale della Farnesina 1
00135 Rome
Italy

Strasbourg, 5 December 2016

Dear Minister,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Italian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Italy from 8 to 21 April 2016. The report was adopted by the CPT at its 91st meeting, held from 7 to 11 November 2016.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 1, of the Convention, the Committee requests the Italian authorities to provide within **six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Italian authorities to provide, in the above-mentioned response, reactions to the comments and requests for information formulated in this report.

The Committee would ask, in the event of the response being forwarded in Italian, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Mykola Gnatovskyy
President of the European Committee for the
Prevention of Torture and Inhuman or
Degrading Treatment or Punishment

EXECUTIVE SUMMARY

In the course of the 2016 periodic visit, the CPT's delegation examined the broad prison reform measures taken by the Italian authorities to reduce prison overcrowding and the ongoing reform of forensic psychiatry. In addition, the situation of persons deprived of their liberty by law enforcement officials and of those placed involuntarily in psychiatric care pursuant to civil legislation was also reviewed. The cooperation received during the visit was, with two exceptions, generally excellent.

At the outset, Committee reiterates its concern that after more than 20 years the penal code still does not contain a specific provision on the crime of torture. It takes note of the recent establishment of the National Preventive Mechanism under the OPCAT.

Law enforcement agencies

The great majority of detained persons met by the CPT's delegation indicated that they had been treated correctly by law enforcement officials. However, a number of allegations of physical ill-treatment and excessive use of force, particularly by members of the State Police and *Carabinieri*, were received. These consisted of slaps, punches, kicks and blows with batons at the time of apprehension and following transfer to a police establishment. Several cases supported by medical documentation are described in the report. A clear message should be conveyed to police officials that all forms of physical ill-treatment are unacceptable and will be prosecuted and sanctioned accordingly.

As regards legal safeguards, several persons alleged that they had experienced delays notifying a third party of their detention, and also in obtaining access to a lawyer prior to their court hearing. Further, foreign nationals deprived of their liberty by the police did not systematically receive information on their rights in a language they understood. Access to a doctor was normally guaranteed to detained persons requiring medical assistance; however, the confidentiality of these examinations was generally not guaranteed.

Conditions in the detention cells *(camere di sicurezza)* were on the whole acceptable for short periods. However, for prolonged detention (i.e. up to 72 hours), the conditions remained inadequate owing to the lack of outdoor exercise yards and showers. The conditions in the detention cells of the Florence *Questura* were found once again to be unacceptable. Immediate steps should be taken to decommission cell no. 3 and to refurbish the remaining cells of the Florence *Questura.*

Prisons

The report takes note of the unprecedented reform of the penitentiary system undertaken by the Italian authorities following the 2013 European Court of Human Rights' pilot judgment *Torreggiani v. Italy.* The various measures have resulted, *inter alia*, in the decrease of the prison population by 11,000 inmates and the increase in the capacity of the prison estate by 2,500 places in the three years prior to the visit. Nevertheless, the prison population has increased in the course of 2016 and prison overcrowding persists (e.g. 16 percent of the prison population are allocated less than 4 m^2 of personal living space). The CPT comments on these issues and on the current policy advocated by the Italian prison administration of providing inmates with only a minimum living space of 3 m^2 each in multi-occupancy cells, which is well below the standards advocated by the CPT and provided for by national legislation.

Most prisoners met by the CPT's delegation spoke favourably about the manner in which they were treated by prison officers. That said, with the exception of Ascoli Piceno Prison, allegations of physical ill-treatment of prisoners by staff were received at all the prisons visited. These consisted mainly of punches, slaps, kicks and blows with batons and were often linked to episodes involving agitation and self-harming or suicide attempts on the part of inmates. Further, in a number of cases prisoners claimed that they had been placed in seclusion rooms in only their underwear for prolonged periods and on occasion fixated to a bed with handcuffs. To tackle the issue of physical ill-treatment by prison staff, the Italian authorities should inter alia provide special training in manual control techniques to deal with inmates with suicidal and/or self-harming tendencies, as well as take measures to prevent staff from being under the influence of alcohol while on duty. Episodes of inter-prisoner violence were not infrequent, in particular at Como and Sassari Prisons, and enhanced vigilance by prison staff is required.

All establishments visited suffered from structural material deficiencies and extensive refurbishment should be undertaken. There is an urgent need to resolve the water supply problems at Sassari Prison, and to ensure the provision of an evening meal to inmates on Sundays at Genoa Marassi and Turin Prisons. The CPT notes positively the application of the concept of dynamic surveillance *("sorveglianza dinamica")*, allowing inmates under a medium security regime to be out of their cells for at least eight hours a day. That said, the range of purposeful activities on offer remained limited (e.g. on average less than 20 percent of inmates were involved in a remunerated activity), and out-of-cell time was generally spent circulating in wing corridors and communal rooms. Steps should be taken to improve the programme of activities on offer to inmates and to enhance the involvement of prison officers in such activities.

The CPT again examined the application of the extensive restrictions imposed on inmates subject to Article 41-bis of the Penitentiary Law at the detention units of Ascoli Piceno and Sassari Prisons. A number of recommendations are put forward to address the limited activities and contacts with the outside world, and the material deficiencies in cells and communal areas. The CPT also found that there was a failure by the prison administration to implement decisions delivered by the supervisory judge. This was a cause of profound psychological distress for the inmates concerned, and reference is made to several specific cases in the report.

The report notes the progress in the transfer of responsibility for prison healthcare to the regional health-care authorities (ASLs). The level of primary care provided to inmates was satisfactory and health-care facilities were generally of a good standard and staffing levels adequate. However, access to specialised care was marred by delays at Como and Sassari Prisons, and access to doctors was filtered by security staff at Ivrea Prison. In terms of psychiatric care in prisons, there is a need to improve the care and conditions in the psychiatric observation unit *("il Sestante")* of Turin Prison. The recording of injuries observed on inmates upon their admission to prison was generally performed in a correct manner. However, the use of dedicated registers for all injuries observed on inmates *("Registro 99")* should be reinstated. Finally, further efforts should be invested to guarantee the confidentiality of medical examinations of inmates, notably upon admission to prison.

The CPT is critical of the use of medical seclusion rooms for the prolonged isolation of inmates with self-harming and/or suicidal tendencies; notably, the potential it represents for physical ill-treatment, the degrading manner of its application (such as inmates being left in only their underwear), the absence of adequate monitoring by health-care staff and the inadequate recording of such measures. Prison staff must be provided with adequate training in the management of such situations and the use of medical seclusion rooms should be better regulated by limiting the duration of the measure to a minimum. The material deficiencies also need to be remedied.

The report also touches upon other issues, such as the effective presence and training of prison staff, the situation of mothers with children in prison, and the need to reinforce legal safeguards surrounding disciplinary proceedings for inmates. The issue of solitary confinement imposed by judicial decision *("isolamento diurno")* on some life-sentenced prisoners is also raised. The prolonged (up to three years) and punitive nature of the measure in respect of specific cases raised in the report could be considered, in the view of the Committee, as amounting to inhuman and degrading treatment.

Psychiatric establishments

Within the framework of the ongoing reforms for treating forensic psychiatric patients, the CPT's delegation visited one of the few remaining judicial psychiatric hospitals (OPGs), at Montelupo Fiorentino, a former OPG undergoing a process of transformation at Castiglione delle Stiviere, and three of the new *Residenze per l'esecuzione delle misure di sicurezza* (REMS) in Bra, Bologna, and Pontecorvo. In addition, the CPT's delegation carried out a targeted visit to the *Servizio Psichiatrico di Diagnosi e Cura* (SPDC) of the San Giovanni Battista University Hospital Complex in Turin, in order to examine procedures for the involuntary placement of adult general psychiatric patients and the use of means of restraint.

As regards the forensic psychiatric establishments visited, the delegation received no allegations and found no other evidence of deliberate ill-treatment of patients by staff in most of the establishments visited. However, at Castiglione delle Stiviere, patients complained of insults and disrespectful behaviour by some members of staff.

Patients' material living conditions were generally adequate in the establishments visited, the main exception being the unrenovated "Aquarius" building at Castiglione delle Stiviere. Patients in the Pontecorvo REMS were confined at night to their rooms, while patients at Castiglione delle Stiviere were locked out of their rooms for a large part of the day. The CPT considers that patients should in principle be able to circulate freely within their units at all times of day, as a means of fostering individual autonomy and enhancing the rehabilitative process.

The treatment offered to patients was likewise generally adequate at most of the establishments visited, as were staffing levels. However, at Castiglione delle Stiviere more concerted efforts were required to ensure that both the structures and the staff conform to the philosophy of care concept underlying the establishment of the REMS.

The CPT welcomes the initiative to avoid having recourse to mechanical restraint in REMS and to monitor more generally the use of means of restraint in forensic psychiatric establishments given the disparity of practices observed during the visit, including two establishments where neither seclusion nor mechanical restraint were applied. On the other hand, numerous allegations were received from patients at Castiglione delle Stiviere concerning seclusion and mechanical restraint being used as an informal punishment. In addition, one patient had been subjected since August 2015 to heavy doses of psychotropic medication with the express intention of rendering him physically incapable of attempting to escape, which could be considered to be long-term chemical restraint. Such practices are unacceptable and must be stopped. At the same establishment, a severely mentally disabled patient was subjected to continuous mechanical restraint to prevent her from self-harming. The CPT considers that this patient's placement in a forensic psychiatric establishment is far from appropriate and that the Italian authorities should urgently explore alternative options, as well as more appropriate means for dealing with such cases. More generally,

the CPT sets out the basic principles regarding the use of restraint measures, and recommends that they be the subject of comprehensive protocols in all psychiatric establishments.

The CPT has noted that judicial decisions in some regions have determined that the deprivation of liberty of persons in OPGs has been without a valid legal basis since 1 April 2015, the definitive date established under Italian law for the closure of the OPGs. On the other hand, the legal bases for the placement of forensic patients in REMS have remained as for OPGs, as have review procedures. The CPT considers that treating psychiatrists should not be required to draw up psychiatric reports on their patients for judicial authorities, and that review procedures should involve independent psychiatric experts. The introduction of two safeguards which address previous CPT recommendations is welcomed. First, patients can no longer be detained in a REMS solely on the basis of the lack of adequate care and/or accommodation in the outside community. Second, no placement in a REMS may last longer than the maximum sentence possible under penal legislation for the offence in question.

In terms of patients' consent to treatment, a clear legal framework regulating the administration of involuntary treatment for all psychiatric patients should be introduced.

In all the establishments visited, patients' rights concerning contact with the outside world continued to be regulated by the Penitentiary Rules. The CPT welcomes the initiative to consider the introduction of new internal regulations for all REMS.

As regards security arrangements, the CPT considers that armed guards should not be employed in REMS in positions where they may have contact with patients, as was the case at Bra, and that adequate procedures for the recruitment and training of security staff, as well as detailed regulations concerning their duties, should be put in place at all REMS.

At the SPDC of the San Giovanni Battista University Hospital Complex in Turin, the CPT found that staff resorted to chemical and/or mechanical restraint to manage patients who were agitated, violent or aggressive. Patients were subjected to mechanical restraint in the corridor of the service, with only a screen to provide some limited privacy. Such a practice is unacceptable, and the CPT recalls its general principles regarding restraint measures which should be applied at the SPDC. There had been no change in the involuntary placement procedures since the 2012 visit, and the CPT repeats the necessity for the Italian authorities to put in place robust safeguards. Finally, as with forensic psychiatry, there is a necessity to establish a clear legal framework for involuntary treatment of psychiatric patients.

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a periodic visit to Italy from 8 to 21 April 2016. It was the Committee's twelfth visit to Italy.[1]

2. The visit was carried out by the following members of the CPT:

- Xavier Ronsin, Head of delegation
- Régis Bergonzi
- Juan Cabeza
- Philippe Mary
- Maria Rita Morganti.

They were supported by Christian Loda, and Janet Foyle of the CPT's Secretariat, and were assisted by:

- Catherine Paulet, psychiatrist, Head of the Regional Medico-Psychological Service at Baumettes Prison, Marseille, France (expert)
- Dan Dermengiu, Director of the National Institute of Legal Medicine "Mina Minovici", Bucarest, Romania (expert)
- Maria Fitzgibbon (interpreter)
- Antonella Luccarini (interpreter)
- Anna-Lisa Morganti (interpreter)
- Béatrice Santucci (interpreter).

---

[1] The CPT has carried out six other periodic visits (1992, 1995, 2000, 2004, 2008 and 2012), as well as five ad hoc visits (1996, 2006, 2009, 2010 and 2015) to Italy. All visit reports and related Government responses have been published on the CPT's website: http://www.cpt.coe.int/en/states/ita.htm.

B. Establishments visited

3. The delegation visited the following places of detention:

Law enforcement establishments[2]

- Ascoli Piceno State Police Headquarters (Questura)
- Florence State Police Headquarters (Questura)
- Genoa State Police Headquarters (Questura)
- Turin San Paolo State Police Station
- Chivasso Carabinieri Station
- Como Carabinieri Provincial Headquarters (via D'Acquisto)

Prison establishments

- Ascoli Piceno Prison
- Como Prison
- Genoa Prison (Marassi)
- Ivrea Prison
- Sassari Prison
- Turin Prison (including the Psychiatric Observation Unit "Il Sestante")

Psychiatric establishments

- Casa degli Svizzeri REMS, Bologna (Emilia Romagna)
- Casa di Cura San Michele REMS, Bra (Piedmont)
- Casa della Salute REMS, Pontecorvo (Lazio)
- Castiglione delle Stiviere REMS (Lombardy)
- Montelupo Fiorentino Judicial Psychiatric Hospital (OPG) (Tuscany)
- Psychiatric Service for Diagnosis and Care (SPDC), San Giovanni Battista University Hospital Complex ("*le Molinette"*), Turin

Other establishments

- Holding cells of the Como Court
- Secure unit at "*le Molinette"* Hospital, Turin.

[2] The delegation has also visited the station of the *Guardia di Finanza* of Como in order to check the personal files of persons deprived of their liberty. The establishment in question did not possess detention cells.

C. Consultations held by the delegation and co-operation encountered

4. In the course of the visit, the delegation had consultations with Andrea Orlando, Minister of Justice, Gennaro Migliore, Under-Secretary of State of the Ministry of Justice and Domenico Manzione, Under-Secretary of State of the Ministry of the Interior. It also held meetings with senior officials of the Ministry of Health, as well as representatives of the Carabinieri, Guardia di Finanza and Polizia di Stato. Further, it met with the newly appointed *Garante Nazionale dei Detenuti e Persone Private di Libertà (Garante Nazionale)* (see paragraph 8) as well as representatives of non-governmental organisations active in areas of concern to the CPT.

A list of the national and regional authorities as well as non-governmental organisations met by the delegation is set out in Appendix I of this report.

5. The degree of co-operation received during the visit from the Italian authorities was, with two exceptions, generally excellent at all levels. The delegation enjoyed rapid access to all establishments visited, was provided with the information necessary to carry out its tasks and was able to speak in private with persons deprived of their liberty.

The delegation wishes to express its appreciation for the assistance provided before and during the visit by the CPT's liaison officer Ambassador Gianludovico De Martino and his staff from the Ministry of Foreign Affairs and the other members of the Inter-ministerial Committee on Human Rights.

As regards the two exceptions in respect of the co-operation provided by the Italian authorities: first, at Como Prison the delegation was dismayed to observe that the Director of the establishment had instructed penitentiary staff to record the names of the inmates interviewed by the delegation, which was done by the custodial staff in a very overt manner; second, the detention cells of the Florence *Questura* (see paragraph 22), which had already been the subject of a recommendation by the CPT following its 2012 visit, continued to accommodate detained persons despite the fact that the Italian authorities had informed the Committee in their response to the report on that visit that the use of these cells had been discontinued. The information provided to the delegation by the authorities at the outset of the 2016 visit (see paragraph 20) indicated that the cells in question were not in use pending their renovation. The CPT trusts that the Italian authorities will ensure that the first issue does not arise again during future visits and that, as regards the second issue, care will be taken to provide the Committee with accurate information.

D. Immediate observations under Article 8, paragraph 5, of the Convention

6. On 21 April 2016, the CPT's delegation met representatives of the Italian authorities to inform them of the delegation's main findings. On that occasion, the CPT's delegation invoked Article 8, paragraph 5, of the Convention, in respect of the material conditions in cell no. 3 of the Florence *Questura* and requested that it be removed immediately from service until such time as it had been thoroughly cleaned and renovated.

This request was confirmed in a letter dated 9 May 2016, and by letter dated 6 June 2016, the Italian authorities responded. The contents of the response have been reflected in the report (see paragraph 22).

E. Introduction of the crime of torture in the Penal Code

7. From the outset, the CPT wishes to reiterate its concern that after more than 20 years of discussion before Parliament the Italian Penal Code still does not contain a specific provision which penalises the crime of torture. At the time of writing this report, a bill has been pending before the Italian Senate since 2014, and the discussion on its adoption was suspended and adjourned indefinitely in the course of July 2016.[3] Unfortunately, the draft legislation in question is not in compliance with the precepts of the 1984 United Nations Convention against Torture. More particularly, the bill provides that the offence must be reiterated and that it can be committed by an ordinary individual; the fact that an act of torture may be inflicted by a public official is not considered as an autonomous criminal offence but rather as an aggravating factor. Finally, the offence is subject to a statute of limitations.

The CPT recalls that in its judgment in the case of *Cestaro v. Italy,* the ECtHR criticised the lack of adequate criminal legislation in respect of torture as well as the application of a statute of limitations to the crimes in question, conceding that this situation had *de facto* ensured impunity for the police officers responsible for the violence. The CPT considers that the bill currently being considered does not adequately address the issues raised by the Court.

The Committee calls upon the Italian authorities to introduce as soon as possible the crime of torture into the Penal Code. Further, the necessary steps should be taken in order to ensure that the definition of the crime of torture is in compliance with the precepts of the 1984 United Nations Convention against Torture and, in particular, that such crimes are never subject to a statute of limitations.

F. National Preventive Mechanism

8. Italy ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2013. Through Decree No. 36 of 11 March 2015 the Government created the institution of the *Garante Nazionale dei Detenuti e Persone Private di Libertà (Garante Nazionale)* and signalled the structure of the office to assist the mandate holder.[4] The same Decree designated the *Garante Nazionale* to perform the task of National Preventive Mechanism under the OPCAT. The *Garante Nazionale* and his two Deputies were appointed on 6 February 2016 by the President of the Republic. At the time of the CPT's visit, the *Garante Nazionale* had just started to conduct visits to places of deprivation of liberty and some of the assigned staff had been recruited. Further, the *Garante Nazionale*, in addition to the task of monitoring places of deprivation of liberty and addressing recommendations to the competent authorities, was also mandated to co-ordinate the work of the territorial *Garantes* (operating at the regional, provincial and municipal level), to process individual complaints filed by inmates (see paragraph 81) and to address an annual report to the Presidents of the Senate and Chamber of Deputies of the Italian Parliament.

The Committee takes note of the appointment of the *Garante Nazionale* and the commencement of its operations. It trusts that this office will soon receive the material resources necessary to conduct its core activities and that the earmarked staffing will always be recruited independently and in accordance with the OPCAT regulations.

---

3 The debate was adjourned in light of fundamental disagreement between different political parties.

4 Twenty-five personnel seconded from the Ministry of Justice in different thematic areas.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

9. The legal framework for the deprivation of liberty by law enforcement agencies of persons who are suspected of having committed a criminal offence remains unchanged since the 2012 visit.[5] In principle, when a person is taken into police custody (in light of an *arresto*[6] or *fermo*[7]) the police must promptly inform the competent prosecutor.[8] The prosecutor must submit within 48 hours of the time of deprivation of liberty a request for the validation of the detention order to a judge for preliminary enquiry who, within the following 48 hours, must decide whether or not to remand the person in custody.[9] Further, pursuant to Article 349 of the Code of Criminal Procedure (CCP) persons can be deprived of their liberty for purposes of identification for a maximum period of 24 hours.

In the course of the 2016 periodic visit, the CPT's delegation visited three State Police headquarters *("Questure")* and one State Police station, one *Carabinieri* provincial headquarters and one *Carabinieri* station.

2. Ill-treatment

10. As was the case during previous periodic visits, the great majority of detained persons met by the delegation indicated that they had been treated correctly whilst in the hands of law enforcement officials (i.e. State Police, Municipal Police, *Carabinieri* or *Guardia di Finanza*).

However, the CPT's delegation did receive a number of allegations of physical ill-treatment and/or excessive use of force by all law enforcement agencies and in particular by State Police and *Carabinieri* officers. The alleged ill-treatment consisted of punches, kicks and blows with batons at the time of apprehension (and after the persons concerned had been brought under control) and, on occasion, during their stay in a law enforcement establishment. In some cases, the delegation found medical evidence in relevant registers in prisons which was consistent with the allegations made. The following represent a sample of credible allegations of ill-treatment of criminal suspects by law enforcement officials collected by the CPT's delegation in the course of the visit:

---

5 CPT/Inf (2013) 32, paragraph 8.

6 Pursuant to Articles 380 and 381 of the CCP in the event of an arrest *in flagrante delicto*, this measure is related to the nature of the criminal offence.

7 *Fermo* (provisional detention) is resorted to, pursuant to Article 384 of the CCP, in the case when a person is suspected of having committed a criminal offence of a serious nature and is at risk of flight. It is considered to be a measure to ensure the integrity of the investigation and must be justified by the presence of an arrest warrant issued by a prosecutor.

8 Pursuant to Article 386 of the CCP.

9 Pursuant to Article 390 of the CCP.

i) An inmate met by the delegation at Ivrea Prison alleged that he had been physically ill-treated by *Carabinieri* officers in a detention cell of the establishment of Chivasso following his arrest on 5 January 2015. The alleged physical ill-treatment consisted of the repeated banging of his head against the bed in the cell, as well as punches and kicks by a group of *Carabinieri* to various parts of his body whilst he was handcuffed. He subsequently received medical assistance at the hospital of Chivasso. The medical record drawn up at the time of his admission at Ivrea Prison on 6 January 2015 read: *"Recent traumas and hematomas: fracture of the nose, oedema of the right superior eyebrow, multiple excoriations on the face, contusion of the chin, swelling of the right fist and hematoma of the right elbow"*.

ii) One inmate met by the delegation at Genoa Marassi Prison alleged that at the time of his arrest on 13 March 2016 in the city of Albenga he had been punched and kicked on various parts of his body by two *Carabinieri* officers after he had been brought under control. Subsequently, following his transfer to the *Carabinieri* provincial headquarters of Savona, a group of officers repeatedly punched and kicked his head until he fainted. He received medical assistance at the same law enforcement establishment by means of an injection given by a nurse prior to his transfer to Genoa Marassi Prison. The medical file of the inmate included the following entry recorded at the time of his medical examination upon admission: *"parietal and occipital swelling"* but it did not refer to the origin of the injury.

iii) Another inmate at Genoa Marassi Prison alleged that at the time of his arrest on the street on 24 March 2016 he had received several punches and kicks to various parts of his body by State Police officers in civilian clothes after he had thrown away drugs in his possession. Further, he alleged that he was kept handcuffed tightly for several hours while he was transferred to the State Police headquarters *("Questura")* and later to Genoa Marassi Prison. At the time of his medical examination upon admission to Genoa Marassi Prison, conducted in the presence of penitentiary staff, the following entry was recorded in his medical file: *"oedema of the left cheek, excoriation of the left knee, various excoriations and acrocyanosis at the level of the wrists"*.

The credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity. This can only undermine the numerous efforts to promote human rights principles through the professional training of police officers. In this context, the recent statements of the Minister of the Interior to the effect that the introduction of the crime of torture in the Italian legislation would create *"psychological distress"* for law enforcement officials when performing their duties are certainly not in line with the above-mentioned precepts.[10]

[10] See, for example, the statements of the Minister of the Interior in http://www.ilfattoquotidiano.it/2016/07/18/legge-sulla-tortura-alfano-la-stoppa-da-rivedere-alla-camera-sinistra-italiana-cosi-la-affossa/2916779/ .

The CPT recommends that the Italian authorities at the highest political level deliver a formal statement to law enforcement officials, reminding them that the rights of persons in their custody must be respected and that the ill-treatment of such persons will be prosecuted and sanctioned accordingly.

11. Several inmates met at Genoa Marassi Prison made detailed allegations of having been handcuffed to a chair for several hours while waiting to be questioned at the Genoa State Police headquarters. The CPT's delegation found signs of handcuffs having been fixed to the rows of plastic chairs present in the interrogation hall of the establishment. **The CPT recommends that appropriate steps be taken to ensure that, when it is deemed essential to handcuff a person during the period of custody, the handcuffs should be applied only for as long as is strictly necessary and certainly not for hours on end inside a police station. Furthermore, a detained person should never be handcuffed to a fixed object; in the event of a person in custody acting in a highly agitated or violent manner, the individual concerned should instead be kept under close supervision in an appropriate setting. In the event of agitation brought about by the state of health of a detained person, law enforcement officials should request medical assistance and follow the instructions of the health-care professional.**

12. The CPT takes positive note of the fact that prison health-care services at the establishments visited continued to transmit information on cases indicative of physical ill-treatment of detained persons by law enforcement officials to the relevant authorities (see paragraph 66).

Regarding investigations by the prosecutorial authorities, the CPT's delegation was informed during the visit that, in contrast to the situation observed in the course of the 2012 periodic visit to the country, prosecutors' offices could start investigations related to physical ill-treatment *ex officio* against law enforcement officials even in cases where the threshold of the "20-day recovery period" was not met.[11] In such cases, prosecutors would request an indictment on the basis of the convergence of the criminal offences provided for in Article 608 (abuse of authority) and Article 582 (bodily harm).[12] Further, the Italian authorities remained of the opinion that Article 572 of the Penal Code, which penalises acts of domestic violence *("maltrattamento in famiglia"),* could also be applicable in certain circumstances related to physical ill-treatment. **The CPT would like to receive detailed information on how many law enforcement officials have been prosecuted under these articles in respect of alleged physical ill-treatment for the years 2013, 2014, 2015 and 2016, and of any convictions carried out.**

---

11 See paragraph 10 of CPT/Inf (2013) 32. Article 582 of the Penal Code stipulates that the offence of bodily harm (*lesione personale*) is only punishable upon request *("querela")* of the person concerned when the recovery period does not exceed 20 days and when no aggravating circumstances exist, such as disability resulting from bodily harm.

12 The Court of Cassation had confirmed the applicability of the two articles in question as provided for by Article 81 of the Penal Code. See for example judgments No. 4548 of 25 November 2014, No. 25709 of 14 February 2011 and No. 31715 of 25 March 2004 of the Court of Cassation.

3. Safeguards against ill-treatment

13. Pursuant to Article 387 of the CCP the judicial police must inform without delay the family of an arrested person of the latter's detention, with his/her consent. In the course of the 2016 visit, many detained persons complained to the CPT's delegation of the fact that they were not allowed to inform their families of their detention by police officers despite their requests. This was the case in particular in the Genoa region and concerned mainly foreign nationals. An analysis of the custody registers at law enforcement establishments revealed that the notification of custody by a law enforcement official could take place several hours, and in some cases more than 10 hours, after the arrest of the person.

The CPT considers that a detained person's right to inform a relative or other third party of his/her situation should be expressly safeguarded from the very outset of custody. The exercise of this right may, of course, be subject to certain exceptions designed to protect the interests of justice. Such exceptions should, however, be clearly defined and strictly limited in time. **The CPT recommends that the Italian authorities act to ensure that all persons deprived of their liberty are effectively able to inform a relative or other third party of their detention as from the outset of the deprivation of liberty.**

14. As regards the right of access to a lawyer, Article 104, paragraph 2, of the CCP provides that a person subject to *arresto* or *fermo* has the right to confer with a lawyer immediately after the deprivation of liberty. This was in practice rarely the case. The great majority of persons deprived of their liberty told the CPT's delegation that they had the possibility to speak with a lawyer only prior to the confirmation hearing with the judge for preliminary investigation (i.e. approximately two days after the deprivation of liberty).[13] This is even more worrying in light of the fact that Italian law requires legal representation of a defendant in criminal proceedings.[14]

The CPT recalls that, in its experience, it is during the period immediately following the deprivation of liberty and, *a fortiori*, during which the individual is subjected to police questioning under an investigation procedure – that the risk of intimidation and ill-treatment is at its greatest. Consequently, the possibility for persons taken into police custody to have a confidential consultation with a lawyer as soon as possible after the arrest and during the entire period of detention by a law enforcement agency is a fundamental safeguard against ill-treatment.

The CPT reiterates its recommendation that the Italian authorities take appropriate steps – in consultation with the Bar Associations – to ensure that lawyers effectively provide assistance during police custody, whether they are chosen by the detained person or appointed *ex officio*.

Further, it remains a matter of great concern to the CPT that access to a lawyer may be delayed in exceptional circumstances for up to five days after apprehension, as envisaged by Article 104, paragraphs 3 and 4, of the CCP.[15]

---

13 The confirmation hearings concerning criminal suspects arrested in the region of Genoa took place in a dedicated room of Genoa Marassi Prison in order to limit costs related to the transfer of arrested persons to the court.

14 Article 86 of the CCP stipulates that any person subject to criminal proceedings must be assisted by a lawyer.

15 This does not affect the right of the arrested person to benefit from the presence of a defence lawyer at the confirmation hearing (which usually occurs two days later).

The Committee acknowledges the possibility that it may exceptionally be necessary to delay for a certain period a detained person's access to a lawyer of his/her choice. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be organised. It is perfectly feasible to make satisfactory arrangements in advance for this type of situation, in consultation with the local Bar Association or Law Society.

The Committee once again calls upon the Italian authorities to take steps to ensure that all persons detained by law enforcement agencies have the right to talk in private with a lawyer as from the very outset of their deprivation of liberty, it being understood that when exceptional circumstances are invoked, the lawyer will be appointed *ex officio*. To this end, the relevant provisions of the CCP should be amended accordingly.

15. The findings of the 2016 periodic visit once again indicated that there were no complaints as regards access to a doctor during custody in a law enforcement establishment. Medical assistance of a generic or emergency nature was regularly provided to persons in police custody pursuant to Article 386 of the CCP. That said, medical examinations of arrested persons were still taking place systematically in the presence of police officers. **The CPT calls upon the Italian authorities to take urgent steps to ensure that in all law enforcement establishments, all medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials.**

16. As to the possibility of a detained person having access to the services of a doctor of his/her own choice, this was guaranteed only at the time of remand custody but not during the period of detention in a law enforcement establishment. **The Committee calls upon the Italian authorities to adopt the necessary legislative measures in order to ensure that persons detained by law enforcement agencies have access to a doctor of their choice (at their own expense) from the outset of deprivation of liberty.**

17. Recent legislative changes have been introduced in order to allow foreign nationals under *arresto* or *fermo* to be informed of their rights in a language that they understand.[16]

The findings of the 2016 periodic visit indicate that some arrested persons had not been informed of their rights at the time of their apprehension, nor did they receive a written copy of the leaflets entitled "notice of persons arrested or detained", which were available in several languages at all law enforcement establishments visited. **The CPT calls upon the Italian authorities to take steps to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a straightforward manner.**

---

[16] These relate in particular to the fact that a criminal suspect who does not understand the Italian language has the right to be assisted by an interpreter free of charge pursuant to the provisions of Legislative Decree No. 32/2014. Article 111 of the Constitution requires all persons to be informed of their rights in a language that they understand as from the outset of the judicial proceedings.

Further, the Committee recommends that persons deprived of their liberty by the police be requested to sign a statement attesting that they have been informed of their rights and whether they have availed themselves of these rights or have waived them.

18. As was the case in previous visits, the delegation found that no information was recorded in the relevant custody register for those persons who had been detained for short periods in a police station but not placed in a cell ("*camera di sicurezza"*) before being transferred to another establishment. **The CPT recommends once again that steps be taken to ensure that, whenever a person is deprived of his/her liberty by a law enforcement agency, including for purposes of identification, this fact is recorded in a custody register.**

19. Further, at several law enforcement establishments visited, it was evident that the custody registers were being filled in *a posteriori* by police officials on the basis of the information contained in the relevant arrest file (*"verbale di arresto"*). Moreover, the entries were sometimes missing or incomplete and the registers had no box/space for the countersignature of arrested persons to certify that they had been read their rights and had decided whether or not to exercise them. **The CPT recommends that officers in all law enforcement establishments visited be reminded to maintain custody registers meticulously and in a timely manner. Furthermore, registers should provide a box/space for the counter-signature of the suspect.**

4. Conditions of detention

20. At the outset of the visit the Italian authorities provided the CPT's delegation with information on the detention cells (*"camere di sicurezza"*) in use in establishments under the authority of the Ministry of the Interior, in particular those cells in use at the *Questure* and the State Police stations around Italy.[17] According to this information, of a total of 649 cells in these establishments, only 286 were considered fit for purpose ("*immediatemente disponibili*"), while a further 91 were considered partially fit for purpose ("*da ristrutturare parzialmente*") and were used for detaining persons for short periods, while the remainder were unfit for purpose and not used ("*da ristrutturare totalmente*").

21. In most of the establishments visited the detention cells were on the whole acceptable, bearing in mind the short time persons usually spent in such cells after their apprehension (normally a few hours or overnight). Cells were sufficiently large, with adequate artificial lighting, and equipped with metal beds or concrete plinths. Mattresses and blankets were provided to persons detained overnight. That said, the detention cells of the Ascoli Piceno *Questura* and the Turin San Paolo State Police Station had insufficient ventilation, and at the latter establishment, the CPT's delegation also observed that mattresses and blankets were not clean. **The CPT recommends that the Italian authorities take appropriate steps to remedy these shortcomings.**

---

[17] Statistics were likewise provided for the *Polizia Postale e delle Communicazioni*, the *Polizia Stradale*, the *Polizia Ferroviaria*, the *Polizia di Frontiera*, the *Carabinieri*, the *Guardia di Finanza*, and the *Corpo Forestale dello Stato*.

22. Furthermore, the CPT's delegation was very concerned at the conditions of detention in the Florence *Questura*, which had already been the subject of a recommendation by the CPT in 2012.[18] In their response to the CPT's report on that visit, the authorities had informed the CPT in May 2013 that the Florence *Questura* had "discontinued the use" of the detention cells and that the authorities "had identified other places to be used for new security rooms and for which necessary works [were] about to be launched".[19] In addition, the information provided at the outset of the 2016 visit indicated that the establishment's four detention cells were considered unfit for purpose and were therefore not being used (see paragraph 20 above). The CPT's delegation found that the cells were indeed (still) unfit for purpose; however, three of the four cells were in use at the time of the visit. Cell no. 3 was in an appalling state of hygiene: walls and floor were dirty and stained, and the sanitary annexe (WC, sink and shower) located in one corner of the cell was filthy and malodorous. In addition, the dark blue walls combined with an absence of natural light, and insufficient artificial lighting and poor ventilation created an intimidating and oppressive atmosphere. At the time of the visit, this cell was accommodating a young woman who had been there for approximately ten hours and who was scheduled to remain until the following day. As already mentioned in paragraph 6, during the course of the visit, the CPT's delegation made an **immediate observation under Article 8, paragraph 5** of the Convention in respect of this cell and invited the authorities to take immediate steps to carry out appropriate renovations in order to provide acceptable conditions of detention in the establishment.

In their response of 6 June 2016, the Italian authorities informed the Committee that the person accommodated in cell no. 3 had been immediately transferred to another place of detention and that contacts had been established with the owner of the premises of the Florence *Questura* (i.e. the Metropolitan City of Florence) in order to proceed with planned refurbishment. **The CPT would like to receive confirmation of the decommissioning of cell no. 3, as well as information concerning the works undertaken for the refurbishment of the detention cells of the Florence *Questura,* including supporting photographs.**

23. None of the detention cells seen by the delegation in the course of the visit were suitable for prolonged detention, which in Italy can last up to four days under the "*Svuota Carceri"* law.[20] In particular, most of the cells examined had insufficient access to natural light, none of the establishments were equipped with an outdoor exercise facility, and most had no shower facilities for persons held in custody. **The CPT therefore reiterates its recommendations[21] that the Italian authorities:**

- **take steps to ensure that all persons who are held in custody in a law enforcement establishment for 24 hours or more are offered adequate washing facilities, including the possibility of taking a shower, and are provided with basic personal hygiene items, and**

- **review the conditions of detention in all law enforcement establishments in Italy where persons may be held for 24 hours or more, in order to ensure that custody cells have adequate access to natural light, and that persons held in custody are offered outdoor exercise every day.**

---

18 See CPT/Inf (2013) 32, paragraph 21.

19 See CPT/Inf (2013) 33, paragraph 37.

20 Law No. 9 of 17 February 2012, known as the "*Svuota Carceri*" law, amended Article 558 of the CCP to provide that criminal suspects may be detained in a law enforcement establishment upon the order of a public prosecutor, until the moment when the court reaches a decision as to remand detention (in principle, up to 96 hours from the time of apprehension).

21 See CPT/Inf (2013) 32, paragraph 24.

B. Prison establishments

1. Preliminary remarks on the fight against prison overcrowding

24. The visit to Italy was an opportunity to examine the impact of the wholesale reform of the prison system since the beginning of 2013. On 8 January 2013, the ECtHR pilot judgment in the case of *Torreggiani v. Italy* had confirmed the structural and systemic nature of overcrowding in Italian prisons. Consequently, a number of legislative measures were enacted to address this problem as well as the possibility to complain to a judicial authority about material conditions of detention and to seek a compensatory remedy.[22] In addition, the closure of Judicial Psychiatric Hospitals (OPGs) had continued apace. Further, a multi-disciplinary and inclusive consultative forum on the prospects of reform of the system of execution of criminal sanctions *(Stati Generali sull'Esecuzione Penale)* was completed in the course of April 2016.[23]

In this context, the Italian authorities had managed to reduce the prison population from 65,701 in 2013 to 53,495 at the time of the CPT's visit[24] and to increase the overall capacity of the prison estate from 47,040 to 49,545 in the same period of time.

25. However, in the course of the first semester of 2016 the prison population had increased from 52,164 to 54,072 inmates, apparently due to the increased resort to pre-trial detention by prosecutorial authorities, notably in respect of foreign nationals, who accounted for more than 70 percent of the population's increase. The issue of overcrowding in Italian prisons remains pertinent with many prisons operating above their official capacity. The recent increase only serves to aggravate the situation. Indeed, as of 30 September 2016, the prison population had further increased by approximately 1,000 inmates some six months after the visit.[25] **The CPT recommends that the Italian authorities pursue their efforts to eradicate prison overcrowding. The CPT would like to be informed about the steps taken by the Italian authorities in order to curb the growth of the prison population registered since the beginning of 2016.**

26. For the first time, visits were carried out at Ascoli Piceno, Como, Genoa Marassi, Ivrea, Sassari and Turin Prisons. At Turin Prison the delegation also visited the psychiatric observation unit *"il Sestante"*.

27. **Ascoli Piceno Prison** was constructed in the 1980s on the southern bank of the Tronto river in the small municipality of Riva del Tronto. With an overall capacity of 104 places it was accommodating 128 male prisoners at the time of the visit, of whom 68 were in ordinary detention, 43 under the "41-bis" regime[26], 12 under protection and four under a semi-open regime. Further, a five-bed psychiatric observation unit was under construction at the time of the visit.

---

22 In two admissibility decisions of 16 September 2014 *(Stella and Others v. Italy and Rexhepi and Others v. Italy)* the Court accepted the effects of the compensatory remedies in case of perceived prison overcrowding introduced by the Italian State.

23 The consultative forum included, for the first time in the history of the Italian penitentiary system, academics, penitentiary professionals, judges for the execution of criminal sanctions, civil society representatives and volunteers. Its activities were organised along 18 thematic working groups, each producing a report containing recommendations to the Minister of Justice.

24 At 30 April 2016.

25 At 30 September 2016 the prison population stood at 54,465 inmates.

26 See paragraph 45 of the report for a definition of the regime under Article 41-bis of the Penitentiary Law.

Como Prison, located in the southern part of the town, was constructed at the beginning of the 1980s and consisted of three separate buildings accommodating 382 inmates for an overall capacity of 221 places. The establishment accommodated 47 women and three women with children in a separate building and 13 prisoners under a semi-open regime.

Genoa Marassi Prison, located next to the city's football stadium, accommodated 665 male prisoners for an overall capacity of 541. The establishment comprised several medium-security sections, a 46-place high-security section and two drug-free rehabilitation units, as well as a 30-bed Regional Clinical Centre (CCR) serving the health-care needs of all establishments of Liguria Region and one five-bed psychiatric observation unit.

Ivrea Prison, located on the eastern part of the town and consisting of a four-storey building, accommodated 252 male prisoners for an overall capacity of 192. The establishment consisted of eight medium-security sections.

Sassari Prison, located in the open countryside near the village of Bancali, was inaugurated in 2013. The establishment accommodated 436 inmates (including 20 females and three children) for an overall capacity of 455 and included a separate 41-bis detention unit of 92 places which was accommodating 92 inmates at the time of the CPT's visit. The establishment also accommodated eight prisoners classified under high-security two (AS2) for international terrorism[27] who had been recently transferred in order to be tried in a specially equipped courtroom within the establishment.

Turin Prison, located in the northern part of the city, accommodated a total of 1,221 inmates (of whom 109 were female prisoners, including six mothers and seven children[28]) for an overall capacity of 1,139. The establishment included the psychiatric observation unit *"il Sestante"* which was accommodating 28 patients undergoing evaluation or rehabilitation for mental health disorders.

28. The official capacity of the Italian prison estate is calculated according to the rationale of minimum living space of 9 m^2 in single-occupancy and 5 m^2 per inmate in multiple-occupancy cells,[29] which is welcomed. That said, in the course of the visit to the various prison establishments, the CPT's delegation was informed that the prison administration in fact considered a threshold of 3 m^2 per inmate to be the minimum below which the ECtHR would issue a judgment of a violation of Article 3 of the ECHR. In addition, they considered that, where living space per inmate was between 3 m^2 and 4 m^2 per inmate, reference would have to be made to the existence of so-called aggravating factors (such as limited ventilation and illumination in cells, limited out-of-cell periods and a serious breach of the inmate's privacy). This was the doctrine applied at the time of the CPT's visit by the prison administration. According to the data provided to the CPT's delegation by the Italian prison administration, 16 percent of the total inmate population (i.e. 9,267 prisoners) was accommodated in cells which provided less than 4 m^2 of living space per inmate at the time of the CPT's visit.

---

27 The high-security detention regime has been organised in three sub-circuits through circular No. 6069 of 2009: high-security one is applied for those inmates in respect of whom the "41-bis" regime has been revoked; high-security two is applied to prisoners suspected or convicted of crimes related to international terrorism or destabilisation of the democratic order; high-security three includes those inmates who are suspected or convicted for organised crime, kidnapping and extortion.

28 They were accommodated in a specialised detention unit for mothers *(Istituto di Custodia Attenuata per Madri - ICAM)* which is located outside the perimeter of the establishment.

29 This is a criterion adopted for assessing the habitability of civil dwellings in Italy and is stipulated by a decree of the Ministry of Health passed on 5 July 1975.

29. The CPT has laid down clearly the minimum conditions it expects to find as regards living space per inmate: 6 m² of living space for a single-occupancy cell excluding the sanitary annexe, and 4 m² of living space per prisoner in a multiple-occupancy cell excluding the fully partitioned sanitary facilities.[30]

The CPT recommends that the Italian authorities take action to ensure that these minimum standards are systematically applied in all prison establishments in Italy and that measures are taken to implement the more favourable provisions concerning living space for prisoners enshrined in the national legislation.

2. Ill-treatment

30. Many prisoners met by the CPT's delegation spoke favourably about the manner in which they were treated by prison officers. That said, the CPT's delegation received some allegations of physical ill-treatment of inmates by custodial officers in all establishments visited, with the exception of Ascoli Piceno Prison. The alleged physical ill-treatment consisted of slaps, punches and kicks inflicted by custodial officers on inmates usually after a verbal altercation or in relation to episodes concerning inmates in a state of agitation, including in connection with suicide attempts and acts of self-harming. Further, several cases of verbal harassment of foreign inmates by prison staff were recorded at the prison establishments visited.

31. The following represent a sample of the credible allegations of ill-treatment of inmates by staff collected by the CPT's delegation in the course of its visit:

i) an inmate from Como Prison was extracted from his cell by a group of prison officers on 19 March 2015 after he had self-harmed. He alleged that the prison officers slapped and kicked him on the stairs leading to the infirmary on the ground floor. Further, he was forced to undress to his underwear and was placed in a medical isolation cell for a period of four days;

ii) an inmate at Sassari Prison claimed that after he was extracted from his cell on 8 April 2016 by a group of prison officers, he was punched and kicked several times on various parts of his body on the stairs leading to the isolation section. Subsequently, he was placed in an isolation cell in only his underwear. Allegedly, for the first two days of isolation he was not even provided with bed linen and blankets;

iii) another inmate from Sassari Prison alleged that on 9 February 2016 he had been extracted from his cell by a dozen prison officers following a suicide attempt and taken to a room on the ground floor of the main detention building, where he was punched and kicked for a prolonged period of time until he passed out. Afterwards, as recorded in his medical file by the prison doctor, he was handcuffed to a bed in an isolation cell for several hours (see also paragraph 68). The prison director told the delegation that she was aware of the case and was trying to clarify the circumstances surrounding it;

---

[30] See paragraph 9 of the CPT publication "Living space per prisoner in prison establishments: CPT standards" CPT/Inf (2015) 44.

iv) an inmate from Ivrea Prison stated that on 30 June 2015, following his request to change accommodation, he was taken from his cell by a group of prison officers to the registry office on the ground floor, where he was allegedly repeatedly punched, kicked and slapped on various parts of his body for around 30 minutes before being placed in an isolation cell completely naked. When he informed the prison doctor about the physical ill-treatment the following day, the doctor allegedly told him that *"this was well deserved";*

v) an inmate from Turin Prison accommodated in Section 7 of the *"il Sestante"* unit under psychiatric observation alleged that, after he had covered the video-camera of his cell with a t-shirt on 13 March 2016, a group of prison officers entered his cell and punched him several times about the head. Subsequently, he was placed in seclusion room no. 150 of *"il Sestante"* until the following morning. When examined by a doctor on the same day he did not raise any allegation, allegedly due to the presence of the prison guards in the medical office.

The CPT recommends that the Italian authorities deliver to custodial staff the clear message that physical ill-treatment, excessive use of force and verbal abuse of inmates are not acceptable and will be dealt with accordingly. The management in each prison should demonstrate increased vigilance in this area, by ensuring the regular presence of prison managers in the detention areas, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training. In particular, the CPT recommends that appropriate measures be taken to upgrade the skills of prison staff in handling high-risk situations without using unnecessary force, in particular by providing training in ways of averting crises and defusing tension and in the use of safe methods of control and restraint. Further, prison staff should be placed under closer supervision by the management and receive special training in control and restraint techniques of inmates with suicidal and/or self-harming tendencies (see also in this regard the recommendation in paragraph 70).

32. As regards the criminal investigation of allegations of ill-treatment by prison officers, the CPT's delegation noted that two memos had been referred by the prison management of Ivrea Prison to the competent prosecutor concerning two allegations of physical ill-treatment of inmates by staff occurring, respectively, on 7 November 2015 and 24 February 2016. Further, by letter dated 6 June 2016, the Italian authorities informed the Committee that ad hoc inspections by the prison administration would take place at Como and Ivrea Prisons in order to verify the numerous allegations of ill-treatment raised at those establishments. **The CPT would like to be informed of any action taken by the Italian judicial authorities in relation to the cases of physical ill-treatment referred to them by the director of Ivrea Prison. The Committee would also like to receive information on the outcome of the above-mentioned inspections conducted by the prison administration.**

33. Most of the inmates who alleged physical ill-treatment at Genoa Marassi and Como Prisons complained that the prison officers involved in these acts were clearly in a state of alcohol intoxication. On a more general note, some members of the treatment staff at the establishments visited referred to the problem of prison officers being intoxicated with alcohol while on duty as a serious plague which impacted negatively on their behaviour and efficiency. Further, the CPT's delegation was able to observe that alcoholic beverages were regularly served at the staff cafeteria and canteen of Como Prison to prison staff while on duty.

The CPT considers that there is no justification for prison officers to be in a state of alcohol intoxication while on duty, and the prison management should impose disciplinary sanctions accordingly.

34. Episodes of inter-prisoner violence were recurrent at some of the establishments visited and were particularly high at Como Prison, where a total of 78 episodes of physical aggression between inmates had been recorded over the preceding two years involving a minimum of two and a maximum of eight inmates, and at Sassari Prison. In general, it appeared that prison staff intervened promptly when such incidents occurred and referred the inmates to medical staff for examination.

Further, at Turin Prison the delegation received one allegation from an inmate indicating that he had been physically assaulted by a group of prisoners in the course of November 2015 after prison officers had deliberately left the door of his cell open following his return from the courtyard. It is to be stressed that in the course of September 2015 the prison management had already initiated disciplinary proceedings against two prison officers in relation to their negligence in the management of the flow of inmates returning from outdoor activities. The disciplinary procedure in question resulted in a written reprimand of the two prison officers and a modification of the standing orders regulating the flow of inmates in the pavilion concerned.

The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence by inmates against other inmates.

Addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. Both initial and on-going training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

3. Conditions of detention

a. material conditions

35. Material conditions of detention at the establishments visited varied according to the year of construction and the level of recent investment in their refurbishment.

Sassari Prison had been recently inaugurated and offered good material conditions of detention. Cells were spacious, well ventilated and lit and furniture and sanitary installations were in a good state of repair. That said, levels of humidity were high in particular on the lower floors of all buildings. Further, the whole establishment suffered from chronic shortages of water supply (due to the low level of pressure in the local water reservoir which also affected the surrounding community), and the water quality was visibly poor due to the presence of clay residue. By letter dated 6 June 2016 the Italian authorities informed the Committee that the prison management was now distributing one and half litres of bottled water to each inmate every day.

36. The other establishments visited were suffering from varying degrees of structural deficiencies, and all were in need of extensive refurbishments.

At Ascoli Piceno Prison, the cells in the ordinary regime section offered acceptable conditions of detention although access to natural light was impeded by the double grilles of bars on the windows. Cells were adequately equipped with beds, stools and closets and the cooking areas and sanitary annexes had recently been renovated. That said, all outdoor facilities displayed serious deficiencies: the two courtyards for ordinary inmates measuring 115 m^2 each were totally inadequate in terms of size for more than 60 inmates at a time, wash-basins and toilets were dilapidated and the courtyard in use for inmates under protection did not possess any shelter against inclement weather.

At Como Prison, cells were equipped with beds, stools, tables and closets as well as a separate cooking area and sanitary annexe. With the exceptions of male Sections I and II which had recently been re-painted, the rest of the establishment[31] offered poor conditions of detention: walls displayed holes and large unplastered areas, sanitary facilities were damaged and double grilles on windows limited access to natural light and hampered ventilation. In particular, one specific cell in Section I in which a fire had erupted in the course of October 2015 continued to accommodate inmates despite its floor and blackened walls showing signs of the past fire. The common shower facilities of the male sections[32] were extensively damaged and unhygienic; showerheads had been replaced by plastic bottles and the walls were impregnated with moisture. Further, the central kitchen showed signs of disrepair, with damaged flooring and unplastered walls, and several corridors in the detention facilities had non-functioning lights.

---

31 Namely the female section as well as male Sections I, II, III, V and VI.

32 Only four cells of Section I had in-cell showers and there was a plan to extend their installation to other sections.

At Genoa Marassi Prison, with the exception of the ground and first floors of Sections I and II, which had been recently renovated, and the two drug-free units,[33] cells displayed deficiencies in terms of unplastered and dirty walls, including in sanitary facilities, damaged and leaking water installations and poor access to natural light (due to double grilles on windows and opaque shutters on the side of the prison which was overlooking the nearby football stadium). Most of the mattresses were worn. Further, courtyards had no means of rest or shelter against inclement weather.

At Ivrea Prison, prisoners were mainly accommodated in double cells furnished with beds, tables, stools, and cupboards, as well as a fully partitioned sanitary annexe. The premises were rather dilapidated and the delegation observed black mould on cell walls as well as rusted fixtures in sanitary annexes. In addition, hygienic conditions in some cells were inadequate, with mattresses showing patches of mould. A number of prisoners in cells on the upper floors of the establishment complained that hot water was not always available in the showers. Courtyards were sufficiently large, however, they were not equipped with a means of rest. The establishment also had two sports fields, one of which did not seem to be in use as it was covered in long grass.

At Turin Prison, prisoners were mainly accommodated in double cells furnished with beds, tables, stools and cupboards, as well as a fully partitioned sanitary annexe. The premises were in general quite dilapidated, and conditions on the third floor of Block B were particularly poor (except for Section B10, which was being renovated), where the walls of cells and shower facilities showed large patches of black mould owing to serious leakages in the plumbing system throughout the block. Kitchens were well equipped and clean. Courtyards were sufficient in number and size. The establishment also had two football pitches and a rugby field.

37. Inmates in Italian prisons are normally offered the possibility to prepare themselves hot beverages and to cook simple meals with food purchased from the prison administration, there being basic cooking areas in each cell.[34] That said, complaints were received by the delegation regarding the quality of food provided to inmates at Genoa Prison in terms of the lack of variety, low protein content, meals without seasoning and dinners consisting only of cold cuts. The Committee is aware of the fact that menus are decided upon in accordance with standardised nutritional tables issued by the prison administration at the national level and that internal commissions composed of inmates are supposed to evaluate them.[35] Nevertheless, the Committee was surprised to learn that there was no hygienic and dietary monitoring by the on-site medical staff of the food provided to inmates. **The CPT would like to receive the comments of the Italian authorities on this issue.**

Further, dinners were not served on Sunday evenings at Como and Turin Prisons, an issue which was raised by the delegation with the Italian authorities during the visit. By letter dated 6 June 2016 the Italian authorities informed the Committee that steps had been taken to remedy this deficiency. This is welcome news.

---

33 I.e. Comunità *"il Ponte"* and *"il Faro"*.

34 Known in the penitentiary jargon as *"angolo cottura"*, these are normally equipped with a "camping" gas cooker and kitchen sink in a separate in-cell annexe.

35 In accordance with Article 9, paragraphs 4 and 6 of the Penitentiary Law, as well as Article 12, paragraph 5 of Presidential Decree No. 230 of 30 June 2000, "*Regolamento recante norme sull'ordinamento penitenziario e sulle misure privative e limitative della libertà"* (Penitentiary Rules).

38. Standard cells at Turin and Ivrea Prisons measuring some 9 m^2 without the sanitary annexe and intended for single use, were systematically accommodating two inmates, which was well below the standard provided for by Italian legislation. Further, certain levels of serious overcrowding (in multiple-occupancy cells) were still being recorded by the delegation at the time of the visit. For example, six inmates were being accommodated in cells measuring 22 m^2 in Sections I and II of Genoa Marassi Prison, and at the ordinary detention section of Ascoli Piceno Prison, there were five inmates in a cell of 16 m^2, six in a cell of 23 m^2 and seven in a cell of 27 m^2. [36] Moreover, it was not uncommon for cells measuring some 10 m^2 to accommodate three inmates at Como Prison.

39. **The CPT recommends that the Italian authorities remedy the deficiencies highlighted above and, in particular:**

- **at all prison establishments, take steps to ensure that the minimum requirement of 4 m² per prisoner in multiple-occupancy cells is respected and that the standard enshrined in the national legislation is attained;**

- **at Ascoli Piceno Prison:**
  - **remove the double metal grilles on the cell windows throughout the establishment;**
  - **repair the sanitary installations in all courtyards and equip the exercise area for inmates under protection with a shelter against inclement weather;**
  - **put in place the necessary arrangements in order to ensure that the 73 inmates under the ordinary detention regime never access the two dedicated courtyards in groups of more than 15 prisoners at one time;**

- **at Como Prison:**
  - **extend the ongoing refurbishment works in the cells of male Sections I, II, III, V and VI as well as the female section, and totally renovate the cell recently damaged by fire in Section I ;**
  - **repair as soon as possible the common shower facilities and ensure that they are hygienic, pending the urgent introduction of in-cell showers;**
  - **ensure the proper maintenance of the common facilities of the prison and proceed with the refurbishment of the central kitchen;**

- **at Genoa Marassi Prison:**
  - **extend the ongoing refurbishment works to the cells of the remaining sections (i.e. Sections VI and the upper floors of Sections I and II)**
  - **replace the opaque shutters overlooking the football stadium with adequate devices allowing better air circulation;**
  - **replace all mattresses in the establishment;**

- **at Ivrea Prison:**
  - **ensure hygienic conditions in the whole prison establishment and replace all mattresses displaying traces of dirt and moisture;**
  - **resolve the problem of the supply of hot water in the showers located on the upper floors of the establishment;**
  - **equip all courtyards with a means of rest.**

---

[36] The cell in question was equipped with three three-level bunk beds.

- **at Sassari Prison:**
  - **take effective steps with the relevant regional and municipal authorities in order to resolve from a qualitative and quantitative point of view the problem of the water supply to the prison establishment;**
  - **reduce the humidity levels in the accommodation areas of the ground and first floors of all prison sections.**

- **at Turin Prison:**
  - **complete as a matter of urgency the renovation works, in particular on the third floor of block B;**
  - **resolve the problem of leakages in the water installations of block B.**

b. regime

40. As part of the reform measures referred to above, the Italian authorities have developed the notion of dynamic surveillance (*"sorveglianza dinamica"*) to improve the regime offered to medium-security prisoners by extending their out-of-cell time to a minimum of eight hours per day and allowing them a certain liberty of circulation within the establishment when taking part in activities.[37] Such an approach was in evidence for the great majority of medium-security prisoners met by the delegation in the course of the visit. In principle, prisoners under a medium-security regime benefited from four hours of outdoor exercise per day plus an additional two to five hours spent in a common room and additional time in the wing corridors of their accommodation units.

41. However, the generous out-of-cell entitlement enjoyed by medium-security prisoners was not accompanied by an adequate range of purposeful activities.

At Ascoli Piceno Prison, 27 work places were available for a prison population of 128 prisoners (kitchen assistants, food distribution, barber, laundry and storage assistant). Three classes on basic literacy, primary and secondary school were on offer. The various courses and workshops on offer on subjects such as do-it-yourself, writing, pet therapy, photography and theatre were poorly attended and raised little interest among detainees due to their irregular frequency.

At Como Prison, 65 work places were available on a rotational basis for a prison population of 382 inmates. Further, 53 inmates were taking part in vocational workshops on 3D printing, fabrication of fashion accessories and digital recording. Basic literacy, English language and primary school courses were on offer, as well as weekly workshops on journalism, philosophy, drawing, photography, reading and music. A football pitch and a sports room were accessible on a rotational basis once a week.

At Genoa Marassi Prison, only 90 work places for low-skilled posts (such as cleaners, kitchen assistants and clerks) were available for a population of 665 prisoners on a rotational basis. For the rest, 199 inmates were attending primary or secondary school courses, 120 were attending various workshops on physical training, dancing, cinema, singing, parental skills and drama (in a newly inaugurated theatre). Further, while a football pitch was accessible twice a week, no other sports facility was available.

---

[37] See in particular circulars Nos. 206745 and 36997 of 30 May 2012 and 29 January 2013, respectively, issued by the penitentiary administration. These were followed by the more recent circular No. 3663/6113 of 23 October 2015 on the "modality of the execution of criminal sanctions", which identifies the criteria for the accommodation of inmates in open and closed sections of prison establishments.

At Ivrea Prison, a total of 81 work places were available to a prison population of 252 inmates, mainly in cleaning and maintenance work. Further, vocational courses on electrics and computer technology were available, as well as primary and secondary school classes (including separate modules for the inmates subject to a protection regime).

At Sassari Prison, 80 work places were available for non-qualified posts on a rotational basis for a population of 436 inmates. The offer of vocational and educational activities was limited to temporary projects funded mainly by external bodies concerning gardening, digital archiving and icon painting and involved some 30 inmates. The three primary school classes on offer were also poorly attended. Several areas designated for various artistic and theatrical activities remained unused. Further, a recently constructed football pitch with synthetic grass remained unused due to a legal dispute with the contractor in relation to the quality of the work performed.

At Turin Prison, a total of 294 work places were available for a total population of 1,221 inmates, mainly in maintenance, kitchen work and food distribution, and also, in association with external cooperatives, in serigraphy, carpentry, ironing and laundry work. A regular number of inmates (i.e. 537) were attending educational and vocational courses at different levels (primary, secondary, university, hotellery school and shoemaking). Further a wide range of cultural, sports and recreational events were available to more than 1,000 inmates, including theatre, football, rugby, boxing and running.

42. Many inmates complained to the CPT's delegation about the increase in the percentage on their salaries that was retained for maintenance purposes, which at the time of the visit amounted to up to two-fifths of the total monthly salary.[38] **The CPT would like to receive the comments of the Italian authorities on this issue.**

43. The CPT has in the past expressed its appreciation for the work performed by educators in establishing individual plans ("*trattamento*") for inmates[39] and in striving to attain the goals enshrined in Article 27 of the Italian Constitution. However, educators in all establishments visited complained that they also had to perform welfare functions (e.g. assisting inmates in arranging family visits, dispatching letters or lodging complaints),[40] to the detriment of activities for inmates.

In terms of staffing levels, the CPT noted that at Sassari Prison there were still only three educators although the population of the new prison had more than doubled. Similarly, the treatment department at Ivrea Prison was also seriously understaffed (e.g. only 13 out of 29 budgeted positions were filled). By letter dated 6 June 2016 the Italian authorities informed the Committee that, due to budgetary constraints by the Government, there was no possibility in the current circumstances to recruit new staff, especially in terms of educators.

---

38 Pursuant to the circular of the penitentiary administration of 29 May 2015. For example, for an inmate who was previously earning a net salary of 312 euros per month, the retention for maintenance purposes amounted to 112 euros. He was consequently receiving a salary of 200 euros per month.

39 See in particular the tasks to be fulfilled by educators listed in Article 13, paragraph 4, of the Penitentiary Law.

40 Only at Turin Prison had sufficient social welfare officers (14 in this case) been assigned to the prison by the office for the execution of communal sanctions (UEPE) in order to perform these specific tasks.

Given this state of affairs and the on-going implementation of the dynamic surveillance approach, the time is ripe to develop the role of prison officers as integrated players in the provision of purposeful activities, linked to an individualised plan. Proactive measures by the authorities are required; otherwise the prison system is likely to become an even greater breeding ground for criminality.

As prisoners look forward to their release into the community, they need to be prepared for that life, to possess a degree of self-worth and to feel capable of leading a life away from crime. A regime which provides for varied activities is a vital component in the preparation for release, as well as being beneficial for the running of the prison.

The CPT calls upon the Italian authorities to redouble their efforts to improve the programme of activities, including work and vocational training opportunities, for prisoners at Ascoli Piceno, Como, Genoa Marassi, Ivrea, Sassari and Turin Prisons and, where appropriate, at other prisons in Italy.

44. As regards the admission of inmates to prison establishments, the CPT's delegation had serious misgivings in relation to the fact that at Como and Genoa Marassi Prisons, inmates had to undergo a systematic naked strip-search by prison officers. This is a potentially degrading measure. Every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and put the clothes back on before removing further clothing. **The CPT recommends that the Italian authorities comply with these principles at Como and Genoa Marassi Prisons as well as at other relevant prison establishments throughout the country.**

4. Prisoners subjected to the "41-bis" regime

45. The special detention regime under Article "41-bis" of the Penitentiary Law has been examined numerous times by the CPT since its official introduction in 1992. The regime applies exclusively to prisoners who have been convicted of or are suspected of having committed an offence in connection with mafia-type, terrorist or subversive organisations, and who are considered to maintain links with such organisations.

The relevant applicable legal framework has been described in the CPT report on the 2012 periodic visit to Italy.[41] In summary, the "41-bis" regime consists of segregation in small groups of inmates (up to a maximum of four persons), who can associate for two hours per day (one hour of outdoor exercise and one hour in a communal room). The possibilities to maintain contact with the outside world consist of one one-hour visit per month with a family member, under closed conditions and with audio surveillance and video-recording or, alternatively, a ten-minute telephone call per month if a visit cannot take place during the same period.

---

41 See paragraph 55 of CPT/Inf (2013) 32.

46. In the course of the 2016 periodic visit the CPT's delegation visited the "41-bis" detention units at Ascoli Piceno and Sassari Prisons which were accommodating 43 and 98 male inmates, respectively, for a capacity of 43 and 120 places, respectively. The units were staffed by a total of 35 prison officers at Ascoli Piceno Prison and 50 at Sassari Prison, all of whom belonged to the GOM *(Gruppi Operativi Mobili)*.[42] At the time of the 2016 visit, a total of 734 prisoners nationwide were subject to the "41-bis" regime.

47. In terms of material conditions, the "41-bis" detention unit at Sassari Prison was organised along a new architectural design specifically conceived for this type of regime. It consisted of 23 autonomous sections (*varchi*) of four single cells (12.5 m^2), each equipped with a courtyard measuring 115 m^2 and a common room (with a table and chairs, an exercise bicycle and a bar).[43] Cells were in a good state of repair and hygiene and were equipped with a bed, table, chair, closet, television and a separate sanitary annexe with a shower, washbasin and toilet. That said, cells were under permanent CCTV surveillance with the exclusion of the sanitary annexe, and the double grilles on the window limited access to natural light. Ventilation was also poor.

The "41-bis" prisoners at Ascoli Piceno Prison were accommodated in single cells (9 m^2) located on the two different floors. Cells were adequately equipped with a bed fixed to the floor, two tables and chairs, one closet, a television and a separate sanitary annexe (consisting of a toilet and washbasin). That said, double metal grilles on the windows limited access to natural light and air circulation was poor, notably when the reinforced door (*blindo*) was closed.[44]

48. As regards the regime, the rules established by the applicable legislative framework were adhered to in practice.

At Sassari Prison inmates had access to the internal courtyard within their *varco* for one hour per day and an additional hour in a common room. At Ascoli Piceno Prison inmates had access for one hour per day to one of four courtyards, which were equipped with benches, and likewise for one hour to one socialisation room (equipped with a table, chair and physical exercise material) or alternatively and upon special authorisation, to a hobby room where they were offered the possibility of doing puzzles and painting. There were also two posts, of food distributor and cleaning assistant, available on a rotational basis.

For the rest of the day (i.e. 22 hours) inmates at both establishments remained confined to their cells, their only occupation being reading, listening to the radio, watching, or trying to watch, television. At Ascoli Piceno Prison the television sets were in fact enclosed by a glass-screened metal box which hampered the quality of the image and made it impossible to clean the television's screen.

---

42 The GOM are a dedicated special corps of the Italian penitentiary police serving exclusively in "41-bis" detention units for periods of eight months on a rotational basis and placed directly under the authority of a general commander at the headquarters of the prison administration in Rome.

43 The composition of the socialisation group was decided upon by the prison administration and aimed at avoiding systematically the presence in the group of two inmates from the same mafia-type organisation.

44 This usually happened after dinner at 7 p.m., or at 10 p.m. during summertime.

With the exception of some prisoners enrolled in distance learning programmes, no other purposeful activity was on offer to "41-bis" prisoners. Contacts with the prison educators were virtually non-existent and at Sassari Prison in particular the term "suspension of plan ("*trattamento*")"[45] was indicated for "41-bis" prisoners in the annual project document which the prison sent to the regional office of the prison administration.[46]

49. Visits and telephone calls with family members and lawyers took place in dedicated areas at the two establishments, in rooms equipped with a glass screen and an interphone. Inmates were allowed to meet their children or grandchildren below the age of 12 for ten minutes under open conditions once a month.

50. Different restrictions were imposed on inmates by virtue of different circulars of the prison administration on issues such as the size of personal photos and the number and type of books (including those used for university courses) admitted into the cell. The grounds for such restrictions, purportedly related to security issues, were not evident to the delegation. In this light, it was not surprising that inmates were inundating the competent supervisory judges with complaints concerning all manner of limitations imposed upon them. The subject matter of the complaints ranged from visit entitlements to the right to prepare food inside the cell and to receive additional television and radio channels. At Ascoli Piceno Prison, several decisions of the supervisory judge of Macerata in favour of the requests of the inmates were not being implemented, even after repeated requests.[47] This situation was causing profound psychological distress to the inmates in question within their socialisation-groups, as well as undermining the rule of law. The following is one example illustrating the above-mentioned problem.

An inmate with a skin allergy was prescribed a cotton anti-allergic blanket by the prison doctor in November 2014. Due to reiterated refusals by the prison management to provide him with the blanket, the inmate appealed to the supervisory judge who ruled in his favour in March 2015. As the prison authorities did not act, the inmate stated that, in his distress, he had organised at least two collective protests by the various inmates of the detention unit,[48] which resulted in ten different disciplinary sanctions against him.[49] He had also conducted two hunger strikes. Yet, at the time of the CPT's visit in April 2016 he had still not received the anti-allergic blanket.

Further, several inmates had obtained decisions from the supervisory judge permitting them to spend the entire period of their visit (i.e. 60 minutes) with their children *in lieu* of the usual 10 minutes; however, the prison administration had appealed against the decisions and suspended their execution. By letter dated 6 June 2016, the Italian authorities informed the Committee that an inspection would soon be carried out at Ascoli Prison in order to ascertain the veracity of the CPT's preliminary observations on this issue.

---

45 I.e. *"sospensione di trattamento"*.

46 See "Progetto d'Istituto Anno 2016" of Sassari Prison page 11.

47 *"Ricorso in ottemperanza"* pursuant to the recently amended Article 35 of the Penitentiary Law.

48 The protest consisted of the so-called *"battitura"*: a concerted and synchronised banging of metal bars for a prolonged period by various inmates.

49 Consisting in the exclusion from common activities for a total of 39 days (i.e. exclusion from participation in the socialisation group and closure of the reinforced door).

51. The "41-bis" detention units of Ascoli Piceno and Sassari Prison each accommodated two prisoners in so-called "reserved areas" *(area riservata)*.[50] At Sassari Prison material conditions were identical to those provided to other "41-bis" prisoners. However, at Ascoli Piceno Prison access to natural light was particularly poor and the inmates' common room measured a mere 8 m^2 and the courtyard about 35 m^2. One of the inmates had been subject to such a regime since 2002. At the time of the visit the CPT's delegation stated that the conditions of detention in the *"area riservata"* of the "41-bis" detention unit of Ascoli Piceno could well be considered to be inhuman and degrading treatment. By letter dated 6 June 2016 the Italian authorities informed the Committee that the "reserved area" of Ascoli Piceno Prison had been closed.

52. As had been the case during previous visits, the delegation made a detailed examination of the decisions taken by the Minister of Justice initiating or renewing the application of the "41-bis" regime in respect of a prisoner.[51] It was evident that, for most, if not all, of the "41-bis" prisoners the application of this detention regime had been renewed automatically and justified usually on the basis of *"the existence of ongoing criminal activities of the clan in the region of origin of the prisoner"*.

As already mentioned by the CPT in the reports on the 2004, 2008 and 2012 visits, the restrictions imposed upon "41-bis" prisoners in order to induce them to co-operate with the justice system as well as the "suspension of their plan" by the prison administration raise serious issues under Article 27, paragraph 3 of the Italian Constitution[52] and may well amount to inhuman and degrading treatment if applied for a prolonged period of time. **The CPT would like to receive the observations of the Italian authorities on this point.**

The Committee takes note of the fact that most of its previous recommendations have recently been reiterated by the Extraordinary Committee for the Protection and Promotion of Human Rights of the Italian Senate, in particular in relation to improving visit entitlements, activities and legal safeguards surrounding the placement procedures of the "41-bis" regime.[53]

---

50 According to Article 32 of Presidential Decree No. 230 of 30 June 2000, prisoners may be segregated from other prisoners for their own precaution or for the protection of other inmates by being held in a "reserved area".

51 Such a decision is adopted by the Minister of Justice at the request of the Ministry of the Interior and on the basis of information received by the competent prosecutor for an initial period of four years and is thereafter renewable every two years. As of 2009 the Rome Court for the Execution of Criminal Sanctions is the only organ at the national level which is competent to decide on the appeals filed by prisoners against the application of the ministerial decree.

52 Article 27, paragraph 3, reads as follows: "Punishments may not be inhuman and shall aim at re-educating the convicted" (*Le pene non possono consistere in trattamenti contrari al senso di umanità e devono tendere alla rieducazione del condannato*).

53 See *"Rapporto sul Regime Detentivo Speciale: Indagine sul 41-bis"* published by the Extraordinary Committee for the Protection and Promotion of Human Rights of the Italian Senate in April 2016, pages 62-68.

53. **The CPT calls upon the Italian authorities to review the current "41-bis" detention regime throughout the prison system.**

More specifically, **the Committee recommends that steps be taken to ensure that all prisoners subjected to the "41-bis" regime are:**

- **provided with a wider range of purposeful activities and are able to spend at least four hours per day outside their cells together with the other inmates of the same living unit;**
- **granted, as a basic standard, an open visit of one hour per week; any restrictions as to the length or open nature of the visit, such as the use of screens, should be based on an individual risk assessment;**
- **granted the right to accumulate unused visit entitlements;**
- **allowed to make at least one telephone call every month, irrespective of whether they receive a visit during the same month;**

Further, the Italian authorities should ensure that:

- **the decisions of the supervisory judges are promptly and fully implemented by the prison administration;**
- **material deficiencies at the "41-bis" detention unit of Ascoli Piceno Prison are remedied (i.e. the toilet and washbasin in courtyards are adequately repaired);**
- **ventilation in the autonomous detention units at Sassari Prison is improved;**
- **inmates at the "41-bis" detention unit of Ascoli Piceno Prison are allowed to watch television under adequate conditions in terms of quality of the image and the possibility of cleaning the television screen.**

54. Further, the CPT has already expressed serious misgivings about the fact that "41-bis" prisoners are subjected to systematic and permanent CCTV surveillance inside their cells. This was the case at the "41-bis" unit of Sassari Prison at the time of the 2016 visit. Such a systematic practice would appear to be disproportionate; it severely infringes upon the privacy of prisoners and also renders the whole regime even more oppressive, especially if applied for prolonged periods. It is also noteworthy that at the "41-bis" unit of Ascoli Piceno Prison, cells were generally not equipped with CCTV cameras.

The CPT acknowledges that CCTV surveillance inside cells may be justified in individual cases, for example when a person is considered to be at risk of self-harm or suicide or if there is a concrete suspicion that a prisoner is carrying out activities in the cell which could jeopardise security. The decision to impose CCTV surveillance on a particular prisoner should always be based on an individual risk assessment and should be reviewed on a regular basis.

The CPT recommends that the Italian authorities review the use of CCTV surveillance in prison cells at Sassari Prison and, where appropriate, in other prisons in Italy, in the light of these remarks.

5. Health-care services

a. introduction

55. The transfer of responsibility for prison health care to the *Aziende Sanitarie Locali* (*"*ASLs"), the regional entities responsible for providing health-care services to the general population, was officially completed in October 2015.[54] Further, on 22 January 2015 an agreement was reached between State and regional authorities under the title "Guidelines on the modalities of health-care provision in prison establishments for adults and the implementation of a national and regional health-care network" (the Guidelines). The Guidelines aim to improve coordination and overcome regional disparities in the provision of health care to prisoners through measures such as the accreditation of health-care providers for the inmate population, as well as a monitoring system of the quality of health care provided to inmates.[55]

b. health-care facilities

56. In all the establishments visited, the health-care facilities and the equipment were on the whole of a good standard and the supply of medicines was adequate.

However, at Como Prison the delegation had some difficulties in consulting the medical files of inmates due to their incorrect chronological filing. **The CPT recommends that adequate measures are taken at Como Prison in order to make sure that medical files of inmates are filed in a correct manner.**

c. health-care staff

57. In all the prisons visited, the resources in terms of general practitioners were satisfactory and arrangements were in place to guarantee a 24/7 presence of a doctor. Genoa Marassi Prison employed nine full-time doctors at the regional clinical centre (CCR), Como Prison eight full-time doctors (including one medical coordinator), Sassari Prison six full-time and four part-time doctors, Ascoli Piceno Prison six full-time doctors, Turin Prison 18 full-time doctors and Ivrea Prison ten doctors. That said, the secured rooms at *"le Molinette"* hospital in Turin lacked a dedicated medical coordinator responsible for organising the provision of health-care services to detainees by the different departments of the hospital. **The CPT suggests that the Italian authorities remedy this deficiency.**

---

54 Namely through the adoption of Legislative Decree No. 222 of 15 December 2015 certifying the transfer of competence to the ASLs of Sicily.

55 The Annexe to the 2015 Guidelines provides an overview of the various types of prison health-care providers to be established by the ASLs, which should be organised along the following lines: 1) basic health-care service *("servizio medico di base")* operating in small prison establishments accommodating prisoners in good health; 2) a multi-professional and integrated health-care unit with a 24-hour nursing presence as well as specialised care in the field of psychiatry, infectious diseases, cardiology and dental care; 3) multi-professional and integrated health-care units within a specialised section which are characterised by the presence of specialised facilities for psychiatric observation, treatment of infectious diseases, treatment for drug addiction, etc. 4) specialised services for intensive care ("*sezioni assistenza intensive"* - SAI, formerly known as CDT, *"centro diagnostico terapeutico"* or CC, *"centro clinico"*), which accommodate and provide services to inmates in need of intensive and continuous care in light of their complex pathologies.

The nursing component also appeared to be adequate at Genoa Marassi Prison (29 nurses), Ascoli Piceno Prison (six nurses), and Turin Prison (45 nurses), in relation to the prison population. However, it was in need of reinforcement at Como Prison, where seven nurses were present, at Sassari Prison where 18 were present on a part-time contract (for 25 budgeted positions) and at Ivrea Prison where four nurses and one head nurse were ensuring a daily coverage from 8 a.m. to 10 p.m. on a rotational basis. **The Committee recommends that the nursing staff component at Sassari Prison operate at its budgeted level and that the staffing component at Como and Ivrea Prisons be reinforced by an additional four nurses in each establishment.**

d. primary health care

58. Overall the delegation gained a generally positive impression of the quality of primary health care provided to prisoners. A wide range of specialists[56] were paying regular visits to Genoa Marassi,[57] Turin and Ivrea Prisons and access to external health-care facilities in the case of emergency was prompt.

That said, at Como and Sassari Prisons, access to specialised care was marred by long delays (e.g. of several months) due to the limited frequency of visits from specialists[58] and the fact that transport had to be arranged to the local ASL facility. Further, at Ascoli Piceno Prison, the physiotherapist had not visited the establishment during the two months prior to the visit despite being under contract to visit it on a weekly basis.[59] The CPT's delegation was informed that several regional health authorities were considering resorting to telemedicine in order to limit the need to transfer inmates outside the establishments for specialised examinations.

The CPT recommends that the provision of specialised care at Como and Sassari Prisons be reinforced and that steps be taken to ensure that the physiotherapist at Ascoli Piceno Prison visits the establishment on a weekly basis. Further, the Committee would like to be informed of the steps taken by the Italian authorities towards the introduction of telemedicine for specialised consultations at the national level.

59. At Ivrea Prison, the CPT's delegation received complaints from inmates that their requests for medical consultations had to be addressed orally to prison guards and that these were sometimes filtered and refused without further explanation. **The CPT recommends that steps be taken at Ivrea Prison to enable prisoners to contact the health-care service on a confidential basis, for example, by means of a message in a sealed envelope and in dedicated boxes. Further, prison officers should not seek to screen requests to consult a doctor.**

---

56 In the field of psychiatry, infectious diseases, cardiology, otorhinolaryngology, dermatology, radiology, internal medicine, orthopaedics and diabetology.

57 In the context of the Clinical Regional Centre.

58 Specialists visited inmates at Como Prison once a month, and at Sassari Prison the presence of specialised doctors was only for two hours per week.

59 A waiting list of 36 inmates awaiting therapy was pending since his last visit in February 2016.

60. With the exception of Como Prison, medical records were detailed and well kept. This was notably the case at Genoa Marassi and Turin Prisons where medical files were kept in electronic form; seven regional health authorities (ASLs) had progressed to the digitalisation of their records and others were following suit.

The provision of dental care was adequate at all establishments visited in terms of the presence of a dentist and access to treatment and did not call for particular comments.

Further, in all the establishments visited, the delegation gained a generally positive impression of the services of the relevant *"Servizi Territoriali Tossicodipendenze"* – SERT. In principle, inmates received drug-substitution therapy[60] in decreasing dosages and were assisted by a psychologist. Further, at Como Prison the SERT organised various group therapeutic activities on gardening and parenting skills.

e. psychiatric care

61. The above-mentioned 2015 Guidelines envisage the creation of specialised psychiatric observation and rehabilitation units within certain prison establishments in each region to replace the former centres for diagnoses and therapy (CDT). The aim of the specialised psychiatric units is to offer continuous and multidisciplinary assistance to inmates affected by mental health disorders. Inmates placed in or transferred to these units would normally fall under the category of inmates under psychiatric observation[61] or those having developed a mental disorder while serving their sentence.[62]

The CPT's delegation visited the psychiatric observation units of Genoa Marassi Prison, which was accommodating three inmates, and of Turin Prison (known as *"il Sestante"*), which was accommodating a total of 28 inmates under psychiatric evaluation and rehabilitation. Further, one inmate was under psychiatric observation at Ascoli Piceno Prison.

62. At Genoa Marassi Prison, the conditions at the five-bed psychiatric observation unit were good and the treatment on offer adequate. That said, at the time of the visit two inmates were still accommodated at the unit well beyond their assessment period pending their transfer to the REMS of Castiglione delle Stiviere, which could not accommodate them due to the paucity of places assigned to patients from the Liguria Region (see also paragraph 91).

"Il Sestante" psychiatric unit of Turin Prison consisted of two separate sections: Section 7 for observation purposes consisting of 23 single cells, and Section 8 consisting of 14 cells with an overall capacity of 20 places for rehabilitative treatment. Inmates accommodated in Section 8 were offered a multidisciplinary rehabilitative programme consisting of group therapy, frequent interviews with educators and an open-cell regime. Further, the section also included a common room and a small library.

---

60 Buprenorphine.

61 In accordance with Article 112 of the Penitentiary Rules, which provides for the possibility of placing an inmate under psychiatric observation for a period of 30 days, renewable up to 60 days, by decision of a judge.

62 In accordance with Article 148 of the Penal Code.

That said, conditions in Section 7 of *"il Sestante"* were less favourable; cells (13.5 m^2) did not have basic furniture (such as a closet and locked space) and the state of hygiene was deficient. Room no. 150, which was intended for medical seclusion (however, see paragraph 69), had obviously not been cleaned for some time and was filthy and malodorous. All rooms were equipped with CCTV surveillance equipment which covered the entire cell, including the sanitary annexe.[63] A closed-door regime was in force; the metal grilled door was closed and the reinforced one open during the day, and the environment was rather carceral due to the strong presence of penitentiary staff throughout all shifts.[64] **The CPT recommends that rooms in Section 7 of the "*il Sestante*" unit of Turin Prison be equipped with closets and locked spaces and that their state of hygiene be improved. Steps should also be taken to ensure that prisoners subject to CCTV surveillance are guaranteed reasonable privacy when using the toilet, wash basin and shower.**

63. The offer of psychiatric and psychological care at the remaining establishments was adequate, and staffing levels and the presence of psychiatrists and psychologists were in line with the relevant regional protocols provided for in the 2015 Guidelines.

f. medical screening

64. The 2015 Guidelines and the relevant decrees at the regional level attach great importance to the medical screening of inmates upon admission, with a specific emphasis on the assessment of suicidal risks and violence (self or hetero-aggressive) of inmates, infectious and transmissible diseases, drug addiction and cardiovascular and oncologic prevention. In practice, in all the establishments visited newly arrived prisoners were usually examined within 24 hours by a duty doctor and a psychologist assessing the risk of self-harm and suicide. Inmates were also systematically offered urine and blood tests in order to detect transmissible diseases such as HIV/AIDS and hepatitis. Prisoners were also referred to a psychiatrist in the case of need and to the SERT in the case of drug addiction.

65. As regards the recording of injuries upon admission, it remained standard practice to refer inmates with visible injuries upon admission to a local hospital for examination and the issuance of a fit-for-detention certificate. However, there was no traceability of these cases as the prison health-care authorities did not produce any medical certificates recording the injuries observed upon the admission of such inmates. Further, at Sassari Prison, inmates' injuries either related to their time with the police or sustained during imprisonment were described in a cursory manner, and no reference was made to the circumstances of their origin.

The CPT recommends that steps be taken at Sassari Prison in order to ensure that any signs of injuries observed on admission are duly recorded, together with any relevant statements from the prisoner and the doctor's conclusions. The same approach should be followed whenever a prisoner is medically examined after a violent episode in prison. Furthermore, if a prisoner so requests, the doctor should supply him with a certificate describing his injuries.

---

63 The video-surveillance included the recording of images for those inmates under special/reinforced surveillance.

64 A staff component of 19 prison officers was attached to the section in question.

The CPT also recommends that the necessary measures be taken in order to ensure that all injuries observed on inmates upon their admission are photographed and recorded in a medical certificate, in particular in cases where the inmate in question is transferred to a hospital in order to assess his/her suitability for detention.

At all establishments visited, with the notable exception of Ascoli Piceno Prison, the so-called "Register 99" (a dedicated register for all injuries observed by medical staff on prisoners, both upon admission and during detention) was no longer in use due to a decision of the regional health authorities. This was unfortunate, as it made it difficult for external monitoring bodies, as well as for the prison management, to obtain swiftly a comprehensive picture of the situation as regards injuries of inmates observed upon arrival or sustained during detention. **The CPT recommends that steps be taken by the relevant authorities to ensure that a dedicated register for the recording of injuries (possibly in an electronic form) observed on prisoners be kept in all Italian prisons.**

66. As regards the reporting of information indicative of ill-treatment by law enforcement officials or prison officers to the relevant judicial authorities, the delegation was pleased to note that in all establishments visited, health-care staff would send a written certificate to the prison director who was charged with notifying the relevant judicial authorities.[65]

g. medical confidentiality

67. Once again, the CPT's delegation found a total lack of medical confidentiality with respect to examinations of inmates in the establishments visited. As mentioned in paragraph 31, several inmates who had been victims of ill-treatment had clearly told the delegation that the presence of penitentiary staff during their examinations had a discouraging effect on them making allegations.

By letter dated 6 June 2016, the Italian authorities informed the Committee that in response to the delegation's preliminary observation on this subject, consideration was being given to installing an alarm mechanism in consultation rooms as a means of striking a balance between the security of medical staff and the confidentiality of consultations. The CPT welcomes this step. Nevertheless, the CPT wishes to re-emphasise the importance of medical confidentiality of physical examinations of prisoners in the context of the prevention of physical ill-treatment. Particular reference should be made to Recommendation R (98) 7 of the Council of Europe's Committee of Ministers to member States concerning the ethical and organisational aspects of health care in prison, according to which medical confidentiality should be guaranteed and respected with the same rigour as in the population as a whole. The CPT would like to stress that respect for confidentiality is essential to establishing an atmosphere of trust, which is a necessary part of the doctor/patient relationship; it should be the doctor's duty to preserve that relationship and to decide on the manner in which the rules of confidentiality are observed in a given case.

The CPT recommends that steps be taken to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. If necessary, the relevant legal provisions should be amended.

---

65 In compliance with Articles 361 and 362 of the CCP.

h. medical seclusion rooms

68. As mentioned in paragraph 31 above, several inmates complained to the CPT's delegation of having been physically ill-treated prior to and at the time of their placement in a medical seclusion cell, in particular at Como and Sassari Prisons and at the *"il Sestante"* psychiatric unit of Turin Prison.

At Como Prison, several male and female inmates told the delegation that they had been placed for extensive periods of time alone in a cell dressed only in their underwear following a self-harming incident. They perceived the measure as punitive, especially as in some cases the inmates in question had also received punches and kicks from penitentiary staff and had been handcuffed to a metal bed for short periods of time. The cells in question, located respectively next to the infirmary and in the female section of the prison, measured between 10 m^2 and 13 m^2 and were equipped with a metal bed fixed to the floor, a sponge mattress and a sanitary annexe consisting of a floor-level toilet and a washbasin. The cell in use for the medical isolation of men located beside the infirmary was in a poor state of hygiene with signs of splinters, vomit, blood and graffiti on the walls, windows fixed shut and dilapidated sanitary installations. They were not equipped with CCTV and the call bell was not functioning. The medical and administrative files consulted by the delegation indicated that such placements had been resorted to 42 times between January 2015 and April 2016[66] and that the placement decision was sometimes taken by prison officers. Moreover, medical monitoring was not regular and the register did not always record the end of the measure. Further, as mentioned in paragraph 31, one inmate met by the delegation at Sassari Prison complained about the violent behaviour of prison staff and claimed that he had been handcuffed to a bed in an isolation cell[67] for a prolonged period following a suicide attempt.

69. In Section 7 of the *"il Sestante"* specialised psychiatric unit of Turin Prison, inmates were placed in medical seclusion room no. 150 following an act of self-harm or a suicide attempt, as well as for punitive reasons. The cell in question (13 m^2) had a metal bed fixed to the floor with a dirty sponge mattress, good artificial lighting, CCTV and a floor-level toilet. Fourteen inmates had been placed in room no. 150 since the beginning of 2016 for periods ranging from a few hours to up to six days and sometimes they had been left in only their underwear on the orders of a doctor or penitentiary staff (later endorsed by a psychiatrist). Monitoring would take place once a day by a doctor, who would take a decision as to the termination of the measure.

Prison officers and health-care staff at both establishments confirmed to the delegation that medical seclusion rooms could be used for both security and medical measures, so that the decision to place an inmate in such a cell could be taken by either prison officers or health-care staff.

---

66 The personal files normally recorded that inmates should be placed in a medical seclusion room with the "minimum clothes to respect human dignity".

67 See paragraph 75 for a description of the material conditions of the cell in question.

70. In this context, the Committee recalls that the Italian authorities have recently taken steps to develop a multi-disciplinary response to suicide prevention and other critical events in prisons, in particular through the adoption of guidelines in 2012[68] and a specific circular of the prison administration in December 2015.[69] The aim of this latter document is to develop an individualised assessment of every potential risk for inmates, as well as a preventive response based on recommendations put forward by the WHO and the National Committee for Bioethics.

That said, in the CPT's view, the placement of a prisoner in a medical seclusion room should last only until the situation of imminent danger justifying the measure has ceased, and no prisoner should be kept in such a room for more than a few hours, except in very exceptional circumstances. Prisoners placed in a medical seclusion room should be regularly monitored (the frequency determined by the nature of the case) and the observations of prison officers clearly recorded in a dedicated register.

Further, the placement of a prisoner in a medical seclusion cell should only be made upon the authorisation of the medical doctor or be immediately brought to the attention of the doctor with a view to obtaining his approval, when all other measures have failed. Medical seclusion cells should be designed so as not to offer easy ligature points and should be equipped with a ventilation system and a call-bell. Further, the prisoner's clothing should not be removed unless this is found to be justified following an individual risk assessment. If the clothing is removed, the prisoner should be provided with rip-proof clothing and blankets. **Finally, the practice consisting in keeping a person naked in a medical seclusion room is unacceptable and could be considered to be degrading treatment.**

The CPT recommends that the Italian authorities take immediate steps to implement the above-mentioned precepts at Como, Sassari and Turin Prisons and as appropriate at other establishments. Under no circumstances should an inmate subject to medical isolation be handcuffed to a bed. The practice of keeping a person naked in a seclusion room should be stopped forthwith. Further, prison officers should receive regular training on handling prisoners at risk of self-harm and/or suicide.

6. Other issues

a. prison staff

71. The number of prison staff at the establishments visited appeared to be adequate and had improved since the CPT's 2012 periodic visit. For example, at Ascoli Piceno Prison, 146 prison officers were responsible for the supervision of 128 inmates. The phenomenon of secondments *("distaccamenti")* of personnel to other prison establishments nationwide for a period of time was observed, in particular, at Genoa Marassi Prison where around 17 percent of the prison officers were seconded elsewhere.

---

68 *"Linee di indirizzo per la riduzione del rischio autolesivo e suicidiario dei detenuti, degli internati e dei minori sottoposti a provvedimento penale*", adopted on 19 January 2012. The "Guidelines for the reduction of self-harming and suicidal risks of prisoners, internees and minors executing criminal sanctions" provide for specific strategies consisting of a better interaction between security and health-care staff and specific training for the early detection of signs indicative of such acts.

69 See Circular 0425948 of 21 December 2015 on the "Knowledge of the person through organisational processes: guidelines to better prevent critical events" *("La conoscenza della persona attraverso i processi organizzativi: indicazini per meglio prevenire le situazoni di criticità")*.

That said, the CPT's delegation was surprised to note that at Sassari Prison, the director was also in charge of Nuoro Prison and was *de facto* working part-time at both establishments. Furthermore, the post of deputy director was also vacant at both establishments in question. The CPT's delegation was informed that this was not an uncommon situation in Sardinia. Nonetheless, it appears unacceptable that two important prison establishments both hosting "41-bis" detention units do not have a full-time director and deputy director. **The CPT recommends that a full-time director and deputy director be appointed at Sassari Prison as soon as possible.**

b. contact with the outside world

72. The CPT welcomes the progressive improvements introduced by the Italian authorities to promote better contact with the outside world. Notably, all screens and physical barriers to open visits (with the exception of the "41-bis" regime) had been removed, and play areas for children visiting the prison[70] and outdoor visiting areas had been introduced. In addition, prisoners had the possibility to conduct conversations with family members through Voice over Internet Protocol and access to telephone cards had been increased (including the funding of the same for foreign inmates). [71]

In practice, at all establishments visited, inmates subject to a medium-security regime were allowed to receive six one-hour visits per month and to make four ten-minute telephone calls per month in compliance with the applicable legal provisions.

c. women prisoners with children

73. The mother-and-child unit (so-called *"Nido"*) at Como Prison was accommodating two mothers and their children, and the unit at Sassari Prison three mothers with three children.[72] Both mother-and-child units offered good material conditions. That said, the environment remained carceral with barred windows, uniformed female security staff and the sharing of some facilities (such as courtyards and sports rooms) with other female inmates.

According to the authorities, both units were temporary solutions pending the transfer of those mothers and children to specialised institutions. Italian legislation currently envisages nine Specialised Open Detention Units for Mothers *(Istituto di Custodia Attenuata per Madri* - ICAM) within prison establishments and one protected family house *("casa famiglia protetta"),* to be opened soon in Rome. However, the creation of protected family houses was hampered by the lack of adequate funding support from the municipalities concerned. **The CPT recommends that the Italian authorities allocate the necessary funding for the establishment of protected family houses *("case famiglia protette")* with a view to ensuring that all detained mothers with children are held in a suitable and non-carceral setting, as set out in Law No. 62 of 2011.**

---

70 Present in 182 out of a total of 227 prison establishments.

71 Present in around 120 prison establishments out of a total of 227.

72 In accordance with Articles 21bis and 47ter of the Penitentiary Law and also Article 19 of the Penitentiary Rules, mothers who were not (yet) eligible for house arrest on account of their motherhood were accommodated in such a unit together with their children until the latter reached the age of three years.

d. discipline

74. Recourse to disciplinary sanctions (ranging from an oral reprimand to solitary confinement) appeared to be limited at Genoa Marassi Prison.[73] At Sassari, Como and Ascoli Piceno Prisons, disciplinary sanctions (including solitary confinement of up to 15 days) were frequent. For example, at Sassari Prison, 520 disciplinary sanctions had been imposed on inmates in the course of 2015. At Ivrea prison, the delegation observed from the information contained in the disciplinary registers, that since the beginning of 2014 the use of solitary confinement (up to 15 days) appeared to be steadily decreasing with a tendency to apply more sanctions involving suspension of access to activities (particularly since the beginning of 2016). At Turin Prison, recourse to disciplinary sanctions appeared limited and normally involved transfers to a closed section. The prison had no specific section or cells used for disciplinary measures (however, see paragraph 69).

75. All prison establishments with the exception of Ascoli Piceno, Turin and Genoa Marassi Prisons had designated punishment cells. At Como Prison the four cells in the dedicated disciplinary section had unplastered walls, the metal beds fixed to the ground were rusty and the call bells were not functioning; at Sassari Prison the eight disciplinary cells, measuring 9 m^2, were equipped with beds fixed to the ground and a table and sanitary annexe, but no stool. The three dedicated courtyards for outdoor exercise of inmates serving a punishment of solitary confinement measured 7.5, 14 and 15 m^2 respectively. All inmates placed in solitary confinement had the right to an hour of outdoor exercise per day, which was adhered to in practice.

76. In terms of legal safeguards surrounding disciplinary procedures, the CPT regrets that none of its recommendations since 2008 have been implemented in practice.

In particular, disciplinary decisions often contained very little reasoning, if any, and prisoners usually did not receive a copy of the decision itself but only a notification of the sanction pronounced by the disciplinary commission. In addition, in some cases prisoners were not allowed to have a lawyer present during disciplinary hearings, and they were often not informed in writing of the avenues to lodge an appeal.

Therefore, **the CPT once again reiterates its recommendation that the current legislation and practice be revised, in order to ensure that prisoners facing disciplinary charges:**

- **are allowed to call witnesses on their behalf and to cross-examine evidence given against them;**
- **are allowed to have a lawyer present during hearings before the disciplinary commission;**
- **receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal. The prisoners should confirm in writing that they have received a copy of the decision.**

---

[73] Only 52 disciplinary sanctions were decided upon in the course of 2015 and 16 during the first three months of 2016.

77. Against this background, it is unacceptable that prison doctors are still members of disciplinary commissions and thus actively take part in disciplinary proceedings against prisoners.[74] The CPT has recently learned about draft legislation pending before Parliament in relation to the amendment of the relevant provisions of the Penitentiary Law, with a view to excluding prison doctors from disciplinary commissions. This would indeed be a step forward. **The CPT calls upon the Italian authorities to take immediate steps to abolish this practice in the entire prison system.**

e. judicial isolation – *"isolamento diurno"*

78. In its previous reports,[75] the CPT has repeatedly expressed its misgivings in relation to the fact that a criminal court, pursuant to the provisions of Article 72 of the Penal Code, may order a prisoner responsible for the commission of multiple crimes which are punishable with life imprisonment, or the commission of one crime punishable with life imprisonment and one or more crimes punishable with imprisonment of more than five years, to serve part of the sentence in solitary confinement (*"isolamento diurno")* for periods ranging from two months to three years. At the time of the 2016 visit, 298 inmates were placed in court-imposed solitary confinement throughout the country.

The delegation met two inmates at Ascoli Piceno Prison and one inmate at Sassari Prison who were placed in court-imposed solitary confinement as part of their sentence.[76] The delegation also met other inmates at the "41-bis" detention unit of Sassari Prison who had previously been placed in *"isolamento diurno"*.

79. The regime applied to these inmates generally consisted of one hour of outdoor exercise per day alone in a courtyard and one additional hour alone in a common room, as they were not allowed to have any contact with other prisoners. The reinforced door of their cell was opened for two additional hours. Inmates were in principle eligible to work or to participate in educational activities such as distance learning. At Sassari Prison a psychologist visited the prisoner placed under this regime on a monthly basis. The punitive nature of this measure is clearly illustrated by the fact that the inmate met at Sassari Prison had been subject to an ordinary regime during his period of remand detention and had been considered eligible to work outside the perimeter of the establishment.[77]

The strict isolation regime impacted on the mental well-being of the prisoners; the three inmates met by the delegation were receiving anti-depressant medication and told the delegation that they often experienced suicidal thoughts.

---

74 See Article 40 of the Penitentiary Law.

75 See CPT (2006) 16, paragraph 91 and CPT (2013) 32, paragraph 98.

76 Two inmates at Ascoli Piceno Prison were serving periods of 18 months of "*isolamento diurno*" within the "41-bis" detention unit, while one inmate at Sassari Prison was accommodated in a single cell in one of the ordinary detention male sections.

77 Pursuant to Article 21 of the Penitentiary Law.

One inmate met by the delegation at the "41-bis" detention unit of Sassari Prison had spent two years in *"isolamento diurno"* at the "41-bis" detention unit at Aquila Prison, where he had not been allowed any contact with his socialisation group, in addition to the restrictions of the "41-bis" regime. He told the delegation that as a result of the prolonged period of court-imposed solitary confinement he had twice attempted to commit suicide by means of induced suffocation with a plastic bag.[78] His personal file indicated that he had also committed a series of 14 acts of serious self-harming.[79] The psychiatrist who regularly visited him had requested that the prison guards reinforce their visual surveillance of the inmate in light of the gravity of his situation.

80. The CPT has already expressed its serious misgivings about the provisions of Article 72 of the Penal Code, which provide for the imposition by a court as part of a sentence of a solitary confinement regime on life-sentenced prisoners, irrespective of their individual dangerousness.[80] It might be useful in this context to recall the generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment. Imprisonment is a punishment in its own right and potentially harmful aggravations of a prison sentence as part of the punishment are not acceptable. Given the potentially harmful effects of long-term isolation for the prisoners concerned, the principle of proportionality requires that any solitary confinement-type regime is only imposed on the basis of an individual risk assessment and only for the shortest possible time. The prolonged and punitive measure of *"isolamento diurno"* observed by the delegation in respect of the cases described above could well be considered as inhuman and degrading treatment.

The CPT calls upon the Italian authorities to review the relevant criminal legislation in the light of the above remarks.

f. complaints and inspection procedures

81. The legislation concerning the possibility for inmates to lodge complaints with the supervisory judge has undergone some modification since the CPT's 2012 periodic visit to the country. According to the amended version of Article 35 of the Penitentiary Law, an inmate can now lodge an individual written or oral complaint in the case of a perceived violation of his/her rights by the penitentiary administration to the supervisory judge *("reclamo giurisdizionale")*. Further, an inmate can request that the penitentiary administration complies with the decisions of the supervisory judge if these are not executed *("richiesta di ottemperenza")*.[81] In addition, as mentioned already in paragraph 24, inmates can also lodge compensatory complaints in the case of perceived situations of prison overcrowding in order to obtain pecuniary compensation or early release. Finally, individual and confidential complaints can also now be lodged by inmates with the *Garante Nazionale*. In the course of the visit, the CPT's delegation was able to ascertain that all the above-mentioned avenues of complaint were well known and publicised among inmates and that the relevant judicial and administrative organs were generally responding to complaints in a prompt manner.

---

78 Namely, on 27 June 2014 and 26 January 2015.

79 As documented in his medical file, they consisted of banging his head against the wall and burning himself with a lighter.

80 See paragraph 91 of CPT/Inf (2006) 16.

81 Pursuant to Article 35 of the Penitentiary Law.

82. In terms of the activities of civil society, the NGO Antigone conducts on-site visits to prison establishments through its network of volunteers and has an on-line database called "national observatory of detention".[82] At the time of the CPT's visit, Antigone volunteers had just carried out visits to Genoa Marassi and Ivrea Prisons.

82 See http://www.associazioneantigone.it/osservatorio_detenzione/.

C. Psychiatric institutions

1. Preliminary remarks

83. The CPT's delegation carried out visits to the Montelupo Fiorentino Judicial Psychiatric Hospital (*Ospedale Psichiatrico Giudiziario* – OPG) and Residences for the Execution of Security Measures (*Residenze per l'esecuzione delle misure di sicurezza* – REMS) in Bra[83] (*Casa di Cura San Michele*), Bologna[84] (*Casa degli Svizzeri*), Castiglione delle Stiviere,[85] and Pontecorvo.[86] The main objective of these visits was to examine the situation of forensic psychiatric patients in the context of the ongoing process involving the closure of the OPGs and the creation of a new system for the treatment of such patients.

The CPT's delegation also visited the Psychiatric Service for Diagnosis and Care (*Servizio Psichiatrico di Diagnosi e Cura)* of the San Giovanni Battista University Hospital Complex of Torino (*Azienda ospedaliera universitaria San Giovanni Battista*, known informally as *"le Molinette"*), with a view to examining the action taken by the Italian authorities in the light of various recommendations made by the Committee after its visits to SPDCs in 2004, 2008 and 2012.[87]

84. The relevant legal framework governing involuntary placement of a civil nature has remained virtually unchanged since the last visit, and is still regulated by Law No. 180 of 1978 and by Law No. 833 of 1978 (Articles 33, 34, 35 and 64).

Recent legislative reforms have, however, altered significantly the legal framework governing the involuntary placement of forensic psychiatric patients. The relevant aspects of these reforms are addressed in paragraphs 86, 123 and 124.

85. The CPT welcomes the measures taken by the Italian authorities to implement the long-awaited reform of the forensic psychiatric services, and in particular the transfer of patients to smaller structures at the regional level. In the REMS recently established in Bra, Bologna and Pontecorvo, the CPT's delegation noted the dedication of the health-care staff to creating the intended therapeutic environment under a wholly new philosophy of care. That said, a number of issues were found in the different establishments, which the authorities could redress in order to ensure that the full potential of the philosophy of care embodied by the REMS is realised.

---

83 Region of Piedmont.
84 Region of Emilia Romagna.
85 Region of Lombardy.
86 Region of Lazio.
87 See CPT/Inf (2006) 16, paragraphs 130 to 159, CPT/Inf (2010) 12, paragraphs 164 to 171, and CPT/Inf (2013) 32, paragraphs 120 to 132.

2. Adult forensic psychiatry

86. The CPT recalls that the transfer of responsibility for the provision of prison health care from the Ministry of Justice to the regional health authorities (*Aziende Sanitarie Locali* – ASLs), including the provision of health care in OPGs, became effective on 1 October 2008. Law No. 9 of 17 February 2012 and other legislative reforms[88] stipulated that all existing OPGs were to be closed down (initially by 31 March 2013) and all patients transferred to new health-care structures under the exclusive authority of the ASLs, and more specifically, the Departments of Mental Health (*Dipartimenti di Salute Mentale* - DSM), with particular emphasis on the treatment and rehabilitation of patients in a non-carceral environment. Further, the reforms created new structures, known as "Residences for the Execution of Security Measures" (*Residenze per l'esecuzione delle misure di sicurezza* - REMS) to accommodate persons subject to an involuntary placement in a psychiatric establishment under Italian penal legislation.[89]

The definitive closure of the OPGs has since been postponed twice, and at the time of the visit, four of the six OPGs were still in operation, although with very reduced populations.[90] Since the visit, the OPGs in Aversa and Reggio Emilia have also closed leaving Montelupo Fiorentino and Barcellona Pozzo di Gotto still operating at the time of writing this report. **The CPT would like to receive updated information on the closure of the Montelupo Fiorentino and Barcellona Pozzo di Gotto OPGs, including details on the discharge of patients and transfers to other psychiatric structures.**

87. The CPT had visited *Montelupo Fiorentino OPG* during the 2000 visit.[91] The OPG is housed in the vast grounds of a 16th century Medici villa in the town of Montelupo Fiorentino (some 20 kilometers from Florence). At the time of the 2016 visit, the OPG had been undergoing renovation works for several years with a view to its closure as an OPG and transformation into a prison.[92] New admissions had ceased from 1 April 2015 and the majority of patients had been transferred to other structures or discharged. At the time of the visit, the OPG was accommodating 40 patients as well as six sentenced prisoners who carried out cleaning and other work in the establishment. The legal status of the psychiatric patients was as follows: there were 18 patients declared criminally irresponsible and placed involuntarily in the OPG under Article 222 of the

---

88 Law No. 9 of 17 February 2012 on the "Conversion into law, with certain amendments, of Decree-Law No. 211 of 22 December 2011, on Urgent measures to counter tensions in prisons which result from overcrowding" (see also CPT/Inf (2013) 32, paragraph 104); Law No. 81 of 30 May 2014, "Urgent provisions concerning the closure of the judicial psychiatric hospitals" (*Disposizioni urgenti in matiera di superamento degli ospedali psichiatrici giudiziari*), conversion law of Decree-Law No. 52 of 31 March 2014.

89 See also Decree of 1 October 2012 of the Ministry of Health concerning the structural, technological and organisational requirements of REMS (*Requisiti strutturali, tecnologici e organizzativi delle strutture residenziali destinate ad accogliere le persone cui sono applicate le misure di sicurezza del ricovero in ospedale psichiatrico giudiziario e dell'assegnazione a casa di cura e custodia*) (GU n.270 del 19-11-2012). According to official statistics from the DAP, on 18 February 2016 there were 23 REMS in Italy, accommodating 541 patients (476 male and 65 female).

90 The "Reparto Verde" OPG at Secondigliano near Naples had closed in December 2015 and Castiglione delle Stiviere OPG had been "transformed" into a REMS on 1 April 2015 (see also paragraph 91). According to official statistics from the DAP, on 18 February 2016 the Reggio Emilia OPG was still accommodating six patients, Aversa OPG – 22 patients, and Barcellona Pozzo di Gotto OPG – 29 patients.

91 See CPT/Inf (2003) 16, paragraphs 153 to 183.

92 However, the DAP had taken the decision to stop this transformation process at the end of the 2014 and the future of the premises following the definitive closure of the OPG was still not clear.

Italian Penal Code,[93] seven patients declared partially criminally irresponsible and placed under Article 219 of the Penal Code,[94] eleven patients placed provisionally under Article 206 of the Penal Code,[95] three sentenced prisoners requiring psychiatric care placed in the OPG under Article 148 of the Penal Code,[96] and one mentally disabled prisoner placed under Article 111 of the Penitentiary Rules.[97]

88. The *Casa di Cura San Michele REMS* was housed in a former psychiatric clinic on the outskirts of the town of Bra. The building, dating from 1949, had previously been used as a psychiatric clinic with three distinct units: crisis, rehabilitation and long-term care. The regional authorities had decided to close the crisis and long-term care sections and to transform part of the structure into a REMS for adult male patients, which opened on 22 October 2015. At the time of the visit, it was the only privately run REMS in Italy, with accreditation from the National Health Service (*Servizio Sanitario Nazionale*) as a provisional REMS for a period of 3 years. The establishment consisted of an entrance hall on the ground floor (common to both the rehabilitation unit and the REMS) and, on the first floor, an 18-bed REMS along one corridor with an infirmary, dining area and room for medical consultations, as well as a separate section with dedicated rooms for visits, telephone calls, meetings with lawyers, and medical/psychiatric consultations, an activities room and a common room. A separate 13-bed section on the same floor was in the course of being renovated and was in principle not being used (see, however, paragraph 115). At the time of the visit the REMS was accommodating 18 male adult patients, of whom 10 had been placed under Article 222 of the Penal Code, and the remaining 8 had been placed under Article 206.[98]

89. The *Casa degli Svizzeri REMS* in Bologna was located in a large modern house surrounded by pleasant gardens on the outskirts of the city. The building had previously served as a residence for the rehabilitation of patients suffering from psychoses. The REMS, opened on 1 April 2015, consisted of a ground floor with common areas, a first-floor accommodation area for women (3 beds) and a second-floor area for accommodating male patients (11 beds), as well as administrative and medical offices. At the time of the visit it was accommodating 11 male patients and 3 female patients.

---

93 Under Article 222 of the Penal Code persons declared criminally irresponsible may be placed in an OPG for a minimum of two, five or ten years. The duration of their stay can subsequently be reduced or prolonged on the basis of the danger to society which the person concerned is considered to represent.

94 Under Article 219 of the Penal Code, persons with limited criminal responsibility may be placed in a *Casa di Cura e Custodia* (CCC) for a minimum of six months, one year or three years.

95 Under Article 206 of the Penal Code defendants who become a danger to others may be transferred to an OPG or a CCC under a provisional security measure, which may be revoked when the judge considers that the person concerned no longer represents a danger to society.

96 Under Article 148 of the Penal Code, prisoners who develop a mental illness following their conviction may be placed in an OPG by court order; at the same time, the execution of their prison sentence may be postponed or suspended.

97 Presidential Decree No. 230 of 30 June 2000, "*Regolamento recante norme sull'ordinamento penitenziario e sulle misure privative e limitative della libertà"*.

98 Three of whom had been convicted but were appealing their sentences.

90. *Pontecorvo REMS* occupied four floors of a building formerly used as an SPDC and a Mental Health Centre (*Centro di Salute Mentale*) near the general hospital of the town of Pontecorvo. The establishment, which had opened on 31 March 2015, was composed of a ground floor with a number of common and activity rooms, a first floor currently undergoing renovation, a second floor with patient accommodation (11 beds) and a third floor with administrative and medical offices and meeting rooms. At the time of the visit it was accommodating 11 female patients, five of whom had been placed under Article 222 and six under Article 206 of the Penal Code.

91. *Castiglione delle Stiviere REMS* was a unique establishment as it had operated as an OPG until 1 April 2015, after which it had ceased admissions and begun a process of structural and administrative changes with a view to establishing six separate REMS on the site. In the meantime it was intended to create eight provisional REMS based on the existing buildings and wards. The establishment was composed of a number of separate buildings located in large grounds including spacious green areas. At the time of the visit, the "Arcobaleno" building was operating as two REMS for female patients: one with 16 beds and enhanced security arrangements for acute ("high intensity") cases (Arcobaleno I), and the second with 17 beds for low to medium intensity cases (Arcobaleno II). The "Morelli" building was operating as a 19-bed admission REMS for male patients. The "Virgilio" building was in the process of being transformed into two REMS for male patients, with 24 and 25 beds, respectively, while the "Aquarius" building was still accommodating 81 male patients pending its transformation into three REMS. A number of separate buildings housing kitchens and dining rooms, as well as facilities for activities (school, gym, bar, theatre) and for storage, served all the different structures.

The management of Castiglione delle Stiviere was experiencing considerable challenges in moving away from the "carceral" logic and culture of an OPG, particularly in terms of ensuring that structures and staff were appropriate for the establishment's new mandate. At the time of the visit, Castiglione delle Stiviere was accommodating 182 patients (33 female and 149 male) for an official capacity of 160. The numbers had been reduced considerably from 1 April 2015, when the OPG had been accommodating 230 patients. However, it should be noted that in addition to accepting patients from Lombardy, the establishment had entered into an agreement with the region of Liguria for the accommodation of patients from that region, as it had no REMS. According to the management, approximately one-third of the patients would have been better accommodated in residential structures in the community, in particular those suffering from mild mental disabilities, addiction problems and personality disorders. Given that the aim of the REMS is to rehabilitate patients with a view to their reintegration into the community, **the CPT would like to receive information from the authorities on the existing strategies and structures in place for this purpose.**

92. More generally, the Committee has misgivings concerning the concentration of so many REMS within one establishment, particularly in the light of the fact that the entire concept behind the establishment of REMS as replacements for the OPGs is based on the idea of ensuring a closer proximity of patients to a network of health-care structures in their communities of origin. It is difficult to envisage how this can be achieved through the concentration of six REMS at Castiglione delle Stiviere to serve most of Lombardy.[99] **The CPT would like to receive the observations of the Italian authorities on this issue.**

---

[99] The CPT's delegation was informed that a further two REMS were to be created at Limbiate, near Milan.

a. ill-treatment

93. The delegation received no allegations and found no other evidence of deliberate ill-treatment of patients by staff in the *Montelupo Fiorentino OPG* or in the *Casa degli Svizzeri*, *Casa di Cura San Michele*, or *Pontecorvo REMS*. On the contrary, many patients interviewed by the delegation spoke favourably about the manner in which they were treated by staff. Further, the information gathered during the visit indicated that the level of inter-patient violence was not significant, and that incidents were generally managed adequately by staff (however, see paragraph 133).

94. However, at *Castiglione delle Stiviere* the delegation received a number of allegations of patients being subjected to restraint measures (seclusion and mechanical restraint) as an informal punishment. This issue is addressed in further detail in paragraph 116.

95. Allegations were also received from a number of patients concerning frequent insults and disrespectful behaviour from nursing assistants, particularly in Aquarius. Indeed, it became obvious during the course of the visit that there were considerable difficulties to be overcome in the transition process, particularly in terms of the attitude of a number of members of staff (see also paragraphs 91 and 109).

The CPT recommends that the management of Castiglione delle Stiviere exercise continuous vigilance and remind staff at regular and frequent intervals that patients should be treated with respect, and that any form of ill-treatment of patients, whether verbal or physical, is totally unacceptable and will be punished accordingly.

b. patients' living conditions

96. At *Montelupo Fiorentino OPG*, the main premises housing patients had been renovated since the 2012 CPT visit. Patients were accommodated on three floors in separate units: "Pesa" (ground floor), "Arno" (first floor) and "Torre" (second floor), with Pesa unit accommodating six working prisoners, as well as five patients. All rooms were single- or double-occupancy, adequately furnished, including with a TV, and equipped with a fully partitioned sanitary annexe. They offered sufficient living space and ventilation as well as adequate access to natural light and artificial lighting.

Pesa unit also housed a number of rooms used for a variety of activities, including a common room with table tennis and television, a multimedia room, and a library. Patients were locked in their rooms overnight for 12 to 14 hours. To the extent that patients continue to be accommodated in the establishment, **the CPT recommends that patients' living conditions follow to the extent possible those in REMS and refers in particular to its remarks and recommendation in paragraph 99.**

97. The material living conditions in the *Casa di Cura San Michele*, *Casa degli Svizzeri* and *Pontecorvo REMS* were generally of a good standard. Patients were accommodated in either double or single rooms with a separate sanitary annexe (sink, shower and WC).[100] All rooms were sufficiently large, well-furnished, clean, bright and well ventilated. There were adequate spaces for leisure activities, including in each case a TV room and a smoking room, as well as a garden. All rooms had individual storage space (cupboards or lockers) to which the patients had their own key, and patients had free access to the garden during the day.

98. The patients' garden at the *Casa di Cura San Michele* was, however, rather small and the delegation received a number of complaints from patients that there was not sufficient space to take exercise. In addition, unlike the other REMS, the establishment had no room equipped for physically disabled patients, and one patient had to be accommodated as a result in a room which was not appropriate for his condition.[101] **The CPT recommends that the Italian authorities take appropriate measures to remedy these shortcomings.**

99. Patients at the *Casa di Cura San Michele REMS* could circulate freely during both the day and night. In the mixed *Casa degli Svizzeri REMS*, male and female patients could circulate freely in the same spaces during the day; the connecting doors between the male and female wards were, however, locked at night. In the *Pontecorvo REMS*, rooms were locked between 11.30 p.m. and 7 a.m. The Committee considers that, while night-time confinement may be appropriate for certain patients based on an individual risk assessment, patients should, as a general rule, be allowed to circulate freely within their accommodation areas, including at night, as this fosters individual autonomy and limits the risk of patients becoming institutionalised. Noting, in addition, that two of the three new REMS do not impose night-time confinement, **the Committee recommends that the management of Pontecorvo REMS reconsider its policy in this regard.**

100. At *Castiglione delle Stiviere*, the situation varied between the different structures. Material conditions in the new admission REMS for men (Morelli), and in the two womens' REMS (Arcobaleno I and II) were adequate. Women were accommodated in Arcobaleno in double or single rooms, and the men in Morelli in rooms with two or three beds. All rooms in these structures were sufficiently large, adequately furnished, clean, and well ventilated with sufficient access to natural light and artificial lighting. Patients had an individual locked cupboard for personal belongings and access to adjacent or common sanitary facilities.

Virgilio offered adequate material conditions which do not call for any particular comment. Conditions in Aquarius were, however, quite a different matter. The building itself was dreary and dilapidated and provided insufficient living space for the number of patients accommodated. Patients' accommodation was located on the first floor and separated into three wings: "red" wing for the most severe cases, "blue" wing for patients at an intermediate stage in their treatment, and "green" wing for patients with greater autonomy. Patients were accommodated in rooms with three to seven beds, which provided between 4.5 m^2 and 7.5 m^2 of living space per patient, not including the sanitary annexe. That said, the Committee considers that patients should not be held in dormitory-type rooms with five or more beds. Further, the decidedly institutional atmosphere reigning in the entire structure was exacerbated by the lack of decoration and the cramped environment in the dining rooms.

---

100 In the *Casa degli Svizzeri* REMS in Bologna, two of the female patients' rooms shared a sanitary annexe.

101 The patient suffered from motor difficulties as a result of cranial injuries sustained in a motorcycle accident. The REMS had a common washroom equipped for physically disabled patients.

The CPT considers that the provision of accommodation structures based on small groups is a crucial factor in preserving and restoring patients' dignity, and also a key element of any policy for the psychological and social rehabilitation of patients. Structures of this type also facilitate the allocation of patients to relevant categories for therapeutic purposes. To this end, the CPT welcomes the project for the complete restructuring of Aquarius. **The Committee recommends that steps be taken within the framework of this transformation to provide all patients with single- or double-occupancy rooms, and in any case to ensure that no more than four patients are accommodated in any one room.**[102]

101. At *Castiglione delle Stiviere*, patients in the different structures had no access to their rooms for certain parts of the day. By way of example, in Arcobaleno I, patients were locked out of their rooms between 10 a.m. and 1 p.m. and again between 3 p.m. and 7 p.m. Patients complained that the medication they were taking made them feel very drowsy during the day, so that during these periods when they were not allowed access to their rooms, they would often go to sleep in other places (floor, garden, benches, etc.), for which they were sometimes subject to sanctions (suspension from activities or reduction in the number of the cigarettes they were given), which would be totally inappropriate. A similar practice of locking patients out of their rooms during the day prevailed in Aquarius. While appreciating that the aim of the policy is to encourage patients to participate in activities and to socialise, the Committee considers that providing patients with 24-hour access to their rooms or dormitories is an important element in the rehabilitative process of psychiatric patients. **The CPT recommends that the management of Castiglione delle Stiviere reconsider their policy on this issue.**

c. treatment

102. At *Montelupo Fiorentino OPG,* the psychiatric treatment of patients was based on an integrated approach to care involving the DSM working towards the ultimate discharge of patients or their transfer to a REMS or other structure in the community. Each of the units had its own small infirmary, as well as a room used for psychiatric consultations. Patients were offered individualised treatment based on a multidisciplinary approach. A variety of therapeutic activities were offered, including group therapies based on cognitive stimulation and re-socialisation, and creative activities such as acting and art classes and music therapy sessions. In addition, Italian language classes were offered to foreign national patients, and cultural mediators could be called in from the ASL when necessary.

That said, the delegation received several complaints concerning difficulties in obtaining a consultation with a psychologist and also about the lack of activities involving physical exercise. **The CPT would like to receive the observations of the Italian authorities on these points.**

103. The delegation observed that individual patients' files were well kept and contained relevant documentation relating to individualised programmes, including projects for the discharge or transfer of the patient.[103]

---

102 As is also stipulated in Annexe A to Ministry of Health Decree No. 1 of 1 October 2012 (see also footnote 89).

103 One of the developments introduced by law No. 81of 30 May 2014 was an obligation to establish for each patient an Individual Therapeutic Rehabilitative Plan (*Progetto Terapeutico Reabilitativo Individuo* – PTRI), to be communicated to the Ministry of Justice and the relevant judicial authorities, within 45 days of the law entering into force with a view to the discharge of the person concerned (Article 1, comma 8, 8.1, 1-ter). See also paragraph 121.

104. At the *Casa di Cura San Michele*, *Casa degli Svizzeri* and *Pontecorvo REMS*, patients benefited from individual treatment plans centred around pharmacotherapy, but which also offered a wide variety of therapeutic activities, including group therapies (reading and discussion groups), physical movement and team sports sessions, and creative activities such as art and cooking classes and music therapy. All had appropriate facilities for psychiatric and primary medical care, and for different kinds of activities. Patients had regular consultations with psychiatrists and psychologists and were generally well informed about their treatment plans; they expressed their satisfaction to the CPT's delegation. Medical files were well kept, confidential and comprehensive.

105. Based on the observations of the delegation, it appeared that the *Casa di Cura San Michele REMS* was not as well integrated into the regional and local health-care systems as the *Casa degli Svizzeri* and *Pontecorvo REMS*, which maintained closer and more operational contacts with the DSM and other relevant local structures (residences where patients could be placed, under the appropriate level of supervision, once discharged from the REMS). In addition, the philosophy of care did not appear to be sufficiently developed for the implementation of a truly multidisciplinary approach. **The CPT would like to receive the Italian authorities' observations on these points.**

106. At *Castiglione delle Stiviere*, the situation in the new Morelli and Arcobaleno REMS, as well as in Virgilio, reflected a similar situation to that described above for the other REMS visited: patients had individual treatment plans and access to an adequate level of activities. In Virgilio the multidisciplinary approach was made difficult by the fact that the structure was still in a transition process with a view to becoming two separate REMS. In Aquarius, the nature of the structure, as well as the inadequate staffing situation (see paragraph 109) precluded the establishment of a multidisciplinary approach and the provision of an adequate level of treatment, including contact with health-care staff and access to activities. **The CPT recommends that the Italian authorities take concrete action to complete the restructuring of Virgilio and Aquarius as a matter of priority.**

Furthermore, the CPT's delegation observed that the treatment of patients appeared to be based more on the sedative effects of the medication prescribed than on a more rehabilitative approach. In other words, the "custodial" philosophy of an OPG prevailed throughout Castiglione delle Stiviere in this regard. The CPT acknowledges the efforts being made by the management to improve this situation, however, more concerted action is required. **The CPT recommends that the Italian authorities provide the management of Castiglione delle Stiviere with the necessary support in order to develop a more appropriate philosophy of care at this establishment.**

107. The delegation was concerned to note that none of the REMS visited appeared to have adequate provision for cultural mediation services for foreign patients. All the REMS visited admitted foreign patients, and in one case the delegation was unable to communicate with a foreign patient at the *Casa degli Svizzeri* who spoke no Italian. **The CPT recommends that the Italian authorities ensure an adequate presence of cultural mediators in all REMS throughout the country.**

d. staff

108. At *Montelupo Fiorentino OPG*, the staffing levels for both health-care and penitentiary staff were adequate and do not call for comment. The delegation was pleased to observe that health-care staff seemed attentive to the needs of their patients.

109. The *Casa di Cura San Michele*, *Casa degli Svizzeri* and *Pontecorvo REMS* had adequate numbers of health-care staff. Indeed, the small size of the structures ensured a good staff to patient ratio, and the delegation was pleased to note that health-care staff seemed attentive to the needs of their patients.

In the *Casa di Cura San Michele REMS*, for 18 patients, there were two full-time psychiatrists, and a general practitioner working between the REMS and the rehabilitation unit. In addition a continuous medical presence was ensured from a pool of nine psychiatrists.[104] Nursing staff was composed of one head nurse and 14 nurses (12 full-time and two who ensured replacements in case of absences) assisted by seven nursing assistants (six full-time and one part-time), and 6 orderlies. A nursing presence was ensured around the clock. There were also two psychologists and one social worker, all of them working 20 hours per week, as well as two rehabilitation therapists.

At the *Casa degli Svizzeri REMS*, for 14 patients, there were four psychiatrists (two full-time, one who came three days a week, and a third who came one day a week), 13 nurses and seven nursing assistants. A general practitioner also visited the establishment once a week. A pool of psychiatrists from the DSM was on telephone duty outside of working hours. In addition, a psychiatrist could be called from the nearby Residence for Intensive Psychiatric Care (*Residenza Psichiatrica a Trattamento Intensivo* – RTI). At least two nurses and one nursing assistant were present at all times in the REMS, and a nurse was also on call at home at night. Two psychologists, four educators and one social worker also worked with the patients.

At *Pontecorvo REMS*, for 11 patients, the head psychiatrist worked half time[105] alongside two full-time treating psychiatrists. The nursing staff was composed of 11 nurses and three nursing assistants. At least one psychiatrist was present from 8 a.m. to 8 p.m. Mondays to Saturdays, and a duty psychiatrist was on call nights, Sundays and holidays. At least two nurses and one nursing assistant were present at all times in the REMS. In addition, there were two psychologists (one full-time[106] and one part-time), two social workers (one full-time and one half-time) and two full-time rehabilitation therapists.

The health-care staff in the REMS referred to above expressed to the delegation their misgivings about having to reconcile psychiatric care with the custodial nature of the REMS, and in particular the fact that aspects of the internal regime were regulated by the Penitentiary Rules. The CPT will come back to this question in paragraph 129.

---

104 The psychiatrist on duty divided his time between the REMS and the rehabilitation unit.

105 The head psychiatrist shared his time between *Pontecorvo* REMs and another REMS in Ceccano, about 40 km away.

106 The full-time psychologist was on maternity leave at the time of the visit.

At *Castiglione delle Stiviere* there was similarly an adequate staff to patient ratio in the Morelli and Arcobaleno REMS and in Virgilio. However, at Aquarius the staffing situation appeared more stretched, with three full-time psychiatrists and one working part-time, one nursing coordinator, 26 nurses and 14 nursing assistants, for 81 patients. At least two psychiatrists were present round the clock (the treating psychiatrists ensured a presence between 8 a.m. and 4 p.m., and in addition two from a pool of 15 psychiatrists ensured a continuous presence on shifts from 8 a.m. to 8 p.m., and from 8 p.m. to 8 a.m). A minimum of three nurses were present at all times, assisted by three or four nursing assistants. There were, in addition, two full-time psychologists, and two full-time educators. The delegation received complaints from patients who felt that the staff were, in general, not very attentive to their needs, with the exception of the two psychologists, whom the patients praised for their dedication. There is clearly a need to invest further efforts in training staff in the new concept of care embodied by the REMS. Indeed, despite the efforts of the management to improve the attitude of health-care personnel towards the patients, the health-care staff were open about their difficulties in adapting to a new concept of care while still working with the same patients in what remained essentially an OPG structure. **In this regard the CPT refers to its recommendations in paragraph 106.**

e. use of means of restraint

110. At *Montelupo Fiorentino OPG* the use of mechanical restraint had been abolished by order of the director in 2012, and the delegation was informed that seclusion was also not used.[107] In the event that patients became violent or aggressive, the staff would resort to manual restraint and, where all other attempts at de-escalation had failed, to chemical restraint.

111. Regarding the different REMS visited, the delegation was struck by the disparity in the policies applied regarding the use of means of restraint at the different establishments. In this connection a recent report of the National Committee for Bioethics (*Comitato Nazionale per la Bioetica* - CNB)[108] to the Office of the President of the Council of Ministers[109] highlights the differences in practices concerning all forms of restraint (seclusion, manual restraint, mechanical restraint, chemical restraint) at the regional level[110] and also amongst individual establishments,[111] as well as the problems regarding the lack of traceability of such measures. The report recommends an increase in both research into and monitoring of the use of means of restraint at the national level, including in forensic psychiatric establishments, with a view to fostering a culture of care in which such measures are no longer necessary.

---

107 During the CPT's last visit to the OPG in 2000, the delegation was informed that seclusion was not used in the establishment, staff resorting to mechanical restraint where necessary. See paragraph 175 of CPT/Inf (2003) 16.

108 The CNB is a national consultative body which was established by a decree of the President of the Council of Ministers on 28 March 1990.

109 *La contenzione: problemi bioetici,* Presidenza del Consiglio dei Ministri – Comitato Nazionale per la Bioetica, 23 April 2015.

110 By way of example, the report points out that the social and health plan 2012-2015 of the region of Tuscany reconfirmed the prohibition on the use of mechanical restraint in all SPDCs and a rigorous control of the use of pharmacology.

111 The report refers to the *Club SPDC « No Restraint »* (http://180gradi.org/2015/07/14/spdc-no-restraint/), an association of SPDCs in different regions (representing 5% of all the SPDCs in Italy) which have undertaken to abolish the use of mechanical restraint.

Furthermore, in their response dated 6 June 2016 to the preliminary observations of the CPT's delegation, the Italian authorities indicated that Memoranda of Understanding signed with the different REMS advised that mechanical restraint should be avoided in REMS.

The CPT can only encourage the initiatives referred to above aimed at avoiding the use of mechanical restraint and would like to be kept informed of any developments concerning the use of means of restraint in forensic psychiatric establishments in Italy, including the results of any monitoring processes undertaken.

112. The *Casa degli Svizzeri REMS* had a "zero restraint" policy: neither mechanical restraint nor seclusion were used, and there was no seclusion room in the establishment. The objective of the management was to move away from the "logic of fear" surrounding psychiatric patients. In the event of a crisis, the staff used dialogue and manual restraint techniques in order to calm the patient, and where necessary resorted to pharmacology.[112] Where they were unable to manage the situation, they could send the patient to the DSM's SPDC under a TSO procedure (see also paragraph 127).

113. Mechanical restraint was also not used at the *Pontecorvo REMS*. In the event that a patient became agitated or aggressive, all the staff would participate in efforts to calm the patient and resolve the crisis. Where this was unsuccessful, however, staff could place the patient in seclusion in a "decompression room", which was equipped with furniture fixed to the floor (bed, cupboard, side table) and a sanitary annexe. There was no written procedure or register for the use of this room and the delegation was not able to ascertain with any certainty for how long patients were secluded there or the modalities of their monitoring by staff. **The CPT considers that the use of seclusion should be governed by a written procedure and all instances should be included in a dedicated restraint register.**

114. At the *Casa di Cura San Michele REMS*, agitated patients could be mechanically restrained, on the instruction of a doctor, and the establishment had a protocol for the use of restraint and seclusion. To mechanically restrain a patient, specialised straps with magnetised fixation points were used, permitting up to four-point fixation.[113] As the establishment had no seclusion room, patients were restrained in one of the two single rooms, or, where this was not possible, in their own room, often in the presence of their roommate. A total of five patients had been mechanically restrained since the opening of the REMS. The delegation spoke to one patient who had been restrained in his double room in this way for two days, in the presence of his roommate. Another patient had been placed under four-point restraint for nine days, with the restraints being removed intermittently (for meals, having a shower, going to the toilet, or as a trial removal).[114]

The REMS had a restraint register; however, this was poorly maintained, incomplete and illegible in parts. The delegation was consequently not able to ascertain with any certainty the modalities in place for the monitoring of patients under restraint.

---

112 The management had also developed a procedure for involuntary treatment, involving notification of the Mayor and the guardianship judge of Bologna. This procedure will be addressed further in paragraph 127.

113 The establishment had six such restraint sets.

114 According to the medical file, the patient quickly became aggressive again when the restraints were removed.

115. Moreover, the delegation learned of three patients at the *Casa di Cura San Michele* who had been placed in segregation for periods extending from several days to two weeks in the new, closed section of the accommodation block (see paragraph 88). The staff confirmed that this had been done to prevent conflicts between patients and explained that the segregated patients had been placed in the room nearest the door where they could be observed by a camera in the hallway. Furthermore, they had been allowed to participate in activities (though not to take meals in the common dining room), and a nurse had always been present. The CPT considers that such ad hoc measures to deal with conflicts between patients reflect the limits of the existing structure in terms of providing an adequate level of care to patients, and security to both patients and staff. **In the light of the fact that the section in question is intended to be used for patients' accommodation in future, the Committee would like to receive the observations of the Italian authorities on this point.**

116. At *Castiglione delle Stiviere* both seclusion and mechanical restraint were used, with mechanical restraint being quite frequent throughout the establishment. Each of the existing REMS had one seclusion room, Virgilio had two such rooms and Aquarius, four rooms (for five beds). Seclusion rooms were also used for mechanical restraint.

Each structure had its own restraint register, which was used to record mechanical restraint only. Seclusion without mechanical restraint was not recorded. Registers were incomplete, particularly as to the time of release from mechanical restraint in some cases. According to the information available in the registers, most instances of mechanical restraint lasted from several hours to one day. Some patients alleged, however, that they had been kept under mechanical restraint for much longer periods (up to 8 days in the case of one patient). From the information provided to the delegation, there was no continuous presence of health-care staff to monitor patients under mechanical restraint.

The delegation received numerous allegations of restraint measures being used as an informal punishment. **The CPT must stress that the use of means of restraint in order to punish patients is completely unacceptable and could be considered as ill-treatment. Any such practices must be stopped immediately.**

117. The delegation observed the case of one female patient at *Castiglione delle Stiviere* in Arcobaleno I: a mentally disabled woman who was kept continuously restrained in her wheelchair, her hands heavily bandaged and fixed to the armrests of her chair, according to the staff, in order to prevent her from self-harming.[115] The management of Castiglione delle Stiviere informed the delegation that they were trying to find a more appropriate establishment to care for this patient. The CPT considers that, in the light of this patient's mental disability, her placement in a forensic psychiatric establishment such as a REMS is far from appropriate and **recommends that other possibilities be sought as a matter of urgency. Furthermore, the Committee strongly encourages the Italian authorities to explore other means of managing such situations and would welcome the authorities' comments on this issue**.

---

115 The delegation was told that the patient in question suffered from an uncontrollable impulse to gouge out her eyes.

118. Moreover, the delegation was very concerned at the case of one young male patient at Castiglione delle Stiviere who was visibly slowed down in both his movements and his speech (clearly as a side effect of the neuroleptic medication he had been prescribed), and who was made to sign an attendance sheet each hour. This patient had been in the REMS for a year and had tried to escape three times. Following the third attempt in early August 2015, his psychiatric medication had been modified and augmented.[116] The delegation was told by the medical staff that such medication had been prescribed with the express intention of rendering him physically incapable of attempting to escape, in particular through the psychomotor retardation caused by Fluphenazine, an older generation neuroleptic. The CPT appreciates the difficulties involved in managing escape risks, however, the Committee is of the opinion that such a use of psychotropic medication could be considered to be long-term chemical restraint, or even inhuman and degrading treatment. **The CPT recommends that such practices be stopped.**

119. In none of the establishments visited were measures of chemical restraint recorded on any restraint register, though they were generally recorded in the patient's file.

120. The CPT must stress that seclusion rooms and other measures of restraint should be regarded as means of last resort to deal with imminent risks of injury or threats of violence; they are thus security measures that cannot be regarded as methods of treatment. The use of restraint measures should be the subject of a comprehensive, carefully developed, policy on restraint. The involvement and support of both staff and management in elaborating the policy is essential. Such a policy should specify which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. It should be understood that such comprehensive guidelines are not only a major support for staff, but are also helpful in ensuring that patients and their legal representatives understand the rationale behind a measure of restraint that may be imposed.

More particularly:

- with regard to their appropriate use, restraint measures should be used only as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail satisfactorily to contain those risks; they should never be used as a punishment or to compensate for shortages of staff;

- any resort to seclusion or to the use of mechanical restraint should always be either expressly ordered by a doctor or immediately brought to the attention of a doctor for approval (to this end, the doctor should examine the patient concerned); chemical restraint should never be applied without the prior authorisation of a doctor;

- the use of mechanical restraint should always be for the shortest possible duration, usually minutes to a few hours, and such restraint should be ended when the underlying reason disappears. There can be no justification for the practice of placing patients under mechanical restraint for days on end without interruption. In the CPT's view, such a practice could be considered as ill-treatment. Where mechanical restraint is prolonged past six hours, the measure should be subject to review by a doctor;

---

116 Fluphenazine depot 100 mg (intramuscular injection) every 28 days until 3 March 2016, and thereafter 50 mg (intramuscular injection) every 21days; Valproic Acid 3.4 g; Clonazepam 6 mg; Clotiapine 23 mg; in case of agitation 1 amp (25 mg, intramuscular injection) of Promazine.

- there should be continuous supervision when patients are in seclusion rooms or under mechanical restraint. In the case of mechanical restraint, a member of the health-care staff should be continuously present in order to maintain the therapeutic alliance and provide assistance. Such assistance may include escorting the patient to a toilet facility or helping him or her to drink/consume food;

- a patient subject to mechanical restraint should not be exposed to other patients unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient;

- once means of restraint have been removed, a debriefing of the patient should take place. For the doctor, this will provide an opportunity to explain the rationale behind the measure, and thus reduce the psychological trauma of the experience, as well as restore the doctor-patient relationship. For the patient, such a debriefing is an occasion to explain his or her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his or her behaviour;

- every instance of seclusion or other restraint measures – including chemical restraint – should be recorded in a specific register established for that purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it and an account of any injuries sustained by the patient or staff. This will greatly facilitate the monitoring of the use of restraint by the management and outside bodies.

The CPT recommends that the Italian authorities take the necessary steps to ensure that the above principles concerning the use of seclusion and other means of restraint are the subject of comprehensive protocols for use in all psychiatric establishments where restraint measures are used, and that they are effectively implemented in practice. If necessary, legislation should be adapted. This process should be accompanied by practical training in approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, nursing assistants, etc.) and be regularly updated.

f. safeguards

121. As mentioned above, the closure of the OPGs has not occurred within the time limits set down in law (see paragraph 86). Law No. 81 of 30 May 2014 set the ultimate deadline for closure of the OPGs at 31 March 2015 and provided for the establishment, within 45 days of the law's entering into force, of an "Individual Therapeutic Rehabilitation Plan" (*Progetto Terapeutico-Riabilitativo Individuo*) for the discharge of each patient. On 21 October 2015 the Tribunal for the execution of sentences of Florence determined that patients at *Montelupo Fiorentino OPG* were illegally deprived of their liberty after 1 April 2015. The Region of Tuscany was held responsible for this violation, on the basis that the regional authorities had not established a REMS by this deadline; the authorities were thus tasked with creating within 3 months appropriate structures to receive patients from the OPG. Similar decisions were rendered by tribunals in Sicily and Emilia Romagna.[117]

---

117 With a view to resolving the situation, a Single Commissioner for the Closure of the OPGs (*Commissario Unico per il Superamento degli OPG*) was appointed on 22 February 2016, with a six-month mandate to supervise the closure of the OPGs, the transfer or discharge of patients, and the correct application of the Law of 30 May 2014, based on the underlying principle that the deprivation of liberty of persons suffering from psychiatric illnesses must remain a measure of last resort. The Single Commissioner's mandate has since been extended to February 2017.

122. The reforms to close the OPGs and open up REMS have not amended the judicial decision-making process for the involuntary placement of forensic psychiatric patients. Such placements are ordered on the basis of the certified presence of a mental disorder precluding or substantially reducing the person's capacities of understanding and volition at the time of the act,[118] as well as the determination by the supervisory judge that the person represents a danger to society.[119] Review procedures for the placement of persons in REMS have remained as for placements in OPGs. The placement is reviewed every six months by the relevant supervisory judge, on the basis of an evaluation provided by the establishment where the person is placed, as well as on the determination of the person's "dangerousness" to society.

The CPT has commented in the past on the fact that treating psychiatrists are also required to draw up psychiatric reports on their patients for judicial authorities, emphasising that this is inappropriate on two levels: on the one hand it potentially undermines the doctor/patient relationship; on the other hand it deprives the patient of a fundamental safeguard in the form of the involvement of an independent expert, an aspect which is all the more important given the discretion of the supervisory judge in determining the patient's "dangerousness".[120] **The CPT recommends that placement decisions and reviews be made on the basis of evaluations which involve independent psychiatric experts who are not involved in the treatment of the patient.**

123. Nonetheless, the law of 30 May 2014 has introduced two important safeguards which address previous recommendations made by the CPT. First, judicial decisions as to the "dangerousness" of a patient can no longer be based on the absence of appropriate external structures or care.[121] Thus, patients whose mental condition no longer requires them to be detained in a psychiatric establishment and who no longer pose any danger to society cannot be held in a REMS simply on the basis of the lack of adequate care and/or accommodation in the outside community.[122]

124. Second, the phenomenon of indefinite internment ("*ergastolo bianco*"),[123] linked to the discretion accorded to judges in determining the "dangerousness" of a person, has been addressed with the introduction of an ultimate time-limit, so that no placement may last longer than the maximum sentence possible under penal legislation for the offence in question.[124]

125. The CPT has in the past expressed its concern surrounding the fundamental issue of consent to treatment for forensic psychiatric patients.[125] The CPT must stress here again that the involuntary placement of patients in psychiatric establishments does not entitle the health-care staff to disregard the generally recognised rule of "free and informed consent" to treatment.

---

118 Articles 88 and 89 of the Penal Code.
119 Articles 202 and 203 of the Penal Code.
120 CPT/Inf (2010) 12, paragraphs 146 and 160.
121 Law No. 81 of 30 May 2014, Article 1, comma 1(b).
122 See CPT/Inf (2010) 12, paragraph 159.
123 See CPT/Inf (2010) 12, paragraph 160.
124 Law No. 81 of 30 May 2014, Article 1, comma 8, 8.1, 1 quater.
125 See for example, paragraph 158 of CPT/Inf (2010) 12.

According to the information gathered by the delegation, health-care staff in the establishments visited in practice generally sought the consent of patients for any given treatment. The CPT's delegation observed that patients in the *Casa di Cura San Michele* and the *Casa degli Svizzeri REMS* had signed consent forms relating to their treatment. At *Castiglione delle Stiviere*, in contrast, staff considered that the patients' involuntary placement authorised involuntary treatment as a matter of course.

126. At *Montelupo Fiorentino OPG*, in the event that treatment had to be administered against the will of the patient, the health-care staff resorted to a procedure for an "extra-hospital involuntary placement order (TSO)" (*TSO extraospedaliero*). According to an interpretation of Italian mental health law accepted by the Conference of Regions and of Autonomous Provinces in 2009,[126] besides the regular TSO procedure involving hospitalisation in an SPDC (see paragraph 142), it is also possible to impose mandatory psychiatric treatment outside of an SPDC, for example at the person's domicile or at a Mental Health Centre (*Centro di Salute Mentale*), where such treatment is considered adequate.[127] The management of the OPG has taken the view that an establishment such as an OPG (or a REMS for that matter) could be considered to be the patient's "domicile" within the meaning of the law, allowing the TSO procedure to be implemented there.

In such cases, the original request for placement is presented by the director of the establishment, and validated by a doctor from the DSM, before the mayor issues the decision for placement within 48 hours. As with the regular TSO, its validity is limited to seven days, after which it must be reviewed. There is a fundamental difference, however, between the two types of TSO. In the case of the "extra-hospital TSO" co-validation by the guardianship judge is not required.

This is the approach which has been adopted by the OPG. At the time of the visit the management of *Castiglione delle Stiviere* was also intending to implement this procedure in cases where it was necessary to administer treatment against the wishes of the patient. The *Casa di Cura San Michele* had applied to the relevant guardianship judge for authorisation to implement such a procedure, while the *Pontecorvo REMS* preferred to send patients refusing treatment to the relevant SPDC under the regular TSO procedure.

127. At the *Casa delle Svizzeri REMS*, patients could be sent to the relevant SPDC under a regular TSO procedure where this was considered necessary, however, the REMS also had the option of using an involuntary treatment procedure developed by the DSM. A special form was used for this purpose entitled "Request for Extra-Hospital Obligatory Pharmacological Treatment" (*Richiesta di Trattamento Farmacologico Obbligatorio Extraospedaliero*), which provided for an initial request of the treating doctor for specific treatment, including the reasons for the request and the type of treatment proposed, to be notified to the mayor and the guardianship judge. The request was valid for a single treatment only, with an express prohibition on "renewal" of the measure.

---

126 Conferenza delle Regioni e delle Province Autonome 09/038/CR/C7 "*Raccomandazioni in merito all'applicazione di accertamenti e trattamenti sanitari obbligatori per malattia mentale*" (Art. 33-34-35 Legge 23 dicembre 1978, N. 833).

127 Part of the logic behind this interpretation of the law is that the quality of health-care offered in different regions is not consistent, so that some flexibility is allowed for where appropriate health-care services are available outside of the SPDC.

128. The CPT wishes to stress that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment – be it in the context of civil or criminal proceedings – should not preclude seeking informed consent to treatment. Every patient, whether voluntary or involuntary, should be informed about the intended treatment. Further, every patient capable of discernment should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

The CPT is concerned at the absence of a clear legal framework regulating the administration of involuntary treatment for forensic psychiatric patients. As has been illustrated above, the approach followed varied widely amongst the different regions and establishments. A more consistent approach, involving practical guidelines for use in the relevant establishments, should be adopted.

In addition, regarding the "extra-hospital TSO" procedure, the CPT is concerned that it does not offer the fundamental safeguard of co-validation by a judge and that the absence of a clear legal framework surrounding its use represents a situation of ambiguity which could lead to abuse.

The CPT recommends that the Italian authorities establish a clear legal framework for the involuntary treatment of forensic psychiatric patients, in the light of the above remarks. Further, patients should be able to appeal against a compulsory treatment decision to a competent tribunal and the patient should be informed in writing of this right.

129. For all persons deprived of their liberty, their right to contact with the outside world constitutes a fundamental safeguard. In all the establishments visited, patients' rights concerning visits, telephone calls and authorised leave from the establishment were regulated by the Penitentiary Rules. In the light of the new legislative reforms placing the care of forensic psychiatric patients squarely and exclusively under the authority of the health-care authorities, subjecting such basic safeguards to rules designed for penitentiary establishments seems far from appropriate. The CPT's delegation raised this issue in their preliminary observations at the end of the visit. In their response dated 6 June 2016, the Italian authorities indicated their intention to look into this issue with a view to making necessary recommendations. The Committee also notes that the final report of the *Stati Generali sull'Esecuzione Penale* (see also paragraph 24) proposes the introduction of new internal regulations of an exclusively "health-care" nature, and clearly distinct from the Penitentiary Rules.[128] **The CPT welcomes the initiative of the authorities in this regard and would like to be kept informed of all developments on this issue.**

---

128 Stati Generali sull'Esecuzione Penale, Documento finale, Parte Quarta, L'esecuzione penitenziaria: responsabilizzazione e nuova vita detentiva, §7.2 *I "pazienti psichiatrici giudiziari"*, §7.3 *L'esigenza di una disciplina uniforme nelle REMS*, available at https://www.giustizia.it/resources/cms/documents/documento_finale_SGEP.pdf

130. The appointment of a *Garante Nazionale* (see paragraph 8) has also been an important development, since the latter's mandate covers all persons deprived of their liberty, including persons placed in REMS, who have the right to communicate with the *Garante Nazionale* directly and confidentially. In addition, the *Garante Nazionale*'s staff expressed to the CPT's delegation their willingness to carry out visits to forensic psychiatric establishments as soon as the staffing level permitted this. **The CPT encourages the Italian authorities to ensure adequate staffing and administrative arrangements for the full realisation of the new body's mandate, including the monitoring of forensic psychiatric establishments throughout the country.**

131. As the CPT has observed in the past,[129] the information provided to forensic psychiatric patients was far from satisfactory. In particular, most of the patients interviewed by the CPT's delegation expressed frustration at the lack of information provided to them concerning their legal status and the means of recourse open to them.

The CPT recommends that an information brochure, available in an appropriate range of languages, setting out the facility's routine and patients' rights - including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures - be drawn up and issued to all patients on admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance. Further, all patients should have access to a patient advocacy office which is able to explain patients' rights and assist patients in making applications.

g. other issues

132. Italian law provides that REMS must have adequate security arrangements in place to secure the external perimeter of the establishment, which are the responsibility of the *Prefettura.* The delegation observed a variety of arrangements in place in the different REMS visited. At *Castiglione delle Stiviere*, internal security was provided by unarmed employees of the ASL, while external security was ensured by the police. At the *Casa di Cura San Michele* three unarmed security guards controlled the perimeters during the day. At *Pontecorvo* two unarmed security guards worked round the clock within the structure, one controlling the main entrance, and the other in a control room on the third floor.

However, at the *Casa degli Svizzeri REMS*, an armed guard, who controlled the entrance to the building, was present 24 hours a day. In its preliminary observations the CPT's delegation communicated to the authorities that the Committee considers it unacceptable for armed guards to work within psychiatric establishments in contact with patients. In their response of 6 June 2016, the Italian authorities informed the CPT that the matter had been raised informally with the authorities of the region of Emilia-Romagna, who had explained that the measure was at the request of the *Prefettura*. **The CPT recommends that armed guards not be employed within REMS in positions where they may have contact with patients. The Committee would like to receive updated information concerning the situation at the Casa degli Svizzeri REMS in this regard.**

---

129 See, for example, CPT/Inf (2010) 12, paragraph 162.

133. In the *Casa di Cura San Michele*, *Casa degli Svizzeri* and *Pontecorvo* REMS, health-care staff could request the intervention of security guards in order to manage aggressive or violent patients. With the exception of the *Casa di Cura San Michele*,[130] none of the security staff appeared to have undergone any specific training for dealing with psychiatric patients. Bearing in mind the challenging nature of their work, it is of crucial importance that security staff in a psychiatric establishment be carefully selected and that they receive appropriate training before taking up their duties, as well as in-service courses. Furthermore, any interventions by security staff which involve interaction with patients should always be carried out under the supervision of health-care staff. **In the light of the above, the CPT recommends that steps be taken to review the procedures for the selection of security staff employed at the REMS visited as well as their initial and ongoing training. Detailed regulations concerning the duties of security staff working in psychiatric establishments should be adopted.**

3. Adult general psychiatry

134. The CPT's delegation paid a targeted visit to the *Psychiatric Service for Diagnosis and Care* (SPDC) located on the premises of the San Giovanni Battista University Hospital Complex of Torino (*"le Molinette"*, as it is commonly known), in order to examine the procedures for the involuntary placement of psychiatric patients as well as the use of means of restraint. With an official capacity of 14, at the time of the visit it was accommodating 12 adult patients (10 female and two male), none of whom were subject to an involuntary placement order (TSO). On average, some 9% to 10% of all admissions were carried out on an involuntary basis, with approximately 20% of TSO renewed for a further seven days following the initial seven-day period of validity. The average length of stay of patients in the SPDC was 11 days.

135. As regards living conditions, patients were accommodated in five rooms: four rooms with three beds each and one double room. Only two of the rooms had a sanitary annexe, however patients in the other rooms had access to common sanitary facilities which were adequate. Patients' rooms were not locked.[131] There was also a common room with a TV, four tables and 14 chairs.

136. The health-care team of the SPDC was very well staffed with six psychiatrists, including the head psychiatrist, 14 nurses and five nursing assistants. A duty doctor from the hospital was on call whenever there was no psychiatrist present. Nursing staff were present around the clock, with three nurses working with two nursing assistants during the morning shift, and two nurses and one nursing assistant present during the afternoon and night shifts.[132]

137. The psychiatric treatment provided to patients was mainly focused on pharmacotherapy, based on an individualised treatment plan, which also included psychotherapeutic approaches.

138. All patients had individual and confidential medical files, which were comprehensive and well-kept.

---

130 All *Casa di Cura San Michele* staff had undergone specific training in September 2015 relating to their work with psychiatric patients organised by the regional health authorities.

131 The SPDC itself is located in a closed section behind locked doors.

132 The SPDC health-care staff were also responsible for patients from penitentiary establishments accommodated in the secure unit of the hospital (see also paragraph 57).

139. The SPDC had no seclusion rooms. Episodes of agitation, violence or aggression were usually managed by resorting to chemical and/or mechanical restraint, and the SPDC had two complete sets of equipment (cloth straps) permitting 5-point restraint (including an abdominal restraint allowing the patient to be in a half-sitting position). According to the information gathered by the CPT's delegation, from 20% to 30% of patients admitted under a TSO procedure were subjected to mechanical restraint. The duration of such measures was normally for several hours. The SPDC followed written procedures in place for the entire hospital governing the use of restraint measures (and covering also somatic and geriatric care).

Patients were normally subjected to mechanical restraint on a bed in the corridor of the service near the infirmary, with a screen to provide privacy from other patients. According to the medical staff, this was to ensure that the patient under restraint could be continuously observed by the staff. While appreciating that such modalities facilitated to an extent monitoring of the patient by health-care staff, the CPT nevertheless considers that it is not acceptable to keep patients under mechanical restraint in a common corridor, even where a screen is provided to protect their privacy.

140. Mechanical restraint was generally applied upon the order of a doctor and every instance was recorded in an ad hoc register and in the patient's file. In most cases where the measure lasted longer than a few hours, restraints were removed intermittently.

The CPT's delegation was concerned to note that, according to the restraint register, patients were on occasion subjected to mechanical restraint for continuous periods lasting for almost an entire day, and in one case for four days.

141. **The CPT refers to its remarks and recommendations concerning the use of measures of restraint in paragraph 120, which apply to all psychiatric establishments, whether civil or forensic.**

142. As regards the involuntary placement procedure of a civil nature, the situation remained virtually unchanged since the 2012 visit and the recommendations made during previous visits still apply. **The CPT therefore calls upon the Italian authorities to take appropriate measures (including at the legislative level) to ensure that, in the context of initial TSO procedures, as well as any prolongations of the placement order:**

- **the formal decision to place a person in an SPDC is always based (except in emergency cases) on the opinion of at least one doctor with a professional qualification in psychiatry;**
- **doctors are reminded to draw up detailed medical certificates;**
- **as far as possible, a patient's treating psychiatrist is not required to draw up the statutory detailed initial or "co-validation" certificate relating to the involuntary admission of his or her patient to a SPDC;**
- **patients are as a rule heard in person by the competent guardianship judge, preferably on the hospital premises.[133]**

---

133 See also CPT/Inf (2013) 32, paragraph 131.

143. The CPT's delegation noted that, whereas there was a procedure in place for obtaining the informed consent to treatment of voluntary patients, no such procedure was required for patients placed in the SPDC under a TSO, the medical staff considering that involuntary treatment was authorised on the basis of the existence of a state of necessity.[134] **On this issue the CPT refers to its remarks and recommendation concerning involuntary treatment in paragraph 128, which also apply here.**

134 Article 54 of the Penal Code.

APPENDIX

LIST OF THE NATIONAL AND REGIONAL AUTHORITIES, NON-GOVERNMENTAL ORGANISATIONS AND PERSONS WITH WHOM THE DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Justice

Andrea ORLANDO	Minister
Gennaro MIGLIORE	Undersecretary of State
Giovanni MELILLO	Head of the Private Office of the Minister
Santi CONSOLO	Head of the Department of Penitentiary Administration
Massimo DE PASCALIS	Deputy Head of the Department of Penitentiary Administration
Calogero PISCITELLO	Director of the Office of Detained Persons and Rehabilitation Department of Penitentiary Administration

Ministry of the Interior

Domenico MANZIONE	Undersecretary of State
Sandra SARTI	Prefect, Deputy Head of the Private Office of the Minister
Mariacarla BOCCHINO	*Vice Questore*, Department of Public Security
Maria Vittoria PONTIERI	Deputy Prefect, Department of Civil Liberties and Immigration

Ministry of Health

Liliana LA SALA	Director of the Office of Prevention of Addiction, Doping and Mental Health
Maria Grazia POMPA	Director of the Office of Relations with the EU, the CoE, the OSCE, WHO and other agencies of the UN and International Organisations
Teresa DI FIANDRA	Senior Psychologist, Office of Prevention of Addiction, Doping and Mental Health

Ministry of Foreign Affairs

Gian Ludovico DE MARTINO	Minister Plenipotentiary and President of the Inter-Ministerial Committee on Human Rights (CPT's liaison officer)

Office of the *Garante Nazionale dei Detenuti e Persone Private di Libertà (Garante Nazionale)*

Mauro PALMA	Garante Nazionale

B. Regional authorities

Franco CORLEONE	*Garante* for the Region of Tuscany and *Commissario Unico per il Superamento degli OPG*
Bruno MELLANO	*Garante* for the Region of Piemonte
Monica Cristina GALLO	*Garante* for the City of Turin

C. Non-governmental organisations

Antigone

Associazione A Buon Diritto