



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



National Preventive Mechanism under the OPCAT

The National Guarantor in the context of Covid-19 outbreak

Rome, 28 April 2020

Networking with the local Guarantors on deprivation of liberty in contexts other than prisons

A video conference was held this morning with the Guarantors of the Regions, Provinces, Metropolitan Cities and Municipalities to discuss with the National Guarantor on situations of deprivation of liberty in Immigration Removal Centres (CPRs), hotspots and places of quarantine, in health rehabilitation and care facilities, such as the Residences for the enforcement of security measures (REMS) and the social care homes for persons with disabilities and the elderly (RSDs and RSAs).

With regard to migrants, the number of those detained in CPRs seems to have reached the plateau, with 240 third-country nationals there held. The Centres are generally well below their total capacity, with only two exceptions: in Macomer and in Gradisca di Isonzo CPRs, which are almost at their maximum capacity. As regards the hotspots, the numbers of migrants communicated in the previous days are confirmed: 116 people in Lampedusa, 50 in Pozzallo and 57 in Messina.

As reported in the past, hotspots and other structures of the Sicilian territory in this period of health emergency have become temporary quarantine places for foreign citizens landed on the Italian coast. By circular note of 18 March 2020, the Head of Department for Civil Liberties and Immigration established, in fact, that all migrants arriving to the Italian territory are subjected to health screening and quarantined, in compliance with the general provisions foreseen for the community and issued in Decree-Law of 17 March 2020 by the Minister of Infrastructures and Transport and the Minister of Health.

The ongoing emergency — as pointed out in other occasions — has been paramount for public Authorities in deciding the use of vessels as places of quarantine for people rescued at sea and for whom a Place of Safety (PoS) was refused. Moreover, the inter-ministerial Decree No.150 of 7 April 2020 established that «For the entire period of health emergency [...] Italian ports will lack the necessary requirements to be classified Place of Safety [...] for cases of rescue carried out by naval units flying a foreign flag outside the Italian SAR [Search and Rescue] area».

This special procedure has been first applied, and for the moment only, on migrants rescued by the "Alan Kurdi" and "Aita Mari" vessels, who were transferred respectively on 17 and 19 April on board the ship "Raffaele Rubattino" of the Italian Tirrenia Company. The ship will remain anchored a mile off the port of Palermo for the duration of the quarantine period.

On board, migrants are assisted by the crew members and the Red Cross staff, this last appointed by the Civil Defence to cater for health care and any other basic needs to rescued foreign citizens.

The experience of the ship "Rubattino" is not going to be an isolated case because — on April 19 — the Ministry of the Infrastructures and Transport has established a procedure for renting naval units to be used for health care and monitoring of migrants rescued at sea or who approached the Italian coasts on

their own boats. As stated in the Advice published on the Ministry's website, the ships will be hosting migrants for the compulsory quarantine before heading to the PoS indicated from time to time.

While sharing the needs and responsibility of the Authorities concerned to deal with the ongoing epidemiological emergency by implementing any restrictive measures required by law, the management of this particular emergency phase cannot be alienated from the recognition and protection of the fundamental rights the Constitution and many Conventions are granting to anyone who stays in or has arrived to our country.

The implementation of quarantine measures in extraordinary and exceptional places cannot result in a 'limbo' situation: foreign nationals migrating to Italy are to be considered under the Italian State jurisdiction for the purposes of health care measures imposed on them. Yet — for many days — they do not have the opportunity to exercise the rights that our country grants and protects. They cannot claim asylum, they are not in fact — at least temporarily — protected as victims of trafficking or as unaccompanied minor migrants, nor can they promptly access the procedures for family reunification under the Dublin Regulation, which, however, have an intrinsic expiry date.

Obviously, to these protective measures the fundamental guarantee of every person deprived of freedom to receive clear and exhaustive information on the reasons behind the restrictive measure is to be added. To this extent, hesitation showed by the Authority concerned in providing reliable information as to the destination of the people on board the ship is not reassuring. From this point of view, a compulsory quarantine placed on people for whom it is not currently possible to indicate a housing solution appears contradictory and critical.

During the meeting with the Guarantors, the results of the survey on nursing homes (RSAs) carried out in collaboration with the National Guarantor, already reported in our bulletin, were illustrated as well as the situation relevant to the Covid-19 prevention measures acknowledged in the Residences for the execution of security measures (REMS). From the first findings of the monitoring started almost one week ago by the National Guarantor on the 30 residences, the number of persons tested positive is 23, concentrated in two facilities located in northern Italy.

Prisons

As you know, as we start writing today's bulletin, the press is announcing the appointment of Roberto Tartaglia as deputy head of the Department of Prison Administration (DAP). It is absolutely positive that managerial posts are made no more vacant in the current complex situation, especially when the Department had the deputy leadership unoccupied since long time.

Much understandable it is nowadays the focus on special detention regimes which enforcement may have a great echo and impact on the public opinion. Nevertheless, this greater attention paid to them shall not allow losing sight of the fact that all discussions about prison and the impact on prison population and staff of the contagion cannot be summarised in 9,832 prisoners held in high-security and 41-*bis* detention regimes. Debating on prison means, today, to have an overall consideration on the totality of prison population, namely the 44,336 prisoners held in detention, beyond those in high-security units. All discussions and arguments become even more rigorous if figures are analysed from other perspectives: for instance, 7,180 prisoners have to serve a sentence of less than one year, even if remaining of a longer conviction, and 14,298 are condemned to less than two years. Above all, it is to reflect on these figures and address possible measures to reduce overcrowding to this specific group of prisoners. It is paramount to look after numbers in prison population in times of health emergency. Indeed, it is crystal clear that there is a need not only to respect the total capacity of penal institutions, but also not to make them occupied in their totality, given the necessity to have places available for health isolation and quarantine all along the outbreak of infection.

To date, imprisoned population is of 54,168, out of which 53,345 are actually held in prison cellblocks. The total capacity is of 46,731 places.

The number of cases tested positive for Coronavirus sensitively rocketed yesterday and has approached 150 cases, with a slight increase today of some new cases, concentrated mainly in two prisons.

As of today, 2,711 prisoners are now serving their time on home detention out of which 655 are under supervision with electronic monitoring bracelets.

During the meeting held today with the local Guarantors, an important aspect related to work opportunities for prisoners in times of Covid-19 has been raised by the Guarantor of the Metropolitan City of Rome and brought to the attention of the participants. Concerns were expressed about the destiny of those who have had their job activity [pursuant to article 21 of the Prison Act] suspended either because the prison governor did not allow the prisoner to exit and re-enter prison for issues related to contagion or the employer outside prison has interrupted its working activity. In both cases, the key aspect of protecting the rights of workers not receiving either their wages or any other unemployment benefits is to be undoubtedly considered. These are situations which are dissimilar to each other and which require different recipients. The National Guarantor has committed itself, in collaboration with the local Guarantors, to deal the matter with the relevant Regional Prison Directorates and with the Ministry of Labor, in view of a necessary solution.

The next bulletin will be released on Friday.