



CPT/Inf (2013) 32

## **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 13 to 25 May 2012**

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 (2013) 33.

Strasbourg, 19 November 2013



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**Copy of the letter transmitting the CPT's report**

Mr Diego Brasioli  
Minister Plenipotentiary  
Ministry of Foreign Affairs  
Piazzale della Farnesina 1  
I - 00194 Rome

Strasbourg, 12 December 2012

Dear Mr Brasioli,

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 13 to 25 May 2012. The report was adopted by the CPT at its 79<sup>th</sup> meeting, held from 5 to 9 November 2012.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 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 that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

The CPT 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,

Latif Hüseyinov  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

Copy: Mr Manuel Jacoangeli, Ambassador Extraordinary and Plenipotentiary,  
Permanent Representative of Italy to the Council of Europe

## 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 13 to 25 May 2012. It was the Committee’s tenth visit to Italy.<sup>1</sup>

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

- Jean-Pierre RESTELLINI, Acting 2nd Vice-President of the CPT (Head of delegation)
- Régis BERGONZI
- Alfred KOÇOBASHI
- Anna LAMPEROVA
- Vincent THEIS.

They were supported by Michael NEURAUTER, Head of Division, Christian LODA and Thobias BERGMANN of the CPT’s Secretariat and assisted by:

- Catherine PAULET, psychiatrist, Head of the Regional Medico-Psychological Service at Baumettes Prison, Marseille, France (expert)
- Christian-Nils ROBERT, Professor Emeritus of criminal law, University of Geneva, Switzerland (expert)
- Maria FITZGIBBON-ALARI (interpreter)
- Antonella LUCCARINI (interpreter)
- Ilaria MATTEI (interpreter)
- Anna-Lisa MORGANTI (interpreter)
- Beatrice SANTUCCI-FONTANELLI (interpreter).

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<sup>1</sup> The CPT has carried out five other periodic visits (in 1992, 1995, 2000, 2004, and 2008) as well as four ad hoc visits (in 1996, 2006, 2009 and 2010) to Italy. Except for the report on the 2010 visit, 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:

### Law enforcement establishments

- Florence State Police Headquarters (*Questura*)
- Messina State Police Headquarters (*Questura*)
- Milan State Police Headquarters (*Questura*)
- Palermo State Police Headquarters (*Questura*)
- Rome State Police Headquarters (*Questura*)
- Messina Gazzi *Carabinieri* Station
- Milan Ponte di Magenta *Carabinieri* Station
- Milan Municipal Police Headquarters (*Ufficio Centrale Arresti e Fermi*)
- Messina Municipal Police Station - Caserma "Orazio di Maio"

### Detention centres for foreigners

- Bologna Identification and Expulsion Centre (*Centro di Identificazione ed Espulsione*, via Mattei)

### Prisons

- Bari Prison
- Florence-Sollicciano Prison
- Milan-San Vittore Prison (remand prisoners and Centre for Neuropsychiatric Observation – *CONP*)
- Palermo-Ucciardone Prison (health-care services and situation of remand prisoners)
- Terni Prison (Unit for « 41-bis » prisoners)
- Vicenza Prison

In addition, the delegation went to Messina Prison, in order to interview newly-arrived remand prisoners. It also paid a brief visit to Palermo-Pagliarielli Prison, in order to collect information on admission procedures.

### Psychiatric establishments

- Barcellona Judicial Psychiatric Hospital (*OPG*) and Care and Surveillance Centre (*Casa di Cura e Custodia*)
- Psychiatric Service for Diagnosis and Care (*SPDC*) at the Milazzo General Hospital
- Naso Therapeutic Community Centre (*Comunità Terapeutica Assistita – CTA*).

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

4. In the course of the visit, the delegation had fruitful consultations with Paola SEVERINO DI BENEDETTO, Minister of Justice, Renato BALDUZZI, Minister of Health, Saverio RUPERTO, Under-Secretary of State of the Ministry of the Interior, and Massimo RUSSO, Counsellor (*Assessore*) of Health of the Region of Sicily. It also held meetings with senior officials from the Ministries of Foreign Affairs, Justice, the Interior and Health, as well as with representatives of the *Carabinieri* and the *Guardia di Finanza*. Further, it met 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 II to this report.

5. The co-operation received throughout the visit from both the national and regional authorities and the staff at the establishments visited was excellent; all staff met by the delegation made a genuine effort to be helpful and co-operative. The delegation enjoyed rapid access to all the places visited (including those which had not been notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

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

**D. Introduction of the crime of torture in the Penal Code**

6. Before setting out the delegation's findings, the CPT wishes to express its concern that, despite more than 20 years of discussions before Parliament and the elaboration of nine draft bills, the Italian Penal Code still does not contain a specific provision which penalises the crime of torture<sup>2</sup>. The most recent draft bill (new Section 593bis), which had been submitted to the Senate for adoption, has recently been returned to the Commission of Legal Affairs for further deliberations, and it remains unclear as to when an amendment to the Penal Code will be enacted.

**The Committee urges the Italian authorities to redouble their efforts to introduce as soon as possible the crime of torture into the Penal Code, in accordance with Italy's longstanding international obligations.** Further, with a view to reinforcing the dissuasive force of such a specific offence, **the necessary steps should be taken to ensure that the crime of torture is never subject to a statute of limitations.**

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<sup>2</sup> In 2002, the crime of torture was introduced into the Military Penal Code (Section 185bis).



## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police custody

#### 1. Preliminary remarks

7. In the course of the visit, the CPT's delegation visited five State Police Headquarters (*Questure*), two *Carabinieri* Stations and two Municipal Police establishments in different parts of Italy.

8. As regards the legal framework, the general provisions on the legal grounds for the deprivation of liberty by law enforcement agencies of persons who are suspected of having committed a criminal offence remain unchanged since the 2008 visit.<sup>3</sup>

Criminal suspects who have been taken into custody (*arresto* or *fermo*) are normally held in a law enforcement establishment for no more than 24 hours before being transferred to a remand prison (pending the hearing before the judge and the subsequent court decision).

However, the Code of Criminal Procedure (CCP) provides for an accelerated judicial procedure<sup>4</sup> (*giudizio direttissimo*) for persons apprehended *in flagrante* (*arresto*) and for criminal suspects who have confessed to an offence during their interrogation by a public prosecutor. Such persons may be tried within 48 hours of their *arresto* or *fermo*, whilst being detained in a law enforcement establishment.

Further, following a recent amendment to Section 558 CCP by the so-called "*Svuota Carceri*" Law<sup>5</sup>, persons who are suspected of having committed a criminal offence may be detained, upon the order of the competent public prosecutor, in a law enforcement establishment until the moment when the court reaches a decision on a possible remand detention, which can in principle last up to 96 hours as from the time of apprehension.

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<sup>3</sup> The Code of Criminal Procedure (CCP) provides for the following possible grounds for the deprivation of liberty by law enforcement agencies: (a) apprehension *in flagrante delicto*<sup>3</sup> (*arresto in flagranza*) (Sections 380 and 381 CCP) and (b) provisional detention (*fermo*) when there is a suspicion that a person has committed a criminal offence of a certain gravity and a risk that the suspect will escape (Section 384 CCP).

Whenever a person is taken into custody (*arresto* or *fermo*), the law enforcement officials concerned must immediately inform the competent public prosecutor. The detained person must be "placed at the disposal" of the public prosecutor as soon as possible, and in all cases within 24 hours. The CCP stipulates that this measure shall involve the transfer of the person concerned to a remand prison. The prosecutor must then submit - within 48 hours from the time of *arresto* or *fermo* - a request for validation of the detention order to the judge responsible for the preliminary inquiry (Section 390 CCP). Within the following 48 hours, the judge must decide on whether to remand the person in custody or to release him/her.

In addition, a criminal suspect may be arrested on the basis of an arrest warrant issued by a judge (Section 285 CCP), in the case of which the person concerned must be transferred as soon as possible to a remand prison. According to Section 349 CCP, persons may also be deprived of their liberty by law enforcement agencies for identification purposes, for a period not exceeding 24 hours.

<sup>4</sup> See Sections 449 *et seq.* and 558 CCP.

<sup>5</sup> Law No. 9 of 17 February 2012.

The above-mentioned law was adopted in order to alleviate the widespread problem of prison overcrowding (see paragraphs 43 to 45). On the other hand, it gives rise to concern, since many detention facilities of law enforcement agencies are not suited to accommodate detained persons for periods of days (see paragraph 24).

## **2. Ill-treatment**

9. As was the case during the two previous periodic visits (in 2004 and 2008), 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 (State police, municipal police, *Carabinieri* or *Guardia di Finanza*).

However, the delegation did receive a number of allegations of physical ill-treatment and/or excessive use of force by State Police and *Carabinieri* officers. The alleged ill-treatment mainly consisted of punches, kicks or blows with batons, at the time of apprehension (after the persons concerned had been brought under control) and, on occasion, during their stay in a law enforcement establishment. In several cases, the delegation found medical evidence in relevant registers in prisons which was consistent with the allegations made<sup>6</sup>.

Most of the allegations were received from foreign nationals and, more specifically, from foreigners who had been apprehended by police and *Carabinieri* officers in the Milan area.

In addition, a number of foreign nationals met by the delegation – in different parts of Italy – claimed that they had been the victim of verbal abuse of a racist nature by law enforcement officials.

**The CPT recommends that a formal message emanating from the relevant authorities be delivered to all law enforcement officials in the Milan area, reminding them that they should be respectful of the rights of persons in their custody and that the physical ill-treatment of such persons, whether at the time of apprehension or subsequently, will be the subject of severe sanctions.**

**Further, law enforcement officials throughout Italy should be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be punished accordingly.**

10. The CPT recalls that prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons by law enforcement officials through the systematic recording of injuries and the transmission of information to the relevant authorities (see also paragraphs 81 and 82).

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<sup>6</sup> By way of example, at Milan-San Vittore Prison, an examination of medical records revealed that, during the two months preceding the visit, 18 persons who had been admitted to the prison with visible injuries had indicated to the prison doctor that the injuries resulted from ill-treatment by law enforcement officials. In all cases, the doctor concluded that the injuries were (or may be) consistent with the allegations made; the prognosis for recovery estimated by prison doctors ranged from four to 14 days. That said, by the time of the visit, several of the persons concerned were no longer present in the prison.

In this regard, the CPT is very concerned about the action taken – or rather lack of action – by the relevant judicial authorities in potential cases of ill-treatment (even when supporting medical evidence was available). This is the result of a fundamental flaw in the current criminal justice system.

The Committee acknowledges the efforts made by medical staff and the management of the prisons visited to systematically communicate all cases of traumatic lesions which were indicative of ill-treatment by law enforcement officials in a timely manner to the competent judge (*i.e.* the judge who imposed remand detention or, in the case of sentenced prisoners, the supervisory judge). In cases where the estimated prognosis for recovery exceeded 20 days, the prosecutor's office was also notified systematically.

However, from the consultations which the delegation held in the course of the visit with the President of a Supervisory Court of Milan as well as with a prosecutor, it became clear that supervisory judges would forward the above-mentioned cases to the prosecutor's office only if the prognosis for recovery had been estimated by the prison doctor to *exceed 20 days*. In the same vein, the interviewed prosecutor affirmed to the delegation that even if he did receive reports of traumatic lesions which may have been the result of ill-treatment by law enforcement officials (or prison officers) but had an estimated prognosis for recovery of *20 days or less*, he would only be in the position to initiate a preliminary inquiry upon receipt of a formal complaint by the alleged victim. In other words, for as long as the victim him/herself or his/her lawyer does not submit any such complaint, no action will be taken by a prosecutor.

This highly unsatisfactory state of affairs stems from the fact that the (only) provision of the Penal Code which is in principle applicable in such cases (Section 582), 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 as set out in Section 583 (e.g. invalidity, loss of a corporal sense or permanent facial disfigurement) or Section 585 (e.g. use of weapons) of the Penal Code apply.

11. It is a well-known fact that detained persons are often reluctant to take the initiative of lodging a formal complaint about ill-treatment by law enforcement officials (or prison officers), due to fear of reprisals or other negative consequences. In addition, a threshold of recovery of 20 days for a case of possible ill-treatment to be taken up by a prosecutor *ex officio* is far too high. The CPT's experience in various countries has shown all too often that severe physical ill-treatment or even torture can be inflicted on a person leaving injuries which heal in less than 20 days and that such methods can in some cases be applied without leaving any visible traces whatsoever.

Consequently, all information which is indicative of ill-treatment of detained persons should be followed up by the relevant judicial authorities, if need be, *ex officio*.

The introduction of the crime of "torture" in the Penal Code, which is currently under discussion before Parliament, will constitute a partial remedy in this regard (see paragraph 6). The CPT also notes that, in a recent judgment<sup>7</sup>, the Court of Cassation held that Section 572 of the Penal Code, which penalises the crime of "domestic violence" (*maltrattamento in famiglia o verso fanciulli*) and which is criminally prosecutable *ex officio*, may under certain circumstances be applicable in cases of ill-treatment of prisoners by staff in a carceral environment. However, the CPT understands that this extensive interpretation of the current criminal legislation is unlikely to extend to instances of ill-treatment of detained persons in a police custody context.

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<sup>7</sup> Judgment No. 30780 of 27 July 2012.

12. In the light of the above, it is clear that the current criminal legislation displays a major lacuna which undermines the prevention of ill-treatment by law enforcement officials and may well foster a climate of impunity.

**The CPT recommends that the Italian authorities take the necessary steps to ensure that the physical ill-treatment of persons deprived of their liberty by law enforcement officials (or other persons acting on behalf of a public authority) becomes prosecutable *ex officio* irrespective of the prognosis of recovery. To this end, the criminal legislation should be amended so that the 20-day threshold set out in Section 582 of the Penal Code no longer applies in such cases.**

Further, the Committee recommends that steps be taken by all relevant authorities to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. If necessary, the relevant legal provisions should be amended accordingly.

### **3. Safeguards against ill-treatment**

13. The CPT recalls that the fundamental safeguards against ill-treatment, namely the rights of detained persons to notify a close relative or another trusted person of their detention and to have access to a lawyer and a doctor should apply from the very outset of their deprivation of liberty (*i.e.* from the moment when the persons concerned are obliged to remain with a law enforcement agency). These rights should be enjoyed not only by criminal suspects, but also by all other categories of persons who are obliged to remain with law enforcement agencies for other reasons (e.g. for identification purposes).

14. As regards the provision of information on rights, the findings during the visit would suggest that, as in 2008, detained persons were in most cases informed of their rights verbally promptly upon their arrival at a law enforcement establishment and also received a copy in the relevant language of a standardised information sheet on the rights of detained persons.<sup>8</sup>

That said, it is regrettable that in several establishments visited and, in particular, in the establishments of the Municipal Police in Milan and Messina, no such information sheets were in use. In addition, at the Palermo Questura, the information sheet was only provided to foreign nationals in the relevant language but not to Italian-speaking detained persons.

Further, as far as the delegation could ascertain, persons who were deprived of their liberty for identification purposes, were normally not informed of the above-mentioned rights.

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<sup>8</sup>

The information sheet was available in a wide range of languages.

The CPT reiterates its recommendation that steps be taken by the relevant authorities to ensure that, in all law enforcement agencies (including all municipal police services), persons who have been deprived of their liberty – for whatever reason – are fully informed of their rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with a law enforcement official). This should be ensured by provision of clear verbal information at the very outset, to be supplemented by provision of the above-mentioned information sheet immediately upon arrival at a law enforcement establishment. Further, the persons concerned should be requested to sign a statement attesting that they have been informed of their rights in a language which they understand.

15. As regards the rights of notification of custody and access to a lawyer it would appear that detained persons were usually allowed to contact a relative or another person of their choice and a lawyer without delay.

However, it is a matter of serious concern that, despite the specific recommendation repeatedly made by the Committee since its first visit to Italy in 1992, access to a lawyer – whether chosen by the detained person or appointed *ex officio* – may still be delayed by the competent judicial authorities under "exceptional and specific reasons of circumspection" for up to five days after the apprehension (in accordance with Section 104, paragraphs 3 and 4, of the CCP).

The arguments repeatedly put forward by the Italian authorities that, in the light of the jurisprudence of the Court of Cassation, the above-mentioned restriction would be applied only in highly exceptional cases and that the detained person could still benefit from the presence of a lawyer during the court hearing, are not convincing.<sup>9</sup>

The CPT has repeatedly stressed that the effective exercise of the right of confidential access to a lawyer from the very outset of deprivation of liberty constitutes an essential safeguard to prevent ill-treatment. In this connection, the Committee acknowledges that the legitimate interests of a criminal investigation may, exceptionally, justify a delay, for a certain period, in a detained person's access to a lawyer of his/her choice. However, there can be no reasonable justification for the right to talk to a lawyer in private and to have a lawyer present during questioning 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 arranged.

**The CPT 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 deprivation of liberty, it being understood that when "exceptional and specific reasons of circumspection" are invoked, the lawyer will be appointed *ex officio*. To this end, the relevant provisions of the CCP should be amended accordingly.**

16. Further, it remains the case that the presence of a lawyer usually only becomes effective once the detained person concerned is brought before a judge. Only in rare cases did lawyers (whether appointed by the detained person or *ex officio*) meet the person during the custody and talk to the person in private before the court hearing. **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*.**

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<sup>9</sup> Cf., for instance, page 15 of the Italian authorities' response to the report on the 2008 visit (CPT/Inf (2010) 13).

17. As was the case during the 2008 visit, the delegation received no complaints from detained persons regarding access to a doctor during custody in a law enforcement establishment. Upon request of the person concerned or at the initiative of law enforcement officials, emergency doctors were called or the person was transferred directly to a general hospital.

However, despite the specific recommendation repeatedly made by the CPT after previous visits, officers were still systematically present during medical examinations in most of the law enforcement establishments. Such a state of affairs is not acceptable.

**The CPT calls upon the Italian authorities to take immediate steps to ensure that in all law enforcement establishments (including those of municipal police services), 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.**

18. Further, it remains the case that detained persons are not guaranteed the right to consult a doctor of their own choice whilst being held in law enforcement establishments (as opposed to remand prisons). **The CPT reiterates its recommendation that specific legal provisions be adopted governing the right of persons detained by law enforcement agencies to have access to a doctor of their own choice (at their own expense). The information sheet referred to in paragraph 14 should be amended accordingly.**

19. In its reports on the 2004 and 2008 visits, the CPT had recommended that any deprivation of liberty of a person in a law enforcement establishment be recorded in a register.

That said, in virtually all the establishments visited, custody registers only existed for the recording of persons who were physically placed in a detention cell (*camera di sicurezza*). Thus, no record was usually kept of instances where a person had been deprived of his/her liberty without being formally detained (e.g. for identification purposes), or where a person had been formally detained and transferred to another establishment without being temporarily held in a detention cell.

**The CPT must recommend once again that steps be taken to ensure that, whenever a person is deprived of his/her liberty by a law enforcement agency, for whatever reason, this fact is recorded without delay.**

20. Finally, in several establishments visited, the delegation observed shortcomings in the maintenance of the custody register, the entries often being incomplete (e.g. no systematic recording of the time of apprehension and the time of placement in the cell; no recording of notification to the family or a lawyer).

**The CPT recommends that officers in all law enforcement establishments visited be reminded to maintain custody registers meticulously.**

#### 4. Conditions of detention

21. Material conditions in detention cells (*camere di sicurezza*) varied from one establishment to another. In most of the law enforcement establishments visited, they were on the whole acceptable, bearing in mind the short time persons usually spent in such cells after their apprehension (normally a few hours and at most overnight).

However, conditions of detention were very poor at the Florence *Questura*. The cells were in an unacceptable state of repair and hygienic conditions were appalling. Further, access to natural light was very limited, artificial lighting inadequate and ventilation totally insufficient. In addition, the walls of the cells were painted in black, which rendered the cells unnecessarily oppressive.<sup>10</sup> In the CPT's view, prolonged detention in such conditions could amount to inhuman and degrading treatment.

**The Committee recommends that the Italian authorities take immediate steps to remedy the above-mentioned shortcomings at the Florence *Questura*.**

22. Conditions of detention were also generally poor at the Palermo *Questura* in terms of state of repair, hygiene and access to natural light and artificial lighting. The delegation was informed that new police detention facilities which had recently been constructed at another location in Palermo (Caserma Longaro) would be brought into service shortly. As soon as these detention facilities were operational, the old custody cells at the *Questura* would be withdrawn from service. **The CPT wishes to receive confirmation that the custody cells at the Palermo *Questura* have now been withdrawn from service. Further, the Committee would like to receive detailed information on the capacity and design of the new detention facilities (access to natural light, outdoor exercise yard, etc.).**

23. Further, despite the specific recommendation repeatedly made by the Committee, no mattresses were provided to detained persons held in custody overnight at the Palermo *Questura* and the Messina-Gazzi *Carabinieri* Station<sup>11</sup>. **The CPT once again calls upon the Italian authorities to take immediate steps to ensure that in all law enforcement establishments, persons detained overnight are provided with a clean mattress and clean blankets.**

24. Finally, the CPT must stress that many of the custody facilities seen by the delegation in the course of the visit were clearly unsuitable for prolonged detention of up to four days (as is now possible under the so-called "*Svuota Carceri*" Law; see paragraph 8). In particular, numerous cells had no or only very limited access to natural light and shower facilities were often nonexistent. In addition, none of the establishments visited was equipped with an outdoor exercise facility. **The CPT recommends that steps be taken 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.**

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<sup>10</sup> That said, the size of the cells was adequate.

<sup>11</sup> Mattresses were provided in the other establishments visited.

Further, the Committee recommends that the Italian authorities 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;
- the persons concerned are offered outdoor exercise every day.



## **B. Detention of foreign nationals under aliens legislation**

### **1. Preliminary remarks**

25. For a long time, the CPT has paid particular attention to the situation of foreign nationals deprived of their liberty under aliens legislation and, during most of its previous visits to Italy (including two ad hoc visits in 2006 and 2009), a large number of holding/detention centres were visited by the Committee in different parts of the country<sup>12</sup>.

In the course of the 2012 visit, the CPT's delegation visited, for the first time, the Identification and Expulsion Centre (*Centro di Identificazione ed Espulsione* - CIE) in Bologna. The CIE is located on the premises of former military barracks on the western outskirts of Bologna (via Mattei) and comprises an administrative building (management, health-care unit, police command post) and two separate accommodation buildings for male and female foreign nationals. With an official capacity of 95 places (45 in the female and 50 in the male unit), the CIE was accommodating a total of 52 foreign nationals<sup>13</sup> (24 female and 28 male) at the time of the visit. As a rule, unaccompanied minors and families are never held in the Centre. As in other CIEs in Italy, security was provided by police officers who were only allowed to enter the detention area at the request of the management and with the approval of the *Questura* (in case of serious incidents and for regular and ad hoc search operations)<sup>14</sup>. In addition, a contingent of the Armed Forces was exclusively in charge of perimeter security.

The centre was managed by the association *Confraternita della Misericordia* whose management contract was due to expire on 31 July 2012. Some time before the visit, a new tender for the extension of the day-to-day management of the centre for a three-year period had taken place and the Ministry of the Interior had decided to award the management contract to another association (*Oasi*). In this regard, the CPT notes that the above-mentioned tender provides for a lowering of the three-year budget by almost 60% (from 7.2 to 3.1 million Euros). Various interlocutors met by the delegation anticipated drastic reductions in particular as regards the presence of health-care staff and cultural mediators. The Committee will return to this issue later in the report (see paragraphs 31 and 33).

26. The legal framework governing detention pending deportation has undergone important changes since the 2008 visit. In particular, the maximum period of detention, previously set at 60 days, has been increased to six months and can be extended, under certain circumstances, to a maximum of 18 months<sup>15</sup>.

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<sup>12</sup> Foreign nationals apprehended for administrative detention retain the right of access to a legal counsel, either *ex officio* or of one's choice in accordance with Section 4 of the Implementing Regulations of the Unified Immigration Act of 31 August 1999, as well as of being informed in their own language (or in a language they understand) of the reasons of detention (Section 3 of the Implementing Regulations of the Unified Immigration Act).

<sup>13</sup> From 16 different countries.

<sup>14</sup> Five State police officers were permanently present in a command post located at the entrance of the CIE.

<sup>15</sup> Law No. 129 of 2 August 2011.

## 2. Ill-treatment

27. Some allegations were received from male foreign nationals that they had been the subject of excessive use of force by State police and/or *Carabinieri* officers during search operations which had taken place on 19 March and 14 May 2012, in the aftermath of a fire incident and a violent protest respectively. More specifically, the foreign nationals concerned – who had apparently tried to obstruct the police intervention – claimed that they had been hit with truncheons by State police and/or *Carabinieri* officers while on the ground after having been brought under control.

The CPT recognises that law enforcement officials will on occasion have to use force to control violent and/or recalcitrant inmates. However, as in the context of apprehensions of criminal suspects (see paragraph 9), no more force than is strictly necessary should be used, and, once the persons concerned have been brought under control, there can be no justification for striking them. In this regard, **the recommendation in paragraph 9 (last sub-paragraph) applies equally to law enforcement officials who are deployed to the Bologna CIE.**

28. A Tunisian national met by the delegation at the CIE claimed that, on 20 April 2012, he had been physically ill-treated by plain-clothes officers of the Bologna Immigration Department at Bologna Airport, in the context of a failed attempt to deport him by air on a commercial flight. After he had told the pilot that he had swallowed several batteries, the pilot refused to transport him and his deportation had to be cancelled. This allegedly prompted a violent reaction from the escorting police officers as soon as he was returned to the police van. He was allegedly punched in the face whilst handcuffed and kicked in the shoulder by four police officers. At his insistence, he was subsequently transferred to a hospital in Bologna, where a contusion of his shoulder was diagnosed. Through his lawyer, he lodged a formal complaint with the Prosecutor's Office, which was still pending at the time of the visit.

**The CPT would like to be informed of the outcome of the above-mentioned case.**

## 3. Conditions of detention

29. Material conditions at the Bologna CIE were adequate in terms of living space (some 50 m<sup>2</sup> per detention room accommodating five persons), access to natural light and ventilation. Every room had its own sanitary annexe (with a floor-level toilet, two sinks and two showers), and all foreign nationals received a daily allowance of 2.50 Euros with which they could purchase personal hygiene products.

However, detention rooms were generally very austere and prison-like. Further, in contrast to the female unit, the male unit was found to be in a poor state of repair with much of the furniture being damaged (see also paragraph 27). The delegation was informed by the management that existing equipment and furniture had repeatedly been destroyed by male inmates. For this reason, wooden beds had been replaced with concrete plinths covered with mattresses, and a decision had recently been taken by the Prefect of Bologna to no longer accommodate more than 30 male foreign nationals at a time.

**The CPT trusts that the Italian authorities will take steps to ensure that the detention rooms and their equipment are kept in an acceptable state of repair.**

30. As regards the regime, it is praiseworthy that all foreign nationals could move freely within their detention unit around the clock and had unrestricted access to an outdoor exercise yard attached to their unit throughout the day. In addition, foreign nationals were provided with reading material from a multi-language library.

That said, inmates had no possibility of engaging themselves in basic recreational activities such as board games nor was there a television set available. Further, access to the outdoor sports facilities (volleyball court and football pitch) was limited to one hour per week<sup>16</sup> and – with the notable exception of an Italian language course provided by a trade union for one hour per week – no organised activities were on offer.

Clearly, the current arrangements were far from satisfactory, bearing in mind that foreign nationals may be held at the Centre for up to 18 months. As the management itself acknowledged, an impoverished regime was likely to exacerbate the general sense of frustration among foreign nationals about their destiny and further increase existing tensions within the CIE.

**The CPT recommends that immediate steps be taken at the Bologna CIE to ensure that foreign nationals are provided with board games and a television set and have more frequent access to the existing sports facilities.**

Further, bearing in mind that detention pending deportation may last up to 18 months, **the Committee recommends that the Italian authorities redouble their efforts to provide foreign nationals held at the Bologna CIE with a range of purposeful activities. The longer the period for which foreign nationals are detained, the more developed should be the activities which are offered to them.**

#### **4. Staff**

31. The Bologna CIE was managed by a team of the association *Confraternita della Misericordia*, which was composed of the director, a deputy director, one anthropologist and ten cultural mediators, as well as three administrative staff.

The delegation gained a very positive impression of the work performed by the cultural mediators. They were present in the CIE on all working days, for a total of 110 hours per week. Among other things, they provided relevant information to every newly-arrived foreign national and acted as interpreters (including for Chinese and Arabic-speaking inmates). More generally, they were effective in reducing existing tensions among the male inmate population.

Against this background, it would certainly be unwise for the presence of cultural mediators to be reduced under the new management of the Bologna CIE (see paragraph 25). In order to have an up-to-date picture of the situation, **the CPT would like to receive a detailed organigram of staff at the Bologna CIE, with an indication of the posts currently filled and the time of presence of the staff members concerned.**

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<sup>16</sup> According to the management, access to the sports facilities had been reduced for security reasons (*i.e.* risk of escape).

## 5. Health care

32. The delegation gained a favourable impression of the health-care services at the Bologna CIE. Further, the facilities of the medical unit were of a good standard and do not call for any particular comment.

33. Health care was provided by a pool of seven doctors and five nurses (all working part-time). As a rule, one doctor was present on a 24-hour basis seven days a week and one nurse for twelve hours per day (including at weekends). In case of need, foreign nationals were transferred to a hospital for specialist consultations (including to a psychiatric establishment, on the basis of a procedure for involuntary treatment – TSO).

According to the information available to the Committee, it would appear that in the future the presence of doctors is likely to be reduced under the new management to eight hours per day for six days a week and that instead there will be a twenty-four-hour presence of nursing staff. **The CPT would like to receive confirmation that a member of health-care staff is always present at the Bologna CIE (including at night and during weekends).**

34. All foreign nationals benefited from comprehensive medical screening, performed within 24 hours of admission (including tests for HIV/AIDS, tuberculosis and hepatitis on a voluntary basis), and an individual medical file was opened for every foreign national.

Injuries observed on foreign nationals at the time of admission (or during detention) were usually reported by the doctor to the management of the centre, but to no other outside authority. **In this regard, the recommendation made in paragraph 12 (third sub-paragraph) on the systematic transmission to the relevant prosecutor of information on injuries which is indicative of ill-treatment equally applies to the CIE of Bologna and all other CIEs in Italy.**

35. In the light of the information gathered by the delegation, **the CPT wishes to recall once again that all foreign nationals returning to a CIE following a failed deportation by air should undergo a proper medical examination.** Such a measure is important to protect both foreign nationals whose deportation has failed and law enforcement officials escorting them.

36. Psychological care was provided on a regular basis by the so-called “psychiatric team” which was composed of five part-time psychologists and several cultural mediators. Particular attention was paid to vulnerable persons (such as victims of human trafficking and former unaccompanied minors).

37. However, it is a matter of concern that individual medical files were accessible to non-medical staff (in particular, the management of the Centre). **The CPT recommends that steps be taken to ensure that the confidentiality of medical data is fully respected at the Bologna CIE.**

## 6. Other issues

38. The arrangements for allowing foreign nationals at the CIE of Bologna contact with the outside world were generally adequate. They could receive visits every day in the afternoon in rooms which were adequately equipped. It is particularly praiseworthy that every foreign national was provided each week with a telephone card free of charge (with a value of 5 Euros). In addition, foreign nationals were allowed to use mobile phones (except those with a photo or video recording function).

39. As was the case in 2008, the relevant legal framework does not contain any provision concerning the possible seclusion of a foreign national for disciplinary or security reasons.

That said, the delegation found a small cell (measuring some 4 m<sup>2</sup>) on the ground floor of the police command post, and police officers on duty acknowledged that foreign nationals who had tried to escape were occasionally placed in this cell for a few hours as a security measure<sup>17</sup>.

The CPT wishes to stress once again that it is in the interests of both detained persons and staff working at the CIE establishments for a proper legal basis and clear procedures (including appropriate safeguards such as the keeping of a dedicated register) to be established as regards the isolation of immigration detainees for reasons of good order or security<sup>18</sup>. **The CPT reiterates its recommendation that the aforementioned requirement be met at the Bologna CIE and, where appropriate, in other CIEs in Italy.**

40. Finally, from the perusal of individual administrative files, it became apparent that around 70% of all male foreign nationals held in the CIE arrived directly from a prison where they had served a prison sentence. In all these cases, the necessary expulsion and deportation procedures were initiated by the competent Immigration Department only after their transfer to the CIE.

With a view to reducing the immigration detention periods of convicted foreign nationals, **the CPT invites the relevant Italian authorities to take proactive steps to commence the necessary administrative procedures prior to the scheduled release from prison.**

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<sup>17</sup> One such case was recorded in the incidents logbook on 29 April 2012, when a foreign national had been placed in the above-mentioned cell for four hours after an escape attempt.

<sup>18</sup> Cf. also paragraph 40 of the report on the 2008 visit (CPT/Inf (2010) 12).

## C. Prisons

### 1. Preliminary remarks

41. The delegation carried out full visits to Bari, Florence-Sollicciano and Vicenza Prisons. In addition, it carried out several targeted visits, namely to Milan-San Vittore Prison, Terni Prison and Palermo-Ucciardone Prison. At San Vittore, the delegation focused mainly on interviews with recently-arrived remand prisoners as well as on the Centre for Neuropsychiatric Observation (*centro di osservazione neuro-psichiatrica* – CONP) within the prison, while, at Terni Prison, it focused exclusively on the “41-bis” Unit. At Palermo-Ucciardone Prison, the delegation examined in detail the health-care services and the situation of remand prisoners<sup>19</sup>.

42. **Bari Prison**, located in the proximity of the centre of Bari, was built in 1926 and has been renovated several times during the past 30 years. With an official capacity of 250 places at the time of the visit<sup>20</sup>, the establishment was accommodating a total of 503 prisoners (480 male and 23 female), of whom 234 were sentenced and 269 on remand. The prison also contained a Centre for Diagnosis and Therapy<sup>21</sup> (*centro diagnostico terapeutico* – CDT).

**Florence-Sollicciano Prison** was constructed in the early 1980s, on the basis of an architectural design mirroring the symbol of Florence (bourbon lily), on the western outskirts of the city. The prison contains a designated mother-and-child unit<sup>22</sup> and the only “care and surveillance centre” (*casa di cura e custodia*) for female forensic patients in Italy<sup>23</sup>. With an official capacity of 475 places, the establishment was accommodating a total of 1,001 prisoners (887 male and 114 female) at the time of the visit; 461 were sentenced and 540 on remand.

**Palermo-Ucciardone Prison** is located on the premises of a former fortress which was constructed in the 1840s. Due to their very poor state of repair, several detention blocks have been withdrawn from service and the establishment’s official capacity has been reduced from 721 to 281 places. At the time of the visit, the prison was accommodating 506 male prisoners (232 sentenced and 274 on remand).

**Vicenza Prison** was constructed in the 1980s and is located on the eastern outskirts of the city. The establishment has an official capacity of 146 places and was accommodating 360 male prisoners (including 70 on remand) at the time of the visit. Approximately two-thirds of the inmate population were foreign nationals.

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<sup>19</sup> Moreover, the delegation went briefly to Messina Prison in order to interview recently-arrived remand prisoners as well as to Palermo-Pagliarelli Prison in order to collect information on admission procedures.

<sup>20</sup> Due to the fact that Block 2 had been temporarily withdrawn from service, pending its renovation, the capacity of the prison (in principle 292 places) had been reduced.

<sup>21</sup> See paragraph 63.

<sup>22</sup> See paragraphs 85 to 88.

<sup>23</sup> See paragraph 63.

43. Prison overcrowding remains a persistent problem in Italy. The above-mentioned occupancy levels show that the four prisons referred to in paragraph 42 were affected by this problem, and the level of overcrowding observed in certain detention units (in particular, at Bari Prison) gives rise to serious concern. In each of the establishments, overcrowding was having a negative impact on various aspects of prison life for prisoners and staff alike.

In this connection, the CPT recalls that in its judgment *Sulejmanovic v. Italy*<sup>24</sup>, the European Court of Human Rights held that the living space of 2.70 m<sup>2</sup> per person which was offered to six prisoners in a multi-occupancy cell measuring 16.20 m<sup>2</sup> was so limited that it constituted in itself inhuman or degrading treatment. The delegation found that many prisoners at Palermo-Ucciardone Prison were offered only a similar amount of living space and that, at Bari Prison, the amount of living space per prisoner was even lower and in some cells less than 2 m<sup>2</sup> per person.

44. Since the 2008 visit, the total prison population has increased from some 59,000 to 66,258 prisoners, while the official capacity had only increased from 43,012 to 45,584 places; thus the level of overcrowding had risen from 37% to 45%. During the same period, the proportion of remand prisoners among the total prisoner population had significantly decreased (from some 60% to 39%), but still remained at a high level.

The delegation was informed that the above-mentioned increase in the prison population results from recent changes to the criminal legislation<sup>25</sup> which, among other things, introduced more severe sanctions for drug-related offences and a reduction of non-custodial sanctions for recidivists.

In order to curb this negative trend, the Italian authorities have taken a series of measures in recent years<sup>26</sup>. In particular, a major construction plan (so-called “*Piano Carceri*”) was launched in 2010, aimed at enlarging the prison estate within two years by some 9,300 places (*i.e.* new prisons and additional detention blocks in existing prisons). In 2011, the authorities decided to expand the aforementioned construction plan to a total of 11,573 places. In addition, a new law<sup>27</sup> was adopted which provides for the imposition of house arrest on persons sentenced to less than one year of imprisonment, as well as on prisoners who still have to serve a prison-term of less than one year. The latter time limit was subsequently increased to 18 months by the so-called “*Svuota Carceri*” Decree-Law<sup>28</sup>. At the end of May 2012, a total of 9,067 persons were subjected to various alternative measures (such as suspended sanctions or house arrest).

Moreover, Section 558 Code of the Criminal Procedure was amended by the above-mentioned Decree-Law, in order to reduce the accommodation in prison of persons who are formally still in police custody (pending the accelerated judicial procedure – *giudizio direttissimo*)<sup>29</sup>.

The Minister of Justice expressed her determination to combat the problem of overcrowding and indicated to the delegation that she had initiated a draft bill in order to allow more extensive resort to non-custodial measures for remand prisoners. The latter bill is still pending before Parliament.

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<sup>24</sup> Judgment of 15 July 2009 (Application no. 22635/03).

<sup>25</sup> Such as the Law No. 49/2006 (known also as “*Legge Fini-Giovanardi*”).

<sup>26</sup> For further details, see the Communication of the Italian Government dated 29 June 2012 concerning the case of *Sulejmanovic v. Italy* (ref. DH-DD(2012)670).

<sup>27</sup> Law No. 199 of 26 November 2010.

<sup>28</sup> Decree-Law of 22 December 2011 which was transformed into Law No. 9 of 17 February 2012.

<sup>29</sup> See also paragraph 8.

45. The CPT acknowledges the efforts being made by the Italian authorities to tackle the problem of prison overcrowding. That said, according to the information available, the direct impact of the ongoing reforms on the level of overcrowding has thus far been somewhat limited. In particular, in the context of the above-mentioned “*Piano Carceri*”, only 1,323 additional detention places have to date been created. Further, from June 2010 until June 2012, the total number of prisoners has been reduced from 68,258 to 66,487, which represents a decrease of some 2.60% only.

**The CPT recommends that the Italian authorities pursue vigorously their endeavours to combat prison overcrowding, including through increased application of non-custodial measures during the period before any imposition of a sentence. In this respect, the authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.**

**The Committee would like to receive updated information on progress made by the Italian authorities in this area.**

## **2. Ill-treatment**

46. With the exception of Vicenza Prison, the delegation received no allegations of ill-treatment by prison officers in any of the prisons visited. On the contrary, many prisoners spoke favourably about the manner in which they were treated by prison officers, and the delegation could observe for itself a humane and constructive attitude on the part of custodial staff.

At Vicenza Prison, the delegation received a number of allegations of physical ill-treatment and/or excessive use of force by prison officers, mostly in relation to disciplinary incidents where inmates had displayed aggressive behaviour. More specifically, the prisoners concerned claimed that they had been punched, kicked and hit with batons after they had already been brought under control. One prisoner even alleged that he had been beaten by several prison officers in an office in the presence of a senior prison officer.

**The CPT recommends that:**

- **a clear message be delivered to both the management and staff of Vicenza Prison that all forms of ill-treatment of prisoners (including threats to resort to violence as a punishment) are not acceptable and will be punished accordingly;**
- **outside bodies responsible for monitoring the situation at Vicenza Prison and, in particular, the competent supervisory judges be informed without delay of the allegations received by the delegation.**

As regards the follow-up at the criminal level of allegations of ill-treatment by prison officers, **the recommendation made in paragraph 12 (third sub-paragraph) equally applies to Vicenza Prison as well as to any other prison establishment in Italy.**



### **3. Conditions of detention of the general prison population**

#### **a. material conditions**

47. Material conditions of detention varied considerably from one establishment to another and sometimes even within the same establishment from one detention unit to another.

At *Florence-Sollicciano and Vicenza Prisons*, material conditions in the cells were generally satisfactory in terms of state of repair, access to natural light and ventilation. However, at Florence-Sollicciano, many parts of the establishment were affected by major water infiltrations and, at Vicenza, the heating system appeared to be deficient (due to the erosion of one of the major water pipes).

At *Bari Prison*, material conditions were on the whole adequate in all renovated detention blocks, but left much to be desired in some unrenovated parts (in particular, in the unit for female prisoners). Regrettably, due to lack of funding, the renovation of the entire unit for female prisoners had repeatedly been postponed.

With the notable exception of Block 8 (which had recently been renovated), material conditions were poor, or even very poor, in most of the detention units at *Palermo-Ucciardone Prison*. Several blocks (*i.e.* Blocks Nos. 2, 5, 6) were so dilapidated that they had been withdrawn from service some time ago. In other accommodation areas, cells and sanitary facilities were in a poor state of repair and the level of hygiene left much to be desired. Another major shortcoming lies in the fact that, in a number of cells in Block No. 9<sup>30</sup>, windows were covered with metal shutters which reduced access to natural light to a minimum. Further, throughout the prison, numerous complaints were received about the lack of heating in the cells. In addition, a number of prisoners complained about an insufficient supply of personal hygiene products. In this regard, the management indicated to the delegation that indigent prisoners were given from time to time a small allowance to purchase such products; at the same time, it was acknowledged that, due to the lack of specific budgetary allocations, it was difficult to meet the needs of all the prisoners concerned.

**The CPT recommends that material conditions of detention be improved at Bari, Florence-Sollicciano, Palermo-Ucciardone and Vicenza Prisons, in the light of the above remarks.**

**Immediate steps should be taken at Palermo-Ucciardone Prison to:**

- remove metal shutters from cell windows in Block No. 9;**
- ensure that prisoners are regularly provided with adequate quantities of essential personal hygiene products.**

**Further, the Italian authorities should either draw up a comprehensive renovation plan for Palermo-Ucciardone Prison or decommission the whole establishment. In case it is decided to renovate the establishment, the Committee would like to receive a timetable for the full implementation of the different stages.**

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The cells are located in the former “41-bis” and high-security units of the establishment.

48. As already indicated in paragraph 42, all the establishments visited were operating far above their official capacity at the time of the visit, the overall occupancy level being in the region of some 200%. As a result, most detention areas were affected, to varying degrees, by overcrowding.

The most severe overcrowding was observed at Bari Prison, where cells<sup>31</sup> measuring 19.60 m<sup>2</sup><sup>32</sup> were accommodating up to eleven prisoners, the living space per prisoner thus being a mere 1.78 m<sup>2</sup>. Further, cells measuring 20.10 m<sup>2</sup> were accommodating up to nine prisoners (*i.e.* 2.23 m<sup>2</sup> per person). Such a state of affairs is not acceptable. It should also be noted that the delegation found two women in the female unit who had to share a cell measuring only 6.30 m<sup>2</sup>; a cell of such a size is scarcely adequate for one person, let alone two.

The situation was more favourable but still far from satisfactory at Palermo-Ucciardone Prison, where it was not uncommon for cells measuring some 22 m<sup>2</sup> to accommodate up to eight prisoners.

Cramped conditions were also observed at Florence-Sollicciano and Vicenza Prisons, where cells measuring some 13 m<sup>2</sup> (including a fully-partitioned sanitary annexe) and initially designed for single occupancy only were accommodating up to three prisoners.

**The CPT recommends that the Italian authorities take steps to reduce cell occupancy levels in all the prisons visited (and, in particular, at Bari Prison), so as to provide for at least 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells; for this purpose, the area taken up by in-cell sanitary facilities should not be taken into account. Further, any cells providing less than 8 m<sup>2</sup> of living space should be used for single occupancy only.**

b. regime<sup>33</sup>

49. The CPT welcomes the fact that, at Bari, Florence-Sollicciano and Vicenza Prisons, prisoners usually benefited from four hours<sup>34</sup> of outdoor exercise every day (as was the case in 2008), these exercise periods also including on occasion some sports activities. Further, efforts were clearly made by management to provide on a rota basis work and other activities (such as education) to prisoners within the limited resources available, the number of prisoners able to participate being increased by the sharing of places on a part-time basis.

At *Bari Prison*, 70 prisoners were employed at the time of the visit (including 47 *piantoni*<sup>35</sup> and 23 part-time workers (19 cleaners and ten food distributors all working for two hours per day and four barbers each working for two hours per week)). Further, eight prisoners attended a recycling workshop (four hours/day), four prisoners went to a writing workshop (*atelier narrativo*) for four hours per week, and 43 prisoners attended daily medium-level or high-school classes. In addition, external volunteers organised an Italian language course for nine foreign inmates (two hours/week) and a course on hygiene promotion for 13 prisoners (two hours/week). The management had elaborated a detailed plan for additional activities, but the funding was not yet secured.

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<sup>31</sup> Not counting the area taken up by the sanitary annexe.

<sup>32</sup> The cells were equipped with two four-level bunk beds and three additional beds.

<sup>33</sup> Due to the targeted nature of the visit to Palermo-Ucciardone Prison, the delegation did not examine in detail the regime activities offered to prisoners in the establishment.

<sup>34</sup> Two hours in the morning and two hours in the afternoon.

<sup>35</sup> See, in this regard, paragraphs 74 and 75.

At *Florence-Sollicciano Prison*, a mere 239 prisoners (out of a total 1,001 prisoners) had been involved in some kind of remunerated activity (e.g. food distribution, clerk, gardening, kitchen work) in the course of 2012. At the time of the visit, 165 prisoners were attending classes or courses (secondary school, computer courses, painting workshops, drama and catholic religious classes).

At *Vicenza Prison*, an average of 40 prisoners (out of 360) were offered remunerated work (e.g. food distribution, maintenance work and cleaning, kitchen work). The number of prisoners (39 in total) who were enrolled in schooling (primary and secondary schools) remained unchanged since 2011, while the number of places in vocational courses (such as cultivation of aromatic herbs, bakery, welding) had been drastically decreased over the last year (from 80 to less than ten participants), due to the discontinuation of funding by the European Social Fund. It is also a matter of concern that certain sports facilities, such as a football pitch and a volleyball court, had not been used for almost a year, due to the lack of supervisory staff. The same holds true for the indoor gym.

50. The CPT notes that the Department of Prison Administration has recently adopted two circulars<sup>36</sup> aiming at relaxing the regime for medium-security prisoners by extending the period during which prisoners can remain outside their cells, on the basis of a more developed security classification. At the time of the visit, the aforementioned circulars were still at an early stage of implementation and were basically limited to pilot projects. For instance, at *Florence-Sollicciano Prison*, the management had recently decided to extend the period of out-of-cell time for specially selected remand prisoners in one particular unit, provided that the prisoners concerned had successfully completed a counter-addiction therapy.

51. That said, in all the establishments visited, it remained the case that for the vast majority of remand prisoners and the majority of sentenced prisoners, regular out-of-cell activities were limited to the four hours of outdoor exercise per day.

The CPT wishes to emphasise that a satisfactory programme of activities (such as work, vocational training, education, sport or recreation/association) is of crucial importance for the well-being of prisoners. This is the case for both sentenced prisoners and inmates awaiting trial. The objective should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature. Regimes of sentenced prisoners should be even more favourable; this is the only way of giving a true sense to a term of imprisonment.

**Therefore, 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 Bari, Florence-Sollicciano and Vicenza Prisons and, where appropriate, at other prisons in Italy.**

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See Circulars No. 3594-6044 of 25 November 2011 and No. 0206745 of 30 May 2012.

#### 4. Prisoners subjected to the “41-bis” regime at Terni Prison

52. For almost two decades, the CPT has paid particular attention to the situation of prisoners subjected to the special detention regime under Section “41-bis” of the Penitentiary Act<sup>37</sup> and has made a number of specific recommendations in this regard after previous visits<sup>38</sup>.

Since the 2008 visit, the relevant legal framework has undergone significant changes with the adoption of an amendment<sup>39</sup> to Section 41-bis of the Penitentiary Law and the subsequent issuance of new circulars by the Department of Prison Administration<sup>40</sup> (for further details, see paragraph 55).

The main objective of the targeted visit to Terni Prison was to review the measures taken by the Italian authorities after the 2008 visit and to examine the implementation in practice of the detention regime, in the light of the above-mentioned legislative changes.

53. At the time of the visit, Terni Prison was accommodating a total of 26 “41-bis” prisoners<sup>41</sup> in a sealed-off two-storey detention unit<sup>42</sup>. Material conditions in the single cells (measuring some 12 m<sup>2</sup> each) were generally of a good standard and do not call for any particular comment (see, however, paragraph 61). The unit was staffed by a total of 25 prison officers belonging to the GOM (*Gruppi Operativi Mobili*).

54. For the avoidance of doubt, the CPT does acknowledge that, for the purpose of effectively combating the persistent problem of organised crime, a special detention regime and special security measures may be required in individual cases (in particular, with regard to prisoners’ contact with the outside world).

That said, the CPT has repeatedly emphasised that a special security regime which entails severe restrictions on prisoners in terms of socialisation with other inmates and contact with the outside world may have harmful effects, and even more so when the prisoners concerned are held under such conditions for prolonged periods.

Therefore, in order to counteract potentially harmful effects it is essential that a balance be struck between the legitimate interests of society and the provision of a regime which offers adequate human contact to the prisoners concerned.

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<sup>37</sup> The “41-bis” regime was introduced in 1992 as a temporary emergency measure and became institutionalised on a permanent basis in 2002, following an amendment to the Penitentiary Act. The regime exclusively applies 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.

<sup>38</sup> Most recently, in paragraphs 63 to 86 of the report on the 2008 visit (CPT/Inf (2010) 12).

<sup>39</sup> By Law No. 94 on 15 July 2009 which forms part of the so-called “Security Package” (*Pacchetto di Sicurezza*).

<sup>40</sup> See, among others, Circular No. 592/6042 of 9 October 2003, Circular dated 4 August 2009, Circular No. 8845/2011 of 16 November 2011 and Circular dated 12 March 2003.

<sup>41</sup> The total number of “41-bis” prisoners in the prison system was 681.

<sup>42</sup> Two of the “41-bis” prisoners were segregated from all the other prisoners of the unit and were held in a so-called “reserved area” (*area riservata*); see paragraph 61.

55. Against this background, the CPT is very concerned by the fact that the Italian authorities have not only failed to implement most of the specific recommendations made by the Committee after the 2008 visit but have even imposed by law a number of additional restrictions on “41-bis” prisoners (see paragraph 52). The main changes can be described as follows:

- (1) The maximum number of persons per socialisation group has been reduced from five to four prisoners. Contacts with prisoners from another living unit remain strictly prohibited.
- (2) The *time* prisoners are allowed to spend *outside their cells* has been reduced from four to two hours per day (one hour of outdoor exercise and one hour in a communal room). During these two hours, prisoners are allowed to associate with the other inmates of the same living unit; for the remaining 22 hours, prisoners must be locked up alone in their cell.
- (3) The possibilities for prisoners to maintain *contact with the outside world* have been further curtailed. They are now only allowed to make one ten-minute telephone call<sup>43</sup> per month if they do not receive a visit from a family member during the same month (the entitlement of one one-hour visit per month, under closed conditions and with audio-surveillance and video-recording, as well as the prohibition of accumulation of unused visit entitlements remain unchanged). In addition, the frequency of contacts with a lawyer has been limited to a maximum of three contacts per week (one-hour visits or ten-minute telephone calls).

The only positive change in terms of prisoners’ regime is that they are now allowed to meet not only their children but also their grandchildren below the age of twelve under open conditions (*i.e.* without a glass partition) for ten minutes per visit.

56. At Terni Prison, the delegation observed that the above-mentioned rules were strictly adhered to in practice.

As regards the regime, all prisoners were offered one hour of outdoor exercise per day in a yard (measuring some 70 m<sup>2</sup>) where they could also play football or basketball with their fellow-inmates from the same living unit. In all other respects, the regime was very impoverished. During the one hour of association in the communal room, prisoners could only play cards or board games and use an indoor exercise bicycle. For the rest of the day (*i.e.* 22 hours), prisoners were confined to their cells, with the reinforced door open (but the grille closed) from 7 a.m. to 8 p.m. in winter (and to 10 p.m. in summer), their only occupation being reading, watching television or listening to the radio. It is of particular concern that, apart from one prisoner who was enrolled in a distance learning programme, none of the prisoners concerned was engaged in any regime activity.

57. The accumulation of such an impoverished regime and severe restrictions on contacts with the outside world as described in paragraph 55, constitutes a form of small-group isolation which may, if applied for prolonged periods, have harmful effects of a psychological and physical nature.

<sup>43</sup>

As was the case before, “41-bis” prisoners can only have a telephone conversation with a family member if the latter uses a telephone of a law enforcement establishment or prison. In addition, telephone conversations continue to be systematically recorded.

58. In this connection, the CPT must stress that the argument frequently put forward by the Italian authorities – that the additional restrictions which had been introduced in 2009 were necessary in order to combat more effectively the phenomenon of organised crime and thus to enhance the protection of society – is scarcely convincing. The CPT is confident that the prison administration is able to maintain the same level of security irrespective of whether the “41-bis” prisoners of a given living unit are able to associate for two, four or more hours per day. In the same vein, allowing a prisoner to accumulate unused visit entitlements, for instance, by granting one two-hour visit instead of two one-hour visits during a period of two months would not compromise the legitimate interests of society, given that very strict security arrangements are being applied during every visit anyway (see paragraph 55).

Against this background, there are reasons to believe that the underlying goal of the most recent legislative changes is rather to use additional restrictions as a tool to increase the pressure on the prisoners concerned in order to induce them to co-operate with the justice system. As already mentioned by the Committee in the reports on the 2004 and 2008 visits, such a state of affairs would be highly questionable and also raise issues under Article 27, paragraph 3, of the Italian Constitution<sup>44</sup> and various international human rights instruments to which Italy is a Party.

**59. The CPT calls upon the Italian authorities to review the current “41-bis” detention regime throughout the prison system, in the light of the remarks in paragraphs 54 to 58.**

More specifically, **the Committee calls upon the Italian authorities to take the necessary steps 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 the right to accumulate unused visit entitlements;**
- **allowed to make telephone calls more frequently, irrespective of whether they receive a visit during the same month.**

60. Further, the CPT has misgivings about the fact that all “41-bis” prisoners at Terni Prison were subjected to permanent CCTV surveillance inside their cells. 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 in other “41-bis” units visited by the Committee in the past, cells were 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.

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<sup>44</sup> 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*).

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

61. Finally, the CPT wishes to comment upon the conditions under which two “41-bis” prisoners were held in a so-called “reserved area”<sup>45</sup> (*area riservata*). The two prisoners concerned were accommodated in two single cells on the ground floor of the detention unit. They were allowed to associate with each other during the two hours of out-of-cell time granted to “41-bis” prisoners (see paragraph 55), but were strictly separated from all other “41-bis” prisoners who were accommodated on the first floor.

The windows of the two cells were covered with an opaque plexi-glass layer which restricted access to natural light and prevented the prisoners concerned from being able to see outside. **The CPT recommends that these layers be removed without delay.**

## **5. Health-care services**

### **a. introduction**

62. The delegation examined the health-care services at Bari, Florence-Sollicciano, Palermo-Ucciardone and Vicenza Prisons. As already indicated in paragraph 42, at Milan-San Vittore Prison, the delegation mainly focused on the Centre for Neuropsychiatric Observation (CONP) and reviewed the measures taken by the Italian authorities in the light of specific recommendations made by the Committee after the 2008 visit.

63. Some of the establishments visited offer a variety of specialised in-patient medical services for sick prisoners. In particular, the diagnostic and treatment centre (*centro diagnostico terapeutico* – CDT) at Bari Prison is specialised in internal medicine and in the care for chronically ill and/or physically disabled prisoners from all over Italy. The centre comprises a 16-bed hospital unit and a 17-bed care unit for prisoners with restricted mobility<sup>46</sup>. At the time of the visit, the CDT was accommodating eleven patients in the hospital unit and seven in the care unit. Due to lack of space, a number of disabled prisoners were being held in ordinary cells outside the CDT<sup>47</sup>.

At Florence-Sollicciano Prison, the health-care services include a 30-bed “clinical centre” (*centro clinico*) for prisoners suffering from various somatic and/or mental illnesses. At the time of the visit, the centre was accommodating 30 patients (including ten who were held there for psychiatric treatment or observation). As already indicated in paragraph 42, the prison also contains the only “care and surveillance centre” (*casa di cura e custodia*) for female forensic patients in Italy. The latter centre is attached to the female section of the prison and consists of seven single rooms and one five-bed room; at the time of the visit, it was accommodating twelve patients.

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<sup>45</sup> According to Section 32 of Presidential Decree No. 230 of 30 June 2000, prisoners may be segregated from other prisoners for their own protection or for the protection of other inmates by being held in a “reserved area”.

<sup>46</sup> About 50% of the beds were reserved for prisoners who were employed as caretakers (*piantoni*); see also paragraphs 74 and 75.

<sup>47</sup> See paragraph 74.

Milan-San Vittore Prison contains one the largest CDTs in the Italian prison system (capacity: 100 beds). The 16-bed CONP, which was visited by the Committee in 2008, is affiliated to the establishment's CDT and was operating at full capacity at the time of the visit.

64. In all regions visited (except for Sicily), the transfer of responsibility for prison health care from the Ministry of Justice to the Ministry of Health has been fully implemented, and all prison health-care services are now administered by the relevant regional health authorities (*Aziende Sanitarie Locali* - ASL). In Sicily, health care in prison is still provided exclusively by the Ministry of Justice (Department of Prison Administration). The delegation was informed that the transfer of competence to the regional health authority (*Assessorato della Salute*) and its financial implications were still the subject of protracted negotiations and it remained unclear as to when the *Assessorato* would become responsible for the provision of prison health care. **The CPT would like to receive updated information on this matter.**

b. health-care facilities

65. In all the establishments visited, the health-care facilities were on the whole of a good standard and the supply of medicines was adequate<sup>48</sup>.

However, at Palermo-Ucciardone Prison, the central infirmary and all five infirmaries in the detention areas were found to be in a deplorable state of hygiene. **The CPT recommends that immediate steps be taken to remedy this shortcoming. If the cleaning continues to be performed by prisoners, they should receive adequate training for this purpose; ideally, this task should be fulfilled by qualified staff (as was the case in other establishments visited).**

66. Some shortcomings were also observed at Bari Prison. In particular, on the first floor of the establishment's CDT, the delegation saw one cell (no. 20), which had only limited access to natural light (through a very small window high up and close to the ceiling of the sanitary annexe). **The CPT recommends that appropriate steps be taken to ensure that prisoners are not accommodated in the aforementioned cell for prolonged periods (i.e. more than a few days). Preferably, the cell should be withdrawn from service.**

The technical equipment for physiotherapy in the above-mentioned CDT was rather old but still functional and well-maintained. That said, physiotherapists met by the delegation expressed concern that certain tools considered to be essential for the effective provision of physiotherapy had been banned from use, for security reasons, by the prison management. **The CPT invites the relevant health authorities to review the standard of the existing equipment, in consultation with the management of Bari Prison, and to provide, where appropriate, new equipment which meets all the necessary quality and security requirements.**

As regards the infrastructure for persons suffering from disabilities, reference is made to paragraphs 74 and 75.

<sup>48</sup>

Following the transfer of the responsibility for prison health care from the Ministry of Justice to the regional health authorities, various outdated medical devices for diagnostic tests and specialised treatment have been withdrawn from service at Florence-Sollicciano Prison. Instead, such tests and treatment are now performed outside the prison. As regards the CONP at Milan-San Vittore Prison, see paragraph 78.



c. health-care staff

67. In all the prisons visited, the resources in terms of general practitioners were satisfactory. Bari Prison employed one full-time doctor and five doctors working part-time (50%), Florence-Sollicciano Prison had two full-time doctors and three part-time doctors (50%), Palermo-Ucciardone Prison four part-time doctors (50%) and Vicenza Prison one full-time doctor. Further, in each of the prisons, an additional pool of part-time duty doctors worked on rotation and thus ensured the 24-hour presence of one duty doctor (and two at Florence-Sollicciano Prison).

68. At Bari Prison, the health-care team included twelve full-time and 21 part-time nurses, with one nurse being present around the clock in the CDT and four nurses being present throughout the day and one at night in the other parts of the establishment. At Florence-Sollicciano Prison, seven nurses were usually present during the day and two at night. At Palermo-Ucciardone Prison, six nurses were present in the morning, two in the afternoon and one at night.

The above-mentioned nursing staffing levels appear to be generally adequate. However, **it would be desirable for the nursing cover at Bari Prison to be reinforced to ensure that, as a rule, two nurses are present during the day within the establishment's CDT.**

d. somatic health care

69. In all the establishments visited, the delegation gained a generally positive impression of the quality of somatic health care provided to prisoners (including the services of the relevant *Servizi Territoriali Tossicodipendenze* – SERT). Further, medical records were detailed and well-kept.

70. However, at Bari and Palermo-Ucciardone Prisons, the budget earmarked for specialist consultations was so limited that doctors were on occasion compelled to suspend their services (excepting emergencies) in the middle of the month, because the resources available for that month had been exhausted<sup>49</sup>. **The CPT recommends that the Italian authorities take urgent steps to remedy this unacceptable state of affairs.**

71. Further, in particular at Bari Prison, the handling of requests for medical consultations appeared to be somewhat deficient. Prisoners who wanted to see a doctor had to inform a prison officer or nurse orally, and the latter entered all such requests in a register and transmitted them to the medical service. If the doctor was not able to meet all the requests on a given day, the prisoners not seen by the doctor were obliged to submit a new request. Moreover, the delegation received some complaints from prisoners that their requests for a medical appointment had not been responded to at all. Nursing staff met by the delegation did not rule out the possibility that such requests may on occasion have been “lost”.

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<sup>49</sup> According to the registers of doctors' visits, medical interventions by the ENT specialist were suspended on 16 March 2012 until the end of the month; it was the same for dental interventions on 14 May 2012.

It would be desirable for a system to be introduced at Bari Prison and, where appropriate, in other prisons, whereby prisoners are given the possibility of requesting medical appointments by depositing a signed paper in a mailbox which is only accessible to health-care staff. Further, prisoners should not be required to make multiple requests for one and the same medical appointment.

72. Both at Bari and Palermo-Ucciardone Prisons<sup>50</sup>, the delegation was informed that problems had repeatedly occurred in organising escorts of prison officers to transport prisoners to outside specialists, with the consequence that medical examinations/consultations had to be cancelled or postponed (excepting emergencies). **The CPT recommends that appropriate steps be taken to remedy this deficiency.**

73. Dental care was provided by a dentist at Bari Prison for two half-days per week, at Florence-Sollicciano from Mondays to Fridays for five hours per day, and at Palermo-Ucciardone and Vicenza Prisons for one half-day per week.

Given the long waiting lists (outside emergencies) observed at Bari and Palermo-Ucciardone Prisons, **the CPT invites the Italian authorities to increase the presence of a dentist in both establishments to at least three half-days per week.**

e. situation of disabled prisoners

74. During its visit to Bari Prison, the delegation paid particular attention to the specific situation of prisoners suffering from physical disabilities.

The special unit for this category of prisoner, located on the first floor of the CDT, offered generally satisfactory living conditions, which were adapted to the specific needs of the persons concerned. Most of the prisoners were accommodated in a double room together with another prisoner who acted as permanent caretaker (*piantone*). The bed of the *piantone* was attached to the wall above that of the disabled prisoner.

That said, it is regrettable that the establishment had no specialised hospital beds, despite the fact that three prisoners were bed-ridden or paraplegic. Further, due to lack of space in the CDT, a number of prisoners in wheelchairs had to be accommodated in ordinary cells outside the CDT. However, the latter cells were not adequately equipped for this purpose. **The CPT recommends that the aforementioned shortcomings be remedied.**

75. As regards the role of *piantoni* in general, the CPT calls for caution when involving fellow-inmates in the care of disabled prisoners, all the more so when the prisoners concerned require more specialised care (such as bed-ridden or paraplegic inmates).

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<sup>50</sup> At Bari Prison, the delegation was informed that, on average, almost one-third of external consultations were affected by such logistical obstacles.

In the establishments visited, *piantoni* were selected by the management from among volunteer prisoners. They were employed by the prison and paid a monthly salary. As a rule, they shared the cell with the prisoner in need of care and *de facto* provided support on a 24-hour basis. Before taking up their duties, they underwent a mandatory medical check by an occupational health specialist.

However, in none of the establishments visited had *piantoni* received any training for the specific tasks they were supposed to perform as a caretaker.

**The CPT recommends that steps be taken by the relevant authorities to ensure that *piantoni* employed at Bari Prison as well as in other prisons in Italy receive appropriate training.**

Further, the Committee wishes to stress that any involvement of *piantoni* in the care of disabled prisoners should never lead to a total delegation of staff responsibilities and that the work of *piantoni* should always be adequately supervised by a qualified member of staff.

f. psychiatric and psychological care

76. The provision of psychiatric care appeared to be generally adequate in the establishments visited (including the *Casa di Cura e Custodia* for women at Florence-Sollicciano Prison). Bari Prison was attended by one full-time psychiatrist, Florence-Sollicciano Prison by eight full-time psychiatrists, Palermo-Ucciardone Prison by three part-time psychiatrists and Vicenza Prison by one part-time psychiatrist.

77. In case of need, mentally-ill prisoners were transferred to a specialised CDT in another prison, an OPG, a residential institution or a psychiatric department (SPDC) of a general hospital (on the basis of a TSO procedure).

However, at Palermo-Ucciardone Prison, the delegation was informed that, on several occasions, the management had encountered difficulties in transferring prisoners suffering from an acute mental disturbance to a specialised institution. Usually, the waiting periods for a free bed in the nearest CDT (located at Palermo-Pagliarelli Prison) ranged from several weeks to several months and for a transfer to the OPG in Barcellona they were even longer. At the same time, the SPDC in Palermo was said to be reluctant to accommodate mentally-ill prisoners. As a consequence, prisoners in need of hospitalisation often had to be treated inside the prison, while being held in a security cell under constant supervision by staff.

**The CPT recommends that all necessary steps be taken by the relevant national and regional authorities to remedy this shortcoming.**

78. The CPT welcomes the measures taken by the Italian authorities after the 2008 visit to improve the living conditions of psychiatric patients in the CONP at Milan-San Vittore Prison. Comparing the situation with what the Committee found in 2008 is like comparing day with night. The premises have been completely renovated and a “day centre” has been set up where patients are offered occupational activities on three days per week. In addition, patients have regular access to a small fitness room.

g. medical screening

79. In all the establishments visited, newly-arrived prisoners were examined within 24 hours by a duty doctor and a psychologist (who, among other things, assessed the risk of self-harm and/or suicide). In the context of the medical screening, prisoners were offered a urine and blood test, in order to detect transmissible diseases such as HIV/AIDS, hepatitis and syphilis. If it was deemed necessary, prisoners were also referred to a psychiatrist and, in the case of drug addiction, to the SERT.

80. The CPT welcomes the initiative of the medical service at Palermo-Ucciardone Prison to provide all newly-arrived prisoners with relevant information on the prevention of transmissible diseases. For this purpose, prisoners received a specific brochure as well as oral explanations by nursing staff. **The Committee encourages the relevant health authorities (including the SERT) to promote awareness-raising activities for the prevention of transmissible diseases in all Italian prisons.**

81. The CPT has repeatedly stressed that prison health-care services can make a significant contribution to the prevention of ill-treatment (by law enforcement officials and prison officers), through the systematic recording of injuries and the transmission of information to the relevant authorities.

In this connection, the delegation gained the impression that the situation had improved since the 2008 visit as regards the quality of the recording of detected injuries. In most of the establishments visited, it appeared to be standard practice for prisoners who displayed visible injuries upon arrival to be transferred to a local hospital for a medical examination before being formally admitted to the prison (provided that the hospital pronounced them fit for detention<sup>51</sup>). In addition, injuries were described in detail by the admitting duty doctors in the medical file of the prisoners concerned (together with the doctor's conclusion as to the consistency between allegations made and the medical findings).

That said, it is regrettable that, in most of the establishments visited, the so-called "Register 99", which had been introduced in the Italian prison system a long time before<sup>52</sup> as a dedicated register for all injuries observed by medical staff on prisoners (both on admission and during imprisonment), was no longer kept at all or at least not for its intended purpose<sup>53</sup>. As result, it would be very difficult and in some establishments even impossible for outside monitoring bodies to obtain rapidly a comprehensive picture of the situation as regards the frequency of arrival of prisoners with visible injuries and of lesions sustained during imprisonment.

**The CPT recommends that steps be taken by all relevant authorities to ensure that a dedicated register for the recording of injuries observed on prisoners is kept in all Italian prisons.**

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<sup>51</sup> The medical certificate issued by the hospital was kept in the medical file of the prisoner concerned.

<sup>52</sup> Already prior to the CPT's first visit to Italy in 1992.

<sup>53</sup> For instance, at Palermo-Ucciardone Prison, all medical consultations of members of staff were recorded in the "Register 99".

82. As regards the reporting to the relevant judicial authorities of traumatic lesions and other information which are indicative of ill-treatment by law enforcement officials or prison officers, reference is made to the remarks and recommendations made in paragraphs 10 to 12.

h. medical confidentiality

83. The delegation was struck by the almost total lack of medical confidentiality in almost all the establishments visited.

Despite the assurances given to the contrary by the Italian authorities after the 2008 visit<sup>54</sup>, prison officers were usually present during medical examinations (as well as during interventions by nurses and consultations with psychologists) at Bari, Palermo-Ucciardone and Vicenza Prisons; the only positive exception in this regard appeared to be Florence-Sollicciano Prison.

Further, the confidentiality of medical data was not respected at all at Palermo-Ucciardone Prison. Not only were medical data kept in administrative files (in particular, in a specific section of the multi-disciplinary admission form, the so-called “*cartella di primo ingresso*”), but individual medical files were also accessible to prison officers. In addition, all medical registers were regularly checked and, on occasion, even annotated by the establishment’s Director (or Deputy Director) with comments and/or questions addressed to medical staff.

In contrast, at Bari Prison, data of a medical nature (e.g. information on injuries or hunger strike) were communicated to the management only on a need-to-know basis by using a specially designed notification form, while fully respecting the confidentiality of all other medical data.

**The CPT once again calls upon the Department of Prison Administration to take immediate steps - in co-operation with the relevant regional health authorities - to ensure that the principle of medical confidentiality is fully respected in all Italian prisons. More specifically, steps should be taken to ensure that:**

- **all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers;**
- **medical data are, as a rule, not accessible to non-medical staff.**

i. medical seclusion rooms

84. Most of the establishments visited had one or more designated seclusion rooms to segregate prisoners from the rest of the prisoner population for medical reasons (*i.e.* risk of contagious disease). Material conditions in these rooms were generally adequate and do not call for any particular comments.

However, at Bari Prison, the delegation observed that a prisoner was being held in one such room within the establishment’s CDT exclusively for his own protection (due to his former professional background). **The CPT encourages the management of Bari Prison to strive to avoid accommodating prisoners in health-care facilities, if there is no medical reason for doing so.**

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<sup>54</sup> Cf. CPT/Inf (2010) 13, page 58.

## 6. Other issues

### a. mothers with children in prison

85. In the course of its visit to Florence-Sollicciano Prison, the delegation also visited the establishment's mother-and-child unit (so-called "*Nido*"), which is one out of 20 units of this kind in the Italian prison system. In accordance with the relevant legislation<sup>55</sup>, mothers who were not (yet) eligible for house arrest on account of their motherhood were accommodated in that unit together with their children until the latter reached the age of three years.

86. With an official capacity of 16 places (for mothers), the mother-and-child unit at Florence-Sollicciano Prison was accommodating five mothers and five children at the time of the visit. As a rule, at least one female and one male officer were present in the unit every day.

87. Overall, the delegation gained a favourable impression of the living conditions in the unit. Material conditions were of a good standard in terms of living space, access to natural light and equipment. Throughout the day, mothers and children could move freely within the unit and had ready access to a garden with a playground. On workdays, children attended a kindergarten outside the establishment from 9 a.m. until 1 p.m., while their mothers performed some work (kitchen, cleaning, etc.).

88. The CPT notes with interest that, following an amendment of 2011, the Penitentiary Law<sup>56</sup> contains a legal basis for the granting of a "special house arrest" in protected family houses (*case famiglia protette*) where convicted mothers and their children up to the age of six years may be accommodated (with the approval of the competent supervisory judge). Such houses operate under the authority of the Department of Prison Administration and are guarded by plain clothes prison officers. The underlying goal is to allow mothers and their children to live, to the extent possible, in a non-carceral environment.

At Florence-Sollicciano Prison, the delegation was informed that plans were afoot to create such a protected family house in Florence, and it would appear that similar projects also exist in other parts of the country<sup>57</sup>.

The CPT welcomes the above-mentioned initiatives **and would like to receive detailed information on their implementation.**

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<sup>55</sup> Sections 21bis and 47ter of the Penitentiary Law set out the criteria under which convicted mothers of young children may be granted house arrest until their child(ren) reach(es) the age of ten; cf. also Section 19 of Presidential Decree No. 230 of 30 June 2000.

<sup>56</sup> Section 47quinquies, paragraph 1bis.

<sup>57</sup> Already in 2006, a similar institution (*Istituto di Custodia Attenuata per Madri*), affiliated to Milan-San Vittore Prison, was set up in the context of a pilot project.

b. staff

89. As already indicated in paragraph 43 all the prisons visited were severely overcrowded.

Against this background, it is of all the more concern that, in most of the establishments visited, a considerable number of posts of prison officers were vacant at the time of the visit. The situation was particularly problematic at Florence-Sollicciano Prison, where 215 posts (out of a total of 692) were vacant. Further, at Vicenza Prison, due the shortage of custodial staff (45 of 190 posts being vacant), the management had suspended various outdoor sports activities (see paragraph 49). Moreover, at Bari Prison, the delegation was informed that some 25 out of 394 posts were vacant and that approximately one third of all 375 prison officers were regularly involved in escorting prisoners. Thus, the number of custodial staff was insufficient; in some detention units, up to 100 prisoners were supervised by only one prison officer.

**The CPT recommends that the Italian authorities pursue their efforts as a matter of priority to fill the vacant prison officers' posts at Bari, Florence-Sollicciano and Vicenza Prisons.**

90. Further, in several of the establishments visited, it transpired from discussions with staff representatives and various prison officers that many prison officers felt a need to receive more continuous training in inter-personal skills and, more specifically, in the handling of inmates who display behavioural and/or mental disorders.

**The CPT trusts that the Ministry of Justice will take the necessary steps to ensure that the aforementioned issues are adequately addressed in the continuous training of prison officers.**

c. contact with the outside world

91. In all the establishments visited, prisoners were usually allowed to receive six one-hour visits per month and to make four ten-minute telephone calls per week, in compliance with the relevant legal provisions<sup>58</sup>.

92. The delegation was particularly impressed by the visiting arrangements at Florence-Sollicciano Prison, where prisoners could in fine weather meet their relatives in a large park on the premises of the establishment, equipped with benches and a playground for children. Indoor visiting areas were also adequate.

<sup>58</sup>

Section 18 of the Penitentiary Law and Sections 37 and 39 of Presidential Decree No. 230 of 30 June 2000. Prisoners subject to a high-security regime were allowed to receive four one-hour visits and to make two ten-minute telephone calls every month.

In contrast, at Bari Prison, the visiting area for male prisoners consisted of two rows of benches separated by a waist-level wall and a low glass partition on the upper side of the wall. Thus, prisoners could only have physical contact with their visitor if they remained standing by the wall, which was often practically impossible for the many prisoners in the establishment who suffered from physical disabilities.

**The CPT invites the Italian authorities to review the layout of the visiting area for male prisoners at Bari Prison, in order to ensure that all prisoners, including those suffering from disabilities, are able to have physical contact with their visitors under decent conditions.**

d. discipline

93. According to Section 39 of the Penitentiary Law, exclusion from association activities for 15 days constitutes the most severe disciplinary sanction.

94. None of the prisons visited had designated punishment cells. Instead, prisoners who were subjected to the sanction of exclusion from association activities were usually accommodated in ordinary cells (with slightly less furniture), the material conditions of which were generally satisfactory.

That said, at Bari Prison, the two cells located on the ground floor of the female section, which were used, among other things, for disciplinary purposes were dilapidated (especially the furniture) and were found to be in a deplorable state of hygiene. **The CPT recommends that immediate steps be taken to remedy these deficiencies.**

95. From an examination of various disciplinary files and consultations with staff in several of establishments visited, it transpired that, regrettably, none of the specific recommendations made by the Committee after the 2008 visit concerning disciplinary procedures had 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, 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. It also remains the case that supervisory judges examined appeals only on procedural grounds, but not on the merits.

Therefore, **the CPT must recommend once again 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.**



Further, **the Committee reiterates its recommendation that all necessary steps be taken to ensure that appeals against disciplinary sanctions are also examined on the merits by supervisory judges.**

96. The CPT wishes to stress once again that medical practitioners in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners.

Against this background, it is unacceptable that, despite the specific recommendation repeatedly made by the Committee after previous visits, prison doctors were still members of disciplinary commissions and thus actively took part in disciplinary proceedings against prisoners<sup>59</sup>. **The CPT calls upon the Italian authorities to take immediate steps to abolish this practice in the entire prison system.**

97. Further, before a disciplinary sanction of exclusion from association activities was implemented, prison doctors were still required, in accordance with the relevant legislation<sup>60</sup>, to certify that the prisoner concerned was able to sustain the measure.

In the CPT's view, such a practice is scarcely conducive to a positive doctor-patient relationship. This point was recognised in the European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been removed.

On the other hand, health-care staff should be very attentive to the situation of prisoners subject to the disciplinary sanction of exclusion from association activities (or any other prisoner held under conditions of solitary confinement). The health-care staff should be informed of every such placement and should visit the prisoner immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary confinement.

**The CPT reiterates its recommendation that the role of health-care staff in relation to disciplinary matters be reviewed, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21<sup>st</sup> General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).**

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<sup>59</sup> See Section 40 of the Penitentiary Law.

<sup>60</sup> Section 39 of the Penitentiary Law.

- e. prisoners subject to Section 72 of the Penal Code

98. Already in the report on the 2004 visit<sup>61</sup>, the CPT expressed serious misgivings about the fact that, pursuant to Section 72 of the Penal Code, prisoners sentenced to life-imprisonment may, under certain circumstances<sup>62</sup>, be ordered by the criminal court (as part of the sentence) to serve a fixed period (ranging from two months to three years) in solitary confinement (so-called “*isolamento diurno*”).<sup>63</sup> The prisoners concerned are in principle entitled to work or to participate in educational activities (such as distance learning programmes), but they are not allowed to have any contact with other prisoners during the entire period of solitary confinement.

During the 2012 visit, the delegation did not come across any prisoner who was subject to such kind of confinement regime. However, as a matter of principle, the CPT wishes to stress once again that solitary confinement should never be imposed – or be imposable at the discretion of the court concerned – as part of a sentence. The generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment, should be recalled in this context. Imprisonment is a punishment in its own right and potentially harmful aggravations of a prison sentence as part of the punishment are not acceptable. It may be necessary for a sentenced prisoner to be subject, for a certain period of time, to a solitary confinement regime; however, the imposition of such a regime should lie with the prison authorities and not be made part of the catalogue of criminal sanctions.

**The CPT urges the Italian authorities to review the relevant criminal legislation, in the light of the above remarks.**

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<sup>61</sup> See CPT (2006) 16, paragraph 91.

<sup>62</sup> Commission of multiple crimes which are punishable with life imprisonment or commission of one crime punishable with life imprisonment and one or more crimes punishable with imprisonment of more than five years.

<sup>63</sup> During the 2008 visit, the delegation met a prisoner at Novara Prison who had been subjected to two consecutive periods of “*isolamento diurno*”, for a total of six years.

## **D. Psychiatric establishments**

### **1. Preliminary remarks**

99. The delegation carried out visits to the Barcellona Pozzo di Gotto Judicial Psychiatric Hospital (*Ospedale Psichiatrico Giudizario* – OPG) and Care and Surveillance Centre (*Casa di Cura e Custodia* – CCC) and the Psychiatric Service for Diagnosis and Care (*Servizio Psichiatrico Ospedaliero di Diagnosi e Cura* – SPDC) at Milazzo General Hospital. The main objective of these two visits was to examine the action taken by the Italian authorities in the light of various recommendations made by the Committee after its visits to several OPGs and SPDCs in 2004 and 2008.<sup>64</sup> Further, the delegation visited, for the first time in Italy, a residential institution for psychiatric patients, namely the Therapeutic Community Centre (*Comunità Terapeutica Assistita* – CTA) in Naso.<sup>65</sup>

100. The relevant legal framework governing the involuntary placement of psychiatric patients in an OPG or CCC was already described in some detail in paragraphs 120 and 157 of the report on the 2008 visit and remains valid.<sup>66</sup> Involuntary placement of a civil nature (*accertamento e trattamento obbligatorio* – TSO) is regulated by Law No. 180 of 1978, the main provisions of which have not changed since the 2008 visit.

101. The CPT wishes to stress that its delegation received no allegations and found no other evidence of deliberate ill-treatment of patients by staff in any of the establishments visited. 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 indicated that the level of inter-patient violence was not significant.

However, the CPT must express its serious concern about a patient of the Barcellona OPG who had been subjected to mechanical restraint (for almost three weeks) at the Milazzo SPDC. In the Committee's view, the conditions in which this measure was applied can easily be considered as amounting to inhuman and degrading treatment. The CPT will come back to this issue later in the report (see paragraph 127).

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<sup>64</sup> See CPT/Inf (CPT/Inf (2006) 16, paragraphs 130 to 159, and CPT/Inf (2010) 12, paragraphs 119 to 171.

<sup>65</sup> All three establishments visited are located in the province of Messina (Sicily).

<sup>66</sup> Section 222 of the Penal Code (placement in an OPG of persons deemed not to be criminally responsible for their acts); Section 206 of the Penal Code (provisional placement in an OPG); Section 219 of the Penal Code (placement in a CCC of persons declared partially criminally irresponsible); Section 206 of the Penal Code (provisional placement in a CCC); Section 148 of the Penal Code (placement in an OPG of prisoners who have developed a mental illness during imprisonment); Section 286 of the CCP (placement of remand prisoners in an OPG).

**2. Barcellona Pozzo di Gotto Judicial Psychiatric Hospital (OPG) and Care and Surveillance Centre (*Casa di Cura e Custodia*)**

a. introduction

102. The visit to the Barcellona OPG took place during a period of transition. Following the transfer of the responsibility for the provision of prison health care from the Ministry of Justice to the regional health authorities (ASL), which became effective on 1 October 2008, the relevant ASL also became responsible for the provision of health care in OPGs. However, as already indicated in paragraph 64 above, this transfer has to date not been implemented in Sicily. Consequently, at the time of the visit, the Barcellona OPG was the only OPG in Italy which still operated under the sole responsibility of the Ministry of Justice.

103. On 11 June and 21 November 2010, a delegation of a parliamentary inquiry commission<sup>67</sup>, headed by Senator Ignazio R. Marino, carried out two fact-finding missions to the Barcellona OPG. In its final report<sup>68</sup>, the commission denounced “grave and unacceptable deficiencies” at the Barcellona OPG (as well as in most of the other OPGs in Italy) in terms of material conditions, health care and staffing levels, as well as regarding an inappropriate use of means of restraint which impinged upon the human dignity of the patients concerned. Following the report of the inquiry commission, a number of measures were taken by the management of the Barcellona OPG to improve the situation (see also paragraphs 105 and 106).

That said, the information gathered by the CPT’s delegation during the 2012 visit indicated that a number of major shortcomings still persisted, which are similar to those found at the Aversa OPG during the 2008 visit<sup>69</sup>.

104. On 17 February 2012, a new law<sup>70</sup> was adopted by Parliament which stipulates that all existing OPGs shall be closed down by 31 March 2013 and that all patients held in OPGs shall be transferred to new health-care structures for the execution of security measures, which fall under the exclusive responsibility of the relevant ASL and, more specifically, the Departments of Mental Health (*Dipartimenti di Salute Mentale* - DSM). For this purpose, the aforementioned law provides for the allocation of 38 and 55 million Euros (for 2012 and 2013 respectively) as well as for an additional 180 million Euros in order to finance the closure of the OPGs and the construction of new health-care structures at regional level. In these structures, particular emphasis shall be put on the treatment and rehabilitation of psychiatric patients, outside a prison-like environment.

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<sup>67</sup> The Parliamentary Inquiry Commission on the Effectiveness and Efficiency of the National Health System was set up in July 2008. Among others things, particular attention was paid to the living conditions and treatment of patients in OPGs.

<sup>68</sup> The final report of the inquiry commission was approved by the Senate of the Republic on 20 July 2011 and was published in Doc. XXII-bis no. 4 (XVI Legislature).

<sup>69</sup> See paragraphs 119 to 163 of the report on the 2008 visit (CPT/Inf (2010) 12).

<sup>70</sup> 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’”.

b. living conditions, staff and treatment

105. The Barcellona OPG was undergoing major refurbishment, with a view to transforming the premises into a prison after the closure of the psychiatric hospital. Due to the ongoing renovation works, several wards had been temporarily withdrawn from service and the official capacity of the OPG had been reduced from 450 to 261 beds.

Material conditions were generally good in all renovated wards, although they remained very austere and impersonal. At the time of the visit, the OPG was accommodating 251<sup>71</sup> patients on the main premises<sup>72</sup>, and seven patients were being held under a less restrictive regime (*custodia attenuata*) in a detached unit (so-called “ORETO”; with a capacity of 12 places) in the centre of Barcellona Pozzo di Gotto.<sup>73</sup>

106. Arrangements were being made to open a new therapeutic centre for female forensic psychiatric patients in one of the newly-renovated sections of the OPG. The delegation was informed that 18 women would be transferred there from the OPG in Castiglione delle Stiviere in the near future. **The CPT wishes to receive confirmation that this transfer has taken place; it would also like to receive more detailed information on this therapeutic centre (capacity, staffing levels, activities offered to patients, etc.).**

107. The delegation was struck by the extremely low health-care staffing levels in the Barcellona OPG<sup>74</sup>. In particular, the presence of *psychiatrists* was totally insufficient with 11 part-time psychiatrists working the equivalent of a mere three full-time posts for a total of 251 patients<sup>75</sup>. The contrast could hardly be greater with the situation of civil psychiatric patients observed at the Milazzo SPDC where three psychiatrists were employed on a full-time basis for a maximum of seven patients (see paragraph 121).

The team of *nurses* consisted of 23 full-time nurses and nine nurses working part-time (70%). Such a nursing cover is clearly insufficient for the needs of a psychiatric hospital with more than 250 patients. By way of example, in Ward No. 8, the largest ward of the OPG (with a total of 97 patients accommodated on two floors), three nurses were usually present on each floor in the morning and two in the afternoon. At night, there was usually only one nurse responsible for the care of all patients of the ward. Again, the contrast to the Milazzo SPDC is striking, where five nurses were present during the day for six patients (see paragraph 121).

Further, it beggars belief that, at the beginning of 2012, the presence of *psychologists* which had already been minimal in 2011 (two part-time psychologists both working seven hours per month) was downsized even more, due to budgetary cuts, to a total of six hours per month<sup>76</sup>. The CPT wishes to recall that the involvement of a sufficient number of psychologists is essential for the provision of adequate treatment and rehabilitation programmes for patients (evaluations, psychotherapy, group therapies, etc.) as well as for continuous support to staff.

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<sup>71</sup> The number of patients used to be much higher in the past, but, following the visit of the above-mentioned parliamentary inquiry mission, it had been reduced.

<sup>72</sup> On a temporary basis, the OPG was also accommodating 17 prisoners from the semi-open unit of Messina Prison who worked every day in the outside community.

<sup>73</sup> The detached unit was not visited by the delegation.

<sup>74</sup> At the time of the visit, the OPG also employed a total of 107 prison officers.

<sup>75</sup> The delegation was informed that the presence of psychiatrists had been reduced by 50% in recent years.

<sup>76</sup> Both psychologists were present for three hours per month.

108. The treatment provided to patients was based mainly on pharmacotherapy. In a number of cases, it involved the administration of psychotropic drugs in high dosages. In the light of the delegation's findings it may well be possible to reduce resort to sedative medication if the number of (qualified) health-care staff was increased and if a wider range of treatment programmes was provided to patients.

Further, there were no real individual treatment plans and hardly any occupational or other (socio)therapeutic activities, and, due to the almost total lack of psychological services, no psychotherapy was provided.

The delegation was informed that, in 2011, 56 patients had participated in various courses (computing, handicraft, gardening, cooking) and 64 had been offered some work. However, for 2012, the budget earmarked for the organisation of such activities had been reduced by 70% (due to budgetary cuts) and the number of patients involved had decreased accordingly.

109. Whilst acknowledging the efforts made by the management and staff of the Barcellona OPG to provide the best possible care for patients, the CPT cannot but conclude that the OPG suffers from a fundamental flaw. It lacks the necessary human resources and infrastructure to provide patients with an individualised treatment programme which is based on a multidisciplinary approach. In addition, the environment is scarcely therapeutic, with an overemphasis on security and containment and far too little attention being paid to the psycho-social rehabilitation of patients.

From various consultations held in the course of the visit, the delegation gained the impression that the relevant authorities were determined to turn the page and to embark on a complete overhaul of the existing forensic psychiatric services in Sicily as well as in all other regions in Italy. The Counselor (*Assessore*) of Health of Sicily, Mr Massimo Russo, and representatives of the DSM in Sicily affirmed to the delegation that all necessary measures would be taken in order to close down the Barcellona OPG as soon as possible and to transfer all patients to residential structures under the authority of the DSM, pending the outcome of the ongoing negotiations on the transfer of the responsibility for prison health care from the Ministry of Justice to the ASL of Sicily (see paragraph 64). The delegation was also informed that a technical commission had been set up and tasked with an individual needs assessment of all OPG patients, in order to identify a suitable residential structure for each of them. Any new institutions would provide the same level of care as existing structures for civil psychiatric patients.

**The CPT urges all relevant regional and national authorities to implement the above-mentioned reform as a matter of priority and to take all necessary steps to ensure that forensic psychiatric patients throughout Italy are henceforth provided with a therapeutic environment and individualised treatment programme which is based on a multidisciplinary approach.**

**The Committee would also like to receive an account of the measures taken to transfer psychiatric patients from the Barcellona OPG to residential structures at regional level as well as detailed information on any new establishments which have been created for this purpose (official capacities, number of patients, staffing levels, activities offered to patients, etc.).**

c. means of restraint

110. The delegation was informed by the management that restraint beds were no longer in use.<sup>77</sup> Instead, agitated and/or violent patients would be subjected to chemical restraint and/or placed in a seclusion room; in case such measures proved to be insufficient the patient concerned would be transferred to the Milazzo SPDC, on the basis of a TSO procedure. To date, only one such transfer has taken place (see paragraph 127).

111. The delegation noted that, in practice, chemical restraint and seclusion were only resorted to upon the order of a doctor and all such measures were recorded in the medical file of the patient concerned.

However, the OPG had no written policy on the conditions and modalities of seclusion and there was no specific register on the use of seclusion rooms.

As in the context of means of mechanical restraint (see paragraph 127), **the CPT recommends that steps be taken by the relevant authorities to ensure that:**

- **a clearly defined written policy on seclusion is established and effectively implemented in practice in all psychiatric structures in Italy;**
- **a specific register is established in every psychiatric structure to record all instances of seclusion;**
- **every patient subject to seclusion is continuously supervised by a qualified member of health-care staff.<sup>78</sup>**

d. in-hospital deaths

112. When examining the mortality rate at the Barcellona OPG, the delegation was struck by the high number of in-hospital deaths observed in young patients. Since 2007, a total of 20 deaths occurred in the hospital. While the number of suicides remained relatively low (three cases), five patients below the age of 45 and twelve below the age of 60 reportedly died of natural causes.

In this connection, it is a matter of concern that autopsies were usually carried out only in apparent cases of suicide, but not in other death cases. In the CPT's view, just as is the case with other closed institutions, when an involuntary patient held in a psychiatric structure dies, an autopsy should follow, unless a medical authority independent of the hospital decides that an autopsy is unnecessary.

**The CPT recommends that this approach be adopted and rigorously applied in all psychiatric structures in Italy. More generally, the Committee recommends that the relevant authorities institute a practice of carrying out a thorough inquiry into every death of a psychiatric patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures.**

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<sup>77</sup> Previously, the OPG had some 20 restraint beds of the type found by the CPT in 2008 at the Aversa OPG. Following the report of the parliamentary inquiry commission referred to in paragraph 103, all but one restraint beds were decommissioned and the last bed was withdrawn from service in July 2011.

<sup>78</sup> The staff member may be outside the seclusion room, provided that the patient can fully see the staff member and the latter can continuously see and hear the patient.

e. review procedures

113. Thirdly, in accordance with the relevant legislation, the necessity of involuntary placement of forensic patients in the OPG was reviewed by the competent supervisory court at least once a year (in many cases, every six months).

In this connection, the CPT welcomes the fact that indigent patients were always provided free legal aid by an *ex officio* lawyer. The delegation was also informed that, in principle, the patients concerned were entitled to request a second expert opinion from another doctor who was independent of the hospital and, with the approval of the President of the Supervisory Court, indigent patients could be exempted from paying a court fee for the expert opinion.

However, as far as the delegation could ascertain, court decisions were usually taken only on the basis of the assessment provided by the patient's treating doctor from the OPG. In the interest of safeguarding the doctor-patient relationship, **the CPT recommends that this practice be discontinued at the Barcellona OPG and, where appropriate, in other psychiatric establishments in Italy.**

**3. Naso Therapeutic Community Centre (*Comunità Terapeutica Assistita* – CTA)**

114. The Therapeutic Community Centre (CTA) in Naso is one of four residential institutions of the same type in the province of Messina and is affiliated to the Department of Mental Health (DSM), under the overall authority of the ASL. The Centre was opened in 1998 and refurbished in 2005. With an official capacity of 20 beds, it was accommodating 13 patients (including one woman) at the time of the visit. Eight of them were held in the Centre on an involuntary basis, namely five forensic patients who had been transferred to the Centre by court order from the Barcellona OPG and three prisoners who had been “released” from prison and assigned to the Centre by the supervisory judge on the basis of a formal house arrest. Five civil patients had been admitted to the Centre on a voluntary basis (mostly former patients of the SPDCs in Messina and Milazzo). On average, patients were accommodated in the Centre for 12 to 18 months. The turnover was rather low (for instance, in 2011, there had been 13 admissions and ten discharges).

115. Staffing levels were generally satisfactory. The Centre employed two full-time psychiatrists (including the Director), two part-time general practitioners, 15 nurses, one part-time physiotherapist and ten auxiliaries (who acted as caretakers and cleaners). As a rule, at least one of the above-mentioned doctors was present during the day (from 8 a.m. to 8 p.m.) from Mondays to Saturdays, and, at night and on Sundays, a doctor from the ASL was on duty. In addition, three nurses and two auxiliaries were present on a 24-hour basis seven days a week.

116. Overall, the delegation gained a favourable impression of the living conditions and the treatment provided to patients.



Patients were accommodated in spacious bedrooms (with two to five beds<sup>79</sup>), all of which were in a very good state of repair and well-equipped (including with individual lockers). The so-called “day area” comprised a fitness room (with a running machine, two indoor exercise bicycles and weight-lifting devices), and an activity room for handicrafts, as well as a dining room and a visiting room (both pleasantly decorated). Moreover, the level of hygiene was impeccable throughout the Centre.

All patients benefited from individualised psychiatric and somatic treatment. Further, every patient had a personal medical file which was well-maintained. Medical confidentiality was also fully respected.

That said, the delegation gained the impression that only little use was made of the above-mentioned activity room. **Steps should be taken by the relevant authorities to encourage nursing staff at the Naso CTA to be more proactive and also engage themselves in activities together with patients.**

117. Neither means of restraint nor seclusion were applied in the Centre. In case of need, patients were transferred (back) to the Barcellona OPG or to a SPDC.

118. As regards the legal safeguards surrounding judicial review procedures before the supervisory court, **the remarks and recommendation made in paragraph 113 apply equally to the Naso CTA.**

119. Finally, the arrangements made for allowing patients to have contact with the outside world were also satisfactory. In particular, they could receive visits every day and also receive and make telephone calls (usually free of charge) at any time.

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Due to the fact that the Centre was operating below its official capacity, no more than two patients were accommodated in any of the rooms.

#### 4. Psychiatric Service for Diagnosis and Care (SPDC) at Milazzo General Hospital

120. The Psychiatric Service for Diagnosis and Care (SPDC) at Milazzo General Hospital was opened in 1978. Although located on the premises of a general hospital, the SPDC is totally independent from the hospital management and directly affiliated to the regional Department of Mental Health (DSM). With an official capacity of seven beds<sup>80</sup>, it was accommodating six patients (one female and five male) at the time of the visit; two of them being subject to an involuntary placement order (TSO). On average, some 50% of all admissions were carried out on an involuntary basis<sup>81</sup>.

121. The health-care team of the SPDC was very well staffed with three full-time psychiatrists, 15 nurses and 15 auxiliaries. Nursing staff was present on a 24-hour basis and four during the day. One psychiatrist was on call at night as well as on Sundays and public holidays.

That said, from discussions with nursing staff, it transpired that nurses felt themselves inadequately trained and overburdened and were reluctant to deal with agitated patients. In the CPT's view, such a state of affairs is conducive to inappropriate behaviour on the part of staff and may eventually also lead to excessive resort to physical restraint of patients (see also paragraph 127). **The CPT recommends that steps be taken by the relevant authorities to ensure that nursing staff at the Milazzo SPDC are provided with adequate training and guidance to enable them to manage agitated and/or violent patients in an appropriate manner.**

122. As regards living conditions, the entire premises of the SPDC displayed clear signs of wear and tear, and patients' bedrooms (three double and one single room) were very austere in terms of equipment and decoration. Further, due to the lack of a communal room, patients could only associate and engage themselves in basic recreational activities in a dining area with two tables and several chairs located in the corridor of the SPDC (where a television set was also installed).

The delegation was informed by the management that plans were afoot to construct a larger SPDC outside the general hospital and to transfer the SPDCs of Milazzo and Taormina to the new location. **The CPT would like to receive up-to-date information on the implementation of the aforementioned plan as well as detailed information on the new SPDC (capacity, staffing levels, recreational and therapeutic activities, etc.).**

123. The psychiatric treatment provided to patients was mainly focussed on pharmacotherapy, based on an individualised treatment plan.

Notwithstanding the fact that patients usually stayed in the SPDC only for relatively short periods, it would be desirable for the management of the SPDC to develop other forms of treatment (such as individual and group therapies). For this purpose, the existing nursing staff should receive additional training and the SPDC should be attended on a regular basis by a psychologist and a social worker. **The CPT recommends that action be taken by the relevant authorities to diversify the treatment made available to patients at the Milazzo SPDC, in the light of the above remarks.**

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<sup>80</sup> One bed was permanently reserved for patients from the Aeolian Islands.

<sup>81</sup> 40 out of a total of 84 in 2011; 16 out of 28 during the first four months of 2012.

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

125. The SPDC had no seclusion rooms. Episodes of agitation were usually managed by resorting to chemical and/or mechanical restraint (i.e. four-point restraint).

126. The CPT recalls that resort to mechanical restraint of patients is only very rarely justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his/her approval. If, exceptionally, recourse is had to instruments of mechanical restraint, this should be for the shortest possible period of time (usually not more than a few minutes). The maximum period should generally not exceed six hours, and under no circumstances should patients continuously be subjected to mechanical restraint for more than 24 hours. The CPT must emphasise that applying instruments of mechanical restraint to patients for days at a time cannot have any therapeutic justification and, in its view, amounts to ill-treatment.

Whenever a patient is subject to means of mechanical restraint, a trained member of staff should be continuously present in order to maintain the therapeutic alliance and to provide assistance. Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping him/her to consume food. It is also essential to conduct an interview with the patient concerned at the end of the measure; this will provide an opportunity to explain the rationale behind the measure, thus reducing the psychological trauma of the experience as well as preserving/restoring the doctor-patient relationship.

Further, every instance of physical and/or chemical restraint should be recorded in a specific register established for that purpose, in addition to the patient's file. The entry should always 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 management of such cases, the appropriate reporting of the extent of their occurrence and oversight by the competent authorities.

127. The delegation observed that, at the Milazzo SPDC, mechanical restraint was only applied upon the order of a doctor and every instance was recorded in a specific register (in addition to the patient's medical file). Further, nursing staff performed regular visual checks, but no nurse was continuously present in the room when a patient was being restrained.

That said, it is a matter of concern that patients were on occasion subjected to mechanical restraint for long or even very long periods. In this regard, the situation of a patient (P. R.), met by the delegation at the Barcellona OPG, gives rise to particular concern. The patient had been transferred to the Milazzo SPDC from the OPG in November 2011, on the basis of a TSO procedure, and was then continuously restrained to a bed for 17 days. Whenever food was provided, the restraints were partially removed, but, during the entire period, the patient was prevented from going to the toilet; instead, a catheter was placed in his penis and a bucket provided for defecation. According to his medical file, the patient was so weak when all the restraints were removed after 17 days that he was not able to stand up, he fell from the bed, sustaining a fracture of the nose; in addition, he displayed lesions which were indicative of decubitus and suffered from metabolic problems. Shortly after his return to the OPG, his somatic health condition deteriorated even further so that he had to be transferred to the emergency department of the general hospital in Catania.

With a view to preventing any such situations from re-occurring in the future, **the CPT recommends that immediate steps be taken by the relevant authorities to ensure that a clearly defined written policy on the use of means of restraint is established and effectively implemented in practice at the Milazzo SPDC and, where appropriate, in other psychiatric establishments in Italy, taking into account the requirements set out in paragraph 126.**

128. As regards the involuntary placement procedure of a civil nature, the relevant mental-health legislation<sup>82</sup> stipulates that the placement order (TSO) must be formally issued by the Mayor (*Sindaco*) on the basis of two reasoned medical certificates (*proposte*) by two doctors, one of whom must be a public health official. Within 48 hours of the involuntary admission, the Mayor must inform the competent guardianship judge. The latter must then approve (“convalidate”) the TSO within 48 hours of receipt of the notification. The TSO remains valid for seven days and may be prolonged for renewable periods of seven days. For each prolongation, the same procedural steps have to be taken as during the initial placement.

129. In the reports on the 2004 and 2008 visits<sup>83</sup>, the CPT had made a number of specific recommendations concerning the legal safeguards surrounding the TSO procedure.

That said, from the examination of a number of individual patients’ files and consultations with the Director of the Regional DSM and members of staff of the Milazzo SPDC, it transpired that hardly any of the specific recommendations previously made by the Committee had been implemented in practice. Such a state of affairs is not acceptable.

130. The main shortcomings can be summarised as follows:

First, it remains the case that a psychiatric patient can be admitted to a SPDC on the basis of two doctors who have no qualification in psychiatry (as was observed in one of the patients’ files). It was also not uncommon for the doctors providing treatment at the SPDC to draw up themselves a medical certificate for the Mayor/court in the context of a TSO procedure. For its part, the CPT considers that such a practice is questionable in terms of professional ethics, and may jeopardise the necessary relationship of trust between doctor and patients.

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<sup>82</sup> Section 33 of Law No. 180 of 1978 and Sections 33 to 35 of Law No. 833 of 1978.

<sup>83</sup> See paragraphs 147 to 154 of CPT/Inf (2006) 16 and paragraph 171 of CPT/Inf (2010) 12.

Further, medical certificates drawn up by doctors often contained hardly any reasoning (in one case, both certificates only contained the diagnosis “state of agitation”); in several cases, the first and second certificate were literally identical and, in one case, they were even drawn up in the same handwriting). Thus, it will inevitably be very difficult for the relevant administrative and judicial authorities effectively to assess the need for the imposition of a TSO.

A fundamental flaw lies in the fact that guardianship judges usually took a decision on the validation of the TSO order without ever having seen the patient concerned. In practice, the judges’ role was often simply to carry out a purely formal check of the documents submitted by the Mayor's office. Only in exceptional cases had the judge contacted the SPDC to inquire about the the situation of the patient concerned.

Moreover, the delegation observed that, in a number of cases, the court decision had been notified to the Mayor, but not to the patient concerned<sup>84</sup>. In addition, patients were often not informed of existing legal remedies (against the decisions of the Mayor and the judge).

**131. The CPT reiterates its recommendation that steps be taken by the relevant authorities (including at the legislative level) to ensure that, in the context of initial TSO procedures (and any prolongations of the placement order:**

- **the formal decision to place a person in a 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.**

132. Finally, the existing arrangements for contact with the outside world were satisfactory. In particular, patients could receive visits every day (from 11.00 a.m. to 12.00 noon and 5.00 to 7.00 p.m.) and could receive and make telephone calls at any time. They were also allowed to keep a mobile phone with them.

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That said, the TSO orders issued by the Mayor had always been notified to the patients concerned.



## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Introduction**

##### recommendations

- the Italian authorities to redouble their efforts to introduce as soon as possible the crime of torture into the Penal Code and to take the necessary steps to ensure that the crime of torture is never subject to a statute of limitations (paragraph 6).

#### **Police custody**

##### **Ill-treatment**

##### recommendations

- a formal message to be delivered by the relevant authorities to all law enforcement officials in the Milan area, reminding them that they should be respectful of the rights of persons in their custody and that the physical ill-treatment of such persons, whether at the time of apprehension or subsequently, will be the subject of severe sanctions (paragraph 9);
- law enforcement officials throughout Italy to be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be punished accordingly (paragraphs 9 and 27);
- the Italian authorities to take the necessary steps to ensure that the physical ill-treatment of persons deprived of their liberty by law enforcement officials (or other persons acting on behalf of a public authority) becomes prosecutable *ex officio* irrespective of the prognosis of recovery. To this end, the criminal legislation should be amended so that the 20-day threshold of recovery for a case of possible ill-treatment to be taken up by a prosecutor *ex officio* set out in Section 582 of the Penal Code no longer applies (paragraph 12);
- steps to be taken by all relevant authorities, if necessary by amending the relevant legal provisions, to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 12).

## **Safeguards against ill-treatment**

### recommendations

- the relevant authorities to ensure that, in all law enforcement agencies (including all municipal police services), persons who have been deprived of their liberty – for whatever reason – are fully informed of their rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with a law enforcement official. This should be ensured by provision of clear verbal information at the very outset, to be supplemented by provision of the information sheet on the rights of detained persons immediately upon arrival at a law enforcement establishment. The persons concerned should also be requested to sign a statement attesting that they have been informed of their rights in a language which they understand (paragraph 14);
- 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 deprivation of liberty, it being understood that when "exceptional and specific reasons of circumspection" are invoked, the lawyer will be appointed *ex officio*. To this end, the relevant provisions of the Code of Criminal Procedure should be amended accordingly (paragraph 15);
- the Italian authorities to 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* (paragraph 16);
- the Italian authorities to take immediate steps to ensure that in all law enforcement establishments (including those of municipal police services), 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 (paragraph 17);
- specific legal provisions to be adopted governing the right of persons detained by law enforcement agencies to have access to a doctor of their own choice (at their own expense). The information sheet referred to in paragraph 14 should be amended accordingly (paragraph 18);
- steps to be taken to ensure that, whenever a person is deprived of his/her liberty by a law enforcement agency, for whatever reason, this fact is recorded without delay (paragraph 19);
- officers in all law enforcement establishments visited to be reminded to maintain custody registers meticulously (paragraph 20).



## **Conditions of detention**

### recommendations

- the Italian authorities to take immediate steps to improve the material conditions in the custody cells at the Florence *Questura*, in the light of the remarks in paragraph 21 (paragraph 21);
- the Italian authorities to take immediate steps to ensure that in all law enforcement establishments, persons detained overnight are provided with a clean mattress and clean blankets (paragraph 23);
- steps to be taken 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 (paragraph 24);
- the Italian authorities to 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;
  - the persons concerned are offered outdoor exercise every day (paragraph 24).

### requests for information

- confirmation that the custody cells at the Palermo *Questura* have now been withdrawn from service (paragraph 22);
- detailed information on the capacity and design of the new police detention facilities in Palermo (access to natural light, outdoor exercise yard, etc.) (paragraph 22).

## **Detention of foreign nationals under aliens legislation**

### **Ill-treatment**

#### requests for information

- the outcome of the investigation related to the complaint lodged by a foreign national held at the Bologna Identification and Expulsion Centre (CIE) that he had been ill-treated by police officers on 20 April 2012 (paragraph 28).

### **Conditions of detention**

#### recommendations

- immediate steps to be taken at the Bologna CIE to ensure that foreign nationals are provided with board games and a television set and have more frequent access to the existing sports facilities (paragraph 30);

- the Italian authorities to redouble their efforts to provide foreign nationals held at the Bologna CIE with a range of purposeful activities. The longer the period for which foreign nationals are detained, the more developed should be the activities which are offered to them (paragraph 30).

#### comments

- the CPT trusts that the Italian authorities will take steps to ensure that the detention rooms and their equipment at the Bologna CIE are kept in an acceptable state of repair (paragraph 29).

### **Staff**

#### requests for information

- a detailed organigram of staff at the Bologna CIE, with an identification of the posts currently filled and the time of presence of the staff members concerned (paragraph 31).

### **Health care**

#### recommendations

- steps to be taken at the Bologna CIE and all other CIEs in Italy to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a foreign national (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 34);
- steps to be taken to ensure that the confidentiality of medical data is fully respected at the Bologna CIE (paragraph 37).

#### comments

- all foreign nationals returning to a CIE following a failed deportation by air should undergo a proper medical examination (paragraph 35).

#### requests for information

- confirmation that a member of health-care staff is always present at the Bologna CIE (including at night and during weekends) (paragraph 33).

### **Other issues**

#### recommendations

- as regards the isolation of immigration detainees for reasons of good order and security, a proper legal basis and clear procedures (including appropriate safeguards such as the keeping of a dedicated register) to be established at the Bologna CIE and, where appropriate, in other CIEs in Italy (paragraph 39).

comments

- as regards foreign nationals who shall be deported after having served a prison term, the relevant Italian authorities are invited to take proactive steps to commence the necessary expulsion and deportation procedures prior to the scheduled release from prison (paragraph 40).

**Prisons**

**Preliminary remarks**

recommendations

- the Italian authorities to pursue vigorously their endeavours to combat prison overcrowding, including through increased application of non-custodial measures during the period before any imposition of a sentence. In this respect, the authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and Recommendation Rec(2010)1 on the Council of Europe Probation Rules (paragraph 45).

requests for information

- updated information on progress made by the Italian authorities in combating prison overcrowding (paragraph 45).

**Ill-treatment**

recommendations

- a clear message to be delivered to both the management and staff of Vicenza Prison that all forms of ill-treatment of prisoners (including threats to resort to violence as a punishment) are not acceptable and will be punished accordingly (paragraph 46);
- outside bodies responsible for monitoring the situation at Vicenza Prison and, in particular, the competent supervisory judges to be informed without delay of the allegations received by the delegation of physical ill-treatment and/or excessive use of force against prisoners by prison officers (paragraph 46);
- steps to be taken at Vicenza Prison and all other prisons in Italy to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 46).

## **Conditions of detention of the general prison population**

### recommendations

- material conditions of detention to be improved at Bari, Florence-Sollicciano, Palermo-Ucciardone and Vicenza Prisons, in the light of the remarks in paragraph 47 (paragraph 47);
- immediate steps to be taken at Palermo-Ucciardone Prison to:
  - remove metal shutters from cell windows in Block No. 9;
  - ensure that prisoners are regularly provided with adequate quantities of essential personal hygiene products (paragraph 47);
- the Italian authorities to draw up a comprehensive renovation plan for Palermo-Ucciardone Prison or to decommission the whole establishment (paragraph 47);
- the Italian authorities to take steps to reduce cell occupancy levels in all the prisons visited (and, in particular, at Bari Prison), so as to provide for at least 4 m<sup>2</sup> of living space per prisoner in multi-occupancy cells; for this purpose, the area taken up by in-cell sanitary facilities should not be taken into account. Further, any cells providing less than 8 m<sup>2</sup> of living space should be used for single occupancy only (paragraph 48);
- the Italian authorities to redouble their efforts to improve the programme of activities, including work and vocational training opportunities, for prisoners at Bari, Florence-Sollicciano and Vicenza Prisons and, where appropriate, at other prisons in Italy (paragraph 51).

### requests for information

- in case it is decided to renovate Palermo-Ucciardone Prison, a timetable for the full implementation of the different stages of the works (paragraph 47).

## **Prisoners subjected to the “41-bis” regime at Terni Prison**

### recommendations

- the Italian authorities to review the current “41-bis” detention regime throughout the prison system, in the light of the remarks in paragraphs 54 to 58 and, more specifically, to take the necessary steps 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 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 (paragraph 59);

- the Italian authorities to review the use of CCTV surveillance in prison cells at Terni Prison and, where appropriate, in other prisons in Italy, in the light of the remarks in paragraph 60. 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 (paragraph 60);
- steps to be taken without delay at Terni Prison to remove the opaque plexi-glass layer which covered the windows of the two cells of the establishment's "*area riservata*" (paragraph 61).

## **Health-care services**

### recommendations

- at Palermo-Ucciardone Prison, immediate steps to be taken to improve the state of hygiene in the central infirmary and all five infirmaries in the detention areas (paragraph 65);
- appropriate steps to be taken at Bari Prison to ensure that prisoners are not accommodated in cell N° 20 of the establishment's CDT (*centro diagnostico-terapeutico*) for prolonged periods (*i.e.* more than a few days). Preferably, this cell should be withdrawn from service (paragraph 66);
- the Italian authorities to take urgent steps to increase the budget for specialist consultations at Bari and Palermo-Ucciardone Prisons, in the light of the remarks in paragraph 70 (paragraph 70);
- appropriate steps to be taken at Bari and Palermo-Ucciardone Prisons to improve the organisation of escorts of prison officers to transport prisoners to outside specialists (paragraph 72);
- steps to be taken at Bari Prison to provide bed-ridden and paraplegic prisoners with specialised hospital beds and to ensure that cells accommodating prisoners suffering from physical disabilities are adequately equipped for this purpose (paragraph 74);
- steps to be taken by the relevant authorities to ensure that *piantoni* employed at Bari Prison as well as in other prisons in Italy for the care of disabled prisoners receive appropriate training (paragraph 75);
- the relevant national and regional authorities to take the necessary steps to resolve the problems encountered by the management of Palermo-Ucciardone Prison to transfer prisoners suffering from an acute mental disturbance to a specialised institution (paragraph 77);
- steps to be taken by all relevant authorities to ensure that a dedicated register for the recording of injuries observed on prisoners is kept in all Italian prisons (paragraph 81);
- the Department of Prison Administration to take immediate steps - in co-operation with the relevant regional health authorities - to ensure that the principle of medical confidentiality is fully respected in all Italian prisons. More specifically, steps should be taken to ensure that:

- all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers;
- medical data are, as a rule, not accessible to non-medical staff (paragraph 83).

#### comments

- if the cleaning of the health-care facilities at Palermo-Ucciardone Prison continues to be performed by prisoners, they should receive adequate training for this purpose; ideally, this task should be fulfilled by qualified staff (as was the case in other establishments visited) (paragraph 65);
- the relevant health authorities are invited to review the standard of the existing equipment for physiotherapy in the CDT of Bari Prison, in consultation with the establishment's management, and to provide, where appropriate, new equipment which meets all the necessary quality and security requirements (paragraph 66);
- it would be desirable for the nursing cover at Bari Prison to be reinforced to ensure that, as a rule, two nurses are present during the day within the establishment's CDT (paragraph 68);
- it would be desirable for a system to be introduced at Bari Prison and, where appropriate, in other prisons, whereby prisoners are given the possibility of requesting medical appointments by depositing a signed paper in a mailbox which is only accessible to health-care staff. Further, prisoners should not be required to make multiple requests for one and the same medical appointment (paragraph 71);
- the Italian authorities are invited to increase the presence of a dentist at Bari and Palermo-Ucciardone Prisons to at least three half-days per week (paragraph 73);
- any involvement of *piantoni* in the care of disabled prisoners should never lead to a total delegation of staff responsibilities and the work of *piantoni* should always be adequately supervised by a qualified member of staff (paragraph 75);
- the CPT encourages the relevant health authorities (including the SERT) to promote awareness-raising activities for the prevention of transmissible diseases in all Italian prisons (paragraph 80);
- the CPT encourages the management of Bari Prison to strive to avoid accommodating prisoners in health-care facilities, if there is no medical reason for doing so (paragraph 84).

#### requests for information

- updated information on the transfer of responsibility for the provision of health care in prisons in Sicily from the Ministry of Justice to the regional health authority (*Assessorato della Salute*) (paragraph 64).

## **Other issues**

### recommendations

- the Italian authorities to pursue their efforts as a matter of priority to fill the vacant prison officers' posts at Bari, Florence-Sollicciano and Vicenza Prisons (paragraph 89);
- immediate steps to be taken at Bari Prison to improve the state of repair and the level of hygiene in the two cells located on the ground floor of the female section, which were used, among other things, for disciplinary purposes (paragraph 94);
- current legislation and practice to 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 (paragraph 95);
- all necessary steps to be taken to ensure that appeals against disciplinary sanctions are also examined on the merits by supervisory judges (paragraph 95);
- the Italian authorities to take immediate steps to abolish in the entire prison system the practice of involving prison doctors as members of disciplinary commissions in the entire prison (paragraph 96);
- the role of health-care staff in relation to disciplinary matters to be reviewed, in the light of the remarks in paragraph 97. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 21<sup>st</sup> General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28) (paragraph 97);
- the Italian authorities to review the relevant criminal legislation (Section 72 of the Penal Code) concerning the possible imposition of solitary confinement (so-called "*isolamento diurno*") on prisoners sentenced to life-imprisonment (as part of the sentence), in the light of the remarks in paragraph 98 (paragraph 98).

### comments

- the CPT trusts that the Ministry of Justice will take the necessary steps to ensure that interpersonal skills and the handling of prisoners who display behavioural and/or mental disorders are adequately addressed in the continuous training of prison officers (paragraph 90);

- the Italian authorities are invited to review the layout of the visiting area for male prisoners at Bari Prison, in order to ensure that all prisoners, including those suffering from disabilities, are able to have physical contact with their visitors under decent conditions (paragraph 92).

#### requests for information

- detailed information on the implementation of the plans to create protected family houses for convicted mothers and their children in Florence and other parts of Italy (paragraph 88).

### **Psychiatric establishments**

#### recommendations

- all relevant regional and national authorities to implement the reform of the existing forensic psychiatric services as a matter of priority and to take all necessary steps to ensure that forensic psychiatric patients throughout Italy are henceforth provided with a therapeutic environment and individualised treatment programme which is based on a multidisciplinary approach (paragraph 109);
- steps to be taken by the relevant authorities to ensure that:
  - a clearly defined written policy on seclusion is established and effectively implemented in practice in all psychiatric structures in Italy;
  - a specific register is established in every psychiatric structure to record all instances of seclusion;
  - every patient subject to seclusion is continuously supervised by a qualified member of health-care staff(paragraph 111);
- steps to be taken by the relevant authorities to ensure that an autopsy is carried out in all psychiatric structures in Italy whenever an involuntary patient has died, unless a medical authority independent of the hospital decides that an autopsy is unnecessary (paragraph 112);
- the relevant authorities to institute a practice of carrying out a thorough inquiry into every death of a psychiatric patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures (paragraph 112);
- the necessary steps to be taken to ensure that, in the context of judicial review procedures, court decisions are not taken only on the basis of the assessment provided by the forensic patient's treating doctor (paragraphs 113 and 118);
- steps to be taken by the relevant authorities to ensure that nursing staff at the Milazzo Psychiatric Service for Diagnosis and Care (SPDC) are provided with adequate training and guidance to enable them to manage agitated and/or violent patients in an appropriate manner (paragraph 121);



- action to be taken by the relevant authorities to diversify the treatment made available to patients at the Milazzo SPDC, in the light of the remarks in paragraph 123 (paragraph 123);
- immediate steps to be taken by the relevant authorities to ensure that a clearly defined written policy on the use of means of restraint is established and effectively implemented in practice at the Milazzo SPDC and, where appropriate, in other psychiatric establishments in Italy, taking into account the requirements set out in paragraph 126 (paragraph 127);
- steps to be taken by the relevant authorities (including at the legislative level) to ensure that, in the context of initial TSO procedures (and any prolongations of the placement order):
  - the formal decision to place a person in a 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  
(paragraph 131).

#### comments

- steps should be taken by the relevant authorities to encourage nursing staff at the Naso Therapeutic Community Centre (CTA) to be more proactive and also engage themselves in activities together with patients (paragraph 116).

#### requests for information

- confirmation that the female patients referred to in paragraph 106 have been transferred from the Judicial Psychiatric Hospital (OPG) in Castiglione delle Stiviere to the new therapeutic centre for female forensic psychiatric patients on the premises of the Barcellona OPG and more detailed information on the aforementioned therapeutic centre (capacity, staffing levels, activities offered to patients, etc.) (paragraph 106);
- an account of the measures taken to transfer psychiatric patients from the Barcellona OPG to residential structures at regional level, as well as detailed information on any new establishments which have been created for this purpose (official capacities, number of patients, staffing levels, activities offered to patients, etc.) (paragraph 109);
- up-to-date information on the implementation of the plan to construct a larger SPDC outside the general hospital in Milazzo and to transfer the SPDCs of Milazzo and Taormina to the new location, as well as detailed information on the new SPDC (capacity, staffing levels, recreational and therapeutic activities, etc.) (paragraph 122).



**APPENDIX II**

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

**A. National authorities**

**Ministry of Justice**

Paola SEVERINO DI BENEDETTO Minister

Filippo GRISOLIA	Head of the Private Office of the Minister
Carlo PERROTTA	Diplomatic Advisor to the Minister of Justice
Giovanni TAMBURINO	Head of the Department of Penitentiary Administration
Eugenio SELVAGGI	Head of Department of Justice Affairs
Ersilia CALVANESE	Director General of Legal Office and Human Rights - Department of Justice Affairs
Serenella PESARIN	Director General for the Implementation of Legal Provisions - Department of Juvenile Justice
Alessio SCARCELLA	Head of the Office for the Coordination of International Affairs
Emilia DE BELLIS	Directorate General of Legal Office and Human Rights - Department of Justice Affairs
Marco BOTTINO	Office for Legislative matters
Francesco OTTAVIANO	Director of the Office for Studies Research Legislation and International Relations - Department of Penitentiary Administration
Federico FALZONE	Director of the Office for High-Security Prisoners - Department of Penitentiary Administration
Alessandra BERNARDON	Office for Studies, Research, Legislation and International Relations - Department of Penitentiary Administration

### **Ministry of the Interior**

Saverio RUPERTO	Undersecretary of State
Carlo DE STEFANO	Undersecretary of State
Michele MAIULLARI	Chief of the Private Office of the Undersecretary of State
Marco VILLANI	Diplomatic Counselor of the Minister of Interior
Francesco CIRILLO	Prefect, Deputy Director General of the Police
Nadia MINATI	Prefect, Director of the Central Directorate of Civil Services Immigration and Asylum
Maurizio FALCO	Vice-Prefect, member of the Office of the Director of the Department of Immigration and Civil Liberties
Paolo Maria POMPONIO	Director of the Police Immigration Service at the Department of Public Security

### **Ministry of Health**

Renato BALDUZZI	Minister
Monica CAPASSO	Director of the IV Unit at Central Directorate for European and International Relations
Teresa DI FIANDRA	Officer at the General Directorate for Prevention
Silvia ARCA	Officer at the General Directorate for Planning

### **Ministry of Foreign Affairs**

Diego BRASIOLI	Minister Plenipotentiary and President of the Inter-Ministerial Committee on Human Rights (CPT's liaison officer)
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### **B. Regional authorities**

Massimo RUSSO	Counselor of Health of the Region of Sicily
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### **C. Non-governmental organisations**

Associazione Cattolici contro la Tortura (ACAT)

Antigone

Associazione Differenza Donna

Confederazione Generale Italiana del Lavoro (CGIL)

Consiglio italiano per i rifugiati