



Response

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

from 12 to 22 March 2019

The Italian Government has requested the publication of this response. The CPT's report on the March 2019 visit to Italy is set out in document CPT/Inf (2020) 2.

Strasbourg, 21 January 2020



MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION
INTER-MINISTERIAL COMMITTEE FOR HUMAN RIGHTS

**Italy's Observations,
Following Council of Europe's Committee on Prevention of Torture
Country visit report, in connection with its ad hoc country visit
(March 2019)**

November 21, 2019

ITALY'S OBSERVATIONS

Following ad hoc visit to Italy carried out in March 2019, by recalling Italian preliminary remarks transmitted last June 2019, Italian Authorities are in a position to provide the following information:

Turning to specific issues, please kindly find below the comments made by the Penitentiary Administration on the recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) at the end of its ad hoc visit carried out in March 2019 to the prisons of Biella, Milan "Opera", Saluzzo and Viterbo.

The work of the CPT has always been considered as extremely useful for our Penitentiary Administration since its procedural mechanism, besides offering an important model of consideration, ensures a dialogue and constructive relationship with all its distinguished members.

Our Administration is daily committed in ensuring the quality of services provided to the prison population for the protection of their rights as well as to provide every inmate with the rehabilitation opportunities provided for by article 27 of our Constitution.

For the reasons above, we regret to know, from the comments of the distinguished members of the Committee, that they had the feeling that a "modus operandi" existed by the penitentiary police staff incline to aggression against inmates.

It is therefore very important to strongly state again that every violent action which is registered inside our prisons foresees an immediate and punctual reaction aimed at a deep analysis of the incident. That analysis, where any responsibility of staff is ascertained, leads to issue immediately the provisions of suspension from duties of the staff member involved, and to start immediately the relevant disciplinary procedure. Where the incident implies penal aspects, the relevant deeds are immediately sent to the judicial authority.

About the Recommendation made at paragraph 18 of the CPT report "***Further, the CPT would like to receive information from the DAP as to the number of disciplinary proceedings initiated and their outcome concerning cases of alleged ill-treatment and abusive behavior by prison staff for the period January 2017 to June 2019. It would also like to be informed of any criminal proceedings initiated during this period, as well as their outcome***", you will find the data relevant to the disciplinary proceedings started, to the disciplinary proceedings ended and the relevant sanctions ordered, as well as the data relevant to the penal proceedings ongoing or concluded against the penitentiary staff responsible of non justified actions against prisoners. This Department strongly believes that no form of immunity can be granted to anybody.

As the Committee already knows, the Italian penitentiary system provides for and regulates all the prerogatives acknowledged to prisoners for the protection of their rights. The role of the supervisory judiciary ("*magistratura di sorveglianza*"), with which our Department has a constant connection, is crucial in the daily management of prison life, since every deed concerning an inmate's life in detention is forwarded *ex officio* to that guaranteeing body.

Indeed, in the perspective of exploiting at best the inter-institutional link between our Department and the Supervisory Courts, besides regularly extending the provisions of secondment of the Penitentiary Police staff (always requested by the same Courts), our Department promoted a bill aimed at establishing, in those judicial Offices, units of Penitentiary Police staff for the analysis and preparation of the files concerning the inmates' request.

6. [.....]

The CPT trusts that the Italian authorities will take the necessary steps to ensure that in future that the management and staff of all prisons are clearly aware of the CPT's mandate.

On this issue, the Penitentiary Department already explained, in its preliminary observations, that there had been a misunderstanding, which the Viterbo prison governor himself had immediately clarified, as for dynamics and reasons, to the Committee delegation members.

7. / 8.

The CPT recommends that the Italian authorities take action to ensure that all prisoners are provided with at least 4 m² in multiple-occupancy cells; the Italian authorities should nonetheless strive to comply with the national minimum standard set forth in its legislation. Further, rigorous action is required to bring the prison population down below the number of places available within the prison estate and to put an end to overcrowding. In this respect, emphasis should be placed on the full range of non-custodial measures capable of providing judicial supervision during the period preceding the imposition of a sentence, as well as on measures to accelerate a prisoner's release, including through supervisory means tailored, inter alia, to the prisoner's personality and the nature of the sentence.

As already highlighted by the Penitentiary Administration in its reply to the preliminary observations of CPT, the critical material conditions found by the delegation in the prisons visited are the consequence of the limited availability of funds for the maintenance of our buildings. Only in 2017, after several reminders by our Department, we managed to obtain an important increase in funding that are allowing to reduce the critical situations affecting life in detention and the relevant working environment.

In order to tackle overcrowding, our Administration started widening the penitentiary real estate by acquiring military barracks fallen into disuse to be transformed into prisons for about 1,500 places in Casale Monferrato, Grosseto, Naples and Bari. Moreover, 25 more detention blocks are foreseen for a total number of further 3000 new places. Furthermore, the Inter-regional Directorates for Public Works of the Ministry of Infrastructures have the task of managing interventions of planning and building new prisons, and /or recovering places temporarily not available and of adapting detention wings in term of the Regulations of Enforcement of the Penitentiary Act (DPR 230/2000).

Said interventions were started mostly in large cities and in urban areas where there are not enough detention places available. Five thousand new places shall be built, in the next five years, in order to achieve the objective of 60,000 regular detention places available.

The sum of “regular” places – which are calculated on the basis of the criterion of 9 sq. m. for one single cell, plus 5 more sq. m. per each further inmate in multiple cells – is the point of reference adopted by the Italian penitentiary system.

It is clear that, in comparison with international standards, the criteria adopted by the penitentiary Administration are more favourable to prisoners, but also more difficult to comply with.

The capacity of every single prison of our Country is under constant monitoring through the Detention Places Software (ASD 15), established at the Headquarters Situation Room. That software is a crucial instrument in our fight against overcrowding, especially after the Torreggiani judgment of the ECtHR.

That instrument allows to know not only the number of prisoners present in each prison, but also their assignment in each prison wing and the space available to each inmate. Said software also enables to gather a lot of information, helpful in managing, allocating and re-organizing prison population. Indeed, it is possible to identify those Regional Directorates and those prisons characterized by a higher rate of overcrowding, thus enabling to calculate how many prisoners can be moved within the same regional district or from one region to another.

Our software shows an alert when there are situations where the space in the cell per each prisoner is lower than three sq. m. Said alert obliges the prison governor to an immediate intervention and to adopt any adequate modification to stop the critical situation occurred (e.g. to move the inmate from one cell to another).

During the years, there were several and sometimes controversial decisions by national and European judicial bodies concerning the parameters to calculate the “prison density” (e.g.: space calculated with or without furniture) which complicate the interpretation of the comparison data.

9.

The CPT welcomes the reforms adopted and would like to be informed about the time frame for the introduction of the different elements of the reform which remain outstanding, such as the installation of in-cell showers.

For details relevant to the improvement of material conditions, please refer to paragraphs 20 to 25.

10.

The Committee would like to be informed of the measures envisaged by the Italian authorities in light of the above-mentioned judgment.

12. / 16.

The CPT recalls that any form of ill-treatment is illegal and totally unacceptable and must be subject to appropriate sanctions. The Committee recommends that the DAP reiterate to custodial staff the clear message that physical ill-treatment, excessive use of force and verbal abuse of inmates, as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners, are not acceptable and will be dealt with severely. Further, the management of Viterbo Prison should demonstrate increased vigilance in this area, by ensuring the regular presence of prison managers in the detention areas, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training including in de-escalation techniques.

The limitation of risky situations is a fundamental task of the Penitentiary Administration, which sees to it through a careful training of managerial and technical staff (starting from prison governors) as well as of the staff of the Penitentiary Police, according to the different competences and duties.

To this regard, from October 2016 until February 2018, thirteen editions of the training course “*Managing emergencies*” were carried out. That course was addressed to prison governors and to high-ranking officers of the Penitentiary Police Corps in charge of commanding the detachments of the Penitentiary police staff in the prisons for adults and in the prisons for minors (chief constables and inspectors). About 450 staff members participated in the various editions of the training altogether. The course focused on the main topic of managing emergencies and dealing with critical incidents and developed the drafting of a model for an effective operational and organizational intervention. Based on the respect of human rights, operational modalities were identified for dealing with different types of emergencies. As for front-line staff, it is worth mentioning that the method to contrast events or physical attacks is structured as a defense method. It is a discipline which was tailored on the requirements of the penitentiary context and of the legitimate use of force in situations with a high level of risk: the relevant martial art is intended for self-defense and its technique complies with the need to protect a person’s safety.

The same training course also includes an approach aimed at using communication techniques of de-escalation in order to defuse potential situations of violence. Finally, the Directorate General for Training of our Department is preparing audio-visual materials to support staff training focused on prevention of critical events.

As for the event of alleged ill-treatment indicated by the CPT delegation in paragraph 13 of the Report, the Piedmont Regional Directorate received the relevant information from the Saluzzo prison through the dedicated software on “critical events”. The information provided about the event do not correspond with what the inmate said to the delegation, both concerning the place and the context of the event, since from the description of the critical event it results that three inmates – and not two, as the inmate states – were involved in the fight.

As for the event of alleged ill-treatment indicated by the CPT delegation in paragraph 15 of the Report, the Regional Directorate transferred the prisoner A. A. from Novara remand prison to Biella prison, following a brawl.

As for the events indicated by the CPT delegation in paragraph 13 and 14 of the Report of alleged ill-treatments at the Viterbo prison, the competent Regional Directorate stated that the competent judicial authority is carrying out the relevant investigation. Our Administration already ordered an inspection, and a copy of the relevant summarized report was handed over to the delegation.

Following the assignment of Vice Inspectors of Penitentiary Police to the prison of Viterbo, these officers were put in charge of the various operational units, and therefore were appointed as specific officers of reference for each detention wing.

As for the hypothesis of a full coverage, by the CCTV system, of critical areas of the prison (stairs and so on) which are currently not covered, the relevant Regional Directorate assigned its technical Office the mandate to quantify the relevant costs in order to overcome the critical situation.

In particular, the CPT recommends that appropriate measures be taken to upgrade the skills of prison staff in handling high-risk situations without using unnecessary force, by providing training in ways of averting crises and defusing tension and in the use of safe methods of control and restraint, particularly of inmates with a tendency to self-harm.

As our Administration already stated in its reply to the preliminary observation made by the CPT delegation at the end of the visit, the Penitentiary Police staff receives specific training on the correct use of force since the basic induction courses of newly recruited staff (see paragraph 16).

Self-defense is constantly included in the basic induction training courses for 40 hours in total. In the last 5 years, 4571 new agents were trained.

By the annual training plan (PAF) for 2017, the Regional Directorates were instructed to include permanently in the respective Regional Plans of Training the courses on self-defense as part of operational techniques.

In order to ensure the possibility to organize training courses throughout our Country, a procedure was started to select and train 40 trainers more. Such procedure will end by the end of this year.

Moreover, the CPT recommends that the DAP review the systems in place at all prisons to ensure that there is a better oversight of incidents of the use of force by prison officers and that prisoners have clear avenues of complaint concerning any alleged ill-treatment by staff. In this respect, the Committee considers that Viterbo Prison is certainly in need of greater managerial oversight in light of the apparent pattern of deliberate physical ill-treatment described above. Further, the DAP should also reflect on the necessity to extend CCTV coverage to all those blind-spot areas such as the stairways leading to the detention sections in which most of the allegations occurred.

17.

The CPT recommends that the Italian authorities ensure that due diligence is exercised in guaranteeing that the electronic logbook of critical events reflects an accurate description of incidents and of any allegations made by prisoners. Cases suggestive of physical ill-treatment by staff should be promptly reported to the relevant prison doctor and the DAP, and an independent investigation initiated and carried out at both the administrative and prosecutorial levels.

The software “Critical incidents” used by the situations room at the DAP Headquarters is an IT system of recording and highlighting the critical events which occur every day in each prison; said software establishes a permanent circuit of IT link between the Headquarters of our Administration and the prisons.

The situation room receives about 300 communications per day and for each of them the necessary analysis procedures are carried out.

In the most meaningful cases, some deeper analysis are requested, even by acquiring deeds and reports, by questioning prisons and regional directorates as for the initiatives carried out and – if necessary – requesting further information. Indeed, we must highlight that the communications to the situation room, even if they are complete and adequate under the above-mentioned forms, are very concise, contrary to the various reports drafted by the penitentiary police staff, the rehabilitation staff and the healthcare staff.

Moreover, all the critical incidents concerning the prison population are forwarded to the Directorate General for prisoners and treatment.

All the above meaningfully reduces the risk that some incomplete communications come from the prisons to the Headquarters or that any communications do not come at all. The prison, however, remains the only body in possession of all the information relevant to internal management and the only body authorized to feed the software of critical events.

Communications are forwarded to the relevant judicial authority where they include reports by inmates against prison staff or against other inmates, and our Administration starts an immediate administrative inspection.

Where some responsibility of staff arises, the Penitentiary Administration takes prompt disciplinary initiatives against staff members.

18.

In this regard the CPT wishes to recall that whenever a prosecutor is informed of a case of alleged physical ill-treatment of an inmate by custodial staff a comprehensive and prompt investigation should be carried out. In particular, the prosecutorial authorities should not satisfy themselves simply with the version of events provided by prison staff but should actively order a forensic medical examination in case an alleged victim of ill-treatment displays injuries, collect relevant evidence (such as e.g. CCTV recordings of detention facilities), interview a wide range of witnesses and challenge contradictory statements by prison officers.

Further, the CPT would like to receive information from the DAP as to the number of disciplinary proceedings initiated and their outcome concerning cases of alleged ill-treatment and abusive behavior by prison staff for the period January 2017 to June 2019. It would also like to be informed of any criminal proceedings initiated during this period, as well as their outcome.

As for the request of the “*number of disciplinary proceedings initiated and their outcome concerning cases of alleged ill-treatment and abusive behavior by prison staff for the period January 2017 to June 2019*” the table below summarizes the data requested.

Data concerning ill-treatments against inmates from January 2017 until June 2019				
Disciplinary proceedings started		Staff members suspended from duty as a precautionary measure	Disciplinary outcomes	
Number of agents undergoing disciplinary proceeding	Number of events		n. 8	Proceedings concluded
11	7	5	/	Cases filed/ Acquittals
			/	Official reprimand
			2	Fines
			1	Deplorations
			/	Fines + deplorations
			4	Suspensions from duty
			1	Removal from office / End of work relation due to banning from public offices
			3	Still pending

With reference to the point for which the CPT “*would also like to be informed of any criminal proceedings initiated during this period, as well as their outcome*”, it must be stressed that the penal proceeding for those cases (at least for those ones going beyond “the decree ordering the trial”) last 5-6 years on average. Therefore, the datum of the last two years (January 2017 – June 2019) about the 52 penal proceedings started against members of the Penitentiary Police, is that only the penal procedures for 4 agents have been concluded, with a request of filing); against one of those agents, the disciplinary measure of official reprimand was issued.

Data concerning ill-treatments against inmates from January 2017 until June 2019						
Penal procedures started		Penal outcomes		Staff members suspended as a precautionary measure	Outcomes of the relevant disciplinary proceedings	
Number of agents prosecuted	Number of events	n. 4	Concluded		n. 1	Procedures concluded
49 + 3*	17 + 1*	4	Orders of filing	4	/	Cases filed/ Acquittals
					1	Official reprimand
					/	Fines
		/	Acquittals		/	Deplorations
					/	Fines + deplorations
					/	Suspensions from duty
		/	Convictions		Removal from office / End of work relation due to banning from public offices	
		n. 48	Still pending		/	Still pending
					n. 3	Still pending

** for an event occurred on 13 June 2019 during a guarding service at the S. Orsola Hospital in Bologna, three disciplinary proceedings were started on 19 September 2019, in terms of article 5 c. 3 lett. g) of the Legislative Decree n. 449/92, against three agents, already reported to the judicial authority. Their actual registration in the register of penal proceedings is still unknown.*

19.

The CPT recommends that the Italian authorities put in place a comprehensive strategy for preventing inter-prisoner violence and intimidation in light of the above remarks.

All the treatment activities carried out in our prisons are aimed also at establishing detention life conditions as quiet as possible. Through tailored treatment activities, prisoners are invited to commit themselves and their time in a constructive manner. The penitentiary staff is specifically trained on those topics. Three basic training courses for newly recruited educators (judicial-pedagogical officers) were carried out in the last two years. The topics addressed focused on the main features and the methods of adult education, with particular reference to the techniques of communication management

in relations of help within coercive environments. In 2019, the judicial-pedagogical officers responsible of the “rehabilitation” sectors of the prisons, along with the prison governors, are the beneficiaries of the training course “*Life in prison at the light of the recent reform of the Penitentiary Act. The management of prisoners suffering from psychiatric troubles*”. For the Penitentiary Police Inspectors, who are responsible of the various operational units, the training programs foresee the study of an operational model based on the positive relationship with the prison population and on the knowledge of the individual inmate as a basic element, both for security and for drafting tailored rehabilitation plans. Along with relational skills, Inspectors learn operational techniques such as communication approaches. That knowledge is part of both basic induction training and of continuous training of all the staff of the Penitentiary Police.

20. / 25.

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

- **at all prison establishments, the standard on living space enshrined in the national legislation is attained; and that as a minimum, the requirement of 4 m² per prisoner in multiple-occupancy cells is respected;**
- **at the old pavilion of Biella Prison, the cells are refurbished and adequately heated and the common shower facilities repaired and hygiene maintained;**
- **the common room of Section 1B at Biella Prison is appropriately equipped and the cells kept in acceptable hygienic conditions (if necessary, through the provision of additional cleaning products to inmates);**
- **at Pavilion 1 of Milan Opera Prison, the in-cell ventilation system in the sanitary annex is repaired and heating is provided for extended periods of time and in accordance with the weather conditions;**
- **at Pavilions D1 and D2 of Viterbo Prison:**
 - **the cells are refurbished and heating is provided for extended periods of time in accordance with the weather conditions;**
 - **the common shower facilities are repaired and maintained in a hygienic state, pending the introduction of in-cell showers as a matter of urgency;**
- **courtyards at all prison establishments visited (as well as at other prison establishments where necessary) comply with the requirements of the national applicable legislation in terms of provision of shelter against inclement weather and appropriate means of rest. Further, steps should be taken to decorate courtyards and provide appropriate visual stimuli (e.g. with vegetation);**
- **the preparation and variety of food at Saluzzo Prison be improved. This will also require recruiting an adequate number of kitchen workers and the renovation of the kitchen area and its equipment;**
- **the religious requirements and dietary habits of foreign prisoners be fully taken into account in the provision of food and the supply of food items to be purchased;**
- **the lift of Pavilion I at Milan Opera Prison be repaired in order to ensure the distribution of food at an adequate temperature.**

As for the observations above, the competent Technical Office at our Headquarters communicated the following information concerning the initiatives taken at the prisons of Saluzzo, Biella and Milan “Opera”.

➤ Milano Opera prison

In the medium security building – pavilion 1, some interventions of maintenance are ongoing to the ventilation system of in-cell sanitary facility.

As for the problems in the High Security wings, the management of the prison could reactivate the provision of hot water in the cells. Works are currently ongoing to restore the ventilation plant.

In the “41-b” wing, an intervention is under planning to remove the opaque Plexiglas screen from the windows. Water infiltration have already been partially eliminated in some areas of the wing, and the roofing of part of the building is being refurbished. The walls will be repainted only after the complete elimination of water infiltration.

With reference to the outcomes of the CPT visit report, the Regional Directorate of Lombardy will promote a careful and focused action of boosting and monitoring in order to develop programs and activities as well as the opportunities of work and of vocational training, also by enhancing the involvement of local bodies and agencies of the community.

➤ Saluzzo Prison

The new prison courtyards are of an adequate size and are equipped with shelters from bad weather conditions for inmates exercising outdoors. At the light of the new provisions of the Penitentiary Act, it will be possible to build means of rest directly by the prison management using inmates’ workforce – duly trained – since they are not “structural” items. Those means of rest were not built so far due to the need to safeguard the height of the perimeter walls.

It will be the same in the old pavilion, where shelters for bad weather will be built as well.

It will be possible to carry out the above-mentioned works, together with the ordinary maintenance of toilets, only next year, since the funds assigned for 2019 are already destined to other purposes. In 2020, it will be possible also to solve the problems of hygiene in the 12 isolation rooms.

➤ Biella prison

Part of the problems relevant to ordinary maintenance have already been solved and part are being solved, considering that:

- The Regional Directorate constantly provides funds for the ordinary maintenance to the prison governors of the local area of its competence, on the basis of the resources available;
- The prison management is solving the problems relevant to the maintenance of the finishings in the common showers and of the plants for the mechanical aspiration plant, recently pointed out also by the Local Healthcare Services;
- The problem relevant to the poor efficiency of the heating plant is going to be solved as soon as a new firm will take the responsibility of managing the local plant of teleheating, which the prison is connected to.

The Regional Directorate is currently providing to purchase furniture and equipment for the common rooms of inmates, to be destined to the prisons of the regional area.

As for the observations made on food provision, prisoners and internees are provided with three meals per day and are ensured with a healthy and sufficient food, adequate to their age, gender, health status, work, season and climate, in terms of article 9 of the Italian Penitentiary Act (PA) and of article 11 of the relevant Regulations of Enforcement of the Penitentiary Act (RE).

Quantity and quality of food that the outside provider must deliver to prepare daily meals are defined in specific tables, approved by a ministerial decree, in compliance with the advice of the Higher Institute for food (today named CREA – Council for Research in Agriculture and for the analysis of agricultural economy), a body of the Ministry of Health.

The food is delivered under the form of raw products. Afterwards, prisoners working in the kitchens of penal establishments prepare, cook and deliver food.

Prisoners' representatives, monthly drawn by lot, check every day the application of tables and the meals preparation. The prisoners' representatives are three in each prison.

Prisoners' representatives attend the delivery of food, check its quality, quantity and best-before date and control that the items delivered are all used to prepare meals.

Where items are found which are not compliant with the requirements provided for by the food tables, the prison management refuses them and request their substitution.

The prison governor and the local Healthcare Service, in charge of public hygiene, monitor food items and can make controls at any time in the warehouse and in the kitchen and can take samples for analysis.

The prison governors can arrange a range of menus, based on the geographic area where the prison is situated and on the season, on the various religious beliefs and on the more common pathologies among prison population.

With reference to the recommendation made by the delegation concerning the poor material conditions found in Viterbo prison, the relevant Regional Directorate communicated that in the D1 and D2 wings, works are ongoing to refurbish common showers with the workforce of both inmates and of a private firm. The end of said works is foreseen for March 2020. Works are ongoing, still with inmates' workforce, to build in-cell showers. As for heating, it is provided in compliance with the schedule time provided for by the law. However, possible technical solutions will be assessed in order to enhance the power of radiators.

As for the outdoor courtyards, some interventions will be planned to build shelters to be used by inmates in case of bad weather.

b. regime

26. / 27

The CPT recommends that the Italian authorities promote the notion of dynamic security among prison staff by organising appropriate in-service training courses which focus in particular on inter-personal skills.

For details concerning staff training, please refer to paragraph 19

28.

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 Biella, Saluzzo and Viterbo Prisons. Further, the Committee would like to receive clarification from the Italian authorities on the method of calculating working hours for prisoners at the establishments visited.

Since 2016, in consequence of a Memorandum of Understanding undersigned with the Ministry of Education and University (MIUR), it was possible to widen the inter-institutional cooperation and to promote a new didactic and organizational layout for the Education of Adults as well as to foster the integration between education of adults and vocational training.

The aim of that collaboration is to implement the special Program for education and training in prisons and in the juvenile justice services.

As for the prisoners assigned to the High Security group, they benefit from the same treatment opportunities as the inmates belonging to the medium security category; in some cases there might be some problems to assemble classes, also due to the resources available to the MIUR.

Vocational training is carried out in cooperation with the relevant regional department. It must also be underlined that since vocational training falls under the competence of a regional authority, it cannot be characterized by uniformity throughout our Country, but it is affected by organizational and contextual differences.

However, the Penitentiary Administration formally invited all its Regional Directors to implement the inter-institutional cooperation in matter of education and training, both with the persons of reference of the MIUR and with the competent regional departments. Indeed, the involvement of those local actors is necessary to start integrated paths of education and vocational training as they are provided for by the Legislative Decree n. 61 of 13 April 2017.

Please find below more detailed data and information relevant to the Prisons Projects of Biella, Saluzzo and Viterbo.

- Biella prison

VOCATIONAL TRAINING

- Course of gardening and horticulture

There are currently 12 prisoners enrolled, mainly from the category of “basic security” circuit for drug-addicted inmates, with the participation of some finally sentenced inmates who participate in the project of the farm.

- Course of manager and worker of a cleaning service firm

There are 12 finally sentenced prisoners enrolled

WORK

Tailor workshop

It was established following a partnership undersigned between the firm “Ermenegildo Zegna” Holditalia and the Ministry of Justice on 21 December 2016. The protocol aims at promoting and developing a program to establish a tailor workshop inside the prison for the production of the Penitentiary Police uniforms. Thirty-six inmates were trained – in cooperation with the district office of Biella-Vercelli for the adult education – who will start to work next October. Moreover, 107 prisoners are employed in the daily maintenance of the prison (data as of 30 June 2019).

There is a farm where vegetables, alveolar sprouts, fruit trees and ornamental plants are grown and where 15 prisoners work.

- Saluzzo prison

VOCATIONAL TRAINING

- Food services worker (held between March and July 2019) for the inmates of the High Security category;
- Bakery and pastry worker (held between January and July 2019) for the inmates of Medium Security category;
- Carpenter (held between January and July 2019) for the inmates of Medium Security category.

WORK

In the prison there is a small brewery managed by an outside cooperative, which employs five prisoners. Moreover, 97 prisoners are employed in the daily maintenance of the prison (data as of 30 June 2019).

- Viterbo prison

VOCATIONAL TRAINING

The following courses, funded by the Lazio regional administration are ongoing:

- Course for carpenters (addressed to the inmates who wish to work in the local carpentry workshop), with 10 trainees;
- Course for building worker, with eight trainees.

WORK

In the prison there are some workshops intended for prisoners' work: one blacksmith workshop, one carpentry, one tailor workshop and one laundry. There are 18 prisoners working in these activities. In the prison, there are six inmates working in a farm where olive oil and honey are produced. Moreover, 112 prisoners are employed for the daily management of the prison (data as of 30 June 2019).

As for the calculation of the working time of prisoners, the hours of work of each inmate vary according to the needs of each prison and, in the case of industrial workshops, based on the orders received. In terms of article 22 of the Penitentiary Act, the prisoners who are employed by the Penitentiary Administration receive a wage not less than 2/3 of the remuneration provided for by the National Collective Employment Agreements. The calculation of the salary is made based on the salary levels provided for each job and of the number of worked hours per day. The retribution includes the national insurance and the social security amounts, the part of severance pay and family allowances, if due. The number of prisoners employed by the Penitentiary Administration is strictly connected with the budget assigned every year for the payment of salaries.

The Regional Directorate of the Penitentiary Administration of Piedmont underlined – with specific reference to job opportunities – that some “employment desks” had been opened in all the prisons of the Region. Those desks were established in cooperation with the Regional Office for Employment Policies, which allocated an amount of three million Euros. Still in cooperation with the same regional body, vocational training course were activated in all the prisons.

The Regional Directorate of the Penitentiary Administration of Lombardy pointed out that the social cooperatives *FUORI LUOGHI coop.* *INVICTORLED*, *IL GIORNO DOPO coop.* *IN OPERA coop.*, *CO.A.FRA. Coop.* *GSP*, *OPERA IN FIORE coop.* *Casa dello Spirito e delle Arti* – in their capacity of employers – promote activities in favor of inmates in the fields of metal carpentry, electronic assembly, disassembly of electric devices, bakery and pastry, agriculture, IT assistance, documents scanning, tailoring and violin making.

About 99 prisoners are involved in workshops managed by outside enterprises. Moreover, the Penitentiary Administration employs 267 inmates in the fields of cleaning, green areas maintenance and kitchen, including 60 prisoners belonging to the high security.

At the Viterbo prison, in continuity with what was already communicated last March about the vocational training initiatives, in May 2019 two courses started for the acquisition of skills as carpenter and furniture maker and as building worker.

These vocational training courses were activated through the resources provided for by the Lazio Regional Operating Plans (POR) 2014-2020 and are managed by the training agencies *Universale 2000* and *Consorzio Stedi*. Eight and ten prisoners attend those courses respectively.

Concerning working inmates, as of 30 June 2019, 143 persons were employed by the Penitentiary Administration (54 Italians and 89 foreign nationals), with different tasks, employment conditions, working times and shifts. Eight prisoners from those ones benefit from the Assignment to work outside the establishment, in terms of article 21 of the Penitentiary Act, and work both for the prison and for the local Probation Office. Two inmates work for a social cooperative “La Zaffa”, in the area in front of the prison, where a car wash is established. Finally, three inmates are performing community works (*lavori di pubblica utilità*) in terms of article 20-c of the Penitentiary Act.

Concerning job activities inside the prison, the establishment of Viterbo receives from the central Administration Offices an amount of 917,958.00 Euros for 2019. The resources allocated do not allow to increase the number of job places for inmates.

An increase in the resources, which is still to be determined, could be allocated for 2019 by the Penitentiary Administration Headquarters.

29.

The CPT recommends that the vacant positions of educators at Biella, Saluzzo and Viterbo Prison be filled as a matter of urgency. Further, it would like to receive information on the number of educators that will be recruited through the above-mentioned national competition as well as the expected date of their effective deployment.

As for the workers category of Ministerial Civil Servants (*Comparto Funzioni Centrali*), the situation of the educators on duty in the four prisons visited (Biella, Saluzzo, Milano Opera and Viterbo) is the following:

- Biella: there are six officers on duty, out of the seven officers foreseen, since one officer is temporarily assigned with a motivated provision to another structure.
- Milano Opera: there are 21 officers present out of 22 foreseen. One officer is on temporary secondment to assist his/her child under three years of age, in terms of the law currently in force.
- Saluzzo: One officer of the rehabilitation area is temporarily seconded at the Regional Directorate in terms of a provision ordered by the regional director, in compliance with the law currently in force.
- Viterbo: there are five officers assigned to the prison, instead of 7 units foreseen.

Nevertheless, despite there are some vacancies and some officers are not in their place of work, the situation of the rehabilitation areas in the prisons visited does not seem to be worrying, in comparison with the number of prisoners present. Moreover, the Penitentiary Administration was authorized to organize a public competition for the recruitment of 50 more educators.

As for the cultural mediators, although their profession is foreseen by the new staffing plan in terms of the Ministerial Decree of January 2019, they are not present in our prisons yet. The relevant public competition was regularly published and last 30 September the dates of written tests were communicated.

Still about cultural mediators, the Regional Directorate of Piedmont communicated that it started and completed the selection procedure to widen the list of penitentiary external experts provided for by article 80 of the Penitentiary Act and included the profession of cultural mediators. The latter will be called to work in the prisons falling under the competences of the courts of Appeal of Turin and Genoa. The relevant individual contracts will be presumably undersigned in 2020, as soon as the relevant funds are available.

30.

The CPT would like to receive information from the Italian authorities on the extent to which Alessandria Prison can provide appropriate conditions of detention and support to internees, in light of the above remarks.

The Regional Directorate of Piedmont, after assessment of the human and structural resources available, has foreseen – within a thorough review plan of the interregional penitentiary structures – to move the wing “prison labor house” at the prison of Alessandria. Indeed, the position of that prison, situated in a central urban area, facilitates the internees’ movements to and from their workplaces and allows an easier progressive outside experiment aimed at a more adequate periodical review of the subjects’ danger to society. Moreover, the number of pedagogical officers present in that structure allows to better support the individual paths of those specific internees.

31. / 32.

The CPT recommends that the deficiencies in the material conditions in the high-security sections of Milan Opera and Saluzzo Prisons be remedied, in light of the above remarks.

As for the deficiencies in the material conditions in the High Security section of Milano Opera prison, please refer to paragraph 24.

33.

The CPT calls upon the Italian authorities to redouble their efforts to improve the programme of activities, including work and vocational training opportunities, for high-security prisoners at Milan Opera and Saluzzo Prisons and, where appropriate, at other prisons in Italy.

For the reply to the above request concerning programs of activity, job opportunities and vocational training, please refer to paragraph 28.

34. / 35.

The CPT recommends that the Italian authorities review the classification and declassification criteria of high-security prisoners accordingly and establish a separate high-security regime in law with all the appropriate legal safeguards, including the right to appeal to a supervisory judge and periodic *ex officio* reviews of their placement.

First, it is necessary to underline that the ministerial circular letters currently in force in matter of penitentiary “circuits” regulate the exercise of the discretionary power concerning the management of prisoners, according to the criteria set by articles 13 and 14 of the Penitentiary Act, which provide for that the prison population is gathered into homogeneous categories.

The above-mentioned article 14 of the Penitentiary Act refers to article 42 of the same law, which provides for that our Administration keep into account, while assigning and grouping prisoners, the delicate aspects of security connected with prison management.

Assignment and classification of inmates to the “High Security” group is made based on the type of crime perpetrated but also on the need to carry out a stricter and more careful activity of monitoring and supervision on them.

Their inclusion in the high security category, indeed, does not imply a difference in the penitentiary regime as for their duties and rights, nor it prevent them to access treatment opportunities on offer. The only limitations are those ones provided for by the law depending upon their imprisonment order.

Those prisoners can access all the instruments available as a jurisdictional safeguard and to all benefits provided for by the law currently in force.

The circular letters of this Department which regulate the exit modalities of inmates from that category provide for that the task of assessing the request of de-classification is entrusted to a multi-disciplinary team (and not only to the prison governor), composed of prison practitioners who know the subject. On that occasion, the team assesses both the inmate's behavior and his improvement in the rehabilitation treatment, as well as the elements about his family.

Before deciding on the prisoner's declassification to a different category, the relevant judicial investigative authorities are consulted in order to verify whether any link with his criminal organization still exist. The inmates can submit their requests of declassification without any limitation.

The Penitentiary Act includes the supervisory judge among the authorities which can receive appeals from inmates. If the relevant requirements subsist, where the same judicial authority finds that a fundamental right was infringed, it can proceed upon a jurisdictional complaint (article 35-b of the Penitentiary Act) lodged by one inmate who thinks that the Penitentiary Administration behaved illegitimately. The supervisory judge can order the Administration to disapply the provision rejecting the declassification request, ordering at the same time to re-evaluate the declassification request. There is a wide protection of the rights of the inmate when an infringement possibly occurs.

The subjects currently assigned to the high security category are one/sixth of the total amount of the prison population. That datum seems to be appropriate, when we consider the peculiarity of mafia criminal organizations present in our Country, in comparison with the almost total absence of mafia-type associations in other European Countries.

36. / 38.

The CPT calls upon the Italian authorities to abolish without further delay the measure of court-imposed solitary confinement under Article 72 of the Criminal Code known as "isolamento diurno".

39. / 40.

Given the potentially harmful effects of solitary confinement, the CPT recommends that the Italian authorities take the necessary steps to ensure that prisoners subject to solitary confinement under the so-called "14-bis" regime:

- **benefit from a structured programme of purposeful and preferably out-of-cell activities;**
- **are provided – on a daily basis – with meaningful human contact. The aim should be that the prisoners concerned benefit from such contact for at least two hours every day and preferably more.**

The longer the solitary confinement continues, the more resources should be made available to attempt to (re)integrate the prisoner into the main prison community.

When prisoners behave irregularly in prison so frequently that particular precautions have to be adopted, they can be assigned or transferred to specific prisons or wings (article 32 of the Regulations of Enforcement of the Penitentiary Act).

When an inmate behaves as it is indicated in article 14-b of the Penitentiary Act, he can be submitted to a penitentiary regime stricter than the ordinary one, the so-called regime of special surveillance. The regime of special surveillance implies some restrictions, which are strictly necessary for maintaining

order and security, to the rights of prisoners and to the rules of treatment as foreseen by the Penitentiary Act (article 14-d of the Penitentiary Act). We underline that a harsher feeling of punishment is an unavoidable consequence of the special surveillance, but it is not the motivation of the provision.

Indeed, the restrictions which are individually provided for in the provision submitting one subject to the special surveillance regime must be motivated and do not have anything to do with: hygiene and healthcare needs; food; clothes and other personal items; possessing, purchasing and receiving items allowed by the prison internal regulations, within the limits provided for to ensure security; reading materials; religious worship; use of radio; outdoor stay for at least two hours a day, subject to the provisions of article 10 of the Penitentiary Act; interviews with the defense counsel and visits from the spouse, the cohabitant person, children, parents, siblings (article 14-d of the Penitentiary Act).

Besides the description of the events and the motivations that led to the need to adopt special precaution measures against an inmate, the provision ordering the application of the regime of special surveillance indicates the length of the regime as well as what the inmates are allowed and not allowed to do, that is what follows:

- a) they are not allowed to participate in the monthly draw by lot for the representation of prisoners in charge of checking the application of food tables and meals preparation, of managing the library service, of organizing leisure, sport and cultural activities, etc.
 - b) they cannot attend school classes nor vocational training courses; they cannot participate in leisure and sport activities; they cannot exercise in common with other inmates in the wing.
1. The inmates can stay outdoor in the courtyards for two hours a day.
 2. The inmate shall be assigned to an individual cell, with the furniture and equipment specified in the motivated order.

Where the application of the regime is due to aggressive behaviors against co-inmates or prison workers, or to damages brought to the Administration goods, the possession of a camp cooker is prohibited.

The special surveillance regime does not prevent the inmate to exercise outdoor with other co-inmates. As the CPT delegation highlighted, the regime provided for by article 14-b of the Penitentiary Act is supported by adequate judicial safeguards: the provision ordering the submission to the special regime undergoes a double control by the judicial authority. First, the supervisory judge, within his duties of monitoring, ascertains *ex officio* that the provision complies with laws and regulations. The second form of monitoring is only possible, since it depends upon the complaint of the inmate at the Supervisory Court.

As for the “harsh restrictions imposed on inmates” highlighted by the CPT, it is to be noted that during the enforcement of the regime of special surveillance the observation of inmates is not interrupted, since the prison professionals have the task to evaluate, by the means of interviews, the improvement in the prisoner’s behavior and his adhesion to the prison rules. Our Department will raise the prison governors’ awareness, through the Directorate General of Prisoners and Treatment, in order for them to take all the steps necessary to correctly apply the regime provided for by art 14-b of the Penitentiary Act, where such application need to be improved.

As for article 32 of the Regulations of Enforcement, the measure that it provides for is not a permanent measure. It undergoes a periodical review by the Observation and Treatment Team, in order to reinstate gradually the inmate in the prison community.

The CPT recommends that the Italian authorities put in place the necessary safeguards for all prisoners separated from the mainstream prison population under Article 32 of the Prison Regulations. The Committee also recommends that the Italian authorities carry out a review of all the ad personam segregation measures in force at Biella Prison, in light of the above remarks.

With reference to the CPT recommendation above, it is necessary to make some observations with reference to the important legislative amendments introduced in our system which the CPT delegation does not mention, but which are worth to keep into account, since it is necessary to shed light on that very controversial issue as well as to point out the current legislation framework.

As for the cases of segregation in the prison of Saluzzo, please refer to what our Administration communicated in our reply to the CPT preliminary observations.

First, we must say that segregation is an exceptional modality of executing the detention punishment and that it is allowed only where the requirements provided for by article 33 subsist and for the shortest possible period. The segregation can be motivated by health, disciplinary, judicial reasons.

The so-called protective segregation is under discussion, which the report defines as “circumstantial isolation”. Indeed, it is not provided for by the law, but it is applied in practice: it is an essentially volunteer isolation, requested by the prisoner himself due to threats and violence suffered in the prison by other inmates or due to his job before his detention (law enforcement officer ...).

In those cases, the needs relevant to internal security and personal safety can be met by transferring the subject to other prisons or prison wings, as provided for by article 14-b of the Penitentiary Act.

The above-mentioned article 33 of the Penitentiary Act was completely re-drafted by article 11, paragraph 1, letter m) of the Legislative Decree n. 123 of 2 October 2018.

The new version of article 33 expressly refers to the Regulations of Enforcement for the details of the execution of isolation. Said reference is made to article 73 of the Regulations of Enforcement, which sets the content of the measure and the relevant limitations.

However, in terms of the new paragraph 3, the segregating nature of isolation does not imply any limitation to the ordinary life conditions, except for the restrictions strictly functional to the reasons which determined the isolation.

The condition of the isolated inmates is daily monitored through adequate controls made by the physician of the prison, by the observation and treatment group and by the penitentiary police staff, in terms of paragraph 7 of article 73 of the Regulations of Enforcement.

Paragraph 8 of the same article provides for that isolation wings cannot be used to enforce the above-mentioned provision.

Finally, article 33, as recently amended, provides for two further innovations for the inmates' safeguard. The first one is that isolation does not prevent the inmate to receive family visits and the second one is that the judge must indicate duration and motivations, in case of isolation for reasons connected with the penal procedure.

45. / 46.

The CPT recommends that the conditions of detention within the segregation units at Biella, Saluzzo and Viterbo Prisons be improved in light of the above remarks.

The CPT would also like to receive confirmation that the 12 cells at Saluzzo Prison have been taken out of service pending their refurbishment.

Further, the courtyards attached to the isolation departments of the visited establishments should comply with the same requirement outlined in paragraph 25.

The management of the Saluzzo prison communicated, through the relevant Regional Directorate, that immediately after the CPT visit, the rooms in disrepair destined to execute the measure of isolation were refurbished. Those rooms, although they were not declared condemned, do not accommodate any prisoner at present, as it results also from the consultation of the Detention Spaces Software.

With reference to the detention conditions highlighted by the CPT delegation in the isolation wings at Viterbo prison, the relevant Regional Directorate communicated that the refurbishment works of common showers in the isolation wing are concluded and other interventions to improve cells and courtyards conditions are ongoing.

48. / 54.

The CPT recommends that the placement of any prisoner in an “area riservata” should be limited in time and subject to monthly reviews. Further, whenever Article 32 of the Prison Regulations is applied to confine “41-bis” prisoners in social groups of two under harsher conditions in the so-called “aree riservate”, the prisoners concerned should have the right to challenge the measure before the competent supervisory court. The choice of the second “ordinary” inmate to complete an “area riservata” should be made exclusively on a voluntary basis. Further, steps should be taken to ensure that prisoners subject to CCTV surveillance are guaranteed reasonable privacy when using the toilet, washbasin and shower through, for example, the pixilation of the toilet area on the CCTV monitor screen being pixelated.

The detention areas defined as “*aree riservate*” are parts of 41-b wings which, due to their logistic characteristics, meet the criteria provided for by the law currently in force.

Indeed, article 41-b provides for that all the necessary security measures are adopted, also by means of logistic arrangements in the detention premises, in order to limit the communications among prisoners belonging to different groups of common activities, which are composed of up to four persons. In connection to that, we underline that the newest 41-b wings were built according to the above-mentioned criteria (blocks of no more than four individual cells, with annexed services and courtyards).

Such assignment, anyway, does not imply a condition of isolation (since the subject can benefit from periods of common activities with other inmates, as provided for by the law). Inmates are not prevented to benefit from treatment activities since the 41-b regime does not have a punishment feature but only has the purpose to prevent any communication with outside world.

In some cases, the isolation of one inmate does not depend upon his assignment, but on the execution of the accessory punishment of day isolation (in terms of article 72 of the Penal Code), which is an additional sanction ordered with a life sentence for many prisoners undergoing the special regime of 41-b.

The choice of the best placement of inmates in the prison, or the decision to assign them to the part of the wing defined as area riservata, is the responsibility of the Department Headquarters.

The need to order a constant monitoring on some prisoners comes not only from reasons of security but because of their safety, as in the cases where some prisoners are assigned to individual cells because

they undergo the additional punishment of “day isolation” in order to prevent any exposure to self-harm risk.

In some of those cases, indeed, the inmates showed self-harm or suicide intentions and, if they were not submitted to video-surveillance, they should have had to be submitted to surveillance “at sight”, which is a much more intrusive situation.

The Directorate General for Prisoners and Treatment since many years now, has provided instructions to the prison governors in order for them to bring opportune modifications to the CCTV system, without giving up to such an important means of safeguard of order, security and safety.

In particular, in the toilets, either the image recorded by the video camera shows a blurry portion, just to visualize only the inmate’s silhouette or the position of the videocam was modified to show only the subject’s face and part of the chest.

The video-cameras are connected to a video-recording system which has the purpose to record the events occurred in case of possible critical events or anomalies. The data are automatically filed and stored for a limited time, and then they are over-recorded.

55.

The CPT recommends that the renewal of “41-bis” applications be based on an individual risk assessment that provides objective reasons for the continuation of the measure and not merely an absence of information to show that the person in question is no longer linked to a particular organisation. Further, each time an inmate is subject to a renewal or first-time imposition of the “41-bis” regime, he/she should be given the possibility to be heard in person by the competent ministerial authority (possibly through a video-conference system).

The criteria to issue a Ministerial Decree, signed by the Minister of Justice, confirming and extending the regime of 41-b are regulated by detailed and specific law provisions which do not imply, at present, the possibility to hear the inmate.

56.

The CPT would like to receive information from the Italian authorities on their assessment of the capacity of the above-mentioned inmates to prove that they no longer maintain effective control of their respective criminal gangs (i.e. whether it is necessary for them to continue to be held in “41-bis” rather than to be held in a secure environment more appropriate to their needs).

57.

The CPT calls upon the Italian authorities to engage in a serious reflection on the current configuration and execution of the “41-bis” detention regime throughout the prison system, also taking into consideration Article 27, paragraph 3, of the Italian Constitution.

The phenomenon of mafia criminality takes in Italy a peculiar character because of the presence of mafia-type organizations which are deeply rooted in Southern Italy areas. In the last years, the presence of the criminal mafia organizations originating from the four areas of Southern Italy spread over Northern Italy and infiltrated the communities of European countries at economic and social level. Moreover, the links among the various foreign criminal organizations (Albanian, Nigerian, Chinese mafias) increased. The mafia organizations are long-lasting “enterprises” tending at following the structural changes of the communities where they grow. It is not sufficient to arrest the bosses of the gangs and their accessories, but it is necessary to keep making a prevention work also inside our

prisons. As for the application and the extension of the regime provided for by article 41-b of the Penitentiary Act, the relevant prerequisites are strictly set by the law currently in force, as amended in 2009. Therefore, the provisions are adopted after a preliminary activity aimed at collecting and processing the information provided by the competent District Antimafia Directorate, by the National Antimafia Directorate, by other law enforcement agencies and investigation bodies. The consultation with those actors goes on even after the application of the 41-b provision and leads to the revocation of the special regime when the prerequisites cease. In 2018, the special regime was revoked for one inmate and was not extended for seven inmates. Against the application and the extension of the special regime an appeal can be lodged before the Supervisory Court of Rome: it seems meaningful that in 2018, said Court decided to receive only three appeals, out of the high number of requests.

57.

the Committee recommends that steps be taken to ensure that all prisoners subjected to the “41-bis” regime are:

- **provided with a wider range of purposeful activities and able to spend at least four hours per day outside their cells together with the other inmates of the same social group;**
- **granted increased visit entitlements per month as well as the possibility to accumulate visit entitlements in case of non-use;**
- **allowed to make at least one telephone call every month, irrespective of whether they receive a visit during the same month.**

Further, the Italian authorities should ensure that:

- **material deficiencies at the “41-bis” detention unit of Milan Opera Prison are remedied through the removal of the opaque Plexiglas layers on windows, the elimination of water infiltration, the painting of cells with anti-mould paint and repair of the boiler system, as well as the exercise bikes;**
- **material deficiencies at the “41-bis” detention unit of Viterbo Prison is remedied through the removal of the metal slats in front of windows, the repair of both damaged equipment (i.e. chairs) and artificial lighting in common rooms. Further, the recently renovated shower room should be kept in an adequate state of repair;**
- **the courtyards at the “41-bis” detention units of Milan Opera and Viterbo Prisons be rendered more pleasant and welcoming through adequate visual stimuli (e.g. paint decoration) and the metal grilles covering them be removed;**
- **medical examinations of “41-bis” prisoners are conducted confidentially in accordance with the recommendation set out in paragraph 75.**

The windows screens, the so-called “jalousies”, are a measure of security, which is strictly necessary and congruous for the main purpose of preventing and cutting the communications between the criminal organization and the detained person as well as between members of the same criminal organization detained in the same prison. Indeed, the jalousies are intended to prevent visual contact between the prisoners who are in the cells and those ones who are in the courtyards as well as to avoid the exchange of objects between inmates occupying adjacent cells.

At Viterbo prison, there is a premise for common showers in each detention storey. In each of the showers premise, refurbished in 2018, there are six water nozzles but only two shower-heads, since only two persons at a time can access both for security reasons and for the protection of inmates' decency. Therefore, there was no damage brought to the goods of the Administration. The rooms for the activities in common are equipped with new chairs and the artificial light now works, after two lamps exhausted have been substituted. As for the access of natural lights in the cells, the local Healthcare Agency certified in 2015 that the natural light in the cells is compliant with the parameters set for civilian houses, having a ratio PC/FA equal to or higher than 8. The courtyards are not covered by a metal grid, but there are thin steel cables set for reasons of security (i.e. to prevent the landing or the approaching of flying devices).

As for the serious allegations of ill-treatment against one inmate undergoing the special regime of 41-b, please refer to our reply to CPT Preliminary Observations.

As for the confidentiality of medical examinations, the circular letter 3676/6126 of 2 October 2017 provides for that *“as a general rule, the penitentiary police staff will stay outside the door – which will be open – of the room where the medical examination is carried out – at a distance allowing the visual and not hearing supervision. One could derogate to that procedure where a prisoner is particularly dangerous and might be an actual immediate and violent threat for others and/or for himself. In that case, the healthcare practitioners will be made aware of that danger, in order to safeguard their safety”*.

62.

The CPT recommends that the Italian authorities ensure that the deficiencies outlined above are remedied.

Directions have been given to the Saluzzo prison governor to adopt the necessary provisions to ensure the autonomy of the prison healthcare service.

As for the CPT observation relevant to the involvement of medical staff in the disciplinary procedures against prisoners in Saluzzo establishment, despite the amendment to article 40 of the Penitentiary Act of October 2018, the relevant Regional Directorate informed that it was a mere misunderstanding. The prison management precisely enforced the legislation amendment.

66. / 67.

As for the healthcare assistance to be provided to persons suffering from psychiatric pathologies, and namely of imprisoned persons, we provide the following information relevant to five topics:

- Update on the implementation of the Psychiatric wings – Wings for the protection of mental health (ATSM)
- Psychiatric assistance in prisons
- Suicide prevention
- Recording of injuries
- Confidentiality during medical examinations

The Penitentiary Administration is aware of the problems in the management and care of inmates with psychiatric problems and diseases. We are trying to cope with the problem of the lack of dedicated outside structures (REMS) throughout our country by increasing the number of places in specific wings inside the prisons, the Wings for the protection of mental health (ATSM). Those wings accommodate:

- Prisoners whose sentence was reduced in terms of article 111 of the Regulations of Enforcement;

- Prisoners whose mental illness arose after their conviction (article 148 of the Criminal Code);
- Prisoners whose mental impairment has to be ascertained in terms of art. 112 of the Regulations of Enforcement;
- Prisoners whose psychic conditions cannot be treated in ordinary wings

New ATSMs are under construction in the prisons of Padua, Palermo, Rome female prison, Civitavecchia and Viterbo. Our Administration intends to share with the national and local Healthcare Agencies a general model on the above-mentioned wings to be implemented throughout the Country, in order to provide adequate care in the prisons, waiting for an increase in the number of REMS.

As for the lack of clinical psychologists of the healthcare service in Biella prison, the Piedmont Regional Administration decided not to provide those practitioners to that prison, despite the number of requests made by the relevant Regional Directorate of Penitentiary Administration. In the regional deliberation relevant to “*Regional organization of the activities of prevention of suicide and self-harm in the prisons of Piedmont – Guidelines for local plans*” in April 2019, the introduction of those practitioners is provided depending upon the assessment of the relevant Department of Mental Health, for the cases which are deemed as in need of specific intervention. In the prison, there are three psychologists under contract, as provided for by article 80 of the Penitentiary Act.

71.

The CPT recommends that prisoners identified as being at risk of committing suicide be placed under direct staff supervision and offered both meaningful contact with other staff members and prisoners and access to activities, as appropriate. Further, all prisons should possess rip-proof clothing and bedding. In particular, inmates who are de facto isolated and segregated from the mainstream population are at a higher risk of suicide.

The overall findings of the CPT’s delegation during the 2019 visit indicate that a large number of inmates were subject to various isolation and segregation measures due to their challenging behaviour. **The Italian authorities should ensure that all persons placed on an isolation or segregation measure are systematically assessed as to whether they present signs of being at risk of suicide.**

In October 2017, our Administration issued a circular letter to disseminate the “*National Plan to prevent suicide in prisons*”, approved on 27 July 2017 by the Unified Conference (that is a permanent Body gathering Regional Administrations, Ministry of Health, Ministry of Justice and other public institutions). Said circular letter intended to raise Regional Directors’ and prison governors’ awareness about that National Plan, in order to implement it in cooperation with the Regional and the Local Healthcare Services, by drafting shared protocols.

In most prisons, a local plan of suicide prevention (acronym in Italian, PLP) was drafted, involving the prison governor, the Local Healthcare Agency (ASL), the regional and municipal Ombudspersons of prisoners and the Local Bodies in a range of activities that can be summarized as follows:

- Deeper knowledge of the individual inmate since his first entry into the prison, especially through the monitoring of the potentially stressing situations and by sharing practices and cooperating;
- Detection and assessment of risk;
- Interventions to provide an immediate response to a situation of danger, proportionally to the risk level (including the assignment of the inmate to the infirmary and a psychiatric examination for all the prisoners who have to serve a disciplinary measure of solitary confinement);

- a multi-professional team follows individual inmates' cases and drafts a program of healthcare assistance and support for the subject;
- The individual program will be implemented until the risk is eliminated or is meaningfully reduced.

We assure the CPT that the video-surveillance does not replace the surveillance in person. Indeed, the staff is situated very close to the person under care and can intervene immediately. The stay of an officer in front of the blinded door, which should be open all the time for that reason, arose many problems, in the past, for total lack of privacy for the inmate. Treatment and rehabilitation practitioners, probation officers and psychologists, besides psychiatrists, offer daily contact with the persons under isolation, as the CPT recommends.

The Penitentiary Administration issued further guidance concerning the inmates at a high risk of suicide, ordering prison governors to assign those subjects to multiple cells and to avoid, unless there are higher motivations, the assignment of subjects at risk to individual cells. It is evident that the cases of suicide mentioned by the CPT at the prisons of Viterbo and Saluzzo can be included among the exceptional cases.

With reference to the suicides occurred in the above-mentioned prisons, an administrative investigation was ordered and entrusted to the competent Regional Directorates in order to ascertain the causes, the circumstances and the modalities of the deaths, as well as the penitentiary management of the events.

As for the need highlighted by the CPT to provide inmates with rip-proof clothing and bedding, the Penitentiary Administration is favorable to the provision of such items. Recently, in August 2018, the Head of Department confirmed, at the light of the previous considerations made on that topic, the need to provide to the procurement of an adequate quantity of these materials, to be distributed to prisons and offered to inmates at a high suicide risk.

72./ 73.

The CPT reiterates its recommendation that steps be taken in all establishments to ensure that the record drawn up after the medical examination of a prisoner – whether newly arrived or following a violent incident in the prison – contains:

- i) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);**
- ii) a full account of objective medical findings based on a thorough examination;**
- iii) the doctor's observations in light of i) and ii) indicating the consistency between any allegations made and the objective medical findings.**

Recording of the medical examination in cases of injuries should be made on a special form provided for this purpose, with “body charts” for marking injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the person concerned. In addition, documents should be compiled systematically in the existing special trauma register.

The results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the prisoner and, upon request, to his/her lawyer.

Further, the existing procedures should be reviewed in order 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 report is

immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Health-care staff should advise detained persons of the existence of the reporting obligation and also that the forwarding of the report to the competent prosecutor is not a substitute for the lodging of a complaint in a proper form. The results of the examination should also be made available to the prisoner concerned and his or her lawyer. Health-care professionals (and the inmates concerned) should not be exposed to any form of undue pressure or reprisals from management staff when they fulfil that duty.

As for the recommendations above, it is to be underlined that in Italy medical practitioners are obliged to draft a report (which must include the date and time, the patient's statement, the objective examination, the statement of the medical doctor about the compatibility of the statements with the results of the objective examination, the prognosis) only where they assist patients in cases having the characteristics of crimes which can be prosecuted *ex officio*. In these cases, the healthcare practitioner forwards his/her report to the judicial authority, even if the person concerned does not consent to that.

The medical files are the property of the inmates, who have full right to ask a copy from the Local Healthcare Agency (ASL). The detained person has also the right to allow the access to those personal data to other persons (including lawyers) by a written delegation.

75.

The CPT recommends that steps be taken to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. Further, the fundamental principle of medical confidentiality should be explained to all prison officers.

On May 26, 2017, a note signed by the Head of Department regulating the topic “*Confidentiality in medical examinations of prisoners*” was sent to all the Regional Directorates and the prisons.

Our Department accepts the observation about the presence of Penitentiary Police staff during medical examinations despite the instructions given.

However, the CPT delegation itself understands that the reasons of this critical aspect are to be found in the particular care put by penitentiary police officers on the safety of healthcare staff, in order to prevent them to be victims of aggressions, in particular cases and situations.

76.

The CPT recommends that the Italian authorities pursue their efforts as a matter of priority to fill the vacant prison officers' posts at Biella, Milan Opera, Saluzzo and Viterbo Prisons.

As for the staff of Penitentiary Police, from a check on the official staffing plan, it results that:

- ✓ At Biella prison there are 211 staff members against 207 posts foreseen, with a surplus of 4 units;
- ✓ At Milano Opera prison, there are 667 units present, against 696 posts foreseen, with a lack of 29 units;
- ✓ At Saluzzo prison, there are 218 units present, against 231 posts foreseen, with a lack of 13 units;
- ✓ At Viterbo prison, there are 327 units present, against 343 posts foreseen, with a lack of 16 units.

77.

The CPT would like to receive information on the induction and follow-up of in-service training activities provided to custodial staff on conflict management, manual control techniques, dynamic security and intercultural skills. It would also like to be informed whether all prison staff have to undertake training each year and, if so, whether certain skills for prison officers are the subject of mandatory refresher courses.

The Penitentiary Administration puts a particular care on follow-up of in-service training activities provided to custodial staff of every rank by facilitating the contextualization of newly recruited staff in the penitentiary organization, by providing useful information to acquire professional skills and competences to perform their duties, by strengthening their knowledge in the penal and penitentiary field and by developing their relation skills.

Particular care is put on training about the protection of the rights of persons deprived of their liberty.

Continuous and follow-up training is provided by Regional Directorates and by prisons at local level.

78.

The CPT recommends that the vacant educator posts at Biella, Saluzzo and Viterbo Prisons be filled and that efforts be made to employ cultural mediators in all the prisons visited. Further, the Committee would also like to receive information on the status of the on-going recruitment of civilian staff by the DAP mentioned in paragraph 29.

As for interventions of language and cultural mediators, the Viterbo Municipality has started the procedures to establish a specific service in the local prison, making use of resources allocated by the Regional Administration in 2017.

79.

The CPT recommends that the Italian authorities increase the telephone entitlements of high-security prisoners to four ten-minute telephone calls per month. Further, steps should be taken to ensure that the outdoor visiting facility and children's playroom at Biella Prison be made available for the entire eligible prison population, that high-security inmates at Milan Opera Prison once again be entitled to receive their families in the existing outdoor facility and children's playground, and the number of telephone booths be increased.

The law (article 39 of the Regulations of Enforcement of the Penitentiary Act) regulates the number and the duration of the telephone calls of inmates, in relation to the order of detention. Notwithstanding said regulations, all the inmates can be allowed to make or receive further telephone calls with family members and cohabitants for reasonable and grounded motivations, besides their transfer to another establishment or for particular reasons of urgency or importance.

80.

The CPT recommends that the prison administration modernise their approach to this issue, including by examining the possibility for foreign national prisoners to maintain contact with their families through using Voice over Internet Protocol (VoIP) and by being able to make calls to mobile phones from prison.

As already stated in our replies to the CPT Preliminary Observations, concerning the CPT delegation's comments on the contacts of inmates with the outside world, the penitentiary Administration made some steps on that topic. A circular letter was issued on 30 January 2019 to introduce the possibility

for medium-security prisoners, to make video-calls with family members and cohabitants by using the *Skype for business* platform.

Said circular letter regulated the operational modalities to activate the video-call service in every prison, compared the video-calls to visits both as for the authority that can authorize the calls and as for the number and duration of the calls. Therefore, the prisoners belonging to the medium-security category can benefit from six video-calls per month, of a maximum duration of one hour each.

The circular allows self-certifications to be submitted, as a substitution of the family status certificate as well as a substitution of the certification that no other persons are present during the video-call except the recipient.

Further calls can be granted to inmates who are seriously ill, to imprisoned parents with children under the age of ten and in particular circumstances, as the law provides for.

Four hundred PCs were delivered to prisons in order to implement the service of video-calls through Skype and the relevant training was delivered to IT officers in the Regional Directorates.

In line with our actions of support to family relations and to parenthood, as well as with the improvements brought to the life quality of children accommodated with their imprisoned mothers in prison crèches and in the ICAMs, a circular letter was issued on 23 April 2019 about *Telephone correspondence with children under the age of ten*.

That circular letter invites the prison governors to make exceptions to the limits in the number of telephone calls set by the law currently in force, when children under the age of ten living in the prison participate in the telephone call with their parent.

In compliance with that circular letter, it is now possible to make telephone calls beyond the limits set by the law and to make two consecutive telephone calls up to 20 minutes in order to allow children who live in detention to maintain contacts with family members outside the prison.

81.

The CPT recommends that urgent steps be taken to ensure that no prisoner is held continuously in solitary confinement as a punishment for longer than 14 days. The Committee also considers that it would be preferable to lower the maximum possible period of solitary confinement as a punishment for a given disciplinary offence.

Further, the CPT recalls that it is in the interests of both prisoners and prison staff that clear disciplinary procedures be both formally established and applied in practice; any grey zones in this area involve the risk of seeing unofficial (and uncontrolled) systems developing. If other procedures exist - alongside the formal disciplinary procedure - under which a prisoner may be involuntarily separated from other inmates for discipline-related/security reasons (e.g. in the interests of “good order” within an establishment), these procedures should also be accompanied by effective safeguards.

Concerning the CPT observations about continuous periods of isolation as a disciplinary sanction – which today is still set for a maximum of 15 days – it is necessary to make some detailed statements.

Given that the disciplinary sanction of the exclusion from activities in common is particularly hard, the penitentiary Administration, although there are no specific normative directions in that sense, issued guidelines, already in 2015, to all the prisons. That direction orders that, where several disciplinary sanctions are to be enforced against one person in a consecutive way, implying the inmate’s isolation for periods longer than fifteen consecutive days, then the prison governors will not enforce the sanctions consecutively. Upon the fifteenth day, the isolation will be stopped and five days at least must pass before a new sanction of isolation will be enforced.

Another specific comment is to be made about the precaution disciplinary provisions regulated by article 78 of the Regulations of Enforcement of the Penitentiary Act.

In that case, too, the norm is complete and there are no “grey zones”.

The prison governor can order that an inmate be assigned to an individual cell pending the summoning of the disciplinary commission.

That measure has the same content as the sanction of disciplinary isolation, as it is demonstrated by the requirement of a medical certification issued by the medical practitioner examining the inmate immediately after that the precaution measure is adopted.

The measure can be adopted where mandatory requirements subsist: on the one hand, there must be the absolute urgent need to prevent a danger of damage to persons or to goods, or the occurring of disturbances, or to prevent very serious events endangering order and security. On the other hand, it is necessary that the infraction perpetrated by the inmate is punishable by the isolation.

Since the precaution measure can last up to ten days, it has the aim to shorten the time for the activation of the disciplinary proceedings and the summoning of the disciplinary commission, subject to the terms provided for by article 81 of the Regulations of Enforcement of the Penitentiary Act.

The period spent in precaution isolation will be deducted from the duration of the sanction which will be possibly ordered by the Disciplinary Commission.

As for the CPT criticism to the disciplinary regime, to the existence of grey zones, to the lack of mandatory and defined norms, to the alleged existence of activities out of control, to the need of a legal defense in order to provide greater protection, the following aspects must be highlighted.

The composition of the Disciplinary Commission was recently amended by article 11, paragraph 19 letter a) of the Legislative Decree n. 123 of 2 October 2018. Previously, the Disciplinary Commission was composed of the Governor as President, the medical practitioner and the educator. Now, in case the Governor cannot participate in the Commission, the senior officer can preside over the collective body. Moreover, an expert in terms of article 80 of the Penitentiary Act replaced the medical doctor in the commission. The participation of an expert in the disciplinary commission is in line with the contemporary amendment to article 36 of the Penitentiary Act, which provides for that the ongoing treatment plan is to be taken into consideration while enforcing the sanction.

The substitution of the medical doctor by experts coming from outside the Administration ensures a greater impartiality of the disciplinary commission.

84.

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

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

Further, steps should be taken in order to ensure that prison doctors are formally excluded from disciplinary proceedings at Saluzzo Prison, pursuant to the recent amendments to the Prison Law.

As for the CPT complaint about lack of protection and the need of a legal counsel, the following aspects of the norms have to be highlighted, pointing out that this delicate matter is thoroughly regulated and provides for effective safeguards, in consequence of the recent amendments.

The disciplinary sanction is ordered by a grounded provision, acknowledging that the prerequisites for exercising the disciplinary power exist and pointing out what are the criteria used by the commission to relate the sanction to the actual case.

The disciplinary provision is sent to the supervisory judge and included in the prisoner's personal file.

A late communication of the decision made to the person concerned is not a reason for invalidity, since it does not affect the right to defense, but only has a consequence on the effective date of the terms to appeal against the provision ordering the disciplinary sanction.

The control over the legitimacy of the provision can be requested by lodging an appeal before the Supervisory Judge, as per article 69 of the Penitentiary Act.

Said control is today even more strengthened under the jurisdictional point of view, since the inmate's appeal is not anymore dealt with in terms of article 14-c of the Penitentiary Act, as it used to be. On the contrary, in consequence of the amendments to the Penitentiary Act brought by the Law n. 10 of 2014, the inmate's appeal is dealt with through the procedure provided for by articles 678 and 666 of the Code of Penal Procedure and by article 35-b of the Penitentiary Act.

In that way, the judge can evaluate also the content of the provisions adopted, but only in the cases ordering the most serious sanctions, that is the separation of the inmate during the outdoor exercise and the exclusion from activities in common (isolation).

Therefore, the highest protection and the greatest safeguards are provided for in case of the most serious sanctions inflicted.

85.

The CPT recommends that the necessary steps be taken to install a sliding platform in the “41 bis” detention unit at Viterbo Prison.

The competent Regional directorate informed that in the 41-b wing of Viterbo prison the works were concluded to build a sliding access, in order to overcome architectural barriers.

Final note:

The comments to recommendations were drafted with the contributions – updated at 30 September 2019 – of the relevant Directorates General of the Department of Penitentiary Administration and of the Regional Directorates concerned. Said Regional Directorates are regional structures of the Penitentiary Administration, directed by a Senior Executive (Dirigente Generale), and are in charge of coordinating the management and supervising the prisons where the *ad hoc* CPT visit took place.

By recalling our June's reply with regard to health-care related issues, mention has to be made also of the following information by Ministry of Health:

On the basis of recent monitoring, it is to be added that, in the Penitentiary Institutes of Saluzzo and Biella:

- the specialist cardiology activity, as well as on-call infectious disease in Saluzzo prison takes place on a weekly basis (2h); the same applies to Biella prison, while for dental assistance it takes place twice a week for a total of 10h. The lack of specialist figures, complained by the Committee, is not due to

lack of economic resources, but to the general lack of such figures within the ASL (the problem concerns all areas). The specialist services are however all guaranteed in the hospital departments of reference with preferential pathways.

- The psychological support is guaranteed in Biella prison by the three psychological professionals present in the penitentiary SerD (15h (each), per week).

- With regard to "accidental injury", the health-care professional relies on the patient's statement about the origin of the injury. In any case, recently, and, more generally, all prison physicians were recommended to report any objective discrepancies between the observed injury and the patient's statement on the certificate.

- in Saluzzo prison, the physicians who work in the prison are employed by ASL or Sumaisti. The nursing activity only is outsourced;

- in Saluzzo prison, the requests for health-care, like in all the other prisons, are conveyed to health-care provider through penitentiary staff;

- Saluzzo prison has a prevention protocol for suicide;

- As for the transfers of people who have developed psychiatric problems due to detention, it should be noted that criteria have been defined to govern transfers for health reasons, including for psychiatric reasons.

Last, from an editorial standpoint, please kindly reflect in the Annex to CPT country visit report, as follows: 1. Ministry of Foreign Affairs **and International Cooperation**; 2. In addition to Min. Plen. Fabrizio Petri, please kindly add **Counselor Pierfrancesco De Cerchio; and Ms. Maja Bova, Lawyer, Human Rights Expert.**