

Criminal Detention in the EU: Conditions and Monitoring

Update of FRA's Criminal Detention Database

(FRANET)

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Part I: National standards

1. Cells

a. Cell space

In Italy, national standards on detention conditions are ruled by Law No. 354 of 26 July 1975 governing the Italian detention system¹, as well as by Decree of the President of the Italian Republic No. 230 of 30 June 2000 providing for the Regulation concerning the provisions on the penitentiary system and on the measures involving deprivation or limitation of personal freedom². The Law No. 354/1975 was last reformed by the Legislative Decree No. 124 of 2 October 2018³ which partially reformed the Italian detention system, and the rights and treatment detainees are entitled to. Eventually, each detainee entering an Italian prison must be provided with the Charter of the Detainees' Rights, which was approved with a Decree of the Ministry of Justice on 5 December 2012⁴. This legislative framework governs most of the aspects described below, unless specified otherwise.

When it comes to cell space, the legislation does not provide for specific m² requirements. Art. 6 of the Law No. 354/1975 states that cells must be: spacious enough, enlightened with both natural and artificial light in order to allow detainees to work and study, ventilated, and heated and provided with private, decent, and rational sanitary facilities. Cells can have one or more beds: wherever possible, remand prisoners – i.e. those who have not yet been sentenced – and detainees serving a life-long sentence, should be given the possibility to sleep in one-bed cells (unless they ask otherwise), unless the detention facility does not allow for this accommodation. Each prisoner must be given adequate equipment for their bed.

In 2022, the Italian Court of Cassation further specified the requirement concerning cell space with the Decision No. 18681 (See Section II), stating that for the purposes of determining the minimum per capita area of three square metres to be ensured for each prisoner so that the State does not incur the violation of the prohibition of inhuman or degrading treatment laid down in Article 3 of the ECHR, as interpreted by the case-law of the European Court of Human Rights, the space occupied not only by bunk beds but also by single beds, where these are anchored to the ground, cannot be counted. This Decision represents a further specification of a principle that the Court of Cassation had already set in previous decisions, according to which, in assessing the minimum individual space of three square metres, to be ensured for each prisoner, regard must be had to the surface area that ensures normal movement in the cell and, therefore, furnishings that tend to be fixed to the ground, including bunk beds, must be deducted.

¹ Italy, Law No. 354 of 26 July 1975 on "Provisions on the Prison Order and on the Execution of Measures for the Deprivation and Limitation of Liberty" ([Legge 26 luglio 1975, n. 354](#), "Norme sull'ordinamento penitenziario e sulla esecuzione delle misure privative e limitative della libertà").

² Italy, Decree of the President of the Italian Republic No. 230 of 30 June 2000 on "Regulation concerning the provisions on the penitentiary system and on the measures involving deprivation or limitation of personal freedom" ([Decreto del Presidente della Repubblica 30 giugno 2000, n. 230](#), "Regolamento recante norme sull'ordinamento penitenziario e sulle misure privative e limitative della libertà").

³ Italy, Legislative Decree No. 124 of 2nd October 2018 on "Reform of the Detention System" ([Decreto Legislativo 2 ottobre 2018, n. 124](#), "Riforma dell'ordinamento penitenziario, in attuazione della delega di cui all'articolo 1, commi 82, 83 e 85, lettere a), d), i), l), m), o), r), t) e u), della legge 23 giugno 2017, n. 103").

⁴ Italy, Ministry of the Interior (*Ministero dell'Interno*), Decree of 5 December 2012 on Approval of the Charter of Rights and Duties of Detainees ([Decreto 5 dicembre 2012](#), "Approvazione della Carta dei diritti e dei doveri dei detenuti e degli internati").

According to the NGO “Antigone”⁵ – which issues each year a report on detention conditions in Italy, visiting detention facilities in the entire national territory – in 2022, 35% of the visited detention facilities (the association visited in 2022 97 of the 189 existing prisons) the 3-square-metre requirement of floor space was not guaranteed for each detainee, which explains the more than 4,000 complaints received each year in Italy for inhuman and degrading detention conditions; in 12.4% there were cells in which the heating was not working; in 45.4% of the institutions visited there were cells without hot water and in 56.7% cells without showers.

b. Access to natural light and fresh air, cell equipment, furniture, and facilities

Art. 5 and 6 of the Law No. 354/1975 establish that detention facilities must be structured as to accommodate a non-high number of detainees (no specific criteria to assess the “non-high” number available). Detention facilities must be provided with specific rooms and areas to fulfil the individual necessities of the detainees, as well as of areas destined to work, training, cultural, sport, and religious activities. All the facilities where detainees spend their days must be wide enough (no specific criteria available), enlightened with natural and artificial light to allow for working and reading. They must be ventilated, heated in cold weather, and provided with private, adequate, and rational hygienic services. All facilities must be kept in good state of maintenance and clean. Each detainee must be provided with an adequate equipment for their bed (no specific information on the composition of this equipment).

Art. 6 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000 establishes that rooms’ windows must allow the direct passage of natural air and light. Shielding preventing this passage are forbidden. Only in case of evidence-based security reasons, shielding can be introduced: however, this cannot be directly applied to the building’s walls, and must always allow for the adequate passage of air and light. Each room must be provided with artificial light’s buttons, as well as with buttons for the functioning of radio and TV devices. These buttons must be located both inside the cell – for the detainees’ use – and outside – for the penitentiary police use. Penitentiary officers are allowed to impede the functioning of internal buttons, only if such use compromises the peaceful coexistence of detainees. In case of night controls, penitentiary officers must use only soft lights.

c. Video-surveillance of cells

No national standards available on this issue. Art. 24 of the Decree of the President of the Italian Republic No. 82 of 15 February 1999⁶ – providing the Regulation of the Penitentiary Police – establishes that penitentiary police officers must – in compliance with their mandate and respecting the detainees’ dignity – “continuously guard and monitor the detainees wherever they are”. This disposition allows the officers to control the detainees in every part of the detention facility, including the cells. However, no

⁵ Italy, Antigone (2023), Torture Prohibited. XIX Antigone Report on Detention Conditions ([È vietata la tortura. XIX Rapporto di Antigone sulle condizioni di detenzione](#)), 2023, p. 25.

⁶ Italy, Decree of the President of the Italian Republic No. 82 of 15 February 1999, “Regulation of the Penitentiary Police” ([Decreto del Presidente della Repubblica 15 febbraio 1999, n. 82, “Regolamento di servizio del Corpo di polizia penitenziaria”](#)).

specific disposition governs the possibility to carry out this monitoring activity using video-surveillance devices.

The Court of Cassation – with the [Decision No. 44972 of 8 October 2018](#) - stated that, taking into account the subjective dangerousness of a detainee subjected to the special regime isolation for members of criminal organisations (governed by Art. 41-bis of the Law No. 354/1975⁷), the mechanism of continuous video surveillance would represent a means deemed proportional and necessary for the containment of security instances such as to deem the public interest prevailing to the detainee's privacy and dignity protection. This was the case of a person convicted of mafia crimes, whose cell - including the bathroom - was subject to constant video surveillance.

d. NPM assessment

The National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*) issued in 2018 its Recommendations on detention standards⁸. When it comes to cells, the Guarantor recommends central and local administrations to make the currently unused overnight rooms operational, suitably renovated and up to the standards required by law. Pending the execution of these works, provide for the reduction of the Institute's crowding through some targeted transfers to neighbouring Institutions, after assessing the individual positions of the detainees. Moreover, the National Guarantor recommends that detention facilities in all the Italian Regions should be progressively brought into line with the internationally defined standards on the surface area available in the overnight rooms, bearing in mind that the three square metre limit does not represent the 'ideal' space, but the threshold below which there is a strong presumption of violation of Article 3 of the ECHR, with the risk of being condemned for inhuman and degrading treatment.

In January 2024, the National Guarantor issued a [press release](#) focusing on the worrying increase of suicides and overcrowding in Italian prisons. According to the Guarantor, the trend of unabated overcrowding has been going on for a year, with a worrying progression compared to previous years: if at the end of 2022, the prison population had increased by about 2,000 compared to December 2021, the increase on 30 December 2023 is exactly double, with about 4,000 more prisoners. In the last three months (14 October 2023 to 14 January 2024), the increase was 1,196 admissions, thus, almost 400 per month. The current index of overcrowding in Italian prisons, as of 14 January 2024, is 127.54%: 60,328 inmates, 13,000 more than the 47,300 places available, with peaks of overcrowding of 232.10% in the San Vittore prison in Milan, 204.95% in the Canton Mombello prison in Brescia, 204.44% in the Lodi prison, 195.36 in the Foggia prison. The criticality of the inmate population density is aggravated by the

⁷ More specifically, the detention regime ruled by Article 41-bis of the Law is applicable to people who have been convicted for one of the following criminal offences: acts of terrorism, including internationally, or attempts at subverting the constitutional order through violent acts; mafia organisations; supporting mafia-type activities; forcing into slavery or servitude; child prostitution, i.e. inducing a child into prostitution, and favouring and exploiting such a condition; using children to arrange pornographic shows or to produce pornographic material, inducing minors to participate in pornographic shows, and trading the abovementioned pornographic material; human trafficking; trading of slaves; gang rape; kidnapping for extortion or robbery purposes; criminal conspiracy for the purpose of smuggling tobacco products processed abroad; and criminal conspiracy for the purpose of smuggling drugs and psychotropic substances.

⁸ Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), Norms and Normality. Standards for the detention of adults ([Norme e normalità. Standard per l'esecuzione penale detentiva degli adulti](#)), 2018, p. 14-15.

way in which the new medium-security detention discipline is implemented, whereby if people are not engaged in activities they remain locked in their cells: the lack of activity, which is widespread in the Italian penitentiary system, determines, therefore, the stay in closed cells, in spaces that in two Institutes are even certified as being lower than the limit of 3 square metres per person.

2. Allocation of detainees

a. Geographical allocation

Art. 14 of the Law No. 354/1975 establishes that detainees have the right to be assigned to an institution as close as possible to their family's permanent residence or, if identifiable, to their centre of social reference, unless there are specific reasons to the contrary. However, detainees subject to the special regime governed by Art. 41-bis – described above – must be detained within detention facilities exclusively dedicated to them, preferably located in island areas, or in any case within special sections logistically separated from the rest of the institution and guarded by specialised departments of the prison police. In these cases, the facility is located far away from the detainee's place of ordinary residency also in order to interrupt the relationship and connection of the detainees with the criminal organisation.

b. Allocation within detention facilities

Art. 14 of the Law No. 354/1975 establishes that the allocation of detainees to individual institutions and the grouping in the sections of each institution are arranged with particular regard to the possibility of joint re-educational treatment and the need to avoid harmful influences on each other. Life in detention facilities is organised in detention regimes, that are not entirely governed by the above-mentioned legislative framework, but rather by internal decrees of the Penitentiary Administration Department (*Dipartimento dell'Amministrazione Penitenziaria* – DAP). The regimes formally recognized by DAP are three: high security, medium security, and attenuated detention. The [DAP's internal decree No. 3619/6069 of 21 April 2009](#), further differentiated high-security regime in three different sub-regimes:

- No. 1 meant for detainees belonging to mafia-type organised crime, against whom the decree of application of the regime provided for in Article 41-bis;
- No. 2 for persons accused or convicted of offences committed for the purposes of terrorism, including international terrorism, or subversion of the democratic order by committing acts of violence;
- No. 3 for prisoners who have played a leading role in criminal organisations dealing in drugs.

Those subject to the high-security regime in many cases cannot participate in the social and cultural activities that take place in the prison and live in separate wards from ordinary prisoners; to obtain a declassification to ordinary detention regimes, they have to prove that they no longer have links with the criminal organisation to which they belonged. The 41-bis regime is governed by a specific regulation and provides for the solitary confinement of the prisoner and the suspension for exceptional reasons of public order and security of the rules of treatment. The attenuated detention is meant for detainees classified as low risk. The attenuated custody sections and institutes, distributed throughout the

territory, house detainees classified as non-threatening or particularly vulnerable, such as detainees with drug additions and women with children. The medium-security regime was recently object of the DAP's [circular letter No. 3693/6143 of 2022](#) – which provided a systematised classification of the detention regimes – and it represents the most common detention regime in Italian prisons, and can be defined as the standard detention treatment for all detainees.

c. NPM assessment

In September 2023, the National Guarantor issued a study on the medium-security regime, to monitor the correct application of the above-mentioned DAP's circular letter No. 3693/6143 of 2022⁹. The Guarantor stressed that the medium-security regime holds the quantitatively largest part of the detainee population: in fact, on 31 August 2023, out of a population of 58,491, there were 41,597 persons assigned to it, i.e. more than 71 per cent of the total. The study of the Guarantor concerns the monitoring of the pilot implementation of the 2022 Circular letter in some Italian detention facilities and it is aimed at pointing out some critical aspects and at recommending the improvements that are need to meet the international standards, such as, for instance, the time spent out of cell, the access to leisure and education activities, the overcrowding of the facilities, etc.

3. Hygiene and sanitary conditions (note – section 11 contains specific questions concerning female detainees)

a. Access to toilets

Art. 8 of the Law No. 354/1975 establishes that all detainees must be ensured the adequate and sufficient use of hygienic services and showers with running hot water, as well as of any other object that is necessary for their hygiene. Hygienic services are located in separates areas of the cells – so that they are always accessible by the detainees, and they allow for the prisoners' privacy – and must be ventilated. Each detention facility can organize a periodic barber service; detainees can be allowed to use electric razors. Detainees can be imposed to cut their hair only for specific health-hygienic reasons (the same applies to the obligation to shower, according to Art. 8 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000). Art. 7 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000 establishes that hygienic services are located in a compartment adjacent to the cell. Such services must be equipped with running hot and cold water, washbasin, shower, and bidet (especially in female detention facilities). Hygienic services – equipped with washbasin and showers in adequate number – must be also located in rooms close to the areas where social activities are carried out.

⁹ Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), Study by the National Guarantor on the experimental application of the new directives for the medium security regime ([Studio del Garante nazionale sull'applicazione sperimentale delle nuove direttive per il circuito di media sicurezza](#)), September 2023.

b. Access to showers and warm and running water

The same discipline described in section a) applies also to shower/bathing facilities. Art. 7 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000 establishes that hygienic services are located in a compartment adjacent to the cell. Such services must be equipped with running hot and cold water, washbasin, shower, and bidet (especially in female detention facilities). Hygienic services – equipped with washbasin and showers in adequate number – must be also located in rooms close to the areas where social activities are carried out. The Decree does not mention the frequency of the detainees' access to hygienic services: however, Art. 8 of the Decree clarifies that the prisons' internal regulations can establish the hours of availability of hot water.

c. Access to sanitary products

Art. 8 of the Law No. 354/1975 establishes that all detainees must be ensured the adequate and sufficient use of hygienic services and showers with running hot water, as well as of any other object that is necessary for their hygiene. Art. 8 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000 establishes that the items required for personal care and cleaning are indicated with specific reference to their quality and quantity in tables, separate for men and women, established by ministerial decree. The Italian Court of Cassation – with the Decision No. 44209 of 2021 – clarified that the prison administration has an unconditional duty to provide prisoners with the products and utensils necessary for the care and cleaning of their person and sleeping quarters respectively, without any discrimination on the basis of census. This general regulation cannot be derogated from by internal provisions issued by the individual penal institution. The case concerned the judicial complaint filed by a prisoner concerning the provision of products for personal hygiene and for cleaning his cell: the prison administration, after an initial allocation, would no longer replenish it, claiming that the prisoner in question had more than EUR 50 to provide for himself (See Part II of this report).

d. Hygienic conditions in cells

Art. 6 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000 establishes that detainees who are physically and psychologically able to do so, are directly in charge of cleaning their rooms, and the hygienic services at their disposal. They provided with the necessary products and equipment to accomplish this task. In case of detainees who are not able to clean their rooms, the prison's administration must resort to other detainees who are paid for this task.

Art. 6 of the Law No. 345/1975 establishes that the rooms and areas where the detainees carry out their daily lives must be kept in good maintenance and clean. At this end, Art. 47 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000, the detention facility's administration can establish conventions with external private companies and social cooperative societies to provide specific services, such as the canteen service, and cleaning services. These private external companies can resort to the paid work of detainees who are considered as employees of the company: however, their wage must be transferred to the detention facility's administration that is in charge of giving it to the detainees.

e. NPM assessment

No assessment of the National Guarantor was identified for this section.

4. Nutrition

a. Quality and quantity of food

Article 9 of Law No. 354/1975 establishes that all detainees must be ensured a healthy and sufficient nutrition, considering their age, gender, health conditions, labour activity. Moreover, nutrition should include seasonal products. The 2018 reform integrated this legislative disposition, specifying that detainees must be ensured upon request a nutrition that is compatible with their religious faith, whenever possible. Food must be served in areas of the detention facility specifically destined to this purpose. The quality and quantity of food are determined by specific tables adopted with a Decree of the Ministry of Justice: these tables must be updated every 5 years. A delegation of detainees – chosen randomly on a monthly basis – is in charge of monitoring the correct implementation of the ministerial tables and the preparation of the food. Detainees are also allowed to purchase food, resorting to distribution points managed directly by the prison's administration. The prices of the products cannot be higher than the average price-level of the place where the prison is located. The delegation of detainees – integrated by a delegate of the prison's director – monitors the quality and the price of the products sold to the detainees.

Art. 13 of the Decree of the President of the Italian Republic No. 230/2000 establishes that each kitchen existing in the detention facility must be used to prepare the meals for no more than 200 detainees. The preparation of the meals is carried out by detainees: at this end, specific training sessions are organised. Detainees are allowed to have personal stoves in their cells.

According to Article 11 of Decree of the President of the Italian Republic No. 230/2000, meals are provided to the detainees three times per day (breakfast, lunch, and dinner). The detention facility's internal regulation establishes the time of the meals, as to make sure that the first is provided soon after waking up, the second after about 5 hours, and the third after about 6 hours.

Some local branches of the DAP are recently issuing periodic call for the provision of foodstuffs needed to prepare complete daily meals (breakfast, lunch, and dinner), as well as of additional goods that detainees can purchase¹⁰. These public procurements are replacing the detainees' work in the kitchens, making them lose a possible source of income. External catering services deliver the food daily; however, external observers, as well as detainees themselves have publicly denounced both the insufficient quantity and the poor quality of the delivered food, stressing that the public procurement system privileges private operators that can offer the most convenient economic conditions, rather the quality of the provided food¹¹. In September 2021, the Control Section of the Court of Auditors of Lazio

¹⁰ [This](#) is for instance the call for tender issued by the DAP of Emilia-Romagna and Marche in 2020 for a contract of 24-month validity.

¹¹ Italy, Il Dubbio (2020), That denied right to healthy food is not just about Cesare Battisti ([Quel diritto negato al cibo sano non riguarda solo Cesare Battisti](#)), 14 July 2020.

refused to grant its legitimacy approval to some decrees of the Regional DAPs of Lazio, Abruzzo, and Molise, approving some contracts for the entrusting of the service for the boarding of prisoners and internees amount to EUR two per head for the three daily meals to be served. Three contracts concern the four Roman penitentiary institutes of Rebibbia (Rome), and those of Civitavecchia, Viterbo, Frosinone, Cassino, and Latina. According to the Court, the report was due to the generalised, extraordinary discount with which such contracts for the supply of full daily meals for prisoners (breakfast, lunch, dinner) are awarded for an amount always slightly above EUR two, a circumstance hardly compatible with a dignified diet of the prison population¹².

In 2019, the association Antigone released a specific focus on nutrition in Italian prisons and its impact on health¹³. The focus reports the results of a research carried out in Tuscany in 2014, monitoring health conditions of 15,000 male detainees in 57 Italian detention facilities. 35% of them was overweight, 12.8% was obese. This condition increases the risk of cardiovascular, breathing, and metabolic diseases. Female and trans detainees resulted to be more exposed to obesity compared to both men, and to women not subject to detention. According to the report, this is due to the fact that nutrition tables are designed considering men's nutrition needs. Eventually, the focus stressed that 81% of Italian detention facilities ensures the possibility for Muslim detainees to have access to food that is suitable for their religious beliefs.

The standards reported above are applied to all detainees, regardless of their detention regimes.

b. Drinking water

The Charter of Detainees' Rights explicitly states that detainees have the right to access to drinkable water at any time.

c. Dietary requirements

Available information reported in Section 4.a.

d. NPM assessment

Following to the debate concerning the public procurements for food provision in Italian prisons and the decisions issued by some Courts (see point a of this Section), the National Guarantor issued an opinion¹⁴ in October 2021 recommending the DAP to set a quality level of food in penal institutions that guarantees the right to health and healthy nutrition of prisoners. According to the Guarantor, the main critical issue concerns the mixed type of tender in which the same supplier is awarded the board service (i.e., the food that the State is obliged to provide on a daily basis to inmates) and the extra board service (i.e., the service to be paid for by inmates who wish to purchase additional food and other items). This system has allowed, in fact, the awarding of contracts to firms which, secure in the substantial gains

¹² Italy, Court of Auditors. Lazio Regional Control Section (*Corte dei Conti. Sezione Regionale di Controllo per il Lazio*), [Report of 15 September 2021](#).

¹³ Italy, Antigone (2019), Nutrition and health in Italian prisons ([Alimentazione e salute nelle carceri](#)), 9 September 2019.

¹⁴ Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), [Press Release of 26 October 2021](#).

from the monopoly over board, offer reductions of up to 58% on the auction base, up to a cost of EUR 2.39 for a complete food per diem (breakfast, lunch and dinner) for an adult.

5. Time spent outside the cell and outdoors

a. Time spent outdoors

Article 10 of Law No. 354/1975 – as reformed in 2018 – establishes that detainees who are not allowed to take part in work release programmes have the right to spend four hours a day outside their cell. This time span can be reduced for exceptional reasons and cannot in any case be less than two hours a day: the reduction must be decided with the adoption of a specific provision of the detention facility's director. This provision must be communicated to the regional branch of the Detention system administration, and to the Court of surveillance. Outdoor spaces must be offering the opportunity to shelter in case of bad weather. The time spent outdoor is enjoyed in groups, except for detainees subject to the isolation regime. It must preferably be dedicated to sport activities. The Charter of Detainees' Rights further specifies that detainees have the right to be outside for at least two hours a day or, in certain custody regimes, for a shorter time but not less than one hour.

Article 16 of Decree of the President of the Italian Republic No. 230/2000 establishes that open-air spaces shall be used for sports, leisure, and cultural activities depending on the programmes implemented in each prison. Out-of-cell time is spent in areas preferably not enclosed between buildings; such areas shall offer protection from harsh weather and be spacious enough to mitigate the negative impact of freedom deprivation on detainees' physical and psychological wellbeing, in compliance with the assessments made by the psychological support staff. The reduction of out-of-cell time for exceptional reasons must be limited to short periods, and is decided by the prison director, who is supposed to provide adequate justifications, to be communicated also to the surveillance court (*giudice di sorveglianza*).

As a disciplinary measure, the prison administration can oblige detainees to spend their out-of-cell time alone for no more than 10 days or can prevent them from taking part in community activities for no more than 15 days, provided the healthcare staff certifies they can stand such a measure (Article 39 of Law No. 354/1975). Prisoners undergoing a specific surveillance regime (*regime di sorveglianza particolare*)¹⁵ governed by Article 14-bis of the Law – can be imposed restrictions in relation to the out-of-cell time, as well as to the right to access the prison library. In case of well-grounded public security reasons, the Ministry of Justice can suspend in full or in part the rights of some detainees convicted for specific criminal offences, especially in order to prevent them from carrying on their criminal activity within the prison or while communicating with external visitors; such restrictions include detention in specific prisons or in confined areas of ordinary prisons, and the reduction of the out-of-cell time, which can be spent only in groups of no more than four detainees, and for a maximum of two hours a day (Article 41.bis). Some decisions adopted by the Italian Court of Cassation in 2019¹⁶ have strictly limited the power of the DAP of limiting the time spent outdoors by detainees in 41-bis regime: this time is oftentimes reduced to one hour and another hour spent indoors. According to the Court, such

¹⁵ According to Article 41a of the abovementioned law, this kind of surveillance can be imposed on detainees whose behaviour jeopardises security and order in detention facilities, who violently hinder other prisoners' activities, or who intimidate other prison inmates.

¹⁶ Italy, Court of Cassation, Decisions No. 17581 of 24 April 2019 and Decision No. 17580 of 24 April 2019.

reductions can only be temporary and emergency measure, and cannot represent the ordinary routine for detainees in 41-bis regime since they unlawfully compress detainees' rights.

b. Time spent indoors

No national standards apply to time spent in cells, which should be considered a place where detainees sleep, whereas the rest of their days are spent in other parts of the detention facility. It is worth recalling that on 14 July 2013, the Prison Administration Department (*Dipartimento dell'Amministrazione Penitenziaria*) approved a circular letter introducing the guidelines on the so-called 'dynamic surveillance regime' (*sorveglianza dinamica*)¹⁷: this detention regime allows prisoners who are not detained in maximum-security detention facilities to spend eight to 14 hours a day outside their cell, as well as the possibility to freely move within their wing, to take part in a higher number of activities, and to benefit from more opportunities. Moreover, the dynamic surveillance regime entails a reduction in the number of police officers in that specific prison wing; such officers are partially replaced by a less intrusive video surveillance system.

c. Recreational facilities

Each prison must provide prisoners with adequate equipment for work, study, and leisure activities, as well as access to a library with books and magazines (Article 12 of Law No. 354/1975). Cultural, leisure, and sports activities must be offered in each prison, and should be aimed at the development of detainees' personality and at their re-education. These activities are organised and implemented by a commission whose members are the prison director, educators, social workers, and detainees' representatives (Article 27 of Law No. 354/1975). As specified by the Charter of Detainees' Rights, a written request is requested to participate in courses and other activities. Moreover, detainees are allowed to engage in sporting activities while outdoors.

Moreover, Art. 21 of the Decree of the President of the Italian Republic No. 230/2000 states that the library must consist of books and periodicals chosen according to criteria that ensure a balanced representation of the cultural pluralism existing in society, ensuring that persons serving sentences have easy access to the publications in the library, as well as the possibility of consulting other publications through the implementation of specific agreements with public libraries and reading centres. As part of the library service, there is a reading room, to which detainees are admitted. Those detainees who are workers and students may also use the reading room at times after work and study. Internal regulations set out the methods and times of access to the reading room.

d. Educational activities

Prisoners shall be granted access to the prison library, and the range of available books and magazines shall respect the cultural diversity of society. The library must also have a reading room (Article 21 of the Decree of the President of the Italian Republic No. 230/2000). Moreover, prisoners shall be provided

¹⁷ Italy, Detention Administration Department (*Dipartimento per l'Amministrazione Penitenziaria*, DAP), [Circular Letter of 13 July 2013](#).

with adequate education opportunities and information about them: such opportunities include compulsory education, vocational training, secondary education, and university (Articles 41-44 of the Decree). Leisure, sports, and cultural activities shall respect detainees' distinctive features and expressions and shall promote the involvement of all prisoners. Sports activities are offered especially to young detainees in cooperation with local and national sports organisations. Each prison shall also implement and offer leisure activities for those prisoners who are excluded from working activities against their will (Articles 59-60 of the Decree). The Charter of Detainees' Rights further specifies that detention facilities are provided with a library, in the management of which the detainees themselves collaborate. Access to the library premises of the respective sections takes place on the days and times laid down in the facility's internal regulations.

e. NPM assessment

No assessment of the National Guarantor was identified for this section.

6. Solitary confinement

a. Placement in solitary confinement

Article 33 of Law No. 354/1975 – as reformed in 2018 – establishes that this measure is allowed for sanitary reasons or in case the prisoner is excluded from community activities in the framework of a disciplinary measure. Remand prisoners can be subject to this measure for reasons connected to judicial necessities: however, the judicial provision ordering the confinement must indicate the length and the reason of this measure. The regime of solitary confinement cannot include limitations to the ordinary life conditions of the detainees. Moreover, solitary confinement does not preclude the right of the detainees to receive visits from authorised subjects. According to Art. 39 of the Law – governing disciplinary sanctions – isolation represents the most severe sanction: the detainee is excluded from social activities for 15 days. This measure must be decided by the discipline council of the detention facility and communicated to the surveillance Court. In order to implement this disciplinary measure, the medical staff must certify that the detainee's conditions are compatible with solitary confinement. Despite being a last-resort measure, according to the last report released by the Association Antigone¹⁸, as of 28 April 2022, there were 102 disciplinary isolation sections (89 male and 13 female) in Italian prisons and there were 281 inmates (252 men and 29 women). The Antigone Observatory during its visits in 2022 collected data on the number of disciplinary isolations carried out in the previous year (i.e. in 2021) in 62 institutions and found a total of 3,336 isolations, which translates into an average of approximately 15 isolations per 100 inmates. The situation in individual institutions can vary considerably. Also the reasons to end up in isolation can be extremely different and not only relating to disciplinary measures: according to the association, in the Augusta Detention Centre, at the time of the association visit, in the isolation section there were 19 persons, none of whom was isolated for disciplinary reasons: some were detained in the isolation section for special precautions, others because of meeting prohibitions and others because of quarrels occurred in another section, but also to perform

¹⁸ Italy, Antigone (2023), Torture Prohibited. XIX Antigone Report on Detention Conditions ([È vietata la tortura. XIX Rapporto di Antigone sulle condizioni di detenzione](#)), 2023.

the sanitary isolation (5-day Covid quarantine on entry) in case of lack of other spaces. Again, in the Catania 'Piazza Lanza' Prison at the time of the visit, there were 6 inmates in the isolation section, none of them for disciplinary reasons: 4 to perform the sanitary isolation and 2 because inmates with psychiatric problems. Last example, in the Viterbo Penitentiary at the time of the visit 7 persons were confined in the isolation section but only temporarily to be relocated, as they had problems with other inmates. Therefore, none of them was serving the disciplinary measure of solitary confinement.

Article 73 of Decree of the President of the Italian Republic No. 230/2000 establishes that solitary confinement for health reasons is required by the prison doctor in case of contagious diseases. Such confinement is spent in clinics or in the prison hospital and shall cease as soon as the infection risk disappears. Solitary confinement as a disciplinary measure is served in an ordinary cell unless the prisoner's behaviour may pose a risk for security and order within the prison. Prisoners in solitary confinement are not allowed to communicate with other prisoners but are given ordinary meals and water supply.

b. Monitoring of detainees

According to Article 73 of Decree of the President of the Italian Republic No. 230/2000, the solitary confinement regime for health reasons shall be strictly monitored on a daily basis by a doctor, police officers, and a member of the Observation and Treatment Commission (*Gruppo di osservazione e trattamento*, GOT). As per solitary confinement used as disciplinary measure, Article 39 of Law No. 354/1975 does not envisage an independent monitoring mechanism. However, detainees subject to this measure can always resort to the complaint mechanisms ruled by Art. 35-bis and Art. 35-ter of the Law.

c. NPM assessment

No assessment of the National Guarantor was identified for this section.

7. Work and education of detainees to promote social reintegration

a. General measures to promote social reintegration

Art. 1 of the Law No. 354/1975 provides for the general principle according to which treatment in detention must be oriented, also through contacts with the external environment, to social reintegration and is implemented according to a criterion of individualisation in relation to the specific conditions of the persons concerned. The specific conditions of each detainee are assessed through an interview aimed at ascertaining the needs of each subject, related to any physical, psychic, affective, educational, and social deficiencies that have represented an obstacle to the foundation of a normal relationship life. In particular, the first entry interview allows the prison staff to know all the information concerning the family and socio-cultural context of belonging, also in order to measure the opportunity to extend an individualised programme to family members. The observation is carried out by the above-mentioned GOT that operates with the help of a team of psychologists, criminologists, psychiatrists who also hypothesise guidelines for the realisation of a path suited to the personality of the offender. The

supervising magistrate will have to decide on the basis of the indications provided to him, also deciding on the possible granting of benefits and alternative measures to detention.

Art. 17 of the same Law clarifies that the aim of the social reintegration of convicts and inmates must also be pursued by soliciting and organising the participation of private individuals and public or private institutions or associations in re-educational action. All those who, having a concrete interest in the work of re-socialisation of prisoners, demonstrate that they can usefully promote the development of contacts between the prison community and free society, are allowed to attend prison establishments with the authorisation and according to the directives of the supervising magistrate, on the favourable opinion of the director. Art. 46 of the Law also envisages a post-detention assistance: detainees receive special help in the period immediately preceding their release and for an appropriate period thereafter. The definitive reintegration into free life is facilitated by social service interventions. Discharged persons suffering from serious physical or mental disabilities and impairments are also reported, for the necessary assistance, to the bodies responsible for the protection of public health. Detainees who are unemployed can file a request for the public relocation allowance – governed by Art. 23 of the Legislative Decree No. 150 of 14 September 2015¹⁹ – if they file the request within six months from their release.

Art. 68 of the Decree of the President of the Italian Republic No. 230/2000 further specifies that the management of the detention facility examines with private individuals and with members of institutions or associations the initiatives to be carried out within the institution and submits proposals to the supervisory judge, with his opinion, also as to the tasks to be performed and the manner in which they are to be carried out. The supervisory judge, when authorising entry into the institution, shall lay down the conditions to be met in the performance of tasks. The management shall ensure that the initiatives indicated in the preceding paragraphs are carried out in full integration with prison staff. To this end, the authorised persons shall have access to the establishment in accordance with the terms and times set for the activities in which they collaborate.

Eventually, the Charter of Detainees' Rights states that detainees shall be subjected to a re-educative treatment aimed at their social reintegration. The treatment is carried out according to a criterion of individualisation in relation to the specific conditions of the subjects, must be in accordance with humanity and must ensure the respect of the person's dignity. The treatment is carried out mainly through education, work, religion, cultural, recreational, and sporting activities and by facilitating appropriate contacts with the outside world and relations with the family.

In March 2023, a Draft Law²⁰ was lodged at the Italian Chamber of Deputies to set up Territorial Social Reintegration Houses (*Case territoriali di reinserimento sociale*) aimed at accommodating all prisoners serving a prison sentence, including residual prison sentences, not exceeding 12 months. According to the proponents, in these new facilities, with a limited capacity of between five and fifteen people, it would be possible to implement the constitutional principle of the re-educative purpose of punishment,

¹⁹ Italy, Legislative Decree No. 150 of 14 September 2015 on "Provisions for the reorganisation of legislation on employment services and active policies" ([Decreto Legislativo 14 settembre 2015, n. 150](#), "Disposizioni per il riordino della normativa in materia di servizi per il lavoro e di politiche attive").

²⁰ Italy, Draft Law No. 1064 of March 2023 on "Establishment of territorial houses for social reintegration and amendments to Law 354 of 26 July 1975" ([AC 1064](#), "Istituzione delle case territoriali di reinserimento sociale nonché modifiche alla legge 26 luglio 1975, n. 354, in materia di esecuzione della pena presso le medesime").

with public benefit work and projects involving educators, psychologists and social workers, and other activities co-managed with civil-society organisations.

The Budget Law 2023²¹ provides for the establishment of a fund with an endowment of EUR 4 million for the year 2023 and EUR 5 million for each of the years 2024 and 2025, intended to finance projects aimed at: the rehabilitation and reintegration of prisoners and convicts; assistance to prisoners, inmates and persons subject to alternative measures to imprisonment; health and psychiatric care and assistance, in cooperation with the regions; the rehabilitation of drug addicts; the integration of foreigners subject to criminal execution.

b. Access to work

Art. 20 of the Law No. 354/1975 establishes that in detention facilities the employment of detainees and their participation in vocational training courses must be encouraged in every way. To this end, work and services may be organised and managed, inside and outside the institution, through the employment of detainees. Work organised and managed directly by public or private bodies and vocational training courses organised and carried out by public or private bodies may also be established. Prison work shall not have an afflictive character and shall be remunerated. The organisation and methods of prison work must reflect those of work in free society in order to provide individuals with professional training appropriate to normal working conditions to facilitate their social reintegration. Moreover, detainees may ask to be admitted working voluntarily and free of charge within the framework of public benefit projects, also considering their specific professional skills and aptitudes. Participation in these projects may consist in activities to be performed in favour of State administrations, regions, provinces, municipalities, mountain communities, unions of municipalities, local health authorities, bodies, or organisations, including international ones, of social, health and voluntary assistance, on the basis of specific agreements (Art. 20-ter). Eventually, detainees may be assigned to work outside the detention facility. Detainees assigned to outside work shall be assigned to work unescorted unless this is deemed necessary for security reasons. Detainees shall be admitted to outdoor work subject to authorisation by the competent judicial authority. In the case of private undertakings, the work must be carried out under the direct supervision of the management of the detention facility, which may make use of staff and the social service for this purpose.

The Decree of the President of the Italian Republic No. 230/2000 provides for specific regulation of detainees' work, in its Articles 47-54. Prison work, both inside and outside the institution, can be organised and managed by the directors of the institutions, according to the programmatic lines determined by the regional detention administrations. Similarly, they can be organised and managed by public and private companies and, in particular, by social cooperative societies, in premises granted on loan by the administrations. Relations between the management and the companies are defined by agreements that also regulate the possible use, possibly on loan, of the premises and equipment already existing in the detention facilities, as well as the modalities of charging the company for the expenses incurred to carry out the productive activity. Detainees who work in such production activities are, as regards the employment relationship, directly dependent on the companies that manage them. Employers are required to pay the management of the establishment, the remuneration due to the worker, net of the deductions provided for by law, and the amount of any family allowances, on the

²¹ Italy, Art. 1-856 of the Law No. 197 of 29 December 2022, Budget Law 2023 ([Legge 29 dicembre 2022, n. 197](#), "Bilancio di previsione dello Stato per l'anno finanziario 2023 e bilancio pluriennale per il triennio 2023-2025").

basis of the documentation sent by the management. Employers must prove to the directorate that they have fulfilled their insurance and social security obligations.

According to the 2023 report issued by the association Antigone²², out of 97 detention facilities visited in 2022, the average number of detainees working is 29.2 per cent. The percentage of workers employed by external employers stands at 4%. Concerning detainees involved in vocational training projects, the percentage is 6.8 per cent. Out of the 97 institutions visited, only four have a percentage of working detainees exceeding 50% and these are small facilities, where larger facilities struggle to keep up. According to the official data provided by the Ministry of Justice to the association, as of 31 December 2022, out of a total of 56,196 detainees, 17,209 were employed by the prison administration - 30.6 per cent of the total and 86.8 per cent of the total working detainees - and 2,608 were employed by external employers - 4.6 per cent of the total and 13.1 per cent of the total working detainees - for a total of 19,817 working detainees (35.2 per cent). As for vocational training, as of 31 December 2022, 212 courses were active, and 2,222 detainees were enrolled (4% of the total). There were 168 completed courses, 1,792 detainees enrolled in these courses and 1,499 of these promoted (83.7%). Among the types of courses completed, those with the highest number of participants continue to be in the field of cooking and catering, with 43 courses completed, 418 enrolled and 339 promoted; followed by gardening and agriculture courses, with 33 courses completed 349 enrolled and 262 promoted, and building courses, with 17 courses completed, 48 enrolled and 37 promoted.

On 24 June 2022, a Memorandum of Understanding²³ was signed by the then Minister of Justice and the then Minister for Technological Innovation and Digital Transition concerning the “Prison Work” programme with nine companies operating in the information and communication technology and telecommunications sectors. The aim of the project is, in a first phase, to train inmates to provide specialisation in the sector and, in a second phase, to employ them in the regeneration of network equipment and the implementation of telecommunications access networks.

Eventually, the Court of Milan, with decision No. 2718 of 2021²⁴, upheld the appeal of a former prisoner worker who had worked for the prison administration for almost two years and had been denied unemployment benefits by the National Social Security Institute. In fact, it assessed how release from prison at the end of a sentence is also an involuntary loss of employment. In this case, the loss of employment is certain and foreseeable for the worker but does not depend on a cause attributable to him.

c. Access to education

In general terms, detainees have the right to attend school programmes of all grades, from primary school to university. Art. 19 of the Law No. 354/1975 states that in detention facilities, cultural and vocational education is provided by organising compulsory schooling and vocational training courses,

²² Italy, Antigone (2023), Torture Prohibited. XIX Antigone Report on Detention Conditions ([È vietata la tortura. XIX Rapporto di Antigone sulle condizioni di detenzione](#)), 2023, p. 76-83.

²³ Italy, Ministry of Justice and Ministry of Technological Innovation and Digital Transition on Prison Work ([Ministero della Giustizia e Ministero dell’Innovazione Tecnologica e della Transizione Digitale, “Imprese per il sociale: al via il Programma “Lavoro Carcerario”](#)), June 2022.

²⁴ Italy, Ordinary Court of Milan, Decision No. 2718/2021 ([Tribunale di Milano. Sezione del Lavoro. Sentenza n. 2718/2021 del 10 novembre 2021](#)).

according to the current guidelines and with the help of methods adapted to the condition of the subjects. Particular care is devoted to the cultural and vocational training of inmates under the age of twenty-five. In accordance with the procedures laid down in the school regulations, secondary schools may be established in detention facilities. Attendance and completion of university and higher technical studies are facilitated, also through agreements and memoranda of understanding with university institutions and higher technical training institutes. Following memoranda of understanding between the Ministry of Justice and the Ministry of Education, the task of organising classes and courses falls to the Provincial Centres for Adult Education (*Centri Provinciali per l'Istruzione degli adulti – CPIA*).

Art. 42 of the Decree of the President of the Italian Republic No. 230/2000 specifically focuses on training programmes. Institution managements promote the participation of prisoners in vocational training courses, according to the needs of the prison population, both Italian and foreign, and to the demands of the labour market. To this end they promote agreements with the region and the competent local authorities. The courses may be held in whole or in part, with particular reference to practical exercises, outside the institutions. The prison administration promotes memoranda of understanding with the local authorities, which guarantee the prisoner or inmate the continuity of attendance and the possibility of obtaining the qualification even after discharge. Facilities' management may provide suitable premises and equipment and may plan, in agreement with the regional detention administration, training activities meeting the special needs of detainees and such as to develop prison work. Facilities' managements shall ensure that detainees are adequately informed about the courses and encourage their widest participation. The managements take care that the timetables of the courses are compatible with the participation of persons already engaged in work or in other activities organised in the institution. Transfers to other institutions of detainees engaged in the courses are avoided as far as possible. An hourly subsidy is paid for attending vocational training courses at a rate determined by ministerial decree (Art. 45). As for university studies, detainees who are enrolled in university courses or who meet the requirements for enrolment in such courses are facilitated to complete their studies. To this end, appropriate arrangements shall be established with the academic authorities to enable students to take advantage of all possible assistance and to sit examinations. Those who follow university courses may be exempted from work, at their request, in consideration of their demonstrated commitment and profit. Detainees who are university students are assigned, where possible, to rooms and wards suitable for the performance of their studies, and special common rooms are made available for them. Students may be authorised to keep in their room and in the other study rooms, books, publications, and all teaching aids necessary for their study. At this end, Penitentiary University Poles (*Poli Universitari Penitenziari – PUP*) have been established, explicitly providing for the possibility of entering into conventions and memoranda of understanding with university institutions: PUPs are a system of services and opportunities offered by the university, with the availability and administration of the detention facility, in addition to or instead of those normally available to students, proposed in a structural manner organised on the basis of specific agreements aimed at overcoming the obstacles that objectively hinder the effective exercise of the right to university study by persons serving a sentence. According to the [annual monitoring of the Conference of Penitentiary University Poles](#), in the academic year 2022/2023 37 Italian Universities had activated PUPs, and 6 were about to activate one. During the same academic year, 1,458 detainees were enrolled in university courses (1,406 males; 1,292 Italians), recording an increase compared to the previous academic year (1,246). Detainees were evenly distributed in age slots; 27% were enrolled in courses of the social and political disciplines.

The Covid-19 emergency had a severe impact on educational programmes in detention facilities: during the first wave of the pandemic, out of 38,520 lesson hours in penal institutions, 1,410, or 4 per cent, had been provided; and of these, 3.16% were provided in the final classes, and only 0.76% in the other classes²⁵. The prison administrations' difficulties in adapting to the new situation led to a critical slowdown for schools, to the point of almost zero lessons at all levels of education. Slowly, and within a year of the outbreak of the pandemic, detention facilities began to move to guarantee the right to study, either through remote teaching or with face-to-face lessons for a limited number of students. The problem of overcrowding also affects the possibility of attending school, as there are few institutions that can guarantee large spaces in which to hold classes while respecting social distancing and health precautions. These legitimate needs have been addressed by the [Memorandum of Understanding](#) between the Ministry of Justice and the Ministry of Education of 19 October 2020, which emphasises the importance of technological equipment during learning. However, in January 2021, Antigone, together with other civil-society organisations, surveyed 82 teachers present in 61 detention facilities, in order to understand who was giving lessons in presence and how. At a time when outside schooling had resumed everywhere, albeit at 50% attendance for some institutions, this was not the case in prison: in 45.1% of the monitored institutions, school in attendance had not resumed in January. Only in 27% of the institutions where there was no face-to-face teaching were forms of videoconferencing activated for all classes. To this percentage should be added the 8% where synchronous teaching was only present for some classes. In the remaining 62% of cases, there was no synchronous teaching. In general, where teachers were unable to come into the institute, they sent in paper material (handouts, assignments, and photocopies of various kinds), so that they had a support from which to assess the students. The distribution of material concerned 84% of the institutes where there was no face-to-face teaching (so in some cases there was an overlap with synchronous distance teaching). In some cases, the distribution of material was not followed by any feedback. In institutions where distance learning was taking place, many detainees were still excluded from the activities due to the difficulty of ensuring social distancing in the classrooms. In 29% of the cases monitored, the students involved were half of those enrolled, in 10% less than a quarter, in 5% between a quarter and a half and in 37% more than three quarters (in 18% of the cases, the figure was not recorded).

d. NPM assessment

In March 2024, the National Guarantor and the National Council for Economics and Labour (*Consiglio Nazionale dell'Economia e del Lavoro* – CNEL) signed an inter-institutional agreement for the social and labour reintegration of detainees²⁶. In particular, the collaboration refers to the establishment at the CNEL of a permanent secretariat for economic, social, and labour inclusion, capable of interacting with all the social partners - employers, trade unions and the third sector - by systemising the relevant organisational networks of proximity capillary throughout the national territory. The agreement will also cover the specific area of foreign citizens in detention.

During the Covid-19 emergency, the National Guarantor issued period bulletins monitoring the situation in detention facilities. In its [bulletin of 29 May 2020](#), the National Guarantor reiterated the

²⁵ Italy, Antigone (2021), School in prison: right or privilege? ([La scuola in carcere: diritto o privilegio?](#)), 2021.

²⁶ This information is available at the [website](#) of the National Guarantor.

need for the study activities, after the abrupt interruption of March 2020, to be resumed and continued in the penal establishments with the distance learning modalities currently foreseen for all, so as to allow at least the end of the school year. While some schools in prisons have already ensured the continuation of courses with Distance Learning, however, this modality has remained relegated to a few experiences. According to a survey carried out by some teachers of schools in prisons, only 20 per cent of the institutions have ensured that detained students have some possibility of not interrupting the school year altogether, sometimes with formulas that can hardly be considered sufficient (one video call per week per class with a representative of the class itself or two hours of lessons once a week).

8. Healthcare (note – section 11 contains specific questions concerning female detainees)

a. Access to healthcare

As reported in previous reports on detention conditions, Article 11 of Law No. 354/1975 establishes that each prison has to be provided with a medical and pharmaceutical service, as well as with a psychiatric specialist professional. All detainees must be provided with the health services charter adopted by each local health authority in whose area a detention facility is located, and it has to be made available to detainees by appropriate means of publicity. At the beginning of the detention period, each prisoner must undergo a general health check-up aimed at identifying any physical and psychological diseases. Prison medical staff members are supposed to attend prisoners every time their intervention is required and are supposed to inform relevant authorities of any disease requiring specialist care. In female detention wings, specialist medical care shall be ensured to pregnant women and new mothers. The prison administration can establish cooperation protocols with local medical facilities. Prisoners can ask to be examined by medical professionals of their choice if they can bear the related costs. Twice a year, a doctor inspects each prison with a view to monitoring healthcare services, hygienic conditions, and contagious diseases prevention mechanisms. Article 13a of the Law sets out that prisoners convicted for sexual crimes perpetrated against children can apply for a specialist psychological treatment aimed at their rehabilitation. Prisoners sentenced to up to three years' imprisonment can be placed under the custody of local social services, or under home custody if the prison medical staff certifies they are affected by AIDS/HIV (Article 47c). Prisoners with physical or psychic impairments shall be detained in specific facilities or areas in order to receive adequate treatments (Article 65).

Article 17 of Decree of the President of the Italian Republic No. 230/2000 also establishes that, in case an emergency transfer is needed (and there is not enough time to wait for the authorisation from the competent court), the authorisation can be given by the prison director; such decision shall be immediately communicated to the competent judicial authority. The assessment of prisoners' psychic condition is carried out by the prison specialist staff, if available, or in another detention facility (Article 112). Each prison can establish cooperation protocols with local psychological and psychiatric medical facilities (Article 113).

The Decree of the President of the Italian Council of Ministers of 1 April 2008, Procedures and criteria to transfer to the national healthcare system all the functions concerning assistance, working

relationships, financial resources, and equipment of prison medical facilities,²⁷ placed medical assistance provided in the detention system under the responsibility of the National Healthcare System (*Servizio Sanitario Nazionale, SSN*), which provides such assistance through its regional and local branches. Local healthcare departments are consequently in charge of medical assistance in adult prisons, juvenile prisons, special facilities, wings destined to prisoners with physical and psychic impairments, and judicial psychiatric hospitals.

Another relevant legislative reform in this field was the approval of Law No. 81 of 30 May 2014, Conversion into law, with modifications, of Decree Law No. 52 of 31 March 2014, Urgent provisions for the replacement of judicial psychiatric hospitals.²⁸ The aim of this law was to abolish judicial psychiatric hospitals (*ospedali psichiatrici giudiziari, OPG*) as of 31 March 2015 and to replace them with Security Measures Enforcement Facilities (*Residenze per l'Esecuzione delle Misure di Sicurezza, REMS*), to be established at regional level in order to host individuals from the regional territory. Such residences shall be staffed with qualified and trained personnel and accommodate a limited number of people. Moreover, security staff shall carry out its duties outside the facility only.

Moreover, according to Art. 11 of the Law No. 354/1975, detainees who are transferred to other detention facilities have the right to carry on the same therapeutic programme they have started before the transfer. The right to healthcare assistance must be ensured to all detainees, regardless of the detention regime they are subject to. However, depending on the stage of the judicial proceeding the detainee is living, the judicial authority in charge of authorising specific medical procedures might change for instance, in case of requests of being visited by entrusted doctors, the authorisation must be obtained by the judicial authority in charge of the proceeding in case of remand prisoners; and by the prison's director in case of detainees serving a definitive sentence.

b. Availability of medical staff

The Decree of the President of the Italian Council of Ministers of 1 April 2008 mentioned above placed medical assistance provided in the detention system under the responsibility of the National Healthcare System (*Servizio Sanitario Nazionale, SSN*), which provides such assistance through its regional and local branches. The Decree also provides guidelines (Annex I to the Decree) establishing national standards on medical assistance in detention facilities. In this respect the qualified staff employed in each detention facility must ensure the following necessary interventions:

- the evaluation of the health conditions of the detainees at their arrival;
- The provision of specialistic care where needed;
- The response to medical urgencies;
- The response to contagious diseases;
- Prevention and treatment of drug addictions;

²⁷ Italy, Decree of the President of the Italian Government of 1st April 2008, "Procedures and criteria for the transfer to the National Health Service of healthcare functions, labour relations, financial resources and equipment and instrumental goods in the field of prison healthcare" ([Decreto del Presidente del Consiglio dei Ministri 1 aprile 2008, Modalità e criteri per il trasferimento al Servizio sanitario nazionale delle funzioni sanitarie, dei rapporti di lavoro, delle risorse finanziarie e delle attrezzature e beni strumentali in materia di sanità penitenziaria](#))

²⁸ Italy, Law No. 81 of 30 May 2014, "Conversion into law, with amendments, of Decree-Law No 52 of 31 March 2014 on urgent provisions regarding the overcoming of judicial psychiatric hospitals" ([Legge 30 maggio 2014, n. 81, Conversione in legge, con modificazioni, del decreto-legge 31 marzo 2014, n. 52, recante disposizioni urgenti in materia di superamento degli ospedali psichiatrici giudiziari](#)).

- Prevention, treatment, and recovery in the field of mental health; vii. The protection of female detainees and their children;
- Specific measures to address health needs of immigrant detainees.

c. Medical examination upon admission

The Guidelines to the Decree of the President of the Italian Council of Ministers of 1 April 2008 mentioned above establish that medical examination upon arrival to the detention facilities must be carried out in different moments and include adequate monitoring periods. All the data collected by the medical staff must be registered in the detainee's personal file. The medical evaluation is conducted by the general practitioner working in the detention facility, in cooperation with the psychologist and other specialists, where needed (it can be therefore described as a multi-disciplinary procedure). Specific reception measures must be promptly adopted to alleviate potential traumatic effects of deprivation of freedom (including suicide and self-harm).

In 2021, Antigone released a report focusing on the impact of Covid-19 on the health of detainees in Italy²⁹. According to the report, structural and emergency reasons made it impossible for detention facilities to comply with measures preventing infections, i.e., physical distancing, isolation of possible infected detainees, sanitary confinement. Moreover, detainees and prison's staff have been deprived for a long time of personal protection devices, such as masks, hand sanitizer, gloves, ecc. Extraordinary measures introduced to reduce the infections – such as the limitation of visits from the external world – further reduced the rights of detainees, compromising the wellbeing in Italian prisons.

d. Preventive care

Art. 11 of the Law No. 354/1975 establishes that the National Health Service operates in detention facilities, guaranteeing in each institution a health service meeting the prophylactic (prevention) and health care needs of detainees. Detainees are provided with a Charter of Healthcare services (*Carta dei Servizi Sanitari*) at their arrival to the detention facility. Being healthcare managed at regional level in Italy, each Italian region has adopted – in cooperation with local healthcare services – its own Charter which includes services of preventive care: for instance, the Region Friuli Venezia Giulia included in its [Charter](#) prevention and treatment of cancer diseases and all examinations included in the regional screening programme for the general population, as well as the compulsory and optional vaccinations. Another example is the [Charter](#) adopted in Tuscany which includes a section on preventive care: the local Health District provides health-related prevention through awareness programmes and vaccination campaigns; health education for detainees; screening proposals to detect the presence of infectious diseases and vaccinations (tetanus, hepatitis B, flu), at the time of the first admission visit; in addition, in order to ensure an adequate level of hygiene, periodic checks are also provided for in all the facility's premises by the Medical Referent of the District Presidium; eventually, taking into account the

²⁹ Italy, Antigone (2021), Health and prison. The impact of the pandemic on the detention system ([Salute e Carcere. L'impatto della pandemia sul malato carcere](#)), 2021.

main age classes and characteristics of detainees and the relative risk indices, prevention is guaranteed through flu vaccination and annual scheduled visits for all detainees.

e. Specialised care

Each prison has to be provided with a medical and pharmaceutical service, as well as with a psychiatric specialist professional. In case specialist care is needed (which cannot be provided by the prison medical staff), prisoners have the right to be transferred to civil hospitals or other external medical facilities with the prior authorisation of the competent court. The abovementioned 2008 guidelines include specific provisions concerning specialist care. Specialist care can be provided in-house or, if impossible, resorting to external medical facilities. The goals established by the guidelines are the following:

- ensuring a homogeneous quality of specialist care in all Italian detention facilities;
- Ensuring prompt assistance to respond to healthcare needs expressed by detainees;
- Integrating specialist care into a global vision of the healthcare of the detainee;
- Introducing specific prevention programs based on the cooperation between detention facilities' medical services and local healthcare departments, aimed at fostering prevention, early diagnosis, and treatment of diseases entailing an elevated risk of disability.

f. Treatment of the detainee's choosing

According to Art. 11 of the Law No. 354/1975 all detainees have the right to request to be visited by a trusted doctor at their own expenses. The authorisation for the visit must be requested to and granted by the judicial authority in charge of the case – in case of remand prisoners – and by the prison's director – in case of detainees serving a definitive sentence.

g. NPM assessment

In July 2023, the Lazio Regional Guarantor was heard by regional authorities on the situation of healthcare assistance in regional detention facilities³⁰. During the hearing, he stressed the three major shortcomings of healthcare assistance, which are further aggravated by persisting overcrowding: the insufficiency of prison staff in charge of transferring detainees to healthcare services when specialized care is needed; the scarcity of medical staff in detention facilities; the inadequacy of psychological and psychiatric assistance.

In the Veneto Region, the Regional Guarantor has set up a permanent inter-institutional Observatory on healthcare assistance in detention facilities (*Osservatorio permanente interistituzionale per la salute in carcere*), aimed at constantly monitoring the provision of healthcare assistance in the detention facilities located in the regional territory. The goal is to promptly identify barriers and inefficiencies, and to recommend competent authorities to adopt the measures that are needed to ensure healthcare assistance to all detainees. The Observatory is made of representatives of local healthcare departments, regional detention administrations, local judicial authorities, lawyers' associations, and the regional

³⁰ Italy, Lazio Regional Guarantor for Detainees (2023), Right to health in prison ([Garante Diritti Detenuti, Diritto alla salute in carcere, l'audizione del Garante in commissione Sanità](#)), 28 July 2023.

Guarantor. The Observatory paid specific attention to the impact of the Covid-19 emergency on regional detention facilities.

9. Prevention of violence and ill-treatment

a. Protection from violence by prison staff

Art. 41 of the Law No. 354/1975 establishes that it is forbidden to use of physical force against detainees, unless it is necessary to prevent or impede violent conducts, breakouts, or to counter the (passive) resistance to the staff's orders. The members of the staff who – for any reason – used physical force against the detainees, must immediately inform the prison's director who must promptly order medical examinations, and an internal investigation on the episodes. Prison's staff cannot use any means of physical coercion that is not explicitly envisaged by the prison's regulation: the use of authorised means must be limited in time and monitored by the medical staff. Prison's guards cannot carry arms on duty, except for exceptional cases and with the authorisation of the director.

The Law No. 110/2017 introduced in the Italian legal system the criminal offence of torture³¹. Since 2021, many judicial proceedings have involved penitentiary police officers accused of this crime in relation to episodes of violence against detainees under their custody. According to the association Antigone who monitors detention conditions in Italy, including torture episodes targeting detainees, on 15 January 2021 for the first an Italian Court condemned for the crime of torture a penitentiary police officer working in the prison of Ferrara. The association also provides a list of undergoing judicial proceedings for similar cases, updated as of 2021³² and as of 2023³³.

b. Protection from violence by other detainees

The prison director is the authority in charge of ensuring security and order in the detention facility, by resorting to the support of the penitentiary police staff. If prison's authorities deem that the risk exists for the safety of a detainee, some measures can be adopted, such as: infrastructural measures (accommodating the detainee in an individual cell), technical measures (video-monitoring of cells, special locking and cell's walls to avoid the risk of self-harm and suicide), organisational measures (transfer of detainees in other areas or facilities, adopting special detention regimes, exclusion from common activities, disciplinary measures, regular checks even during the night, specific training of prison staff). These measures are implemented to protect detainees who are deemed to be particularly vulnerable during detention, such as: foreign detainees or detainees belonging to a minority, detainees suspect of or sentenced for sexual offences, detainees who cooperate or have cooperated in the past with judicial and police authorities. However, these measures can relevantly compromise the rights and possibilities of detainees that need protection, causing isolation and exclusion from common activities: for this reason, such measures should be adopted as last resort when no other arrangement is possible, as stressed by the [CPT standards in respect of imprisonment](#).

³¹ Italy, Law No. 110 of 14 July 2017 on the introduction of the crime of torture in the Italian legal system ([Legge 14 luglio 2017, n. 110](#), "Introduzione del delitto di tortura nell'ordinamento italiano").

³² Italy, Antigone (2021), Torture in Italian Prisons ([La tortura in carcere in Italia](#)), 2021.

³³ Italy, Antigone (2023), Torture Prohibited. XIX Antigone Report on Detention Conditions ([È vietata la tortura. XIX Rapporto di Antigone sulle condizioni di detenzione](#)), 2023, p. 160-167.

c. NPM assessment

In March 2022, the National Guarantor signed an agreement with the National Anti-discrimination Office to promote common actions countering violence and discriminations in detention facilities³⁴. The agreement's objective is two-fold: on the one hand, countering violence and discriminations targeting detainees because of race, gender identity, sexual orientation, religion; on the other hand, raising awareness on the diversity and inclusion among penitentiary police officers.

10. Contact with the outside world

a. Visits

Art. 18 of the Law No. 534/1975 establishes that detainees are allowed to have visits and correspondence with relatives and other persons, also for the purpose of carrying out legal acts. Detainees are entitled to confer with their defence counsel from the beginning of the execution of the measure or sentence. They are also entitled to have interviews and correspondence with the guarantors of prisoners' rights. The interviews take place in special premises under the visual and non-auditory control of the custodial staff. Rooms intended for interviews with family members favour, where possible, a confidential dimension of the interview and are preferably located near the entrance of the institution. Particular care is given to interviews with children under the age of 14. Particular favour is given to interviews with family members. The prison administration provides prisoners and inmates, who do not have one, with the things needed for correspondence. In relations with family members and, in special cases, with third parties, telephone correspondence may be authorised in accordance with the procedures and precautions laid down in the prisons' regulations.

Art. 37 of the Decree of the President of the Italian Republic No. 230/2000 clarifies that visits with persons other than relatives and cohabitants are authorised when there are reasonable grounds. The persons admitted to the interview are identified and, in addition, subjected to control, in the manner laid down in the internal rules, in order to ensure that no dangerous instruments or other inadmissible objects are brought into the detention facility. During the interview, correct behaviour must be maintained so as not to disturb others. The staff in charge of supervision suspends from the visits persons who behave improperly or in a disruptive manner, reporting this to the director, who decides on exclusion. Visits take place in internal rooms without dividing means or in open spaces intended for that purpose. When there are health or safety reasons, visits shall take place in common indoor rooms with means of partition. The management may allow visits to take place in separate rooms for special reasons; in any case, visits are conducted under the visual supervision of prison police personnel. Separate rooms shall be set aside for prisoners' visits with their advocates. For sick detainees interviews may take place in the infirmary. Detainees shall be granted six visits per month; in the case of detainees

³⁴ Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), Agreement signed between UNAR and the National Guarantor ([Siglato accordo tra UNAR e Garante Nazionale](#)), March 2022.

for which the prohibition of benefits applies, the number of visits may not exceed four per month. For severely ill persons, or when the visit takes place with offspring under ten years of age, or when special circumstances apply, interviews may also be granted outside the limits established. The maximum duration of the visit shall be one hour. In consideration of exceptional circumstances, it shall be permissible to extend the duration of the visit with relatives or cohabitants. The visit with relatives or cohabitants shall in any case be prolonged by up to two hours when they reside in a municipality other than the municipality in which the detention facility is located if the detainee has not been interviewed in the previous week and if the needs and organisation of the establishment permit this. No more than three persons may attend each visit with the prisoner or inmate; this rule may be waived in the case of relatives or cohabitants.

Detainees subject to the 41-bis regime have their rights to visit and correspondence limited: only one visit per month with family members and cohabitants, with hearing control and recording, except for visits of their lawyers, and censorship, inspection and check of their correspondence.

b. Correspondence

Besides the general right described in section a., Art. 18-ter of the Law No. 534/1975 introduces limits to the right to correspondence of detainees. More specifically, for requirements relating to the investigation or prevention of offences, or for reasons of security or order in the detention facility, the following may be ordered in respect of individual detainees for a period not exceeding six months, which may be extended for periods not exceeding three months:

- restrictions on correspondence by letter and telegraph and on the receipt of printed materials;
- the submission of correspondence for inspection;
- the checking of the contents of envelopes enclosing correspondence, without reading it.

Correspondence with the legal defenders cannot be subject to such restrictions.

Art. 38 of the Decree of the President of the Italian Republic No. 230/2000 clarifies that detainees are allowed to send and receive correspondence by letter and telegraph. The management may allow the receipt of faxes. In order to allow correspondence, the administration provides prisoners and internees, who are unable to do so at their own expense, with letter-writing equipment and ordinary postage free of charge on a weekly basis. The materials required for correspondence must always be available for purchase at the prison shop. Detainees must write their name and surname on the envelope of outgoing correspondence. Correspondence in a sealed envelope, whether incoming or outgoing, shall be inspected in order to detect the possible presence of valuables or other impermissible items. The inspection shall be carried out in such a way as to ensure that the writing is not checked. When there is a suspicion that incoming or outgoing correspondence contains contents that constitute elements of a criminal offence or that may pose a danger to law and order and security, the detention facility's management shall withhold the correspondence, immediately notifying the supervisory judge, or, in the case of a defendant up to the pronouncement of sentence at first instance, the prosecuting judicial authority, for the appropriate measures. Correspondence, subject to control upon notification or ex officio, shall be forwarded or withheld by decision of the supervising judge or the prosecuting judicial authority. Eventually, detainees' correspondence addressed to international administrative or judicial

bodies, responsible for the protection of human rights, to which Italy belongs, cannot be subject to a checks and inspections.

As for correspondence via phone, Art. 39 of the same Decree clarifies that one or more telephones are installed in each detention facility. Detainees may be authorised by the director of the institution to correspond by telephone with their relatives and cohabitants or, where there are reasonable and verified reasons, with persons other than their relatives and cohabitants, once a week. In the case of detainees for whom the prohibition of benefits applies, the number of telephone conversations may not exceed two per month. Detainees wishing to conduct telephone correspondence must apply in writing to the competent authority, indicating the telephone number requested and the persons with whom he must correspond. The authorisation granted shall be effective until revoked. Telephone contact shall be established by the institution's staff using the available technological means. The maximum duration of each telephone conversation shall be ten minutes. The judicial authority competent to order the inspection of correspondence, may order that telephone conversations be listened to and recorded by means of suitable equipment. Telephone correspondence is carried out at the expense of the person concerned, also by means of a prepaid telephone card. The expense shall be accounted for each telephone call and at the same time as it is made. In the event of a call from outside, intended to have telephone correspondence with detainees, the interested party may only be given the name declared by the person who called, unless particular reasons of caution preclude this. In the event that the call comes from a relative or cohabiting person who is also a prisoner, the conversation is carried out, provided that both have been duly authorised.

In September 2022, the Ministry of Justice issued a circular letter³⁵ to provide indications on the correct implementation of the right to correspondence. Correspondence is now available to detainees also using e-mail services, that are made available – upon payment – by external providers. Technological developments also made available to detainees the use of video-calls, since 2019. Video-calls are equated by the DAP to face-to-face visits, and subject to the same regulation described above, in terms of authorisation and number. Video-calls are favoured by the DAP since, on the one hand, they appear to be particularly suitable for facilitating the maintenance of family relations and avoiding costly travel that are often physically unbearable for the elderly and the sick and psychologically stressful for children; and, on the other hand, they make the time-consuming and tedious search operations of persons entering the prison during in-person interviews unnecessary, thus making it possible to contain the risk that, at that juncture, objects not permitted may be introduced from the outside. These instruments were introduced in the first place to respond to the Covid-19 emergency where visits from the external world were suspended causing the complaints and protests of detainees, which also resulted in proper riots in March 2020: to respond to this situation, and with some delay, the DAP introduced the possibility of video-calls to restore contacts with family members and cohabitants. This possibility was also made available to detainees subject to the 41-bis regime using the internal video-call system of the Ministry of Justice.

³⁵ Italy, Ministry of Justice (*Ministero della Giustizia*), Circular Letter No. 3696/6146 of 26 September 2022 ([Circolare N. 3696/6146](#)).

Moreover, the Law No. 70/2020³⁶ further clarified that authorisation to phone-calls can be provided once a day (and not once a week as foreseen by the ordinary legislative regulation) if the correspondence is conducted with minor children or children of full age who have severe disabilities; it is also granted in cases where it is conducted with a spouse, with the other party to the civil partnership, with a person permanently cohabiting with or linked to the prisoner by a permanently affective relationship, with the father, mother, brother or sister of the convicted person if they are hospitalised.

c. Visits with children

Additionally, to the rights already described in sections a. and b., some additional guarantees are in place to protect the rights of children of detainees. In 2021, the Authority for the Protection of Childhood and Adolescence signed the Charter of the Rights Detainees' Children, which is a protocol between the Authority, the Ministry of Justice, and the NGO "Children without bars" (*Bambini senza sbarre*)³⁷. The Charter recognises the right of children to the continuity of the emotional bond with detained parents and aims to support their right to parenthood. The protocol provides for judicial authorities to be sensitised and invited to a series of actions to protect the rights of children of detained persons. The Charter is intended to promote initiatives on custody, places of detention, children's spaces in waiting and interview rooms, visits on days compatible with school attendance, video calls, training of prison staff who come into contact with children, information, assistance, and support to parents. Data collection and monitoring on the implementation of the protocol is also foreseen.

The Italian independent group monitoring the Convention on the Rights of the Child (CRC) released the 2023 report on the implementation of Art. 9 of the CRC³⁸. The report stressed that the right to visit was restored after the Covid-19 interruption; however, this also meant that children had to be in contact again with detention facilities, after a period of remote and virtual relationship with their parents. This new encounter with the prison made the importance even more striking of having ad hoc places for visits with children, specialised operators and sensitised and trained penitentiary police officers who welcome families and children. Along these lines, it proved crucial to invest in raising the awareness of the prison police on the issue of children entering prison. According to the report, an improvement from this point of view was possible thanks to a national training programme carried out by one of the associations of the CRC Group: through a first cycle of meetings from April to November 2022 and a second follow-up cycle, from January to June 2023, the staff of almost all prisons in the country were reached, for a total of 228 penitentiary police officers. Eventually, the report recommends the Ministry

³⁶ Italy, Law No. 70 of 25 June 2020, "Conversion into law, with amendments, of the Law-Decree No. 28 of 30 April 2020, containing urgent measures for the operation of systems for the interception of conversations and communications, further urgent measures in the field of penitentiary regulations, as well as supplementary and coordinating provisions in the field of civil, administrative and accounting justice and urgent measures for the introduction of the Covid-19 alert system ([Legge 25 giugno 2020, n. 70](#), "Conversione in legge, con modificazioni, del decreto-legge 30 aprile 2020, n. 28, recante misure urgenti per la funzionalità dei sistemi di intercettazioni di conversazioni e comunicazioni, ulteriori misure urgenti in materia di ordinamento penitenziario, nonché disposizioni integrative e di coordinamento in materia di giustizia civile, amministrativa e contabile e misure urgenti per l'introduzione del sistema di allerta Covid-19").

³⁷ Italy, Authority for the Protection of Childhood and Adolescence (*Autorità Garante per l'Infanzia e l'Adolescenza* – AGIA), Charter of the Rights of Detainees' Children ([Carta dei diritti dei figli dei genitori detenuti](#)), 2021.

³⁸ Italy, CRC Group, 13th Report on the Implementation of the CRC ([13° Rapporto di Aggiornamento 2023](#)), 2023.

of Justice to issue a circular letter setting out provisions to limit searches of persons entering the prison for interviews with detainees to adults only, so as to protect minors.

d. NPM assessment

The use of video-calls during the Covid-19 emergency was dealt with by a joint press release³⁹ of the National Guarantor and of the Italian Data Protection Authority, due to the problems emerged with the protection of confidentiality in prisons, which have led to several reports of incidents in which video calls and Skype interviews of prisoners were allegedly carried out without the necessary minimum conditions of confidentiality and, in particular, in violation of the prohibition of auditory monitoring by custody staff. On 9 April 2021, the two authorities called on the directors of detention facilities and operators to respect certain essential guarantees for the protection of the confidentiality of detained persons accessing remote communication or interview modes, and also provided recommendations containing essential indications to solve the problem and ensure respect for the rights of the subject. First of all, the authorities consider that detention facilities should install individual connection stations equipped with screens and earphones to allow, respectively, prison officers to proceed to identify the interlocutor and to identify the inmate, and the inmate to be able to speak and listen to the conversation without being overheard by the staff. However, the ascertainment of identity should take place at the beginning and end of the conversation with the timely departure of the communication environment by the security staff to ensure the confidentiality of the conversation. In addition to this, further technical measures are needed to ensure the protection of detainee data, through the use of impersonal platform access accounts that cannot be traced back to individual persons, as well as the prohibition of recording video calls, unless consent is obtained from the individuals involved.

11. Special measures for female detainees

a. General conditions of detention for women and girls

The Law No. 354/1975 does not provide detailed standards ruling the conditions of detentions of women; neither does the Decree of the President of the Italian Republic No. 230/2000. However, in 2008 the Department for Detainees and their Treatment of the Ministry of Justice (*Direzione generale dei Detenuti e del Trattamento*) issued a scheme of [Internal Regulation](#) for female prisons and female wards of ordinary prisons, to be adopted by the administration of each Italian detention facility where women are detained. The Regulation governs all the aspects of the daily management of these detention facilities, including the services, the organisation of the available activities, and the rights of the detainees.

³⁹ Italy, Data Protection Authority (*Garante per la Protezione dei Dati Personali*), Data Protection Authority and National Guarantor: more confidentiality needed for prisoner interviews ([Garante privacy e Garante privazione libertà: necessaria maggiore riservatezza per i colloqui dei detenuti](#)), 9 April 2021.

The Charter of Detainees' Rights states that pre-trial detention may not be ordered or maintained in respect of pregnant women or mothers with offspring under six years of age, unless there are exceptional pre-trial needs. Cases of deferral of execution are also envisaged:

- Criminal execution is deferred in respect of pregnant women or mothers of children under one year old;
- criminal execution may also be deferred in respect of mothers with offspring under three years old; execution of the sanction of exclusion from communal activities is suspended in respect of pregnant women and mothers who have given birth for up to six months and mothers who are breastfeeding their offspring for up to one year;
- sentenced women may be admitted for the outside care and assistance of their children up to the age of ten years.

Eventually, pregnant women and mothers with children are provided with adequate care by specialist doctors, midwives and child care workers, and prisoners are housed in suitable places.

b. Separation from men

Art. 14 of the Law No. 354/1975 establishes that women must be detained in specific detention facilities or in specific wards in ordinary facilities. No further details are provided by the legislator as how to organise this separation.

According to the association Antigone⁴⁰, there were 2,392 women in Italian prisons on 31 January 2023, of whom 15 were mothers with 17 children. The four women's prisons in Italy (in Trani, Pozzuoli, Rome, and Venice) house 599 women, a quarter of the total. The attenuated custody institute in Lauro houses 9 detained mothers and three other small ICAMs (see below) house 5 women in total. The other 1,779 women are substantially distributed among the 44 female sections housed within male prisons. The official capacity of women's prisons is 533 beds. The official crowding rate is 112.3%, higher than the general official crowding rate of Italian prisons.

c. Hygiene

The only specific national standard in this respect is Art. 7 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000, which establishes that hygienic services are located in a compartment adjacent to the cell. Such services must be equipped with running hot and cold water, washbasin, shower, and bidet (especially in female detention facilities).

d. Healthcare

The Decree of the President of the Italian Council of Ministers of 1 April 2008 provides Guidelines establishing national standards on medical assistance in detention facilities, mentioned in previous

⁴⁰ Italy, Antigone (2023), Figures of female detention: few women and trivial criminality ([I numeri della detenzione femminile: poche e poco criminali](#)), 2023.

sections. A specific section of the guidelines focuses on healthcare needs of female detainees. Female detainees must be provided with gynaecological in-house assistance and be offered HPV prevention screenings. Training sessions must be offered to the medical staff concerning the specific medical needs of this sub-group of the detained population, as well as concerning the services available at local level fostering women's health.

In 2023, the Association Antigone reported on healthcare services made available to female detainees⁴¹. Only in 66 per cent of the detention facilities that have a women's section, for example, there is a gynaecology service. In the others, among which there are important facilities such as San Vittore (Milan), with 79 women present, and Pagliarelli in Palermo (66), the specialist is called in when necessary or the detainees are transferred to nearby services. While the obstetrics service is only present in 31.8% of the institutes. Antigone also highlights how psychological distress is particularly widespread inside Italian prisons and women's sections. A suffering that emerges both from the acts of self-harm registered by the prison administration (30.8 for every 100 present, against the 15 in the institutes housing only men) and from the prescriptions of psychotropic drugs (63.8% of those present regularly take them against 41.6% of the total). While women with serious psychiatric diagnoses account for 12.4%; among men, the incidence is 9.2%.

e. Pregnancy and women with babies or young children

Art. 14 of the Law No. 354/1975 establishes that each detention facility where women are accommodated must be provided with a specific medical service monitoring the conditions of pregnant women and new mothers. Art. 39 of the same Law excludes the possibility of disciplinary sanctions entailing limitations of social activities for pregnant women and mothers breastfeeding their children.

Art. 19 of the Decree of the President of the Italian Republic No. 230 of 30 June 2000 provides rules on the assistance to pregnant women and women with children. These must be assisted by specialist staff with competences in gynaecology. Childbirth must happen, whenever possible, in external medical facilities. Children detained with their mothers must be ensured specialist pediatric care. Kindergarten must be set up in all detention facilities where women are detained with their children: the cells cannot be closed, so that children can freely circulate in the ward. Children must be ensured adequate leisure activities. Moreover, children must be given the possibility to attend leisure activities in local kindergarten, with the support of local social services, with their mothers' consent. Eventually, when children have to be separated from their mothers, either because they have exceeded the age limit set by law (6 years old in ICAMs, 3 years old in ordinary detention facilities) or for other reasons, having heard the mother in the latter case, and there are no persons to whom the mother can entrust the child, the management of the institution, in time for the necessary steps to be taken, reports the case to the child protection agencies and the social services, which in any case ensures that constant relations are maintained between the mother and the child.

Art. 11-bis of the Law No. 354/1975 further establishes that every six months the detention facilities and the ICAMs (see below) shall transmit to the public prosecutor at the Juvenile Court of the place where they are located a list of all the children placed with them, with specific indication, for each of

⁴¹ Italy, Antigone (2023), On the side of Antigone. First report on female detainees in Italy ([Dalla parte di Antigone. Primo rapporto sulle donne detenute in Italia](#)), 2023.

them, of the parents' place of residence, the relationship with the family and the child's psychophysical condition. The Public Prosecutor at the Juvenile Court, having obtained the necessary information, shall request the Court, by reasoned appeal, to take the measures within its jurisdiction. Moreover, the Public Prosecutor at the Juvenile Court, who shall transmit the documents to the Juvenile Court with an information report, shall every six months carry out or arrange for inspections of the same establishments indicated. They may also carry out extraordinary inspections at any time.

The Decree of the President of the Italian Council of Ministers of 1 April 2008 provides Guidelines establishing national standards on medical assistance in detention facilities, mentioned in previous sections. A specific section of the guidelines focuses on medical assistance to pregnant women and new mothers. These must offer specific programmes of preparation to childbirth, in cooperation with local medical services. Childbirth must happen outside the detention facility, and the new-borns must be ensured adequate and tailored assistance.

The Law No. 62 of 21 April 2011⁴² - reforming the Law No. 354/1975 – was introduced to protect the relationship between female detainees and their children. According to the law, women who are detained with their children must be accommodated in facilities with a mitigated-custody detention regime, where detention conditions resemble more ordinary civil dwellings. ICAMs present structural characteristics that differ from traditional prisons, being very similar to real homes. They, in fact, recall a community-type organisational model, which is realised outside traditional penal institutions, in facilities equipped with security systems that are not recognisable to children accompanying their mothers and lacking the typical references to prison construction (e.g. bars). Inside the institution, female penitentiary police officers without uniforms and specialised workers and educators (both men and women) capable of supporting the inmates in childcare and ensuring regular outings for the children operate. There are four detention facilities of this kind active in Italy in 2024 with an overall capacity of 60 places (Turin "Lorusso e Cutugno", Milan "San Vittore", Venice "Giudecca" and Lauro); these are called "Attenuated Custody Institutions for Mother Prisoners (*Istituti a Custodia Attenuata per detenute Madri*" - ICAM). Moreover, the law establishes that female detainees who are pregnant or who have children aged less than 10, and who are serving a sentence that is inferior to 4 years, should be given the possibility of home-custody.

According to Antigone⁴³, as of 31 January 2023, there were 17 children under one year old living in prison with their 15 detained mothers. The largest group, composed of 8 women with 9 children, was in the ICAM of Lauro, followed by 3 women and 3 children in the ICAM of Milan San Vittore and by a woman with 2 children in the ICAM of the female detention facility of Venice. Then, there are three groups composed only of a mother and a child in the ICAM of the Turin detention facility, in the women's Rebibbia nursery section (Rome) and in the women's section of the Lecce prison.

The Italian independent group monitoring the Convention on the Rights of the Child (CRC) released the 2023 report on the implementation of Art. 9 of the CRC⁴⁴. The report recommends Italian authorities to

⁴² Italy, Law No. 62 of 21 April 2011 on "Reforms to the Law No. 354/1975 and other dispositions protecting the relationship between female detainees and their minor children" ([Legge 21 aprile 2011, n. 62 "Modifiche al codice di procedura penale e alla legge 26 luglio 1975, n. 354, e altre disposizioni a tutela del rapporto tra detenute madri e figli minori"](#)).

⁴³ Italy, Antigone (2023), On the side of Antigone. First report on female detainees in Italy ([Dalla parte di Antigone. Primo rapporto sulle donne detenute in Italia](#)), 2023.

⁴⁴ Italy, CRC Group, 13th Report on the Implementation of the CRC ([13° Rapporto di Aggiornamento 2023](#)), 2023.

amend the above-mentioned Law 62/2011 to limit the access of children to prison as much as possible and to overcome the use of nurseries still present in detention facilities.

f. NPM assessment

In September 2022, the National Guarantor signed a 3-year-valid Protocol to promote and protect the rights of children of detainees⁴⁵. In particular, the protocol envisages to: Carry out training initiatives for prison administration staff, or, more generally, for those who work in the prison environment, aimed at promoting knowledge of the UN Convention on the Rights of the Child and Adolescent in prison facilities located throughout the country; Sharing models to avoid, as much as possible, the presence of children in prison; Encourage the design and implementation of re-education and treatment paths that take into account the specific needs of under-age children of persons deprived of their liberty, implementing good practices; Promote training projects and educational paths on the protection of human rights, with special attention to the rights of girls, boys and adolescents; Identifying specific methods of intervention to facilitate a serene bond with parents when the recipient of the measure restricting personal liberty is the mother of children under 10 years of age; Raise the community's awareness of the culture of children's rights, according to the UN Convention on the Rights of the Child, which cannot be undermined as a result of a parent's imprisonment; Set up moments of reflection and training on the specificities of paths of reintegration or resocialisation of prisoners with underage children and the removal from prison of female detainees with children.

In November 2023, 29 regional and local Guarantors of the Rights of Persons deprived of their personal freedom signed a public letter⁴⁶, denouncing their concerns on the possible approval of a Draft Law on Public Security presented by the Italian Government on 16 November 2023. More specifically, the Draft Law would reform the Italian Criminal Code, making possible (and not compulsory, as it is the case now) to defer the criminal execution of pregnant women or mothers of children under the age of one. The deferring of criminal execution would be excluded when there is the risk of reiteration of the criminal conduct, a risk that is deemed too generic by the Guarantors.

12. Special measures for foreign nationals

a. General measures for foreign nationals

Art. 19 of the Law No. 354/1975 – governing education in detention facilities – states that specific attention should be given by prisons' administrations to the education of foreign detainees, especially in relation to Italian classes and classes on Italian constitutional principles. Moreover, Art. 45 of the same Law established that foreign nationals without a regular residence permit must be enrolled by the detention facility's authorities in the civil registries of the municipality where the facility is located.

⁴⁵ Italy, UNICEF (2022), Rights of the Child. UNICEF and the Italian Guarantor sign a 3-year-long Protocol ([Diritti dei bambini, UNICEF Italia e Garante nazionale dei diritti delle persone private della libertà personale firmano Protocollo di intesa triennale](#)), September 2022.

⁴⁶ Italy, Lazio Regional Guarantor, Opinions and concerns of local Guarantors on the Security Draft Law ([Riflessioni e preoccupazioni dei Garanti territoriali sul decreto sicurezza](#)), November 2023.

According to the Charter of Detainees' Rights, foreign detainees have the right to ask for the consular authorities of their country to be informed of their arrest, to receive the extract of regulations in their own language, to make telephone calls and have interviews with the help of an interpreter. They have the right to satisfy their eating habits and their religious and spiritual needs. Foreign prisoners who have to serve a sentence, even a residual one, of less than two years have the right to be returned to their country of origin. With a criminal conviction, the security measure of return can be applied, which is carried out after the prison sentence has been served. In any case, a detainee who is at risk of persecution for racial, political, religious, gender, language, nationality, etc. reasons in their country of origin cannot be returned. The detainee may request to be transferred to the country of origin in order to serve the sentence (exceeding six months); this request must be submitted to the Ministry of Justice of Italy or, if the fact constitutes an offence in both countries, to the Ministry of Justice of the country of origin.

Foreign nationals can request the renewal of their residence permit during detention, within 60 days from the expiry date: the matriculation office (*ufficio matricola*) of each detention facility is the office in charge of delivering the renewal request to competent authorities and provide the detainee with the receipt of the request (which in Italy represents a temporary residence permit pending renewal of the official one). This procedure does not apply to foreign nationals which are accused and/or sentenced for specific crimes, as regulated by the in-force legislation. In those cases, residence permits cannot be renewed, and they can even be revoked. Foreign nationals can also lodge the asylum application during detention: the competent office is again the matriculation office which will forward the application to the local police headquarters.

Return can be used as a measure replacing or alternative to detention for foreign nationals who are irregularly residing in Italy. Return can be a replacing measure if the foreign national is sentenced to less than 2 years of detention, and detention cannot be suspended. If this decision is adopted by the supervisory judge, police authorities can proceed with the return, even if the decision is challenged by the foreign national: the complaint does not suspend the return. Return can also be adopted as measure alternative to detention when the foreign national has less than two years of detention left to serve. Return decisions can be challenged either by the detainee or by their lawyer.

In 2022, Antigone released a report⁴⁷ on the situation of foreign nationals in Italian detention facilities: during the 98 prison visits made by the Association in 2019, the researchers asked whether it was possible to lodge an asylum application and to renew the residence permit. The replies were affirmative in 58% of the cases in relation to asylum, and in 64.3% of the cases in relation to residence permits. According to the association, this was mostly due to language barriers that impede foreign nationals to understand their rights, the functioning of procedures in the detention facilities, thus probably resulting in a compromised access to rights. In its 2023 annual report⁴⁸, the association Antigone reports that only 22.7% of the visited detention facilities is equipped with facilities and spaces for worship and religions different than the Catholic one. Priests and religious ministers (different than Catholic priests) were present in 71 detention facilities (73.2% of the visited facilities); however, these mostly are evangelical priests and Jehovah's Witnesses; only 16 facilities had made available an Islamic priest, even less

⁴⁷ Italy, Antigone (2022), Foreign detainees and (ir)regular stay in Italy ([Detenuti stranieri e \(ir\)regolarità del soggiorno in Italia](#)), 2022.

⁴⁸ Italy, Antigone (2023), Torture Prohibited. XIX Antigone Report on Detention Conditions ([È vietata la tortura. XIX Rapporto di Antigone sulle condizioni di detenzione](#)), 2023, p. 35.

represented the Orthodox Church (14 facilities), Buddhism (7 facilities) and Judaism (1 facility), among others.

b. Interpretation and translation

Art. 35 of the Decree of the President of the Italian Republic No. 230/2000 states that language barriers and cultural differences must be considered when it comes to the deprivation of personal freedom of foreign nationals. At this end, communication with consular authorities of the countries of origin must be favoured. Moreover, the intervention of cultural mediators must also be encouraged by detention facilities' administrations, through partnerships and agreements with local authorities and civil-society organisations. In a 2021 report by the association Antigone⁴⁹, the number of available cultural mediators was absolutely insufficient: foreign nationals represented at the time no less than 30% of detainees; the number of available mediators was 176 (0.88% per 100 detainees). Moreover, 96 of them were employed for African detainees (49 for nationals of Northern African countries), 40 for detainees from Eastern Europe, 19 for detainees from Middle and Far East; 9 for detainees from South America; the remaining 12 labelled as "other". It is also reported by experts that penitentiary police officers ask the support of other detainees speaking the same or similar languages when they have to communicate and deal with foreign nationals⁵⁰.

c. NPM assessment

In December 2022, the National Guarantor issued an opinion⁵¹ addressing the DAP, Italian municipalities, Italian Regions, and ministerial authorities, denouncing that many foreign nationals – who are detained and who do not hold a regular residence permit – are not enrolled in local civil registries of the municipalities where the detention facility is located, in violation of Art. 45 of the Law No. 354/1975. This omission has a negative impact on the detainees' rights: they cannot obtain an identity document, have access to measures alternative to detention, apply for assistance and social benefits once they have served their sentence. Moreover, the lack of identity documents represents – according to the National Guarantor – a crucial barrier to the regularisation of their stay in Italy.

13. Special measures relating to detention of children and young adults/juvenile detention regime

a. Age groups

⁴⁹ Italy, Antigone (2021), Language and cultural mediation. Prison as a world of cultures ([La mediazione linguistica e culturale. Il carcere mondo di culture](#)), 2021.

⁵⁰ Italy, Delvecchio, F. (2017), Detainees at risk of radicalisation and prevention remedies: initial triage, allocation choices and the role of penitentiary staff ([Il detenuto a rischio radicalizzazione e i rimedi della prevenzione terziaria: triage iniziale, scelta allocativa e ruolo degli operatori penitenziari](#)), in *Diritto Penale Contemporaneo*, No. 6/2017, p. 201.

⁵¹ Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), [Opinion of 28 December 2022](#).

According to the Italian juvenile criminal system, children cannot be judicially charged under the age of 14. If the crime is perpetrated as a child, but the proceeding is still ongoing when the remand prisoner turns 18, the case is decided according to the juvenile criminal system. If the subject is sentenced and imposed a detention period, they will be detained in juvenile detention facilities until the age of 25. For this reason, Italian juvenile detention facilities (*Istituto Penale Minorile*, IPM) host persons aged 14 up to 25.

b. General measures for detained children and young adults

According to the Legislative Decree No. 121/2018⁵², remand detainees must be detained separated from children or young adults serving definitive sentences. Young girls are detained in separate facilities or wards. Moreover, isolation is not applicable in juvenile detention facilities, and cannot be used as a disciplinary sanction. Eventually, Art. 21 introduced the possibility of establishing mitigated-custody wards (*sezioni a custodia attenuate*) where to accommodate detainees who do not represent a threat for security, and who are about to conclude their serving period, and who have already been involved in activities outside the detention facility. These wards must be organised as to leave room to a certain degree of autonomy in the management of personal and community life.

IPMs' cells must be adapted to the needs of young detainees and cannot accommodate more than 4 persons. Time out of cell cannot be inferior to 4 hours per day: however, this time can be limited in case deemed necessary by the prison's administrations (no specific detail provided by the Legislative Decree). Time out of cell must be organised and young detainees must be accompanied by prison's officers and volunteers, and it must be devoted to recreational and sporting activities. Young detainees are allowed to attend school classes and vocational training programmes outside the IPM, upon agreement between the IPM and the educating institutions, if the IPM's administration considers that the contact with the outside world can contribute to the valorisation of children's potential and social reintegration. The core aspect of juvenile detention is the individual education project, which must be started within three months of the start of the detention period and be implemented throughout the period spent in the IPM. The project is based on two principles: the project must be tailored on the specific situation of the child/young person; its implementation must be flexible and adjustable, taking into account the detainee's personality, development, and achievements during detention. Maintaining contacts and bonds with the family is deemed pivotal in juvenile detention: detention must be served in IPMs that are located close to the family and the place of residence of the child/young adult, except in cases of belonging to criminal organisations. Visits of family members and other significant adults are more frequent compared to adult detention: children/young adults are granted 9 visits per month, lasting no less than 60 minutes. Two/three phone calls per week lasting up to 20 minutes are also permitted. Children who are deprived of their families – such as unaccompanied migrant children – can receive the visits of volunteers working for organisations that are entitled to work in IPMs, and receive continuous psychological support. The Legislative Decree also foresaw prolonged visits, that is longer visits with family members (four per month, lasting 4-6 hours) in an environment that resembles an ordinary home within the detention facility, where the child can prepare and have meals together with their family or

⁵² Italy, Legislative Decree No. 121 of 2 October 2018 on "Legislative discipline of enforcement of sentences for convicted juveniles" ([Decreto Legislativo 2 ottobre 2018, n. 121, "Disciplina dell'esecuzione delle pene nei confronti dei condannati minorenni"](#)).

significant adults. Upon arrival in the IPM, each child/young adult is provided with the internal regulation in a language that is plain, child-friendly, and easy to understand. The respect of the facility's internal rules of conduct is one of the elements that is considered in the evaluation and periodic monitoring of the implementation of individual educational projects.

Detention in IPMs must be always considered as the last-resort measure to be adopted when alternative measures – such as communities and home-detention – are not viable. A 2019 decision of the Constitutional Court⁵³ also clarified that the possibility to have access to alternative to detention – home-custody in the specific case – cannot be precluded to juveniles even when they are charged of criminal offences that, according to the Italian Criminal Code, do not allow for alternatives to detention in prison (such as, for instance, belonging to criminal organisations).

The Italian independent group monitoring the Convention on the Rights of the Child (CRC) released the 2023 report on the implementation of the CRC in Italy, providing also information on juvenile detention⁵⁴. As of 15 March 2023, 380 children/young adults were detained in Italian IPMs (out of 14,198 children/young adults assisted by the juvenile criminal system). 12 girls were also detained, 5 of whom were foreign nationals. 180 were aged less than 18; the others between 18 and 25. Foreign nationals represent 46.8% of the juveniles. The number of children/young adults in IPMs has reached again the level registered before the pandemic when their number dropped by 25%. 16 IPMs currently exist in Italy, only one is for female juveniles (Pontremoli, Tuscany). 57% of the juveniles are detained in Southern Italy. Moreover, most of the juveniles are detained pending a definitive sentence (33% of the young adults, 91.7% of the children). The report also monitors the implementation of the Legislative Decree No. 121/2018, which is reported to be only partially implemented. Mitigated-custody wards are almost non-existing and prolonged visits have not been introduced in many facilities. Only a few children attend schools outside the IPM. Eventually, many children – especially foreign nationals – are ordinarily treated with psychotropic drugs.

c. Separation from adults

Art. 15 of the Legislative Decree No. 121/2018 clearly establishes that children must be separated from young adults; remand prisoners must be separated from detainees serving a definitive sentence; female detainees must be accommodated in separate facilities or wards.

d. NPM assessment

Over the years, the National Guarantor carried out several monitoring visits in Italian IPMs, aimed at assessing detention conditions and pointing out critical aspects and needed improvements to

⁵³ Italy, Constitutional Court (*Corte Costituzionale*), [Decision No. 263 of 5 November 2019](#).

⁵⁴ Italy, CRC Group, 13th Report on the Implementation of the CRC ([13° Rapporto di Aggiornamento 2023](#)), 2023.

competent judicial and ministerial authorities. The reports of these visits are publicly available online, together with the reply of the authorities where available⁵⁵.

In March 2024⁵⁶, a delegation of regional and local Guarantors met the Head of the Department for Juvenile Justice (*Capo del Dipartimento della giustizia minorile e di comunità*). The goal of the visit is to discuss detention conditions in the 17 Italian IPMs, with a specific focus on overcrowding, the geographical proximity of detention facilities to children’s families and place of ordinary residence, the vulnerable situation of unaccompanied migrant children, the implementation of restorative justice possibilities, healthcare assistance and the understaffing of penitentiary police, professional educators, and social services.

14. Special measures to protect detainees with disabilities or serious medical conditions

a. Care in detention

Art. 65 of the Law No. 354/1975 states that persons with physical and psychical disabilities must be detained in detention facilities or wards where they can receive an appropriate treatment. These facilities or wards are meant for those persons who – because of their personal conditions – cannot be subject to the ordinary detention regime. A 2016 circular letter of the DAP⁵⁷ – specifically mentioning this legislative disposition and the UN Convention of the Rights of Persons with Disabilities (CRPD) – provides indications on detention of persons with disabilities which should be aimed at achieving the widest possible autonomy of these persons. The DAP is the authority in charge of monitoring detention conditions of persons with disabilities, fostering their access to the needed services provided by other administrations; moreover, the DAP is also in charge of assessing the accessibility of detention facilities and of ensuring that detainees with disabilities are accommodated in facilities without architectural barriers. When a person with disabilities starts their detention period, the DAP is in charge of assessing whether accessible cells and spaces are available; if they are not, the availability is checked in nearby detention facilities, with a view of ensuring the proximity of the detainee to their family. The social reintegration programme – governed by Art. 13 of the Law No. 354/1975 – must be tailored as to consider the detainee’s disabilities; the DAP must also favour the participation of detainees with disabilities to educational, training and working activities at the same conditions of other detainees.

There is not an official monitoring of detainees with disabilities since no agreement is in place in this respect between the DAP and the National Healthcare System that – since 2008 – is the public body in

⁵⁵ See for instance the [report](#) of the visit to the IPM of Rome in 2019; and the [report](#) of the visit to the IPM in the Piedmont region in 2023.

⁵⁶ Italy, Lazio Regional Guarantor (2024), Delegation of local Guarantors meets the Head of the Department of Juvenile Justice ([Delegazione di Garanti territoriali incontra il capo dipartimento della Giustizia minorile](#)), 11 March 2024.

⁵⁷ Italy, Penitentiary Administration Department (*Dipartimento dell’Amministrazione Penitenziaria* – DAP), Circular Letter of 10 March 2016, Physical disabilities in detention facilities - functional limitations ([Circolare 10 marzo 2016 - La condizione di disabilità motoria nell’ambiente penitenziario – Le limitazioni funzionali](#)).

charge of healthcare assistance in detention facilities (See Section above on healthcare). In 2015, the DAP released data of a monitoring that has not been repeated in following years. As of 2015, 628 persons with disabilities were detained in Italy. According to Antigone⁵⁸, as of 2017 only two detention facilities (Bari and Parma) had specific wards for detainees with physical disabilities. Other detention facilities are equipped with cells with reduced architectural barriers. The association also reported that the first training course as care givers was organised in Bari in 2015, with the involvement of 80 detainees who received a qualification certificate that they can use also to find a job as professional caregivers once concluding detention. As of 2016, 71 detainees were employed as caregivers in the detention facility of Bari, which remains the only experience of this type in Italy.

b. Continuity of care

As far as healthcare is concerned, the 2016 DAP's circular letter specifies that the DAP, in cooperation with local healthcare departments, is in charge of assessing medical needs and whether the services available in the detention facility can adequately respond to these needs. If they do not, competent judicial authorities must be informed to adopt the needed decisions concerning the transfer of the detainees. Healthcare assistance must be provided by local healthcare departments at the same conditions as the general population; when specific medical needs emerge, healthcare departments must be informed by the detention facility's administration in order to organise the needed assistance. Courses and training sessions must be organised in detention facilities – in cooperation with regions and local healthcare departments – to train some detainees as caregivers to support detainees with disabilities in their daily life in the detention facility.

c. Reasonable accommodation and accessibility

The above-mentioned 2016 DAP's circular letter established that this administration is in charge of ensuring detention environments that can respond to the needs of persons with disabilities. When new detention facilities are set up or in case of refurbishment of existing facilities, regional branches of the DAP must consider the need of eliminating architectural barriers in order to foster accessibilities of detainees and members of the staff with disabilities. Hygienic services must also be accessible; at least one cell per ward must be dedicated to persons with disabilities.

d. NPM assessment

No assessment of the National Guarantor was identified for this section.

⁵⁸ Italy, Antigone (2017), Punishment within the punishment ([La pena nella pena](#)), 2017.

15. Specific measures to protect detainees with special needs or other vulnerabilities

a. Protection of LGBTI detainees

Art. 1 of the Law No. 354/1975 states that penitentiary treatment must respect human dignity. It must be compliant with the principles of impartiality, without discriminations based on sex, gender identity, sexual orientation, race, nationality, economic and social conditions, political opinions, religious beliefs. It is also organised as to favour autonomy, responsibility, socialisation, and integration. Moreover, each detainee is guaranteed the respect of their fundamental rights, and the protection from physical and moral violence. Art. 14 also envisages that the distribution of detainees who are at risk of violence from the other detainees on grounds of their gender identity and/or sexual orientation, must be carried out following homogeneous categories on the entire national territory, upon consent of the detainees who are, otherwise, distributed among ordinary prison wards.

Despite these provisions, LGBTI detainees often end up being detained in separated prison wards or in mixed protected sections with other detainees at risk of violence: this approach should be aimed at protecting their safety; in practice, it risks amplifying the negative impact of detention on the psychological wellbeing of the detainees, fostering their isolation from the rest of the detainees. This approach was adopted by the DAP in 2001, with the Circular Letter No. 500422/2001⁵⁹ which included sexual orientation among the criteria for the adoption of the protected detention regimes, as a means to protect LGB detainees from violence. The above-mentioned Art. 14, reformed in 2018, tried to overcome this approach introducing homogenous sections for LGB detainees, rather than isolation in mixed protected sections with other detainees at risk of violence (such as, sexual offenders, former police officers, those who cooperated with judicial authorities, etc.). However, this approach is not completely overcome, yet: in 2018, the supervisory judge of Spoleto issued the decision No. 2407/2018⁶⁰, declaring that the distribution of detainees who are at risk of violence because of their sexual orientation or gender identity in mixed protected sections is no longer compliant with the in-force legislation. Moreover, the Decision also recommended detention facilities' administrations to ensure that civil partnerships of same-sex couples – which were introduced in Italy in 2016 – are recognized the same legal value as heterosexual marriages, when it comes to the right to visit, communication and correspondence between detainees and their family members.

b. Protection of trans detainees

Art. 14.5 of the Law No. 354/1975 establishes that women must be detained separated from male detainees: according to some experts, this might result in the detention of transgender women who have not concluded the official gender affirmation process in male detention wards. The association Antigone⁶¹ reported that, as of 2023, the main criterion for the distribution of detainees is sex as reported on identity documents, according to the binary definition of gender still mandatory in Italy:

⁵⁹ Italy, Penitentiary Administration Department (*Dipartimento dell'Amministrazione Penitenziaria* – DAP), [Circular Letter No. 500422 of 2nd May 2001](#).

⁶⁰ Italy, Supervisory judge of Spoleto (*Magistrato di Sorveglianza di Spoleto*), [Decision No. 2407 of 18 December 2018](#).

⁶¹ Italy, Antigone (2023), *Torture Prohibited. XIX Antigone Report on Detention Conditions* ([È vietata la tortura. XIX Rapporto di Antigone sulle condizioni di detenzione](#)), 2023, p. 289-295.

trans detainees who have not changed their identity documents are therefore detained in protected (isolated) wards in the detention section corresponding to the sex assigned at birth. The only exception to this approach is the detention facility of Sollicciano (Tuscany) where a separated ward for trans female detainees has been created in the female section. As of 2023, trans detainees amounted to 72: 69 were detained in protected isolated sections for trans detainees; 2 were detained in a mixed section for recently arrived detainees. Six detention facilities in Italy were hosting trans detainees in 2023: Rome, Como, Reggio Emilia, Naples Secondigliano, Ivrea, Belluno.

In 2020, the Supervisory Court of Florence intervened – with the Decision No. 682 of 4 February 2020⁶² – in the case of a trans woman detained in the separated ward for trans detainees of the Sollicciano prison. The detainee had changed her gender in the identity document and asked to be transferred to the ordinary female section. However, the supervisory judge had rejected her request because she had not undergone gender affirming surgery: in the judge’s opinion this could represent a potential threat for cisgender female detainees. The Supervisory Court rejected this interpretation, stating that the gender identity reported in the identity documents must be respected, regardless of the matching with body features. The Court also stressed that the separated section for trans detainees was not favouring integration and contacts between trans detainees and the other female detainees, thus imposing a de fact isolation regime to trans detainees.

Trans detainees – who are undergoing the gender affirmation process as governed by the Law No. 164 of 14 April 1982 – have the right to continue their therapeutical programme, and to receive psychological assistance (Art. 11.10 of the Law No. 354/1975).

c. Protection of other vulnerable detainees

As reported above, Art. 1 of the Law No. 354/1975 states that penitentiary treatment must respect human dignity. It must be compliant with the principles of impartiality, without discriminations based on sex, gender identity, sexual orientation, race, nationality, economic and social conditions, political opinions, religious beliefs. It is also organised as to favour autonomy, responsibility, socialisation, and integration. Moreover, each detainee is guaranteed the respect of their fundamental rights, and the protection from physical and moral violence.

The DAP issued a Circular Letter in 2010 (No. 177644 of 24 April⁶³) on Measures to reduce the distress of the detention condition and to prevent self-harm. According to the document, a triage must be conducted for each detainee at the beginning of the detention period: in order to reduce suicide risk – which is particularly high in vulnerable subjects, such as detainees with drug addictions or psychological impairments – all relevant information must be collected by the prison’s staff to assess the individual situation of the detainee, adequately choose where to accommodate them, and involve the services that are needed to support them.

⁶² Italy, Supervisory Court of Florence (*Tribunale di Sorveglianza di Firenze*), [Decision No. 682 of 4 February 2020](#).

⁶³ Italy, Penitentiary Administration Department (*Dipartimento dell’Amministrazione Penitenziaria – DAP*), [Circular Letter No. 177644 of 24 April 2010](#).

d. NPM assessment

In 2016, the National Guarantor released an opinion⁶⁴ recommending public authorities to prevent and tackle discriminations targeting LGB detainees (defined in the opinion as “homosexual”). According to the authority, the decision of setting up separated sections for gay detainees to protect them from violence, thus isolating them and preventing them from participating in common activities, is a violation of their rights. Protecting homosexual detainees who report being at risk of violence cannot mean isolating them from the activities available in the detention facility.

In 2018, the National Guarantor contributed to the drafting of the publication “Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide”, issued by the Association for the Prevention of Torture (Apt)⁶⁵.

16. Specific measures to address radicalisation in prisons

a. General measures to prevent radicalisation

Organisational measures are in place in Italian detention facilities to prevent radicalisation⁶⁶. Detainees who are sentenced for domestic and international terrorism are detained in separate high-security sections (High-Security Sections No. 2, mentioned in Section 2 of this report): this detention regime is aimed at preventing radicalisation of other detainees. However, radicalisation can happen also in medium-security sections: for this reason, the Central Investigation Group (*Nucleo Investigativo Centrale* – NIC) of the penitentiary police has developed specific analysis strategies aimed at identifying any element in the personal history of the detainees that can be interpreted as a risk of radicalisation: such information is provided by the DAP and is deemed crucial as prevention instrument. According to the Ministry of Justice, since 2023, this analysis activity has also received the support of cultural mediators working for the DAP. Eventually, protocols⁶⁷ have been established since 2015 on with the representatives of Islamic faith in Italy, which are aimed at safeguarding the detainees’ right to religion but also at countering and preventing radicalisation. Moreover, the NIC regularly participate in the Committee for Strategic Analysis Countering Terrorism (*Comitato di Analisi Strategica Antiterrorismo* - C.A.S.A.) of the Ministry of the Interior, providing information on detainees that are about to be discharged. In 2023, 33 return decisions were adopted against radicalised detainees who were about to be discharged from Italian detention facilities.

⁶⁴ Italy, Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), [Opinion of 7 May 2016](#).

⁶⁵ Apt (2018), [Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide](#), December 2018.

⁶⁶ Italy, Ministry of Justice (*Ministero della Giustizia*), Ministerial report on justice administration in 2023 ([Relazione del Ministero sull'amministrazione della giustizia anno 2023](#)), 2024, p. 759.

⁶⁷ Italy, Ministry of Justice (*Ministero della Giustizia*), Circular Letter of 2 December 2015, Protocol of Understanding between the Penitentiary Administration Department and the Union of Islamic Communities and Organisations in Italy ([Circolare 2 dicembre 2015 - Protocollo d'intesa tra il Dipartimento dell'Amministrazione Penitenziaria e L'Unione delle Comunità ed Organizzazioni Islamiche in Italia \(U.CO.I.I.\)](#)). The Protocol was renewed in 2022.

b. Risk assessments

The NIC has developed a monitoring mechanism for detainees at risk of radicalisation who are assessed and divided into three groups, analysing the information provided by the DAP on each specific individual situation⁶⁸:

- First level – classified as high risk – is used for detainees charged with domestic and international terrorism and for those who expressed interest for behaviours that represent forms of proselytism, radicalisation, and recruitment.
- Second level – classified as medium – is used for detainees who, during detention, have expressed behaviours that can allegedly be interpreted as affiliation to the jihadist ideology and, consequently, as forms of proselytism and recruitment.
- Third level – classified as low – is used for those detainees who must be subject to further monitoring since the information provided by the DAP is too generic. Such monitoring is key to decide whether the level of risk must be redefined, or if the detainees shall be labelled as no risk.

A Circular Letter issued by the DAP in 2010 (No. 0303680 of 16 July 2010)⁶⁹ recommends detention facilities' administration to adopt any measure that is needed to avoid that possible radicalised leaders emerge during the moments of gathering of Muslim detainees (such as daily prayers), who can radicalise other detainees. Administrations are encouraged to avoid large numbers of detainees gathering together, dividing them into groups, and monitoring them with an adequate number of penitentiary police officers.

c. Training of staff

According to the annual report released by the Ministry of Justice⁷⁰, in 2023 all training courses for penitentiary police officers – at all stages of their careers – included training modules on fundamental rights, human dignity, gender-based violence and prevention of radicalisation. These modules provide trainees with a focus in Islamic culture and faith, as well as on the social and psychological mechanisms that can favour the risk of radicalisation, including the study of risk indicators developed by the NIC, together with experts in the field. Further training activities were also designed and implemented by the Ministry of Justice and by the NIC in the framework of the [TRAI n Training project](#) (2017-2020), financed by the European Commission.

⁶⁸ Italy, Ministry of the Interior (*Ministero dell'Interno*), 5th Biennial Course for Prefects ([V Corso Biennale per l'accesso alla qualifica iniziale della carriera prefettizia](#)), 2017, p. 10-11.

⁶⁹ Italy, Ministry of Justice (*Ministero della Giustizia*) and Penitentiary Administration Department (*Dipartimento per l'Amministrazione Penitenziaria*), Radicalisation of Islamic terrorism. Elements for a study on proselytism in prison ([La radicalizzazione del terrorismo islamico. Elementi per uno studio del fenomeno di proselitismo in carcere](#)), June 2012, p. 78.

⁷⁰ Italy, Ministry of Justice (*Ministero della Giustizia*), Ministerial report on justice administration in 2023 ([Relazione del Ministero sull'amministrazione della giustizia anno 2023](#)), 2024, p. 749.

d. Deradicalisation measures

No information to report for this section.

e. NPM assessment

In March 2022, the National Guarantor released its opinion⁷¹ on the [Draft Law No. 243-A](#) on Measures to Prevent Radicalisation and Jihadist Extremism” (which is still pending parliamentary debate). In its opinion, the Guarantor specifies that it falls outside the scope of its mandate to implement and participate in activities aimed at preventing radicalisation in Italian detention facilities. The National Guarantor also recommends public authorities to adopt a National Plan for Deradicalisation and Rehabilitation of Italian and foreign detainees, favouring its involvement in the drafting process. Eventually, the Guarantor stressed the importance of adequate training of penitentiary police officers, as well as of the recruitment of cultural mediators for those non-European languages that are crucial in monitoring activities aimed at preventing radicalisation.

17. Inspections and monitoring

a. Inspections

Art. 67 of the Law No. 354/1975 establishes that detention facilities can be visited without authorisation from the facility’s administration by some public authorities and institutions. These are:

- the President of the Council of Ministers and the President of the Constitutional Court;
- Ministers, judges of the Constitutional Court, Under-Secretaries of State, members of Parliament and members of the High Council of the Judiciary;
- the President of the Court of Appeal, the Public Prosecutor at the Court of Appeal, the President of the Court and the Public Prosecutor at the Court, the Praetor, the Supervisory Magistrates, within their respective jurisdictions;
- any other judge in the exercise of their functions;
- the regional councillors and the government commissioner for the region, within their jurisdiction;
- the diocesan ordinary for the exercise of the ministry;
- the prefect and head of police of the province;
- the Director General for Prevention and Punishment Institutions and the judges and officials delegated by them;
- the Inspectors General of the Prison Administration;
- the inspector of chaplains;
- the officers of the Prison Guard Corps;
- the National Guarantor for the rights of persons detained or deprived of liberty;
- Members of the European Parliament;
- The National Guarantor of the Rights of Persons with Disabilities (introduced by the Law No. 227 of 22 December 2021).

⁷¹ Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), [Opinion of 22 March 2022](#).

Authorisation is also not required for those who accompany the authorised authorities and institutions. Judicial police officers may enter the facilities, for reasons of their office, subject to authorisation by the judicial authority. Ministers of the Catholic and other religions may enter the facilities, with the authorisation of the director.

b. Access to detention facilities by national authorities

As reported in previous section, the National Guarantor for the rights of persons detained or deprived of liberty is entitled to enter and monitor detention facilities, at any time and without authorisation by the detention facility's administration. The National Guarantor is the Italian National Preventive Mechanism and – as such – its mandate covers all places where people are detained and deprived of their personal freedom, including detention facilities, juvenile IPMs, ICAMs, REMS, etc.

Moreover, the Supervisory judge is the judicial authority in charge of monitoring the execution of detention, alternative to detention, security measures and disciplinary sanctions. As such, the Supervisory judge is also in charge of receiving detainees' complaints and protect their rights: at this end, this authority has the power to frequently visit detention facilities, visit detainees who ask to communicate with them, and assess their complaints. The judge's decisions can be challenged before the Supervisory Court.

c. Access to detention facilities by international bodies

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) periodically visit Italian detention facilities, issuing monitoring reports that identify critical aspects, possible violations of rights and providing recommendations to national authorities on how to address the identified criticalities. In March 2023, the CPT released its last report⁷² on detention conditions in Italy concerning the visits carried out during the period 28 March to 8 April 2022.

d. NPM assessment

The National Guarantor releases period reports on visits to specific detention facilities, both for adults and juvenile detention facilities⁷³. Moreover, an annual report is presented to the Italian Parliament, providing an overview of the Guarantor's activities, as well as the state of the art of the protection of the rights of people deprived of their personal freedom in Italy⁷⁴. Occasionally, the National Guarantor

⁷² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), [Report to the Italian Government on the periodic visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 28 March to 8 April 2022](#), March 2023.

⁷³ The National Guarantor released recently its reports on the visits to the [detention facility of Reggio Calabria of July 2023](#), to detention facilities in the [Piedmont Region of December 2022](#), to the [detention facility of Regina Coeli in Rome of October 2022](#), and to the nursery section of the [detention facility of Rebibbia in Rome of September 2022](#).

⁷⁴ Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), Annual Report to the Parliament 2023 ([Relazione al Parlamento 2023](#)), 2023.

also issues specific documents, providing recommendations to national authorities on the improvements and reforms that are needed to better safeguard the rights of detainees⁷⁵.

18. Access to remedy

a. Legal remedies

Art. 35 of the Law No. 354/1975 governs the detainees' right to complain. Detainees' complaints can be filed using an oral or written format (including a sealed envelope) that can be addressed to: the detention facility's director, the chief of the Italian detention administration, the Ministry of Justice, judicial or health authorities visiting the detention facility, the National Preventive Mechanism or its regional branches, the President of the Regional government, the Supervisory Judge (*magistrato di sorveglianza*), the President of the Italian Republic. This disposition was deemed unconstitutional by the Italian Constitutional Court – decision No. 26 of 11 February 1999⁷⁶ – since it did not include a judicial redress mechanism at the disposal of detainees whose rights were violated by the penitentiary administration. To respond to this decision, the articles 35-bis and 35-ter were integrated into the Law. According to Art. 35-bis – governing judicial complaints – establishes that the Supervisory judge and Court are the judicial authorities in charge of responding to detainees' complaints. The surveillance judge can impose the detention facility's administration to comply with the judicial decision, imposing a deadline for its implementation. The decision of the judge can be challenged before the Supervisory Court within 15 days, and, as last-resort remedy, before the Court of Cassation. Art. 35-ter governs the cases of detention – not inferior to 15 days – that violate Art. 3 of the ECHR. The detainees – personally or through their lawyers – can file a complaint before the Supervisory judge. If the complaint is accepted, the judge can impose – as compensation measure – a reduction of the sentence equivalent to 1 day for each ten days during which the detainee suffered the violation of their rights. If the remaining sentence to serve does not allow for this, the judge can financially compensate the complainant with EUR 8 for each detention day where the violation was perpetrated. The same approach applies for those violations which occurred for periods inferior to 15 days.

b. Legal assistance

There are not standards in place to ensure effectiveness of legal defence for detainees. As for the confidentiality of meetings and correspondence with lawyers, please see the section No. 10 of this report.

c. Request and complaints

No rules of this type were identified.

⁷⁵ See for instance, Italy, National Guarantor for the rights of persons detained or deprived of liberty (*Garante nazionale per i diritti delle persone detenute o private della libertà personale*), Norms and Normality. Standards for the detention of adults (*Norme e normalità. Standard per l'esecuzione penale detentiva degli adulti*), 2018.

⁷⁶ Italy, Constitutional Court (*Corte Costituzionale*), [Decision No. 26 of 11 February 1999](#).

d. Independent authority

See section a. on the role of the Supervisory judge and Court.

The National Guarantor can receive complaints by detainees, according to the procedure governed by Art. 35 of the Law No. 354/1975. When a complaint is received, the National Guarantor is entitled to visit the facility, visit the detainee, and indicate to the facility's administration the measures that are needed to address the complaint and interrupt the possible violation of detainees' rights.

e. NPM assessment

As reported above, the National Guarantor can receive complaints from detainees, according to the procedure governed by Art. 35 of the Law No. 354/1975. When such a thing occurs, the National Guarantor provides its opinion to the DAP that is requested to provide an answer, information on the situation and possible measures adopted/to adopt to respond to the complaint. For instance, in 2016 the National Guarantor received the complaints of 20 detainees in the detention facility of Cuneo. The detainees denounced their detention condition that resemble a 41-bis detention regime even if they are detained in a high-security section. The Guarantor sent a [letter](#) to the DAP presenting the situation and also asking for the reason of the transfer of the detainees from the detention facility of Ancona to Cuneo. The DAP [replied](#) to the Guarantor's letter, stating that the transfers were needed for the refurbishment of the high-security section of the Ancona detention facility. The DAP also provides information on the detention regime of the complaints and on the cells where they are detained, rejecting the possible violations of detainees' rights.

Part II: National case-law

Italy, 1st Criminal Section of the Court of Cassation (*Prima Sezione Penale della Corte di Cassazione*), Decision No. 18681, 11 May 2022

Thematic area	<i>Cell Space</i>
Decision date	11 May 2022
Reference details	1st Criminal Section of the Court of Cassation (Prima Sezione Penale della Corte di Cassazione), Decision No. 18681, 11 May 2022: https://pattest.humnet.unipi.it/web-dev/osep/wp-content/uploads/2022/06/cassazione-penale-sentenza-18681-2022-pdf-2.pdf
Key facts of the case	The case was started by the complaint of a detainee who spent 4,571 days of detention in different Italian detention facilities. The detainee denounced a violation of Art. 3 of the ECHR, stating that he could not benefit from the minimum requirement concerning cell space (3 square meters for each person), since the prisons' administrations had included in the calculation also immovable furnishing complements. The Supervisory Judge of L'Aquila had accepted the complaint and compensated the complainant with EUR 4.568,00. The judge's decision was challenged by the Ministry of Justice, and then confirmed by the Supervisory Court of L'Aquila. The Court's decision was again challenged by the Ministry and the case brought before the Court of Cassation.
Main reasoning/argumentation	The Court recollects the most relevant case law of the ECHR and of national Courts concerning cell space, stating that the surface area for movement in the cell is limited by the walls as well as the furniture that cannot be moved in any way and therefore acts as a wall or constitutes inaccessible space. When the Courts state that the calculation of the area available in the cell must include the space occupied by furniture, this principle refers only to furniture that can be easily moved from one point to another in the cell, and the space occupied by fixed furniture is excluded from the calculation. It is completely irrelevant that the bed anchored to the ground can be used for purposes other than resting, such as reading, talking, or playing cards, because if the bed is anchored to the ground, the detainees inside the cell cannot use the space it occupies for walking and moving around. If the single bed is not anchored to the floor, there is the possibility of moving it during the day for specific needs, as well as chairs and tables, and thus being able to use the corresponding space.
Key issues (concepts, interpretations) clarified by the case	This decision further clarifies the existing requirements governing cell space, in relation with the respect of the human dignity of the detainees, as indicated by the ECHR. In this respect, the Court of Cassation clarified that the cell space must be measured considering the space that detainees can effectively use, therefore excluding immovable furniture such as beds anchored to the floor.
Results (sanctions) and key consequences or implications of the case	The Court of Cassation sent back the case to Supervisory Court of L'Aquila, asking judicial authorities to specify whether the furniture of the cells was anchored to the floor or could be moved. This information is considered key to decide whether the 3-square-metre requirement was violated during detention.
Key quotation in original language and translated into English with reference details	"4. [...]la considerazione secondo cui il letto singolo può essere utilizzato per finalità ulteriori rispetto al riposo (leggere, giocare a carte, parlare ecc.), a differenza del letto a castello, non rileva per la decisione in punto di sovraffollamento. Se il letto singolo è ancorato al suolo - non è, cioè, mobile - i detenuti all'interno della cella non possono utilizzare lo spazio dallo stesso occupato per camminare e per spostarsi; se, invece, non è ancorato al suolo, c'è

	<p>la possibilità di spostarlo durante il giorno per specifiche necessità, al pari delle sedie e di tavolini, e, quindi, di utilizzare il relativo spazio.”</p> <p><i>“4. [...] the consideration that the single bed can be used for purposes other than sleeping (reading, playing cards, talking, etc.), unlike the bunk bed, is not relevant to the decision on overcrowding. If the single bed is anchored to the ground - that is, it is not movable - the prisoners inside the cell cannot use the space occupied by it for walking and moving around; if, on the other hand, it is not anchored to the ground, there is the possibility of moving it during the day for specific needs, like chairs and tables, and, therefore, of using the corresponding space.”</i></p>
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Italy, 1st Criminal Section of the Court of Cassation (*Prima Sezione Penale della Corte di Cassazione*), Decision No. 44209, 30 November 2021

Thematic area	<i>Hygiene and sanitary conditions</i>
Decision date	30 November 2021
Reference details	1st Criminal Section of the Court of Cassation (<i>Prima Sezione Penale della Corte di Cassazione</i>), Decision No. 44209, 30 November 2021: https://pattest.humnet.unipi.it/web-dev/osep/wp-content/uploads/2022/03/Cass.-Pen.-n.-44209-2021-8.10.2021.pdf
Key facts of the case	The complainant was detained in the detention facility of Milan and had complained that the prison administration, after having provided for an initial provision of tools and products for personal hygiene and prison room cleaning when he entered the institution, had not subsequently replenished it (except for toilet paper), on the assumption that he had the possibility to buy these products at the internal shop, and could therefore independently provide himself with the necessary supplies. The actions of the Administration violated, in the detainee’s opinion, specific provisions of the prison regulations. Both the supervisory judge and the supervisory Court rejected this complaint, stating that the prison administration’s decision reflected a discretionary organisational choice, adopted by internal service order - that of reserving, during detention, the complete and free supply of products to indigent prisoners only - which was to be considered acceptable and rational, as it achieved a fair balance between the interests at stake, among which were to be considered the available budget, which could not be judicially reviewed.
Main reasoning/argumentation	The Court of Cassation recalled the rights enshrined in both the Law No. 354/1975 and in the Decree of the President of the Italian Republic No. 230/2000. The first, in its Art. 6, requires the prison administration to provide prisoners and inmates with materials, whether instrumental or consumable, for the cleaning of their rooms and for their toilets, irrespective of the inmate's financial situation; the second, in its Art. provides that the items necessary for personal care and cleaning are indicated with specific reference to their quality and quantity in tables, distinguished for men and women, established by ministerial decree. It therefore follows, again in the absence of any reference to the economic conditions of the prisoner, that the supply, which must be provided by the prison administration, is free of charge. The prison administration can make discretionary choices, also on the basis of the available financial resources; these decisions, however, cannot result in the total denial of a right, strictly pertaining to the hygiene and decorum of the detained or interned person.

Key issues (concepts, interpretations) clarified by the case	This decision is relevant since it contributes to define the limits of the discretionary power prisons' administrations can benefit from when deciding how to implement detainees' rights. Financial constraints can represent a criterion to be considered; however, such constraints cannot limit the rights of the detainees as regulated by the in-force legislation.
Results (sanctions) and key consequences or implications of the case	The case was sent back to the Supervisory Court of Milan for a new decision that takes into account the argumentation of the Court of Cassation.
Key quotation in original language and translated into English with reference details	<p>"5. [...] Scelte organizzative discrezionali sono dunque ben possibili, anche in funzione delle concrete modalità, anche temporali, dei previsti rifornimenti dei beni *di, consumo, ma queste scelte non possono tradursi nella totale negazione di 4 Corte di Cassazione - copia non ufficiale un diritto, strettamente attinente all'igiene e al decoro della persona detenuta o internata."</p> <p><i>"5. [...]Discretionary organisational choices are therefore quite possible, also depending on the concrete modalities, also in terms of time, of the planned supply of goods for consumption, but these choices cannot result in the total denial of 4 Court of Cassation - unofficial copy a right, strictly pertaining to the hygiene and decorum of the detained or interned person."</i></p>

Italy, Court of Milan – Labour Section (*Tribunale di Milano, Sezione Lavoro*), Case No. 2718/2021, 10 November 2021

Thematic area	Access to Work
Decision date	10 November 2021
Reference details	Italy, Court of Milan – Labour Section (<i>Tribunale di Milano, Sezione Lavoro</i>), Case No. 2718/2021, 10 November 2021: https://www.cgil.lombardia.it/wp-content/uploads/2021/11/sentenza-anonima.pdf
Key facts of the case	The case concerns a former detainee who worked for two years for the prison's administration. Once served his sentence, he filed the request for the monthly unemployment allowance to the National Security Institute that rejected the request.
Main reasoning/argumentation	The Court reconstructs the work activity carried out by the detainee during his detention period – a two-year continuous activity with no interruption – stating that the interruption of the work was due to the end of the detention period, and not to the decision of the complainant. The Court also retraced the legislative disposition in place governing the work of the detainees, and their rights as workers. Moreover, the Court stressed that detainees' work should be made equivalent to salaried work: no discrimination is allowed between employees and detainees who are employed by the prison's administration, also when it comes to benefits and allowances.
Key issues (concepts, interpretations) clarified by the case	This decision is relevant as it clarifies the rights of employees who work for prisons' administrations; these rights must be safeguarded during detention and after the conclusion of the detention period.
Results (sanctions) and key consequences or implications of the case	The Court accepted the complaint, ordering the National Security Institute to pay the due allowance, as well as the judicial costs of the case. Moreover, the Court stressed that depriving the complainant of the unemployment allowance would compromise the social reintegration of the detainee.

<p>Key quotation in original language and translated into English with reference details (</p>	<p>“Se al detenuto che ha svolto attività lavorativa alle dipendenze dell’Amministrazione carceraria all’interno dell’istituto di pena si negasse, una volta scarcerato, il diritto alla Naspi si impedirebbe il verificarsi della finalità rieducativa e di reinserimento sociale che costituisce l’essenza stessa del lavoro carcerario [...] Allo stesso modo negare la prestazione all’ex detenuto una volta scarcerato per fine pena costituirebbe una ingiustificata disparità di trattamento rispetto agli altri cittadini in possesso dei medesimi requisiti di legge per accedere alla prestazione in questione.”</p> <p><i>“If the detainee who has worked for the Prison Administration within the penitentiary institution were to be denied, once released, the right to the allowance, it would prevent the re-educative and social reintegration purpose that constitutes the very essence of prison work from taking place [...] In the same way, denying the benefit to the ex-prisoner once released at the end of their sentence would constitute an unjustified unequal treatment with respect to other citizens who meet the same legal requirements to access the benefit in question.”</i></p>
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