EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

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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

The Government of Italy has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2023) 6

Strasbourg, 24 March 2023

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GLOSSARY

ASL	*Aziende Sanitarie Locali* – Local Health Authority
ATS	*Azienda di Tutela della Salute* (Lombardy Region)
ATSM	*Articolazioni per la Tutela della Salute Mentale* – Mental health protection unit
CAR	*Celle a rischio* – unfurnished cell
CC	Criminal Code
CPC	Code of Criminal Procedure
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DAP	*Dipartimento dell'amministrazione penitenziaria* - The Prison Administration
DSM	*Dipartimento di Salute Mentale* – Mental Health Department
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ENT	Ear, nose and throat
FTE	Full-time equivalent
GP	General Practitioners
ISS	*Istituto Superiore della Sanità*
OP	*Ordinamento Penitenziario* - 1975 Prison Law
OPG	*Ospedali Psichiatrici Giudiziari* – Judicial (foresnic) Psychiatric Hospital
OSS	*Operatore Socio Sanitario* – Assistant Health worker
REMS	*Residenze per l'Esecuzione delle Misure di Sicurezza* – Psychiatric facility for security measures
RSA	*Residenza Sanitaria Assistenziale* – Nursing home
SAI	*Servizio d'Assistenza Intensiva* – Intensive care service
SER.D	*Servizi per le dipendenze patologiche* – Drug use service
SPDC	*Servizio Psichiatrico di Diagnosi e Cura* – Psychiatric diagnosis and care service
TERP	*Tecnico della Riablitazione Psichiatrica* – Mental health rehabilitation therapist
TSO	*Trattamento Sanitario Obbligatorio* – Compulsory treatment order

isolamento diurno	Court imposed solitary confinement
sorveglianza dinamica	Dynamic security

EXECUTIVE SUMMARY

In the course of the March/April 2022 visit to Italy, the CPT's delegation examined the treatment and the conditions of detention in which persons were held in four prison establishments. Particular attention was paid to those persons on restrictive regimes, the impact of overcrowding and the restrictions imposed in the context of the Covid-19 pandemic, the situation of female prisoners and the treatment of persons with a mental disorder.

In addition, the delegation examined the treatment of patients in psychiatric wards of four civil hospitals (*Servizi psichiatrici di diagnosi e cura* or SPDCs) and of elderly persons with limited autonomy accommodated in two nursing homes (*Residenze sanitarie assistenziali* or RSAs). Special attention was paid to the use of means of restraint and seclusion of patients/residents in these establishments. The delegation also examined the treatment of persons deprived of their liberty by law enforcement agencies.

The co-operation received throughout the visit, from both the national authorities and staff at all the establishments visited, was excellent.

Law enforcement agencies

The vast majority of persons met by the delegation who had recently been deprived of their liberty by officers of several law enforcement agencies (that is, State Police, Municipal Police and *Carabinieri*) indicated that they had been treated correctly. However, the delegation did receive a number of allegations of physical ill-treatment (including excessive use of force) by law enforcement officials and in particular by State Police and *Carabinieri* officers. The Italian authorities should ensure that police officers are properly trained and equipped to carry out apprehensions using no more force than is strictly necessary. The introduction of body worn video cameras might also be considered.

The CPT reiterates the importance of ensuring that all persons deprived of their liberty are able to benefit from the fundamental safeguards against ill-treatment: the right to inform a relative or third party of their detention; the right of access to a lawyer; the right of access to a doctor; and the right to be informed of these rights in a language the person understands.

The conditions of detention in the law enforcement establishments visited were generally acceptable for short stays. Nevertheless, action is required to ensure that the cells in these facilities are cleaned after each use and the blankets changed. Also, every cell should have artificial lighting adequate for reading purposes and it would be preferable for all cells to be equipped with a washable mattress.

Prison establishments

Overcrowding is a long-standing concern to the CPT. The Committee has noted that the overall size of the Italian prison population decreased significantly as a result of the unprecedented situation caused by the Covid-19 pandemic. However, with the return to a normal functioning of the judiciary, the prison population has begun to rise once again and, at the time of the visit, stood effectively at 114% of the official capacity of 50 863 places. The CPT reiterates that addressing the issue of overcrowding requires a broader coherent strategy, covering both admission to and release from prison, to ensure that imprisonment really is the measure of last resort.

The CPT delegation received a few allegations of ill-treatment of prisoners by staff in each of the establishments visited. However, the vast majority of persons met in the prisons visited stated that custodial staff behaved correctly towards them. On the other hand, many accounts of inter-prisoner violence and intimidation were received in the prisons visited. The Italian authorities need to put in place a comprehensive strategy for preventing inter-prisoner violence and intimidation through *inter alia* the promotion of a real dynamic security (*sorveglianza dinamica)* approach by prison staff.

To this end, action needs to be taken by the Prison Administration (DAP) to develop a real dynamic security approach which should complement the positive open cell regime for medium security prisoners, enhancing control and security and rendering the work of prison officers more rewarding. As part of this approach, prison officers should develop as integrated players in the provision of purposeful activities designed to prepare prisoners for reintegration into the community. Moreover, such an approach will necessitate prison officers being permanently placed within the wings and enable them to have a more pre-emptive approach towards tackling intimidation and violence.

With respect to restrictive measures and separation regimes, the CPT calls for a series of steps to be taken, notably: the abolition of the measure of court-imposed solitary confinement under Article 72 of the Criminal Code known as *isolamento diurno;* the review of the separation measure under Article 32 of the Prison Regulations to ensure placement and renewal decisions are fully reasoned, an appeal to an independent body is in place and a programme of individually tailored activities is on offer; and the review of the management of prisoners subject to a "41-bis" regime, in line with CPT recommendations, which the Committee considers could be achieved through the adoption of a revised Circular issued by the DAP.

As regards material conditions, the CPT recommends that greater efforts be invested in all the prisons visited to ensure that *inter alia* cells are properly equipped, windows repaired, radiators function, the pervasive green mould in the common shower rooms is addressed and the provision of hot water improved. Further, all persons held in prison must be provided with a minimum standard of living conditions that guarantees their dignity; every person should be provided with a regular supply of personal hygiene and cleaning products as well as clean bedding and a pillow. In addition, the quality of the food in prisons should be improved.

While the provision of activities was still in the phase of being developed following the Covid-19 pandemic, there is clearly a need to invest further energies in the range of programmes on offer to prisoners to provide them with a structured day of activities.

The provision of healthcare services in the prisons visited was very good. Nevertheless, several specific recommendations are made to improve the confidentiality of medical examinations, the way insulin injections are performed at Monza Prison and the recording of injuries.

Likewise, the psychiatric healthcare screening and staffing was very good. However, prisons do not offer a therapeutic environment and it is not appropriate for persons who require specialised psychiatric treatment, such as REMS patients, to be accommodated in prison. In addition, it is important to provide prison officers working in units which accommodate persons with mental disorders with appropriate training, notably inter-personal skills. More specifically, at Regina Coeli Prison, the integrated mental and substance use disorder team should be provided with the necessary working conditions, and in both this prison and at Lorusso e Cutugno Prison, persons placed under observation for a mental disorder should be accommodated in the mental health unit under the direct supervision of healthcare staff. Further, persons assessed as being at high risk of committing an act of self-harm or suicide should be accommodated in safer cells.

Regarding the female sections within Milan San Vittore and Turin Lorusso e Cutugno Prisons, the CPT makes several recommendations to improve the material conditions and, notably, to provide a structured programme of activities for women with a mental disorder. Further, prison staff should be

trained on the use of trauma informed practices to enable them to support and manage women with mental disorders and other traumas.

More generally, the Italian authorities should take active steps to develop a gender specific approach towards women in prison.

As regards transgender persons in prison, the CPT found that there was no clear policy or guidelines in place for their management and that the transgender women met were often accommodated on wings where their specific needs were not catered to. Action is required to address these important deficiencies.

Finally, the fairness of the disciplinary procedures should be enhanced and newly-arrived persons should be offered one short phone call to a family member as part of the prison admission procedure.

Psychiatric establishments

No credible allegations of physical ill-treatment of patients by staff were received at the SPDCs visited although some sporadic episodes of verbal offences and derogatory comments by nurses and nursing assistants (*Operatori Socio Sanitari* or OSSs) were reported.

The SPDCs visited offered in general satisfactory living conditions in terms of living environment and level of hygiene. That said, at Rome San Camillo SPDC, the communal room was in a state of neglect and the overall level of hygiene in the ward left a lot to be desired. Further, the CPT recommends that the Italian authorities reflect on the possibility of designing rooms for single occupancy whenever new SPDCs are built or existing ones renovated.

No sign of excessive resort to psychopharmacological care was found by the CPT's delegation at the SPDCs visited. That said, the CPT found a penury of rehabilitative, recreational and therapeutic activities on offer to patients which was partly due to the longstanding Covid-19 restrictions that limited the access of various personnel to the SPDCs. In the CPT's view, the treatment of patients hospitalised in SPDCs should be more variegated and diversified.

None of the SPDCs visited possessed an operational outdoor facility and in principle patients had access to fresh air only in secured terraces at the respective wards. The CPT recommends that the Italian authorities engage in a serious reflection regarding the necessity to equip SPDCs with adequate outdoor facilities.

The report takes note of the fact of the efforts invested by the Italian authorities in view of the reduction and possible abolition of the practice of applying mechanical restraint to patients hospitalised at SPDCs. However, the findings of the CPT in the course of the 2022 visit indicate that patients with mental health disorders in a serious state of agitation were frequently submitted to mechanical restraint for periods of up to nine days with no changes to their legal status (in terms of initiation of a TSO procedure). Although the measure was in principle adequately monitored and recorded by healthcare staff of the SPDCs, the CPT retains concerns as to the unclear legal framework regulating its application as well as its excessive duration and repeated nature. At the Melegnano SPDC, the CPT was concerned about the administration of chemical restraint of an anaesthesiologic nature to agitated patients.

The CPT considers that the Italian authorities should clarify the legal safeguards surrounding the use of means of restraint in a SPDC setting and that a TSO procedure be initiated any time a voluntary patient is fixated.

As regards the legal safeguards afforded to patients with a mental disorder the CPT notes with concern that the procedure in view of the imposition of a TSO remains of a standardised and repetitive format and that the guardianship judge never meets the patients in person. In addition,

patients continue not to be informed of their legal status and of avenues to lodge complaints, and information leaflets are either missing or of an incomplete nature.

Social care establishments

The CPT considers that in the light of the high level of segregation due to the prolonged and indefinite Covid-19 related restrictions and the lack of viable alternatives in the community residents of the two RSAs visited could be considered as *de facto* deprived of their liberty.

The report provides an accurate description of the context in relation to the application of the protective and preventive measures applied in respect of RSA residents in the context of fight against the Covid-19 pandemic. In particular, the restrictions in place at the two RSAs visited since February 2020 (notably in terms of absence of access to fresh air, reduced rehabilitative and recreational activities and family visits) had gradual and deleterious effects on the residents' mental and somatic healthcare state notably at the Pio Albergo Trivulzio RSA. The Italian authorities should take urgent measures to reduce the restrictions in place and to ensure a less restrictive interpretation of the applicable regulations in the future in the light of clear scientific evidence and special epidemiological circumstances.

Living units at both RSAs were in principle in a good state of repair, properly equipped, spacious, well ventilated and the level of hygiene was impeccable. The CPT found certain deficiencies at Istituto Palazzolo consisting of an overall hospital-like design, insufficient ratio of sanitary facilities per resident and impersonalised and poorly decorated communal rooms.

The levels of staff assigned to the relevant living units of the RSAs visited was in line with the criteria foreseen by the regional legislation. That said, a reinforcement of the nursing and OSS component at the Istituto Palazzolo is recommended in order to better assist residents when eating and for supervising their personal hygiene. Further, the resort to outsourced personnel should be limited in order to reduce the frequent turnover of staff.

The CPT gained a very good impression of the level of health care provided to residents at both RSAs. That said, the level of physiotherapeutic interventions should be increased.

As regards the resort to means of restraint in respect of RSA residents (i.e. bed rails, pelvic belts and mobility lap trays), the report indicates that there was no excessive and disproportionate resort to their use and recommends that this specific practice be regulated at the national level in an uniform manner due to its potential intrusive and abusive nature.

The report also recommends that guardianship judges from the competent territorial courts pay regular visit to RSA residents under a measure of support administration *(amministrazione di sostegno)*. The Committee also welcomes the efforts invested by the Italian authorities in assisting elderly persons with limited autonomy in formulating an individual project of life which includes viable alternatives to the placement in a residential facility.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a periodic visit to Italy from 28 March to 8 April 2022. It was the Committee's 8th periodic visit to Italy[1].

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

- Alan Mitchell, President of the CPT (Head of Delegation)
- Marius Caruana
- Vincent Delbos
- Philippe Mary
- Helena Papa
- Kristina Pardalos

They were supported by Hugh Chetwynd (Head of Division) and Christian Loda of the CPT's Secretariat, and assisted by two experts Catherine Paulet (psychiatrist, Head of the Regional Medico-Psychological Service at Baumettes Prison, Marseille, France) and Olivera Vulić (psychiatrist, former Chief of the Centre for Mental Health in Podgorica, Montenegro).

3. The CPT's 8th periodic visit to Italy was an opportunity for its delegation to assess the treatment and the conditions of detention in which persons were held in four prison establishments together with the treatment of persons deprived of their liberty by law enforcement agencies. In addition, the delegation examined the treatment of patients in the psychiatric wards of four civil hospitals (*Servizi psichiatrici di diagnosi e cura* or SPDCs) and of elderly persons with limited autonomy accommodated in two nursing homes (*Residenze sanitarie assistenziali* or RSAs).

A list of the establishments visited by the delegation is set out in Appendix I to this report.

4. The report on the visit was adopted by the CPT at its 108th meeting, held from 4 to 8 July 2022, and transmitted to the authorities of Italy on 4 August 2022. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the authorities from Italy to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

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[1] The reports on previous CPT visits to Italy and related Government responses are available on the Committee's website: http://www.cpt.coe.int/en/states/ita

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

5. In the course of the visit, the CPT's delegation held an exchange of views with Marta Cartabia, Minister of Justice as well as with Benedetto Della Vedova, State Secretary for Foreign Affairs, and Pierpaolo Sileri, State Secretary of Health. Further, it also met with Carlo Renoldi, Head of the Prison Administration and Sergio Bracco, Prefect and Head of the Public Security Department in the Ministry of the Interior and other senior officials from relevant Ministries and law enforcement agencies. In addition, the delegation met Letizia Moratti, Vice-President and Minister of Welfare of the Region of Lombardy.

Meetings were also held with Mauro Palma, Head of the national authority for the rights of persons deprived of their liberty (*Garante nazionale dei diritti delle persone detenute o private della libertà personale*) and Head of the National Preventive Mechanism (NPM) established under the Optional Protocol to the United Nations Convention Against Torture (OPCAT) as well as with representatives of the civil society active in areas of concern to the CPT.

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

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

The CPT wishes to express its appreciation for the assistance provided before and during the visit by Minister Gianfranco Petri and his staff from the Ministry of Foreign Affairs and the other members of the Inter-ministerial Committee on Human Rights. Further, it welcomes the Italian authorities' decision to invite the "*Garante Nazionale"* to the preliminary observations delivered by the delegation at the end of the visit.

In addition, the CPT welcomes the approach taken by the Italian authorities to follow the standard practice of requesting the publication of the Committee's visit reports together with the corresponding government responses. That said, both the Committee of Ministers and the Parliamentary Assembly of the Council of Europe have, in recent times, been encouraging the Organisation's member states to request the automatic publication of future CPT visit reports and related government responses.[2] **The CPT invites the Italian authorities to consider authorising in advance the publication of all future CPT visit reports concerning Italy and related Government responses (subject to the possibility of delaying publication in a given case).**

7. Further, the CPT's delegation was encouraged by the constructive discussions held with the Minister of Justice and the Head of the Prison Administration at the end of the visit and their commitment to address the main shortcomings that had been identified by the delegation in respect of prison matters. In the light of Article 3 of the Convention and the need to address the longstanding recommendations put forward by the CPT on, notably, restrictive regimes in prisons such an approach is to be welcomed.

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[2] See, in particular, Parliamentary Assembly Resolution 2160 (2017), adopted on 26 April 2017, and the Committee of Ministers' reply to Recommendation 2100 (2017), adopted at the 1301st meeting of the Ministers' Deputies of 29 November 2017.

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

8. During the end-of-visit talks with the Italian authorities, on 8 April 2022, the CPT's delegation made three immediate observations under Article 8, paragraph 5, of the Convention. The Italian authorities were requested to ensure that:

- *at the State Police Questura in Rome, all five operational cells be equipped with functioning artificial lighting;*
- *at Regina Coeli Prison, all prisoners are offered a minimum of one hour of outdoor exercise every day;*
- *at Regina Coeli Prison, the external shutters from outside a number of the cell windows are removed in order to enable prisoners to have access to natural light.*

These observations were confirmed by letter of 21 April 2022 when transmitting the delegation's preliminary observations to the Italian authorities.

By communication of 31 May 2022, the Italian authorities informed the CPT on the actions taken in response to these immediate observations and on other matters raised by the delegation at the end-of-visit talks. This response has been taken into account in the relevant sections of the present report.

D. National Preventive Mechanism

9. The CPT recalls that Italy ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2013 and that the Government created the institution of the *Garante Nazionale de Detenuti e Persone Private di Libertà (Garante Nazionale),* designating it as the National Preventive Mechanism (NPM) under the OPCAT.[3] The *Garante Nazionale* and his two Deputies were appointed on 6 February 2016 by the President of the Republic and the Office was provided with a staff of 25 persons, primarily seconded from different Ministries and law enforcement agencies.

In the six years since the establishment of the NPM, the institution has established itself as the primary monitoring body of places of deprivation liberty within Italy. The annual reports, presented to the Presidents of the Senate and Chamber of Deputies of the Italian Parliament with the debate relayed live on television, cover not only the activities of the NPM but also engage in thematic discussions on aspects of the phenomenon of deprivation of liberty.[4]

At the time of the 2022 visit, the NPM was focused on five different thematic areas (police custody; detention in prison establishments for adults and minors; prison healthcare; psychiatry and disability issues; immigration detention and return operations of irregular migrants). It could also supplement its staff resources by calling upon a pool of 60 experts. In addition to the task of monitoring places of deprivation of liberty and addressing recommendations to the competent authorities, the *Garante Nazionale* is also mandated to coordinate the work of the territorial *Garantes* (operating at the regional and municipal level), to process individual complaints filed by persons in prison.

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3 See Government Decree No. 36 of 11 March 2015.

4 See *Garante Nazionale* Annual Report for the year 2021 (*Relazione al Parlamento del Garante Nazionale 2021).*

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

10. The legal framework for the deprivation of liberty by law enforcement agencies of persons who are suspected of having committed a criminal offence remains unchanged since the 2016 visit.[5] In principle, when a person is taken into police custody (in light of an *arresto*[6] or *fermo*[7]) the police must promptly inform the competent prosecutor.[8] The prosecutor must submit within 48 hours of the time of deprivation of liberty a request for the validation of the detention order to a judge for preliminary enquiry who, within the following 48 hours, must decide whether or not to remand the person in custody.[9] Further, pursuant to Article 349 of the Code of Criminal Procedure (CCP) persons can be deprived of their liberty for purposes of identification for a maximum period of 24 hours.

In the course of the 2022 periodic visit, the CPT's delegation visited two State Police headquarters *("Questure")* and three State Police stations, and four *Carabinieri* stations. It also visited one municipal police station in Milan.

2. Ill-treatment

11. As was the case during previous periodic visits, the vast majority of persons met by the delegation who had recently been apprehended and detained by law enforcement officials (that is, State Police, Municipal Police and *Carabinieri*) indicated that they had been treated correctly.

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

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

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

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

8 Pursuant to Article 386 of the CCP.

9 Pursuant to Article 390 of the CCP.

12. The following represent a sample of credible allegations of ill-treatment of criminal suspects by law enforcement officials collected by the delegation in the course of the visit and which had been communicated by the prison to the relevant prosecutor's office:

i. A person apprehended on 24 January 2022 in Milan by the State Police stated that, after he had stopped fleeing and given himself up in a courtyard, the officers had placed him on the ground in a prone position and cuffed his hands behind his back. He claimed that the officers thereafter subjected him to multiple kicks to the head and body as well as punches and a blow with the butt of a pistol and that he had been pepper sprayed. Due to his injuries, he was taken to the Emergency Department at Fatebenefratelli Sacco Hospital where he was given a CT scan and diagnosed with a fracture of the nasal septum and a frontal tumefaction which was assessed as being "compatible with his complaint of aggression".

ii. A person met at Milan San Vittore Prison stated that on 26 October 2021 he had been riding an e-scooter when three plain clothes policemen approached him and one of them punched him in the face without explanation. He was placed on the ground and his hands cuffed behind his back. He alleged that he subsequently received a blow with the butt of a pistol to the back of his head. Upon arrival in the prison, he was sent for an X-ray and CT scan for neurological trauma and was diagnosed with a broken nose and lesions to the knee.

13. The CPT recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for their being struck by police officers. The above-mentioned two cases are clear examples of alleged deliberate ill-treatment which cannot be justified as being necessary to affect an apprehension or considered as a proportionate use of force.

14. **The CPT recommends that the Ministry of the Interior generally and the State Police commanders in the Milan metropolitan area specifically deliver a strong message that the ill-treatment of apprehended persons (including verbal abuse and threats) is unlawful, unprofessional, and will be the subject of appropriate sanctions, commensurate with the crime or disciplinary violation. Further, the relevant authorities should ensure that an effective investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities.**

It is incumbent on the Italian authorities to ensure that police officers are properly trained and equipped to carry out apprehensions using no more force than is strictly necessary. In addition, every use of force by law enforcement officials should be properly documented (description of facts; any injuries sustained; whether the detained person was brought to hospital, etc.) and reported accordingly.

15. The CPT also considers that the experience of other countries demonstrates that issuing Body Worn Video Cameras to law enforcement officials and their systematic use , represents an additional safeguard against abuse by officials as well as a protection against unfounded allegations of ill-treatment. **The Committee would appreciate the comments of the Italian authorities on this matter.**

16. The CPT noted that procedures were in place at each of the prisons visited for information on persons with injuries entering the establishment to be transmitted to the local prosecutor's office.[10] However, it appeared that only at Milan San Vittore Prison was the medical description of the injuries accompanied by a report drawn up by the prison staff which expressly stated that the injuries were allegedly caused by the police.[11] Further, it was only at this prison that the medical staff appeared to make a rudimentary assessment as to the consistency of the injuries with the alleged ill-treatment.

For example, at Turin Lorusso e Cutugno Prison, only one critical event was registered under "*percosse riferte all'atto dell'arresto*" (allegation of beating upon apprehension) for both 2021 and 2022.[12] Although these specific cases could not be provided by the prison to the delegation, it transpired that, in reality, for the first quarter of 2022, the prison had transmitted injuries to the prosecutor's office in Turin 25 cases of persons having arrived in the prison with and that in 2021, the figure was 115. However, in transmitting these cases there was no indication of whether the person in question was alleging ill-treatment or not, as only a brief reference to the injury and the number of days required off work to recuperate was included.

17. The CPT recommends that the Italian authorities refine the current practice of prisons transmitting all injury reports to prosecutor's offices, notably by highlighting those injury reports which concern allegations of ill-treatment by law enforcement officials.

Further, the CPT recommends that each injury report be filled out in accordance with the criteria set out in paragraph 115 below and be accompanied by a statement which describes the alleged ill-treatment.

18. Regarding investigations by the prosecutorial authorities, the CPT understands that prosecutors' offices could start investigations related to physical ill-treatment *ex officio* against law enforcement officials even in cases where the threshold of the "20-day recovery period" was not met.[13] In such cases, prosecutors would request an indictment on the basis of the convergence of the criminal offences provided for in Article 608 (abuse of authority) and Article 582 (bodily harm) of the Criminal Code (CC).

However, it appeared that prosecutors' offices still did not initiate investigations unless there was a specific complaint lodged by the individual such as apparently was made by the person cited in paragraph 12.i above. For example, no follow-up action had been taken regarding a person who had suffered broken ribs (VIII and X) allegedly due to ill-treatment by the police upon apprehension in early October 2021. He had been treated at Niguardia Hospital in Milan where his injuries had been recorded and he had been given a period of 20 days off work to recover. This case had been transmitted by Milan San Vittore Prison to the prosecutor's office on 6 October 2021.

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10 See Article 11 of the 1975 Prison Law as amended in 2018.

11 At Milan San Vittore Prison, 54 cases of alleged ill-treatment by police officers were registered in 2021 and 16 cases in the first three months of 2022.

12 At Rome Regina Coeli, a large remand prison, only one case was officially recorded in 2021 and one case for the first quarter of 2022. At Monza Prison, one case was recorded for 2021

13 Article 582 of the Criminal Code (CC) stipulates that the offence of bodily harm (*lesione personale*) is only punishable upon request *("querela")* of the person concerned when the recovery period does not exceed 20 days and when no aggravating circumstances exist, such as disability resulting from bodily harm.

As regards the mass of injury reports submitted by prisons to the relevant prosecutor's office which do not mention whether or not the injuries were caused by alleged ill-treatment by law enforcement officials, it is clear that they will not elicit any follow up given the imprecise nature of the information.

19. The CPT recommends that the Italian authorities ensure that whenever the Prosecutor's Office is provided with information from a prison transmitting an injury report and an allegation of ill-treatment by law enforcement officials, action is taken to open a preliminary enquiry, to immediately order a forensic medical examination of the alleged victim, to interview the alleged victim and perpetrators as well as witnesses, and to gather the pertinent evidence.

More generally, the CPT would like to receive detailed information on the following items:

(a) the number of complaints about ill-treatment by law enforcement officials and the number of criminal and/or disciplinary proceedings which have been instituted as a result;
(b) the number of criminal and/or disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible ill-treatment by law enforcement officials;
(c) the outcome of the proceedings referred to in (a) and (b), including an account of criminal and/or disciplinary sanctions imposed on the law enforcement officials concerned.

3. Safeguards against ill-treatment

20. Pursuant to Article 387 of the CCP the judicial police must inform without delay the family of an arrested person of the latter's detention, with their consent. However, once again the delegation received complaints from many persons it met in prison that they had not been allowed to inform their families of their detention by police officers despite their requests. This was particularly the case of foreign nationals. An analysis of the custody registers at law enforcement establishments revealed that the notification of custody by a law enforcement official usually took place several hours after the arrest of the person and in many cases not at all. Indeed, the officers responsible for the custody facilities explained that it was not their responsibility to ensure that a person was able to contact their family or a lawyer as access to those rights were managed by the arresting officers and was performed prior to the person being placed in a detention cell.

The CPT considers that a detained person's right to inform a relative or other third party of their situation should be expressly safeguarded from the very outset of custody. The exercise of this right may, of course, be subject to certain exceptions designed to protect the interests of justice, as it applies to the investigations. Such exceptions should, however, be clearly defined and strictly limited in time. Further, it should be the duty of the police officers responsible for the detention area to verify that a detained person has been offered the right to inform their family or third party of their situation, and to act accordingly to ensure that this right is applied in practice.

The CPT reiterates its recommendation that the Italian authorities review the current procedures to ensure that all persons deprived of their liberty are effectively able to inform a relative or other third party of their detention as from the outset of the deprivation of liberty.

21. As regards the right of access to a lawyer, Article 104, paragraph 2, of the CCP provides that a person subject to *arresto* or *fermo* has the right to confer with a lawyer immediately after the deprivation of liberty. This was in practice rarely the case. The great majority of persons deprived of their liberty told the CPT that they had the possibility to speak with a lawyer only at the confirmation hearing with the judge for preliminary investigation (that is, approximately 24 hours after the deprivation of liberty) after they had already been transferred to a prison establishment. This is even more worrying in light of the fact that Italian law requires legal representation of a defendant in criminal proceedings.[14]

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

The CPT reiterates its recommendation that the Italian authorities take appropriate steps – in consultation with the Bar Associations – to ensure that lawyers effectively provide assistance during police custody, whether they are chosen by the detained person or appointed *ex officio*.[15]

22. The findings of the 2022 periodic visit once again indicated that there were no complaints as regards access to a doctor during custody in a law enforcement establishment. Medical assistance of a generic or emergency nature was regularly provided to persons in police custody pursuant to Article 386 of the CCP. However, medical examinations of arrested persons were still taking place systematically in the presence of police officers.

The CPT calls upon the Italian authorities to take urgent steps to ensure that in all law enforcement establishments, all medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials.

23. Moreover, the CPT once again notes that the legislation does not guarantee a detained person's right of access to a doctor of their own choice. In the CPT's opinion, allowing detained persons to consult a doctor of their own choice is important for continuity of care and can provide an additional safeguard against ill-treatment. **The CPT reiterates its recommendation that such a right be introduced.**

24. Legislative changes were introduced in 2014 to allow foreign nationals under *arresto* or *fermo* to be informed of their rights in a language that they understand.[16]

The findings of the 2022 periodic visit indicate that some arrested persons had not been informed of their rights at the time of their apprehension, nor did they receive a written copy of the leaflets entitled "notice of persons arrested or detained", which were available in several languages at all law enforcement establishments visited.[17]

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

15 See also EU Directive 2013/48/EU of the European parliament and of the Council of 22 October 2013 on *inter alia* the right of access to a lawyer in criminal proceedings.

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

17 See also Article 4 of EU Directive 2012/13/EU of the European parliament and of the Council of 22 May 2012

25. **The CPT calls upon the Italian authorities to take steps to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a straightforward manner.**

Further, the Committee recommends that persons deprived of their liberty by the police be requested to sign a statement attesting that they have been informed of their rights and whether they have availed themselves of these rights or have waived them (as was the approach being followed at the Milan Municipal Police Bureau for Arrests and Apprehensions).

26. Further, as was the case in previous visits, the delegation found that the custody register was being filled in *a posteriori* by police officials in several law enforcement establishments visited on the basis of the information contained in the relevant arrest file (*"verbale di arresto"*). Moreover, the entries were sometimes missing or incomplete and the registers had no box/space for the countersignature of arrested persons to certify that they had been read their rights and had decided whether or not to exercise them.

The CPT recommends that the Italian authorities ensure that custody officers in all law enforcement establishments are reminded of the importance to maintain custody registers meticulously and in a timely manner. Furthermore, registers should provide a box/space for the countersignature of the suspect.

27. As mentioned above, under Article 349, paragraph 4, of the CCP law enforcement agencies have the power to detain persons for purposes of identification for 12 hours which may be extended up to 24 hours with notification to the Prosecutor's Office. In the course of the visit, the delegation found that such persons were being held in *Carabinieri* stations without benefiting from the protection of any fundamental safeguards, notably the right to contact a family member or third person about their detention, the right to contact a lawyer, right of access to a doctor and the right to be informed about their rights. Nor was their detention being recorded in a register in the police station.

For example, at the Turin *Carabinie*ri Mirafiori Station, the delegation found that persons detained for the purposes of identification were not formally registered as having been detained in the police station despite being held in specific transit cells for many hours. The day prior to the visit, two foreign national from Morocco had apparently been detained for 10 hours. The duty officer explained that as these persons were not under arrest, they were not formally detained and hence did not benefit from the rights of detained persons. Consequently, such persons could be held in a state of incommunicado and, in the CPT's view, they were clearly deprived of their liberty.[18] Steps should be taken to remedy the lack of safeguards surrounding this form of deprivation of liberty.[19]

The CPT recommends that the Italian authorities ensure that each detention of a person for the purposes of identification be surrounded with safeguards, including the proper recording of the measure in a dedicated register, the right to contact a family member or third person to inform them of the person's situation, the right of access to a lawyer or consulate and the right of access to a doctor. Further, all such persons should be provided with an information leaflet setting out their rights in a language they can understand.

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on the right to information in criminal proceedings.

18 See *inter alia* the Grand Chamber judgment in the case of *Creangă v. Romania* of 23 February 2012, paragraphs 91 to 100.

19 In the communication of 31 May 2022 by the Italian authorities, the *Carabinieri* stated that persons brought to the police station for the purposes of identification were not held in detention cells (*camere di sicurezza*) and hence their stays were not recorded. The evidence gathered by the CPT delegation demonstrates that these persons were clearly detained.

4. Conditions of detention

28. In most of the establishments visited, the detention cells were on the whole acceptable, bearing in mind the short time persons usually spent in such cells after their apprehension (normally a few hours or overnight). None of the stations visited were equipped with a shower facility or an outdoor exercise area which, given that persons rarely spent longer than 24 hours in a station, is understandable. Nevertheless, when new stations are built, or custody facilities renovated the authorities should envisage the installation of a shower for detained persons and a small outdoor exercise area for those persons who are held for periods in excess of 24 hours.

29. At the Rome State Police headquarters (*Questura*), seven of the 12 single occupancy cells were out of service at the time of the visit. Moreover, none of the five operational cells had either access to natural light or functioning artificial lighting; the foam mattresses and pillows as well as the toilets were all in a filthy state. The cells were totally unsuitable for holding persons even for very short periods and the delegation invoked Article 8, paragraph 5, of the Convention and requested that the Italian authorities take immediate steps to provide all five cells with functioning artificial light. Moreover, the delegation noted that the artificial lighting in the unused cells was dim and insufficient for reading purposes.

By communication of 31 May 2022, the Italian authorities informed the Committee that action was taken immediately to repair the faulty power line and restore the artificial lighting. Further, they stated that a contract was currently being tendered to upgrade the detention facilities in the *Questura*. **The CPT would like to be informed about the refurbishment works on the 12 cells and the timeline for their completion. Further, the CPT recommends that the artificial lighting in each cell be sufficient for persons to be able to read.**

30. At Milan State Police *Questura*, the main detention area consisted of 17 single occupancy cells of sufficient size, where were all under CCTV. The cells each had a plinth with a foam mattress and a used blanket and were equipped with a toilet and washbasin. Artificial lighting, controlled from outside the cells, was good and the windows could be opened for the purposes of ventilation. However, the cells were all filthy, strewn with detritus and empty plastic bottles. As a public health measure, the cells should be cleaned after each use and the blankets changed, which at the time of the visit was not the case.

31. At the Turin San Paolo State Police station, the six cells (10-12m²) were used for single or double occupancy, with one kept available for women. The cells were equipped with a raised concrete plinth and persons detained were provided with two clean blankets but no mattress. The artificial lighting was adequate but there was no access to natural light. Each cell was equipped with a working call bell and all cells were under CCTV. The toilets outside of the cells were clean as were the cells themselves.

32. The two cells (9m²) at the Rome State Railway Police “Lazio” at Termini Station were impeccably clean and were each equipped with a mattress, pillow and two quality blankets. Both had adequate artificial lighting and one had very good access to natural light via a large window. The holding cell, equipped with narrow fixed benches, was appropriate for detaining persons for short periods.

33. As for the four *Carabinieri* stations visited, the detention areas were mainly in a good state of repair. The cells, two in each station measuring 6 to 8m², were clean and equipped with a metal bed fixed to the floor, a washable mattress and a blanket. Artificial lighting was adequate in all the stations apart from Turin *Carabinieri* Oltre Dora Station where the lighting was insufficient for reading purposes. None of the cells had access to natural light.

At Turin Mirafiori *Carabinieri* station there was also a holding cell of 8m² equipped with metal benches of 40cm which was adequate for keeping persons for short periods.

34. The four cells of the Milan Municipal Police Bureau for Arrests and Apprehensions had just been renovated at the time of the visit and offered good conditions of detention. Both the two single-occupancy cells (7.5 m²) for arrested persons and the two cells for identification purposes (7m² and 14m²) offered good access to natural light and were equipped with a concrete platform, a clean foam mattress and an air-extraction system. All the cells were under CCTV. There were also two sanitary facilities with toilets and washbasin, both in a good state of repair and clean, which were accessible upon demand.

35. **The CPT recommends that the Italian authorities ensure that the cells in all law enforcement custody facilities are cleaned after each use and the blankets changed. Artificial lighting should be adequate for reading purposes. All cells should have a mattress and it would be preferable for all cells to be equipped with a washable mattress as was the case in certain stations visited.**

Further, as regards access to natural light, the provision of a shower and access to an outdoor exercise area, the CPT recommends that the Italian authorities take into account these requirements when constructing new police detention facilities or upgrading existing ones.

36. The delegation also received many complaints from persons met in prison who had recently been held in a State Police station that during their period of detention they had not been offered water nor provided with a warm meal if held throughout the day. The CPT considers that all persons held in police custody should be provided with ready access to drinking water and offered food three times a day, one of which should be a hot meal. At the *Carabinieri* stations visited, warm meals were offered to detained persons.

The CPT recommends that the Italian authorities ensure that all persons held in State Police stations are provided with ready access to drinking water and three meals a day, one of which should be warm. Every effort should be made to address the different cultural and dietary requirements of the persons detained.

B. Prison establishments

1. Preliminary remarks

a. recent developments

37. The CPT recalls that in October 2018, the Italian Parliament adopted long-awaited amendments to the 1975 Prison Law ("Ordinamento Penitenziario*" or* O.P.) consisting of three separate decrees, which introduced important modifications to the legal framework for prisons. These modifications included:

- *the adoption of a separate regulation for juvenile offenders;*
- *the obligation of doctors to accurately record and report to judicial authorities any injuries observed on inmates (both upon admission to prison and during incarceration);*
- *the increase of an entitlement to prisoners' daily outdoor exercise from two to four hours;*
- *the exclusion of healthcare staff from disciplinary proceedings against prisoners;*
- *the obligation to provide an individualised treatment programme for inmates and targeted activities for remand prisoners;*
- *the amelioration of poor material conditions inside cells in terms of heating and sanitary facilities (with the installation of showers in cells), and quality of food;*
- *the implementation of dynamic surveillance in all medium-security sections as of 2021.*

The 2022 visit was an also opportunity to examine the impact of this reform in the daily operation of the prisons visited. Further, the CPT has read with interest the report drawn up by the Commission on the reform of the prison system under Professor Marco Ruotolo (*Commissione per l'innovazione del sistema penitenziario*), which was finalised in December 2021.

The CPT trusts that any new reforms to the regulations governing prisons will also take into account the recommendations put forward by the Committee in this report.

38. The CPT has continued to follow closely the question of life imprisonment without the possibility of release (*ergastolo ostativo*) under Article 4-bis of the Prison Law if the persons concerned do not cooperate with the judicial authorities as set out in Article 58-ter of the Prison Law.[20] The 2019 European Court of Human Rights judgment in the case of *Marcello Viola v. Italy (No.2)* regarding this question found that the institution of *ergastolo ostativo* focuses solely on the lack of co-operation with the justice system and does not consider the reintegration process nor any progress made by prisoners when deciding on conditional release. It held that the irrefutable presumption of dangerousness has the effect of depriving the applicant of any realistic prospect of release and was thus in breach of Article 3 of the European Convention of Human Rights (ECHR).

Further, in decision No. 253 of 2019, the Italian Constitutional Court declared that Article 4-bis of the Prison Law was not in conformity with Article 27 of the Constitution in so far as it prohibited the granting of permits to prisoners who did not cooperate with the justice system The Court gave the Government until May 2022 to address the matter. At the time of the visit, a bill was being discussed in the Parliament but there appeared to be no consensus on the reform required and in early May, the Constitutional Court gave the Parliament an additional six months to propose a solution.

The CPT would like to be informed of the measures envisaged by the Italian authorities in light of the decisions by the European Court of Human Rights and the Constitutional Court to reform the institution of *ergastolo ostativo*.

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20 See CPT/Inf (2020) 2, paragraph 10.

39. As with other prison systems in Europe, the Covid-19 pandemic has impacted on the functioning of prisons significantly in Italy. At the outset of the pandemic in March 2020, there was an outbreak of disturbances in a number of prisons which resulted in the death of 13 prisoners, nine of whom died at Modena Prison from an excessive consumption of methadone and psychotropic drugs obtained from the prison infirmary which they had ransacked. Following the riots, staff in several prisons meted out reprisals, most infamously at Santa Maria Capua Vetere Prison where, on 6 April 2020, prison officers were captured on CCTV beating prisoners (see Section 2 below).

The Italian Prison Administration (*Dipartimento dell'amministrazione penitenziaria* or DAP) put in place quarantining measures for all persons entering prison and at the same time limited contacts with the outside world, whether regarding family visits, leave periods or activities offered by non-prison staff. In compensation, prisoners were given the opportunity to stay in touch with their families through videoconferencing and emails. To reduce the pressure on prisons, there was an increase in the use of non-custodial measures (house arrest and electronic surveillance) and a reduction in court activity which, combined, resulted in a 13% drop in prison numbers in the year to February 2021 (see paragraph 41).

40. At the time of the visit, the prisons were slowly opening up again. Prisoners entering the penitentiary system would have to undergo a PCR test and be quarantined for five days at the end of which they would take a second test. If this test was negative, they would be transferred to an ordinary accommodation wing. If positive, they would be quarantined for a period of 14 days. At the time of the visit, in the prisons visited, more than 90% of prisoners had two Covid-19 vaccination injections and many had also received a booster. The number of positive cases was generally low and most of them were asymptomatic;[21] nevertheless, Covid-19 continued to have a disruptive effect on the prisons visited.

The CPT would like to be provided with an update on the current situation regarding Covid-19 in prisons and on whether any restrictions on prison life remain in place.

b. overcrowding

41. At the time of the March/April 2022 visit, the prison population in Italy stood at 54 609[22] for an official capacity of 50 853 places (that is, an occupancy level of 107.4%). In reality, the occupancy level is closer to 114% as some 3 000 prisoner places were not in use for a variety of reasons. Moreover, a number of individual prisons had occupancy rates that were above 140% of their official capacity such as Monza, Lorusso e Cutugno (Turin) and Regina Coeli (Rome) Prisons.

42. Prison overcrowding has been a long-term structural phenomenon affecting the Italian prison system. Following the 2013 European Court of Human Rights pilot judgment *Torreggiani v. Italy* which confirmed the structural and systemic nature of prison overcrowding, the Italian authorities managed to reduce the prison population by 18 % from 65 701 in 2013 to 53 495 in 2016. Further, the overall capacity of the prison estate was increased from 47 040 to 49 545 places.

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21 See Guidelines on "Management of Covid-19 in Italian detention facilities" of August 2020 and the follow-up to Covid-19 cases and measures to be taken in prisons as adopted by the Prison Administration (Circular letters GDAP 22/10/20 03773655.U – GDAP 02/11/20 0388717 – GDAP 10/11/20 0401524.U).

22 That is, a prison population rate of 93 per 100 000 inhabitants.

However, thereafter the prison population began to steadily rise again and by February 2020 had reached 61 230 for a capacity of 50 514 places (that is, an occupancy level of 121%). The outbreak of the Covid-19 pandemic saw the Italian authorities take a series of measures to decrease the number of persons in prison which resulted in the prison population dropping significantly to 53 297 persons by February 2021. With the ending of the Covid-19 pandemic and the return to a normal functioning of the judiciary, the prison population has begun to increase once again.

43. In their response to the CPT's 2019 visit report, the Italian authorities, stated that their plan was to expand the prison estate capacity to 60 000 places within a period of five years.[23] However, at the time of the 2022 visit, the Head of the DAP informed the delegation that the current plan was limited to building eight new pavilions[24] in existing prisons at a cost of 60 million euros each under the EU Recovery and Resilience Plan fund. No timeline was envisaged for the entry into service of these new pavilions, but it would not be before 2026.

44. The CPT recalls that the official capacity of the Italian prison estate is calculated on the basis of a minimum living space of 9m² per person in a single-occupancy cell and 5m² per person in multiple-occupancy cells. The system of real time monitoring of living space in every prison, as well as the preventive mechanism introduced after the pilot judgment of *Torreggiani vs. Italy* (see paragraph 41), has been designed to ensure that no person in prison is accommodated in a cell with less than 3m² of living space.[25] However, in the CPT's view every prisoner should be offered a minimum of 4m² of living space in multiple-occupancy cells, excluding the sanitary annex,[26] and offered a daily regime which affords them eight out-of-cell hours engaged in purposeful activities. As of 27 April 2022, 9 880 persons in Italian prisons were being held in less than 4m² of living space each. In addition, few of the prisoners met in the four establishments visited were offered a purposeful regime of activities.

45. Further, the CPT wishes to stress that a prison cannot function effectively if it is operating at 100% of its capacity. There must always be some margin for transferring incompatible prisoners from one wing to another or for receiving additional prisoners or for taking back prisoners on temporary release. The Council of Europe's *White Paper on Prison Overcrowding* states that "if a given prison is filled at more than 90% of its capacity this is an indicator of imminent prison overcrowding. This is a high-risk situation, and the authorities should feel concerned and should take measures to avoid further congestion."[27]

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23 See CPT/Inf (2020) 3, page 4.

24 With workshops and common areas on the ground floor and cellular accommodation on the upper floor.

25 See Grand Chamber judgment in case of *Muršić v Croatia* of 20 October 2016 and, in particular, paragraphs106 and 139 relating to the criteria for finding a violation of Article 3 where the living space per person is between 3m² and 4m².

26 See the CPT document "Living space per prisoner in prison establishments: CPT standards" CPT/Inf/2015 44.

27 See Section 20 of White Paper on Prison Overcrowding – CM(2016)121-add3, 23 August 2016.

46. **The CPT reiterates its recommendation that the Italian authorities take action to ensure that all persons in prison are provided with at least 4m² of living space in multiple-occupancy cells; the Italian authorities should nonetheless strive to comply with the national minimum standard set forth in its legislation.**

Further, the CPT recommends that rigorous action is required to bring the prison population down below the number of places available within the prison estate and to put an end to overcrowding. In this respect, emphasis should be placed on the full range of non-custodial measures capable of providing judicial supervision during the period preceding the imposition of a sentence, as well as on measures to accelerate a prisoner's release, including through supervisory means tailored, *inter alia*, to the prisoner's personality and the nature of the sentence.[28]

The CPT would also like to be informed in detail of the ongoing projects to increase the capacity of the prison estate, notably the eight new accommodation pavilions, including both the timeline for completion of the project and the number of places being constructed.

c. prisons visited

47. The CPT's delegation visited Monza Prison for the first time and carried out follow-up visits to San Vittore Prison in Milan and Lorusso e Cutugno Prison in Turin. It also paid a targeted visit to Regina Coeli Prison in Rome.

48. San Vittore Prison, opened in 1879 and located in central Milan, is the main remand prison in Lombardy. At the time of the visit, it was accommodating 841 men for 699 places and 78 women for 47 places (that is, an overall occupancy level of 113%). There were 377 men on remand awaiting their first instance court decision, 238 awaiting the final court decision, and 222 men with a final sentence. There were also four persons serving a security measure. One of the consequences of the Covid-19 pandemic was that prisoners with a final sentence were not being transferred to another prison to serve their sentence for considerable periods thus placing further pressure on the overcrowded facility. Further, 61% of prisoner population were foreign nationals (520 men and 41 women).

The prison has a radial layout with six wings of four floors and provides both single/double occupancy cells as well as cells accommodating five to seven persons. Wings 2 and 4 were closed for renovations at the time of the visit.

49. Monza Prison, opened in 1992 and located just north of Milan, is a medium security establishment accommodating both remand and sentenced male prisoners. At the time of the visit, it was holding 618 persons, of whom 211 were on remand and 407 were sentenced, for an official capacity of 407 (that is, an occupancy level of 152%). Foreign national prisoners made up 48% of the prison population. The prison has a complex layout with the 8 accommodation sections each containing 25 cells (9m² excluding the sanitary annexe), many of which held three persons. There were also special sections for prisoners on protection and those with a mental health disorder or health care issue. A stand-alone section with 80 places inside the secure perimeter was in the process of being renovated and expected to enter into service shortly.

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[28] See, for example, the *White Paper on Prison Overcrowding (op.cit.)*, Recommendation CM/Rec (2017) 3 on the European Rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole) and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules.

50. Lorusso e Cutugno Prison, opened in 1985 and located in Turin, is a medium security facility accommodating both remand and sentenced prisoners. At the time of the visit, it was accommodating 1 457 persons for an official capacity of 1 042 (that is, an overall occupancy level of 139%). There were 1 340 men and 114 women, of whom 516 were on remand and 940 were sentenced and one person was on a security measure. Foreign national prisoners made up 45.5% of the population (that is, 663 persons). The prison has five main pavilions, two of which (B and C) are composed of 12 accommodation sections spread across three floors and together accommodate 916 prisoners. Pavilion A accommodates the high security, substance use, mental health and healthcare sections, Pavilion D is the segregation unit, Pavilion E accommodates workers, those engaged in substance use programmes and those in higher education while Pavilion F holds women.

The prison also contains a specialised psychiatric unit ("*il Sestante*"), the largest such unit in the country, which had been criticised by the CPT in the past.[29] Following an outcry by the NGO *Antigone* over the conditions in which patients were being held, the two units were closed down in November 2021 in order to be completely refurbished. It should also be noted that this large complex prison has been lacking a stable leadership since the former director left in 2020 following the revelations of alleged ill-treatment by some 22 prison officers of prisoners dating back to April 2017 and October 2019. The current acting director only took up her post in mid-January 2022.

51. Regina Coeli Prison, opened in 1892 and located in the Trastevere neighbourhood of Rome, is a medium security facility, accommodating both remand and sentenced prisoners. At the time of the visit, it was accommodating 931 persons for an official capacity of 615 (that is, an overall occupancy level of 152%). There were 189 men on remand awaiting their first instance court decision, 237 awaiting the final court decision, and 505 men with a final sentence and eight persons serving a security measure. Foreign national prisoners made up almost 50% of the population (that is, 469 persons). The prison has eight main accommodation wings and an in-patient medical centre. The prison is a listed building and renovations in certain areas are not permitted such as Wing 5 where it is necessary to bend down to get through the doorway of each cell.

2. Ill-treatment

52. In the course of the 2022 visit, the vast majority of persons in the prisons visited informed the delegation that custodial staff behaved correctly towards them. In those sections where the prison officers were located within the wings, affording more direct contact between the staff and the prisoners there was a greater appreciation of the officers. At the same time, many prisoners stated that they had little contact with custodial officers.

In each of the prisons the delegation received a few allegations of ill-treatment of prisoners by staff but these did not result in a medical note or a complaint, and often concerned persons who had difficulties expressing themselves clearly. Further, the allegations tended to refer to events that had occurred in 2019 and 2020. It was notable at Turin Lorusso e Cutugno Prison that there was a general sentiment by prisoners that staff had become less aggressive in their interventions in the last two years. Nevertheless, there can be no room for complacency.

53. From the information gathered during the visit, there does seem to be a continuing need to provide improved training to custodial officers on how to manage challenging prisoners and, if recourse to use of force is necessary, how to apply control and restraint measures in a professional manner which does not result in injuries to either the staff or the prisoner concerned.

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29 See the report on the 2016 visit: CPT/Inf (2017) 23, paragraph 62.

For example, at Monza Prison, a foreign national prisoner explained that when he had refused an order to go to his cell a prison officer had pushed him violently from behind causing him to bang his head on the side of the cell door. The medical record noted he had suffered accidental trauma to his head in his cell, that he had a deep laceration in his upper frontal region and that stitches were applied. He stated that he had not made a complaint as he thought that that would lead to difficulties with the prison officers.

54. Further, at San Vittore Prison, the delegation met a person who had had the two phalanges of the little finger of his right hand amputated[30] on 10 August 2021, after they had been crushed following the violent closure of the *blindo* (the grated inner door) of his cell. The report submitted by the prison to the *Garante* on 25 November 2021 stated, *inter alia*, "the inmate refused to take the prescribed medication and put in place many bizarre and aggressive acts such as denudation, continuous throwing of objects, food and liquids out of the sleeping room. All these conducts made it necessary to proceed with frequent closing and opening of the *blindo*. Viewing the videos does not allow to deny or confirm whether the closure of the door by the prison police personnel may have caused the incident". The fact that this incident took place in the CAR cell (that is, a cell in which vulnerable persons requiring intensive observation were placed) is an increased cause for concern. In the course of the 2019 visit, the CPT had also come across at least one case of a prisoner with a mental disorder having two of his fingers crushed by the *blindo* being slammed shut.[31]

55. The Committee recalls that any form of ill-treatment is unlawful and unacceptable and must be subject to appropriate sanctions.

The CPT recommends that the DAP and the senior management in each prison remain vigilant and ensure that custodial staff understand that all forms of ill-treatment, including excessive use of force and verbal abuse of persons in prison are not acceptable and will be dealt with severely.

Further, the CPT recommends that the Italian authorities continue to invest in training to upgrade the skills of prison staff in handling high-risk situations without using unnecessary force, by providing training in ways of averting crises and defusing tension and in the use of safe methods of control and restraint, particularly of inmates with a tendency to self-harm and with a mental disorder.

In addition, the CPT would like to be informed about the number of cases whereby prisoners have had their fingers caught in a *blindo* being closed which necessitated medical treatment for the years 2021 and 2022.

56. As mentioned in paragraph 38 above, following the riots of March 2020, reprisals by prison officers were allegedly carried out in several prisons, with the mass beating of prisoners by prison officers at Santa Maria Capua Vetere Prison on 6 April 2020 being captured on CCTV. The prosecution of 107 prison officers and managers involved in this incident is currently underway. Incidents at other prisons where alleged reprisals by prison officers took place are also the subject of an investigation.

Further, the CPT has also been following the investigations into incidents of alleged ill-treatment by prison officers of prisoners at Turin Lorusso e Cutugno Prison from 2017 to 2019, notably in Pavilion C of the establishment, and the indictment by the prosecutor of up to 24 staff members, including the former Director and the former Chief Prison Officer. The Committee understands that the trial of the prison officers will not begin until 4 July 2023 and that a number of the officers are now working again at the prison. If this is the case, they should only be assigned to areas where they do not have to work directly with prisoners.

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30 The Milan *San Giuseppe* hospital discharge letter stated: "5th finger sub-amputation, right hand. Given the type of the injury (tear), condition of the vessels and the site of injury (Zone 2), there is no indication for re-implantation".

31 See the CPT report on the 2019 visit: CPT/Inf (2020) 2, paragraph 15ii.

In addition, the CPT understands that an investigation has been opened into why the Viterbo Prosecutor's Office did not investigate the alleged incident of ill-treatment at Viterbo Prison which had been raised by the *Garante* of the Lazio Region in 2018. The CPT had referenced this case and others in its report on the 2019 visit and had been critical of the investigation.[32] In particular, the CPT recalled that whenever a prosecutor is informed of a case of alleged physical ill-treatment of an inmate by custodial staff a comprehensive and prompt investigation should be carried out. Notably, the prosecutorial authorities should not satisfy themselves simply with the version of events provided by prison staff but should actively order a forensic medical examination in case an alleged victim of ill-treatment displays injuries, collect relevant evidence (for example, CCTV recordings of detention facilities), interview a wide range of witnesses and challenge contradictory statements by prison officers.[33]

57. The CPT would like to be informed about the investigations and their outcome, as well as of any criminal proceedings, relating to the cases raised at Santa Maria Capua Vetere Prison, Turin Lorusso e Cutugno Prison and Viterbo Prison. Further, it would like to receive confirmation that those prison officers who are under investigation for alleged ill-treatment of prisoners are no longer engaged in a role in which they have direct contact with persons in prison pending the outcome of their processes.

58. The delegation received many accounts of inter-prisoner violence and intimidation in the prisons visited, notably at Turin Lorusso e Cutugno and Rome Regina Coeli Prisons. The accounts concerned mainly beating with punches and kicks although in the latter prison, the delegation met a prisoner who had been stabbed in the upper leg and had been transferred to hospital for treatment (including 20 stitches). The persons met complained about the lack of support from staff. In this respect, the fact that prison officers are located outside each accommodation section means that they are often not aware of incidents of inter-prisoner violence until after they have occurred. In such cases, they relied upon being alerted by prisoners about an incident, which did not always happen promptly.

For example, in the protected prisoner sections of the above-mentioned prisons, persons stated that they did not feel safe, and the delegation received many accounts of inter-prisoner violence. On the other hand, at Milan San Vittore Prison, persons in the protected prisoners section stated that they did feel safe. It is not surprising that this was the only protected section where the prison officers were present inside the wing and where a degree of dynamic security was in place.

The CPT recommends that the Italian authorities put in place a comprehensive strategy for preventing inter-prisoner violence and intimidation through the promotion of a real dynamic security approach by prison staff and the development of anti-bullying protocols to complement the cell share risk assessments carried out upon admission as well as through reducing overcrowding in prisons.

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32 See the CPT report on the 2019 visit: CPT/Inf (2020) 2, paragraphs 14 and 18.

33 See *inter alia* the ECtHR judgments in the cases of *Cestaro v. Italy* of 7 April 2015 and of *Baranin and Vukčević v. Montenegro* (paragraph 142) of 11 March 2021.

3. Restrictive measures and separated regimes

59. The report on the CPT's 2019 ad hoc visit revisited several specific restrictive measures and regimes in place for managing particular groups of prisoners.[34] These measures concern notably court-imposed solitary confinement (*isolamento diurno*) under Article 72 of the Criminal Code, the regime of special surveillance under Article 14-bis of the Prison Law for persons who threaten the good order of a prison (*sorveglianza particolare*), the special detention regime under Article 41-bis of the Prison Law and the separation of prisoners who display challenging behaviour under Article 32 of the Prison Regulations. The main recommendations reiterated in the 2019 visit report on these matters have not been implemented to date. At the end of the 2022 visit, the CPT's delegation met with the Minister of Justice and the Director of the DAP to discuss the reform of these measures.

a. court-imposed solitary confinement (*"isolamento diurno"*)

60. The CPT has repeatedly expressed its misgivings that a criminal court, pursuant to the provisions of Article 72 of the CC, may order a prisoner responsible for the commission of multiple crimes which are punishable with life imprisonment, to serve part of the sentence in solitary confinement *("isolamento diurno")* for periods ranging from two months to three years. As of 30 April 2022, there were 323 life sentenced prisoners serving a period of court-imposed solitary confinement as part of their sentence.

Persons subject to the "*isolamento diurno"* measure are offered one hour of outdoor exercise per day alone, with no possibility of socialising with other inmates. Visits from educators and psychologists are available upon request.

61. Further, it is usually the case that a court-imposed period of "*isolamento diurno"* is carried out after the person has already been in prison for several years, has no disciplinary record and is fully engaged in a work, treatment and re-socialisation path in the mainstream population. In some cases, the persons to serve such a measure are already working outside the prison under Article 21 of the Prison Law. For example, the delegation met a person at Turin Prison who had been remanded to prison in 2015 and during his time in prison had had no disciplinary sanctions and who had a job cleaning the staff offices. In December 2021, following the confirmation of his final sentence, he had been placed in "*isolamento diurno"* for a period of six months which he had difficulties coping with.

62. The CPT recalls once again the generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment. Imprisonment is a punishment in its own right and potentially harmful aggravations of a prison sentence as part of the punishment are not acceptable. Given the potentially harmful effects of long-term isolation for the prisoners concerned, the principle of proportionality requires that any solitary confinement-type regime is only imposed on the basis of an individual risk assessment and only for the shortest possible time. The prolonged and punitive measure of "*isolamento diurno"* is, in the CPT's view, an anachronistic measure which does not have any penological justification and hence should be abolished.[35]

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

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34 See the report on the 2019 visit to Italy: CPT/Inf (2020) 2, paragraphs 37 to 44 and 48 to 57.

35 In paragraph 77 of the 25th annual report on its activities (CPT/Inf (2016) 10), the CPT has stressed that *"the imposition of the detention regime of life-sentenced prisoners should lie with the prison authorities and always be based on an individual assessment of the prisoner's situation, and not be the automatic result of the type of sentence imposed (that is, the sentencing judge should not determine the regime)"*.

b. prisoners subject to the "41-bis" regime

63. The CPT recalls that the special detention regime under Article "41-bis" of the Prison Law applies to prisoners who have been convicted for or are suspected of having committed an offence in connection with mafia-type, terrorist or subversive organisations, and who are considered to maintain links with such organisations.[36] The special regime consists of the segregation in small groups of up to a maximum of four persons, who can associate together for two hours per day (generally one hour of outdoor exercise and one hour in a community room). Serious limitations are imposed on prisoners' contact with the outside world: one one-hour visit per month with a family member, under closed conditions and with audio surveillance and videorecording or, alternatively, a ten-minute telephone call per month if a visit cannot take place during the same period. Placement in the regime is based upon an individual decree of the Minister of Justice for an initial period of four years, subject to further reviews every two years, which can be appealed to the Rome Supervisory Court.

64. Further, the authorities have determined that for certain prominent members of a criminal organisation in prison there is a necessity to ensure an *"absolute impossibility"* for them to communicate with other prisoners. These persons are held in a separate sub-section (known as the "*area riservata"*) of the "41-bis" detention unit, in individual cells, and are only permitted to associate with one other person.[37] At the time of the CPT's 2022 visit, 50 persons were accommodated in an "*area riservata"* in various prison establishments.

Placement in the "*area riservata"* is based on an assessment by the DAP and justified under Article 32 of the Prison Regulations which prisoners cannot challenge. Further, the second person designated to join an "*area riservata" i*s chosen from among the ordinary "41-bis" prisoners by decision of the DAP without the prisoner being consulted or having the possibility to challenge his placement. Given the implications on the quality of his detention conditions, such a placement should be on a voluntary basis.

65. The management of prisoners subject to a "41-bis" regime was a topic of discussion when the delegation met the Minister of Justice and Director of the DAP at the end of the visit. The regulations governing the situation of "41-bis" prisoners has not changed since the 2019 visit and the CPT's recommendations contained in its report on the 2019 visit have not been addressed. In the report on the 2019 visit CPT had called upon the Italian authorities to review the operation of the "41-bis" detention regime bearing in mind Article 27, paragraph 3, of the Italian Constitution.

In particular, the Committee had recommended that all persons be:

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

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36 This special regime was introduced in 1992 as a temporary emergency measure which empowered the Minister of Justice to suspend, on his/her own initiative or at the request of the Minister of the Interior, the application of the prison rules to sentenced and specially selected remand prisoners .With the adoption of Law No. 279/2002, the temporary provisions governing the "41-bis" regime were given a permanent character and the legal foundations for its renewal and extension were laid down. Subsequently, Law 15/07/2009 No. 15 stipulated more stringent restrictions for persons subject to the "41-bis" regime.

37 Normally, the social group consisted of a prominent member of a criminal organisation and an ordinary "41-bis" prisoner selected by the DAP.

Further, the CPT had reiterated its recommendation that *the placement of any prisoner in an "area riservata" should be limited in time* and subject to monthly reviews. In addition:

- *whenever Article 32 of the Prison Regulations is applied to confine "41-bis" prisoners in social groups of two under harsher conditions in the so-called "area riservata", the prisoners concerned should have the right to challenge the measure before the competent supervisory court;*
- *the choice of the second "ordinary" prisoner to complete an "area riservata" should be made exclusively on a voluntary basis.*

The CPT would like to be informed by the Italian authorities of the steps being taken to implement the above recommendations which, in the CPT's view, could be achieved through the adoption of a revised Circular issued by the DAP regulating the "41-bis" regime.

c. prisoners subject to a measure of separation

66. Article 32 of the Prison Regulations provides for the separation and assignment to special sections of those prisoners who display particularly challenging behaviour.[38] Their placement should be reviewed every six months by the prison management. As of March 2022, there were 45 sections accommodating 1 008 persons separated under Article 32 in the Italian prison system.

At both Milan San Vittore and Monza Prisons, the delegation visited the sections accommodating persons separated under Article 32.

67. At Milan San Vittore Prison, two small units on the ground floor of Wing 6 were used for holding 28 persons separated under Article 32. It also included persons present for disciplinary and self-isolation reasons. The cells were in a state of dilapidation, and otherwise similar to the conditions found in other parts of the establishment. The regime consisted of four hours of out-of-cell time (9:00 to 11:00 a.m. and 1:00 to 3:00 p.m.) during which they could access the outdoor yard. However, they were not offered any educational or vocational courses or the possibility to work which meant that they remained locked in their cells for 20 hours each day with no organised activity.

68. At Monza Prison, persons separated under Article 32 were placed in Section 1 which was accommodating 45 persons at the time of the visit. The section consisted of 25 cells of approximately 10m² equipped with a bunk bed, a table and two chairs and a cupboard for personal belongings. A fully partitioned sanitary annexe consisted of a toilet, a basin and a bidet. Access to natural light was obscured by each window having a double set of bars and a metal mesh on the outside. All persons were offered two hours of outdoor exercise in the morning and three hours of association time within the section each afternoon (often longer) either hanging out in the corridor or the two common rooms, where they could play some boardgames. No organised activities were offered, and the only work consisted of distributing the meals on a two-week rota basis.

However, more than half of the persons in Section 1 were not placed there under Article 32 but because they did not want to move to an "open" section (10 persons) or because they had a job and preferred not to move to another section (13 persons). The regime for these 13 persons was different in that they did have access to activities outside of the unit, notably the gym.

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38 Article 32 of the Prison Regulations states: *"Inmates and internees who display a particularly challenging behaviour shall be assigned to specific establishments and sections for the prevention of possible acts of intimidation and inter-prisoner violence. Further, specific sections may be created for that purpose but the placement of an inmate must be subject to individual regular reviews in order to assess the persistence of the reasons of his/her separation from the mainstream population."*

69. From the information gathered during the visit, it was apparent that the Article 32 units were being used to allocate persons with a wide variety of challenges. The main purpose appeared to be the placement of persons who were deemed to pose a threat to the order and security of the prison (*ordine e sicurezza*) or who were awaiting a disciplinary decision, following a violent incident or the discovery of an illicit item. However, in addition these units held persons who were considered vulnerable (e.g. physical and mental disabilities), on protection (e.g. former justice collaborators) and workers, who were all generally content to be in a unit which they considered calmer and less crowded than the open units.

The placement decisions and reviews (six-monthly but usually more frequently) did not always provide clear reasoning for the measure or its maintenance. Further, there was no possibility to appeal the placement decision.

70. The CPT understands the good intentions of the prison management in both establishments to find an appropriate placement for challenging persons. Nevertheless, whenever prisoners are placed in a more restrictive regime both the initial placement decision and the review decisions must be reasoned. Further, an avenue should exist to appeal such decisions to an independent body.

In addition, the CPT must stress that it is crucial that prisoners held in an Article 32 separated regime unit are provided with a tailored activity programme comprising purposeful activities of a varied nature (including work, education, association and targeted rehabilitation programmes). This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a psychologist and an educator), in consultation with the person concerned.

Further, the prison staff allocated to such units should spend the majority of their time on the unit mixing with the prisoners and not based outside the wing undertaking a passive observation role (see paragraphs 95 to 98 on dynamic security by staff below).

71. The CPT reiterates its recommendation that the Italian authorities review the application of Article 32 of the Prison Regulations with a view to ensuring that the placement and any renewal decision are fully reasoned. Further, all persons subject to a separation measure under Article 32 should have the right to appeal the placement to an independent body.

72. The CPT also recommends that the Italian authorities introduce a programme of individually tailored activities overseen by a multi-disciplinary team for all persons subject to a separation measure under Article 32. These activities should be an integral part of the sentence plan to assist the prisoners transit out of the separation unit and back into ordinary accommodation units as well as part of the preparation for reintegrating into the community.

4. Conditions of detention

73. The conditions of detention in the four prisons visited could generally be considered as poor. It is not only in the 19th century prisons of Milan and Rome that the material fabric of the buildings is showing signs of serious decay and dilapidation but also in the "modern" prisons of Monza and Turin. The absence of any meaningful regime in these prisons for most persons is a further aggravating factor. That such a situation may arise is not surprising when prisons are being crammed with 50% more persons than they were designed to house. Even if providing all persons with a minimum of 3m² of living space in prisons might avoid a finding of a violation of Article 3 of the ECHR, it is a reductive approach which will not prevent the further deterioration of living conditions in prisons nor assist the reintegration of persons in prisons back into the community.

74. The October 2018 reform of the Prison Law introduced several important provisions to improve the conditions of detention and the regime offered to persons in prison. These included the improvement of the cell sanitary facilities (full partitioning of sanitary annexes and the installation of in-cell showers), the heating of cells "as required by the weather conditions" and better-quality food. Further, Article 10 of the Prison Law now states that "courtyards should be adequate in size and design and equipped with shelters against inclement weather".

As regards the regime, the minimum requirement of outdoor exercise was increased from two to four hours per day. Remand prisoners have the right to purposeful activities and sentenced prisoners should now receive more attention in terms of re-socialisation activities of an educational and vocational nature. Individual treatment plans should be more detailed and subject to more frequent and timely reviews.

The reform represents a positive development once fully implemented.

a. material conditions

75. At Milan San Vittore Prison, most prisoners were accommodated in cells of 9.5m² designed for accommodating one or two persons whereas they mainly held three persons. They were furnished with a bunk bed and a single bed as well as a table and chairs, and cupboards for personal belongings. The larger cells measuring 21m² contained six or seven beds (two/three sets of bunk beds and one/two single beds), two tables and five or six chairs and some cupboard space. The fully partitioned sanitary annexe contained a toilet and a sink, although in some cells (e.g. Wing 3), there was also a shower. There was a small space next to the sanitary annexe where persons could prepare food using a small gas camping cooker. The radiators in most of the cells visited were broken and many complaints about the cold were received by the delegation.

76. At Monza Prison, prisoners were mainly accommodated in cells of 10.5m² designed for accommodating two persons; however, many of them held three persons. They were furnished with one set of bunk beds and a military style camp-bed or a mattress on the floor as well as a table and stools, and cupboards for belongings and a fridge. The fully partitioned sanitary annexe contained a toilet and a sink. Many of the cells and sanitary annexes were dirty and dilapidated, and many complaints were received about the mattresses and the presence of cockroaches.

The walls and ceilings of the communal showers in certain sections (e.g. Section 5) were impregnated with green mould and many of the showerheads were broken. In addition, there were many complaints about both the lack of water pressure and the tepid temperature of the water.

77. By communication of 31 May 2022, the Italian authorities informed the Committee that refurbishment work at Monza Prison on the hydraulic plants and boilers had been completed and the observed water problems resolved. They also explained that the grates on the cell windows, which impeded access to natural light, had been installed with the support of the regional healthcare authorities to combat the hygiene problems caused by the mounds of rubbish being thrown out of the cells onto the ground below.

This is a common challenge encountered by prison authorities in many countries. To counter the potential hygienic problems caused by the rubbish, prisoner clean-up crews could be organised to tidy the areas affected every day. In parallel, efforts should be made to educate prisoners not to dispose of their rubbish out of the windows for the well-being of the community. The staggering of the removal of the window grates floor by floor might facilitate such an approach. **The CPT would appreciate the views of the Italian authorities on this matter.**

78. At Turin Lorusso e Cutugno Prison, the two main accommodation blocks for ordinary prisoners, Pavilions B and C, were holding 916 persons for an official capacity of 546 (that is, an occupancy level of 168%) and the material conditions in these two pavilions were particularly poor. Cells of 8m² designed for one person were mostly accommodating two persons. The cells were equipped with a bunk bed, a table and two stools and cupboards. A fully partitioned sanitary annexe contained a toilet and a sink. However, there was general neglect of the premises with the cells and common areas dirty and dilapidated. Sections 10 and 11 in the B Block appeared in an even worse state with many cells having broken windows and furniture, and multiple persons complaining about bed bugs. The communal shower rooms, where dishes were also washed, had green/grey mould on the ceilings and, bizarrely, the temperature of the water for the showers was controlled by running the taps in the basins. Considerable amounts of water were wasted.

79. At Rome Regina Coeli Prison, the delegation focused its attention on Section 7 which was a closed unit for recent arrivals, Covid-19 positive cases and for persons deemed challenging or undergoing a disciplinary measure. It also visited Section 8 for prisoners on protection and the mental health and infirmary sections as well as Section 3, where the multiple-occupancy cells (*circa* 30m²) accommodating six persons offered acceptable conditions, apart from complaints of cold water only showers in winter. A specific deficiency noted in Section 8 was the absence of any heating system and the delegation received many complaints from prisoners about being cold in winter.

80. The cells in Section 7 measured 9m² and were equipped with either a bunk bed or a triple bunk bed. Included within each cell was a cooking corner (1.5m²) via which access to the sanitary annexe (toilet and basin) was reached. Many of the cells were in a dilapidated state with mould evident and plaster falling off the ceilings. The foam mattresses in many cells were dirty and falling apart and not all cells were equipped with a table and chairs or a TV and many persons complained about not having been provided with a pillow and in some cases even a blanket.

Further, the delegation also found that the external shutters placed in front of the cell windows resulted in the cells not having access to natural light, which meant that in order to read or write the artificial lighting of the cell had to be switched on permanently.

Given that persons in this Section were spending 23 and a half hours locked in their cell, with all persons offered fewer than 30 minutes of access to the outdoor yard every day, such conditions may in certain cases amount to inhuman and degrading treatment.

81. At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention and requested that the Italian authorities ensure that all prisoners are offered a minimum of one hour of outdoor exercise every day and that they remove the external shutters from outside the cell windows in order to enable prisoners to have access to natural light.

By communication of 31 May 2022, the Italian authorities responded that due to the proximity of private residences to the prison and multiple complaints in the past by local residents of harassment by prisoners, it was deemed necessary to maintain the shutters on certain of the cell windows in Section 7.

82. The CPT recommends that the Italian authorities ensure that persons placed in a cell with a window shutter are only held there for short periods of time. Further, prior to the placement of a person in such a cell there must be an assessment as to whether the placement might be detrimental to their wellbeing. Particular attention should be paid to persons with a mental illness or other vulnerability and to newly admitted prisoners.

Moreover, the CPT would like to be informed about the number of cells concerned and to receive information on the length of time that persons have been placed in these cells for the period 1 September to 31 October 2022.

83. As regards access to outdoor exercise, the communication of 31 May 2022 informed the CPT that "prisoners always benefit from two hours of outdoor exercise per day, and in any case not less than one hour of outdoor exercise a day." This was certainly not the case at the time of the visit.

The CPT recommends that the senior management of Regina Coeli Prison are vigilant in monitoring that all prisoners are offered at least one hour of outdoor exercise every day.

84. **The CPT recommends that the Italian authorities invest greater efforts to maintain and repair the material conditions in the prisons visited. In particular, all cells should be equipped with the appropriate furniture for the number of occupants, radiators should function, and windows repaired rapidly when broken. Steps should be taken to address the pervasive mould in the common washrooms, to fix the showerheads and to improve the provision of hot water. In addition, the cells in Section 8 of Rome Regina Coeli Prison should be equipped with heating devices before the onset of winter.**

The CPT wishes to receive an account of the actions taken to improve the material conditions in each of the four prisons visited by its delegation.

85. In all four prisons visited, the delegation met numerous prisoners who were indigent who were not being provided with sufficient hygiene and cleaning products or even clothing and footwear to afford them a minimum standard of basic living conditions. Many of these persons were foreign nationals. For example, at Turin Prison in Section 10 of Pavilion B, the delegation met several persons who had arrived in prison several weeks earlier but who were still wearing the same set of clothing in which they had been arrested. Further, they explained that while they received a hygiene kit (toilet paper, toothbrush and paste and small cup of shampoo) upon arrival, there was no regular distribution of such products nor of cleaning products. Instead, those in need were supposed to seek support from the chaplaincy and other prison volunteers. As a consequence, these prisoners were "begging" for support from other prisoners who had access to some financial resources. Such a situation is a cause for concern regarding the exploitation of indigent persons as well as heightening instances of bullying and intimidation and even violence.

86. In response to the findings outlined at Rome Regina Coeli Prison, the Italian authorities informed the CPT, by communication of 31 May 2022, that steps were taken by the Lazio Regional Director and by the director of the prison to ensure that appropriate stocks of personal hygiene products were purchased and distributed on a regular basis to persons in need.

87. Recognising the importance of ensuring that all persons in prison should enjoy a minimum standard of basic living conditions, the CPT set out in its 30th General Report of May 2021 what it considers should constitute a decency threshold in prison.[39] At a minimum, it considers all persons should have:

- *access to sufficient clean drinking water;*
- *adequate food: both in quantity and nutritional value;*
- *decent sleeping and living conditions and the means to keep clean: proper sanitation, including toilet and shower facilities, washing water, cleaning products, laundry, personal hygiene products;*
- *effective access to, and fair remuneration for, work; ready access to other activities; and*
- *regular possibilities to remain in contact with the outside world (see paragraph 167 below).*

The prisons visited by the CPT were not wholly discharging their duty of care to provide persons with these basic daily necessities.

88. The CPT recommends that the Italian authorities ensure that all persons held in prison are provided with a minimum standard of living conditions that guarantees their dignity. To this end, steps should be taken to ensure that all persons in prison are provided with a regular supply of personal hygiene and cleaning products; the Committee would like to receive a list of the products provided and the frequency of their distribution. In addition, all newly arrived persons should be provided with clean bedding and a pillow. Decrepit and broken mattresses should be replaced on a regular basis.

89. The outdoor exercise yards in the prisons tended to be large concrete spaces surrounded by 4.5-metre-high walls, devoid of decoration and vegetation and not offering any horizontal view or adequate visual *stimuli*. Nor were the yards generally equipped with any sports equipment. There was usually a toilet and a tap located in the yards though when visited they tended to be filthy (Monza, Turin, San Vittore). All the large yards provided for a shelter from rain and sun of about 2m in width running the length of one side of the yard. Turin Prison also had two yards laid with Astro turf for five-a-side football as well as a rugby pitch and Monza Prison had a football pitch.

The CPT recommends that steps be taken to decorate the courtyards and to provide them with appropriate visual stimuli such as vegetation.

[39] See the section on "A decency threshold for prisons – criteria for assessing conditions of detention" in the 30th General Report on the CPT's activities: CPT/Inf (2021) 5, paragraphs 63 to 81.

90. As regards food, the delegation received multiple complaints in all the prisons visited relating both to the quantity and especially the quality of the food served. By communication of 31 May 2022, the Italian authorities explained that public tenders for the preparation of food in prisons was underway and that the funds per meal have been raised from 3.90 to 5.70 euros, which is positive.

Further, for persons without their own resources to purchase food products from the canteen and to cook in the evenings, the 15-hour period between dinner at 4:30 p.m. and breakfast at 7:30 a.m. the next morning was extensive. The fact that breakfast only consisted of some watered-down milk and tea meant that in reality they had to wait until 11:30 a.m. for lunch before having a substantial meal.

The CPT recommends that the Italian authorities take steps to improve the quality of the food in the prisons visited, and to make efforts to address the different cultural and dietary requirements of the prison population. Further, consideration should be given either to serving dinner later or to offering a supplementary snack later in the evening.

b. regime

91. As set out in the reports on the 2016 and 2019 visits, the Italian authorities took steps to improve the regime offered to medium-security prisoners by extending their out-of-cell time to a minimum of eight hours per day and allowing them a certain liberty of circulation within the establishment when taking part in activities.[40] For a discussion on the concept of dynamic security *("sorveglianza dinamica"*) see pararaphs 89 to 92 below.

92. In all four prisons visited, the provision of activities was still in the phase of being developed following the Covid-19 pandemic when everything stopped. Further, Milan San Vittore and Regina Coeli Prisons were having to hold persons for longer periods than in the past including sentenced prisoners. However, these prisons were not designed or equipped to offer a full range of activities resulting in many persons spending their days with no structured activities to follow.

At Monza Prison, in the week prior to the visit (28 March to 1 April 2022), the number of persons involved in a structured activity was approximately 200. Of those, 26 had a paid job, 28 were undertaking a vocational course (woodwork and accounting), 52 were involved in educational classes, 24 in sports classes and 61 persons in various recreational and treatment activities.

Many of these activities were only offered for a few hours on one or more days of the week. This means that more than 400 prisoners were not involved in any structured activities during the day.

At Turin Lorusso e Cutugno Prison, some 43 persons participated in various workshops such as carpentry laundry, bookbinding and assembling components and another 58 were taking various courses such as hydraulics, electrician, building, restauration and gardening. There were also 86 prisoners working outside the establishment (Article 21 or semi-liberty). The majority of jobs (some 312 evenly divided between Italian and foreign national prisoners) related to the functioning of the establishment such as kitchen workers, cleaning, distribution of food and maintenance.

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40 See CPT/Inf (2017) 23, paragraphs 40 and 41 and CPT/Inf (2020) 2, paragraph 26.

93. From the discussion held with the staff responsible for activities in the prisons visited, it was clear that over and beyond the challenges posed by re-opening the prisons following the Covid-19 pandemic, there were structural problems which meant that the establishments were not capable of offering a purposeful regime to all prisoners. At Monza Prison, the fact that there were 50% more prisoners than the design-capacity of the establishment meant that there was insufficient workshops, classrooms, gyms and outdoor areas for organising activities. In addition, the prison only had four educators in post when officially there should have been six and realistically at least nine were required given the size of the population. The general lack of educators was noted in all the prisons visited and the prisoners met unanimously decried the lack of interaction with an educator. There has been no positive development on this issue since the 2019 visit when the CPT was informed that a national recruitment drive was underway to increase the number of educators.

94. The development of a sentence plan for each prisoner is an important process in mapping out the individual needs of each person and in plotting the steps to be taken to prepare for release and reintegration into the community. Ensuring that all persons in prison are offered a structured programme of activities (work, education, vocational and recreational courses and sport) is important for the wellbeing of the individual and for the good order and security of the establishment. However, prison educators appeared overwhelmed with the mandatory task of drafting observation reports for the multidisciplinary treatment commissions ("*Gruppi di Osservazione e Trattamento"* or G.O.T.) and maintaining correspondence with the relevant supervisory judges. The result was that the individual treatment plans ("*piani individuali di trattamento*"), drawn up with input from the prisoners, were neglected.

95. The CPT recommends that the Italian authorities invest further energies in developing the range of programmes on offer to prisoners to provide them with a structured day of activities. To this end, the CPT would like to be informed about the recruitment of additional educators in each of the four prisons visited and, more generally, to receive information on the recruitment of educators throughout the prison system.

The Committee would also like to receive information on the number of persons participating in a programmed activity (work, vocation, education, recreation, sport) in each of the four prisons visited for the month of October 2022.

5. Prison staff

96. The CPT has repeatedly stressed the importance of having sufficient numbers of properly trained prison officers to guarantee order and security within a prison establishment and to support prisoners in preparing for their reintegration into the community.

Further, in the CPT's views, the professionalisation of staff should see the role of a prison officer evolving from that of essentially a "turn-key" with no responsibility other than that of static security. Instead, prison officers should be encouraged to extend their role into interacting positively with prisoners, taking part in rehabilitation programmes and being an integral element in a multi-disciplinary approach towards prisoners' welfare. This would not only provide a far more challenging and interesting job for the prison officers themselves, but it would also address a key objective of prison in preparing prisoners for reintegration into the community. Further, it would not only help the prison authorities to reduce violence in prisons (whether ill-treatment of prisoners by staff, inter-prisoner violence or violence directed towards staff by prisoners), but would also enhance control and security

Such an approach involves the development of constructive relations between staff and prisoners, based on the notions of dynamic security[41] and care.

[41] Dynamic security is the development by staff of positive relationships with prisoners based on firmness and fairness,

97. At present, the concept of dynamic security *("sorveglianza dinamica"*) in Italy refers to the current medium security regime whereby prisoners are provided with eight-hours out-of-cell time during which they are offered two hours of access to a courtyard twice a day, and for the remaining time the possibility to circulate in the corridor of the section with access to a common room normally equipped with tables, chairs, snooker, TV and a cooking corner. In addition, they should have access to a range of activities.

However, the delegation observed that the prison officers were still not in ongoing frequent interaction with prisoners or involved in any offender management programmes. Instead, the officers were located outside the accommodation sections and performed static security duties by way of observing prisoners from a distance and unlocking doors as required. Not surprisingly, staff did not always know when incidents of violence and bullying between prisoners occurred.

98. The Director of the DAP and his team need to clarify and distinguish the concepts of "open cell regime", which is currently applied, and that of "dynamic security", which has not yet been properly introduced into Italian prisons. The development of a dynamic security approach would complement the positive open cell regime, enhancing control and security and rendering the work of prison officers more rewarding. Therefore, the DAP should take steps to develop the role of prison officers as integrated players in the provision of purposeful activities, linked to an individualised sentence plan. The communication of 31 May 2022 from the Italian authorities stated that the DAP was reviewing the modalities for restructuring and managing life within the medium security accommodation wings. The CPT welcomes such a review.

99. **The CPT reiterates its recommendation that the Italian authorities take steps to introduce a dynamic security approach within prisons. Of course, this will necessitate prison officers being permanently placed within the wings and providing additional training for prison officers, notably on inter-personal relations. In parallel, the number of persons accommodated on each wing/section should be reduced to the design capacity to enhance security and control and enable more activities to be provided.**

100. In the prisons visited, the number of prison officers in post was below the numbers budgeted for but could be considered adequate for the design capacity of the prisons. For example:

- *at Milan San Vittore, there were 602 prison officers for an official complement of 780 which would be acceptable for a prison population of 746, but at the time of the visit it stood at 919;*
- *at Monza Prison, there were 304 prison officers for an official complement of 321 which would be acceptable for a prison population of 407, but at the time of the visit it stood at 618;*
- *at Rome Regina Coeli Prison, there were 373 prison officers for an official complement of 516 responsible for managing a prison population of 615 officially but which stood at 934 at the time of the visit;*
- *at Turin Lorusso e Cutugno Prison, there were 733 prison officers for an official complement of 894 responsible for managing a prison population of 1 042 officially but which stood at 1 457 at the time of the visit.*

The fact that these four prisons were all operating way above their design capacity placed an increased burden on staff to carry out their duties professionally. **The CPT would like to be informed whether there are plans to fill the vacant posts of prison officers in the prisons visited.**

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in combination with an understanding of their personal situation and any risk posed by individual prisoners (see Rule 51 of the European Prison Rules and paragraph 18.a of the Recommendation Rec (2003) 23 of the Committee of Ministers of the Council of Europe to member states on the management by prison administrations of life sentence and other long-term prisoners).

101. As noted above, there was a lack of educators in all the prisons visited. As the educator was perceived as the main interlocutor for prisons in the development of their individualised sentence plan and the preparation of their reintegration into the community, the absence of an educator in most prisoners' lives was a reflection on the lack of a structured programme in place for many prisoners. The CPT understands that a national competition to recruit educators was held over the past two years and that many prisons were expecting to receive additional educators in the coming months.

The CPT would like to be informed of the overall number of educators recruited in the national competition and when their deployment to the prisons will take place. Further, it would like to be informed about the number of additional educators appointed to each of the four prisons visited by its delegation. Lastly, it would like to receive more complete information on the role of the educator in supporting persons in prison and what is considered the appropriate number of prisoners for each educator to manage.

102. More generally, the CPT had noted in the 2019 visit that certain prison directors were responsible for more than one prison and that there was an insufficient number of directors at the time. The importance of having a full management team in place headed by the director is essential for managing complex institutions such as prisons. For particularly challenging prisons such as Turin Lorusso e Cutugno Prison, it is essential not to have a long gap in the leadership. **The CPT understands that a specific competition for directors was recently organised and it would like to be informed of the outcome and, notably, whether every prison establishment will now have a director in post.**

103. The CPT considers that mixed-sex staffing is an important safeguard against ill-treatment in places of detention. This is also recognised in the European Prison Rules, according to which men and women should be represented in a balanced manner on the prison staff.[42] The presence of male and female staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention. At present, in Italian prisons, there is no mixed-sex staffing in prisons as women officers cannot work in male prisoner sections and male officers cannot work in female prisoner sections. That said, the Committee was pleased to note that the chief prison officers at both San Vittore and Monza Prisons were women. **The CPT would appreciate the comments of the Italian authorities on the prospect of introducing mixed-sex staffing on the prison wings/sections.**

6. Healthcare services

104. The 2018 revision of the Prison Law further consolidated the transfer of responsibility for prison healthcare to the "*Aziende Sanitarie Locali"* (*"*ASLs"), the regional entities responsible for providing healthcare services to the general population. Consequently, the DAP has to work through the Unified Conference State-Regions to promote the provision of equivalence of care in prisons throughout the whole country. Positively, Article 11 of the Prison Law now stipulates more stringent criteria for the medical examination of prisoners upon admission, the right of persons in prison to be visited and treated by a doctor of their choice at their own expense, the exclusion of healthcare staff from disciplinary commissions to safeguard their therapeutic role and a prompter transfer of prisoners to external hospital facilities.

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42 See Rule 85 of the European Prison Rules and the comments thereon.

a. healthcare facilities and staffing

105. At Milan San Vittore Prison, there is excellent provision of very modern medical equipment, and the healthcare facilities are adequate in terms of space and hygiene. There is also a sufficient stock of a wide range of medication.

Medical staffing consists of six General Practitioners (GPs) on duty Monday to Saturday mornings and a further two GPs permanently present 24 hours per day. They are supported by nurse coordinator and 45 nurses, of whom two were present on each of the wings during the day and a two on duty overnight to cover the whole establishment. The 11 visiting doctors include specialists in cardiology, urology, orthopaedics and dentistry.

106. At Monza Prison, the medical equipment, and the healthcare facilities are adequate and there is also a sufficient stock of a wide range of medication.

Medical staffing consisted of seven GPs who ensure a permanent presence 24 hours a day, with two doctors on duty Monday to Saturday between 8:00 a.m. and 2:00 p.m.. They are supported by an outsourced nursing pool which effectively ensured four nurses were on duty throughout each day (8:00 a.m. to 10:00 p.m.) and one nurse overnight. In addition, there are monthly visits from a cardiologist, urologist, dermatologist, orthopaedic doctor, ENT consultant, ophthalmologist surgeon and an ultrasound doctor, and a radiologist visited weekly. A dentist provides two half day sessions which, given there are more than 100 patients on the waiting list and only 4-8 persons are seen each session, is clearly inadequate.

107. At Turin Lorusso e Cutugno Prison, the medical equipment, and the healthcare facilities are adequate and there is also a sufficient stock of a wide range of medication.

Medical cover is very good. There is the full-time equivalent (FTE) of five doctors on duty Monday to Saturday between 8:00 a.m. and 8:00 p.m., one doctor during the day on Sunday and two doctors every night between 8:00 p.m. and 8:00 a.m. They are supported by 27 FTE nurses and there is always at least one nurse present at night. In addition, weekly visits by specialists included those of a cardiologist, orthopaedic doctor, ENT consultant, ophthalmologist and gastroenterologist. An infectious diseases consultant and a dentist are present every day.

108. At Rome Regina Coeli Prison, the medical equipment, and the healthcare facilities are generally adequate and there is also a sufficient stock of a wide range of medication. However, the mental health team had no office space from which to work which impeded their functioning.

Medical cover is assured 24 hours per day, with two doctors on duty permanently in the emergency service. In addition, two doctors are present Monday to Saturday in the arrivals section and in each of the eight sections one doctor is present for at least three hours per day from Monday to Saturday. Nursing cover is good with two nurses on duty during the day in each of the eight sections and at night two nurses covered the whole prison.

109. In spite of the significant overcrowding in all four of the establishments visited, the healthcare staffing resources could be considered good. However, **the CPT recommends that action be taken to increase the presence of a dentist at Monza Prison given the needs.**

110. Medical records were detailed and well-kept at all prison establishments visited, notably at the Milan San Vittore Prison where prisoners' medical files were completely integrated into the electronic record system of the regional healthcare agency of the Lombardy Region (*Agenzia di Tutela della Salute* or ATS). Further, access to emergency hospital care was prompt and adequate at all visited establishments. At Milan Prison, this was facilitated by the presence of secured rooms ("*sezioni di medicina protetta"*) at the Milan *San Paolo* Hospital.

111. The distribution of medication was performed by members of the healthcare staff at all establishments visited and does not call for particular comments, apart from one unacceptable practice at Monza Prison. At this establishment, the delegation met a number of persons with diabetes, notably in in Section 3, who were given their injections of insulin through the bars of their cells each evening by a nurse as it was after lock-up and the inner cell door could not be opened. Such a practice could be considered degrading.

The CPT recommends that steps be taken at Monza Prison to arrange for persons requiring an insulin injection each evening to receive it in a manner which respects their dignity.

112. Medical confidentiality is a prerequisite for establishing trust between the patient and the healthcare service. As far as the confidentiality of medical data was concerned this was generally appropriate with only healthcare staff having access to medical records and being responsible for the administration of medication.

However, there is still a need to improve the confidentiality of medical consultations. At Turin Lorusso e Cutugno Prison, the delegation noted that a prison officer was routinely present during the medical examinations of prisoners upon arrival in the establishment. In other parts of the prison as well as at Rome Regina Coeli Prison, prison officers stood outside the consultation room, but the door was left open. By contrast at Milan San Vittore and Monza Prisons, medical consultations are fully confidential with only the doctor (and nurse) present, the door to the room closed and the prison officer stationed outside. This should be the standard practice across all prisons in Italy.

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

b. medical screening and recording of injuries

113. The delegation found that all newly arrived prisoners are examined within 12 hours by a duty doctor. They are systematically offered blood tests to detect transmissible diseases (HIV, Hepatitis B, Hepatitis C and syphilis). In addition, everyone is given an Electrocardiogram (ECG) and a Mantoux test for tuberculosis. If the Mantoux test is positive, a chest x-ray is organised. Screening for self-harm and suicide risk is also carried out. The proforma was comprehensive and the medical notes reviewed were very detailed. Further, a Mini International Neuropsychiatric Interview (MINI) was conducted and prisoners in need are referred to a psychiatrist and to the SER.D (*Servizi per le dipendenze patologiche*) in cases where drug use was an issue.

114. As was the case during previous visits, the delegation found once again that the quality of the injury reports contained in the prisoners' personal files were generally of a cursory nature, with reference to the circumstances of their origin missing or incomplete. The doctor's conclusion on the consistency between any allegations made and the objective medical findings was always missing. While several prison doctors told the delegation that they do not consider it their duty to express any conclusion on the compatibility of injuries, other doctors pointed out that to record allegations of prison officer on prisoner violence and to comment on the compatibility of the injuries would make their life very difficult. Apparently, in 2019 a doctor at Milan San Vittore Prison had resigned the day after he had reported an incident of staff on prisoner violence as it had been made clear to him that he would have difficulties in the prison if he remained. If true, it signals a culture problem among prison staff and within the prison system to combat incidents of ill-treatment, and the ineffectiveness of mechanisms to hold perpetrators of alleged ill-treatment to account.

115. As regards persons who enter the prison with injuries which may be indicative of ill-treatment by law enforcement officials, the standard practice was for those persons to be sent to hospital for treatment prior to admission to prison. The duty doctor would however describe the injuries but again no information on the causes of the injuries would be recorded.

In the prisons visited, it appeared that whenever a newly arrived prisoner displayed visible injuries, they would be noted down and healthcare staff would send the information to the chief of security who was under a legal obligation to forward the information to the competent prosecutorial authorities, regardless of whether the injuries concerned only a scratch and had nothing to do with the actions of the State Police or *Carabinieri*.

116. The CPT has elaborated a clear procedure which should be followed in all prisons regarding the recording of injuries, the recounting of any allegations of violence and the compatibility of the injuries with any allegation made. The Italian authorities should ensure that in all prison establishments the record drawn up after the medical examination of a prisoner – whether newly arrived or following a violent incident in the prison – contains:

i) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);

ii) a full account of objective medical findings based on a thorough examination;

iii) the doctor's observations in light of i) and ii) indicating the consistency between any allegations made and the objective medical findings.

Recording of the medical examination in cases of injuries should be made on a special form provided for this purpose, with "body charts" for marking injuries that will be kept in the medical file of the prisoner. The injuries should preferably be photographed and filed in the medical record of the person concerned. In addition, documents should be compiled systematically in the existing special trauma register.

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

Further, the existing procedures should be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.

Healthcare staff should advise detained persons of the existence of the reporting obligation and also that the forwarding of the report to the competent prosecutor is not a substitute for the lodging of a complaint in a proper form. The results of the examination should also be made available to the prisoner concerned and his or her lawyer. Healthcare professionals (and the prisoners concerned) should not be exposed to any form of undue pressure or reprisals from management staff when they fulfil that duty. Healthcare staff should be provided with the appropriate training to carry out these tasks.

The CPT calls upon the Italian authorities to ensure that the above criteria for the recording and reporting of injuries of persons in prison be systematically applied in all prison establishments.

c. mental healthcare

117. At the outset of the visit, the delegation was informed that 42 patients subject to a security measure of placement in a special psychiatric facility known as *Residenze per l'Esecuzione delle Misure di Sicurezza* (REMS)[43] were being held in prisons. A further 586 persons in prison had a severe mental disorder and had been placed on a waiting list to be admitted to a REMS. Due to the lack of space available in REMS, these persons were being held in prison until such time as a bed became available. At the time of the visit, there were five such patients at San Vittore Prison, seven at Rome Regina Coeli Prison and one at Turin Lorusso e Cutugno Prison awaiting placement in a REMS. For example, on 6 April 2022, the delegation met two persons at Rome Regina Coeli Prison for whom the *Tribunale Ordinario di Roma* had ordered the DAP to find a place in a REMS for them in, respectively, June and November 2021. Indeed, interlocutors in the prisons visited stated that the waiting times for a place may last as long as a year. The DAP is placed in an unenviable position as it cannot force the REMS to take a patient but has to wait until the REMS inform it that there is a place available. In the meantime, the DAP has a duty of care towards the person concerned to prevent their mental health from deteriorating further.

118. Prison cannot provide the same therapeutic environment as a psychiatric hospital, and it is essential that the Italian authorities invest the necessary resources to increase the number of beds in the REMS to accommodate all those persons whom the courts have issued with a security measure. The imperative to act is reinforced by the judgment of 24 January 2022 by the European Court of Human Rights in the case of Sy vs. Italy, in which it found a violation of Article 3 ECHR due to the extended accommodation of a forensic patient at Rome Regina Coeli Prison in inadequate conditions instead of transferring him to a REMS. Further, the Italian Constitutional Court adopted a decision (No. 22/2022) on 27 January 2022 asking for the system for placing forensic patients in REMS to be reformed; stressing the importance of providing an adequate number of beds and the offer of a real therapeutic approach for forensic patients.[44]

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43 There are 30 REMS at the national level with an overall capacity of 674 beds.

44 This decision builds on a previous decision (No. 99/2019) of April 2019 in which the Court stated that failing to provide mentally ill prisoners with similar access to alternative measures of detention (such as house arrest and probation) as those suffering from a somatic disease (pursuant to Article 147 of the CC) was unconstitutional. The Court confirmed that the competent supervisory judges may decide that a mentally ill prisoner be treated in a proper healthcare setting outside of prison.

119. The CPT recognises that the REMS were not designed to replace the forensic psychiatric hospitals (*Ospedali Psichiatrici Giudiziari* or OPG) and that the small acute psychiatric 15-bed wards located in General Hospitals – Service of Psychiatric Diagnosis and Treatment (*Servizi Psichiatrici di Diagnosi e Cura* or SPDCs) – are frequently called upon to treat prisoners in an acute state of psychosis. Nevertheless, there is a need to provide additional hospital beds for severe mentally ill persons who have committed a crime, and who cannot be adequately cared for in a prison environment.

The CPT recommends that the Italian authorities increase the number of beds in REMS facilities to ensure that all persons who require treatment in a specialised psychiatric facility are accommodated in such a facility and not in a prison. To this end, a national standard should be set for the time period, based on medical necessity, within which such persons should be transferred to an appropriate psychiatric setting .[45]

120. It should also be noted that within prison there is a possibility to forcibly treat a patient through the application of a *Trattamento Sanitario Obbligatorio* or TSO. A TSO can be ordered for any health cause, such as for infectious diseases where refusal of treatment could pose a threat to public health. The treatment order is authorized by the mayor of the municipality of residence or of the municipality where the person is temporarily located on the basis of a reasoned proposal from two doctors, one of whom belongs to the local health authority. At the time of the visit, no-one was under a TSO in the prisons visited. While a TSO had been initiated on multiple occasions at Monza, Turin Lorusso e Cutugno and Rome Regina Coeli Prisons, they had only been applied once the patient had been transferred to a civil hospital. However, at San Vittore Prison, a TSO *extra-ospedaliero* had been sought for five patients in 2021 and all had received mandatory treatment.

The CPT considers that persons in prison should not be subject to forcible treatment and that such treatment should only occur as a last resort once a patient is accommodated within a civil psychiatric establishment which is equipped to address fully the mental disorder of the patient within an appropriate therapeutic environment.

The CPT recommends that the Italian authorities take steps to end the application of a TSO in relation to forcible medication of a patient within a prison setting.

121. The provision of psychiatric care in the prisons visited was generally of a good standard. Each prison had a dedicated mental health team with the psychiatrists employed by the regional health authority (*Azienda Sanitaria Locale* or ASL) and usually working in the psychiatric unit of the local general hospital.

122. At Milan San Vittore Prison, there was a pool of five psychiatrists present Monday to Saturday (1.2 Full Time Equivalents - FTE), which ensured a continuity of treatment and a degree of stability for the patients. A mental health nurse was present on working days from 8:00 a.m. to 4:00 p.m. The mental health team held daily meetings to discuss cases and plan the workload.

123. At Monza Prison, the team of five psychiatrists was present for more than the official 1 FTE and they were supported by three clinical psychologists (1.5 FTE).

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45 For example, the 2009 Bradley Report on the review of people with mental health problems or learning disabilities in the criminal justice system of England and Wales recommended that the National Health Service should transfer a prisoner with acute, severe mental illness to an appropriate healthcare setting within 14 days.

124. At Turin Lorusso e Cutugno Prison, the team of five psychiatrists were present for 72 hours per week, including four hours on Sundays, which was commendable. However, the psychiatric input was scheduled to be increased to 4.5 FTE once the specialised psychiatric unit, *Il Sestante*, was re-opened.

125. At Rome Regina Coeli Prison, the Rome 1 ASL decided in January 2022 to have a joint approach to mental and substance use disorders with a single integrated team. At the time of the visit, the team was present in the prison from Monday to Saturday and consisted of five psychiatrists (2 FTE), four addiction psychiatrists (3 FTE), 6 clinical psychologists (2.7 FTE), four addiction psychologists (2.5 FTE), two addiction GPs (1 FTE) as well as a half-time nurse and social worker. As of 15 April 2022, three psychiatric therapists (1 FTE) would also be present. However, the effectiveness of the team was undermined by the lack of office space for them to carry out their individual and group sessions, therapeutic activities or even to meet together.

The CPT considers the novel integrated team approach towards addressing persons with mental and substance use disorders pioneering and **it would like to receive information on the assessment carried out after the first year of its operation.** However, for the team to be effective, it must be provided with the appropriate working environment which was certainly not the case at the time of the visit.

The CPT recommends that steps be taken to provide the integrated mental and substance use disorder team with the necessary working conditions.

126. In all four prisons visited, the screening of persons entering prison for mental health issues, substance use and self-harm ideation was both systematic and comprehensive, and all those in need were referred for a psychiatric assessment. Moreover, once in prison persons could be referred for a psychiatric examination by a GP, psychologist, any member of staff or even through self-referral.

The mental health needs in each of the prisons was considerable. For example, at Monza Prison, around 50% of the prison population had a dual diagnosis of a mental and substance use disorder and 5% of prisoners (30 to 40) suffered from a severe form of psychosis and mood disorders.

127. In each prison, there was a section dedicated to the accommodation and treatment of persons with the most severe mental disorders.

128. At Milan San Vittore Prison, the third floor of Section 5 accommodated the most vulnerable persons, and, within this unit, there were five special observation cells known as "*celle a rischio"* (CAR).[46] Placement in these cells was ordered by a psychologist or psychiatrist or, in an emergency, by a prison officer together with a GP, which had to be subsequently confirmed by a psychiatrist at the latest within 24 hours. The reasons for placement were a high risk of suicide, repeated self-harming, psychological fragility, aggression towards other and those deemed to be in need of close monitoring to determine their state. Persons placed in these cells could keep their own clothes. A psychiatrist could recommend that the ordinary bedsheets be replaced with paper ones. Further, at times, a second person might be placed in the cell, as a remunerated job, to provide company.

[46] Each cell possessed a fully partitioned bathroom facility.

Each week a multidisciplinary team[47] would meet to assess whether a person should continue to be held in a CAR. There was no maximum time limit for such a placement, but each placement had to be communicated to the supervisory judge and the team would attempt to have the person transferred to a mental health facility rather than continue with a prolonged period of placement in a CAR. According to the register, the cells were always fully occupied.

At the time of the visit, the delegation noted that the CCTV in three of the cells did not respect the privacy of the persons when they used the toilet. The prison managers acted rapidly when informed and altered the positioning of the camera to guarantee the privacy of the person while using the toilet.

129. The day centres at San Vittore and Monza Prisons, which offered music therapy, creative art, cooking lessons, gymnastics and group discussions, were considered particularly positive by the patients, including those REMS patients attending the day centre, with whom the delegation met.

130. Monza Prison possessed the only ATSM[48] unit (5 cells) in Lombardy dedicated for persons placed under Article 112 of the ¨Prison Regulations[49] for psychiatric observation solely for diagnosis, not for treatment. In theory, seriously mentally ill prisoners, who were already diagnosed, would be sent to community hospitals for treatment. However, persons who had already been diagnosed with mental disorders were on many occasions sent from other prisons in the region for treatment in the Monza ATSM premises. From January 2019 to December 2021, 114 persons had been accommodated in the ATSM, 18 of whom had been sent to civil psychiatric hospitals for treatment (urgent referrals) as they were so seriously ill. Indeed, during this same period Monza Prison had transferred 117 patients to SPDCs for treatment (of whom 47 received a TSO in the civil psychiatric setting) and 12 patients has been sent to REMS.

131. A further challenge was the treatment of persons in prison who develop a mental disorder, who should not be in prison and who in the past would have been sent to an OPG for treatment under Article 148 of the Criminal Code,[50] but now remain in prison as there are no alternatives for their placement.

The mental health team at Monza Prison recognised the importance of providing custodial staff with basic training on working with persons with mental disorders and had initiated some courses. A practice of debriefings after critical events was also being instituted. Both initiatives are essential practices that should be further developed and applied in all prison establishments.

Many mental health specialists in the prisons visited raised the importance of understanding ethno-psychiatry. In this respect, at Milan San Vittore Prison, 10 custodial officers had undergone a training in ethno-psychiatry with a view to understanding the ethnic and cultural dimensions of mental illness (see also paragraph 193).

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47 Psychiatrist, psychologist, educator, custodial staff.

48 *Articolazioni per la Tutela della Salute Mentale* – a specialised psychiatric section in prison to provide a proper therapeutic input to persons who have developed a mental disorder after their imprisonment. There are 32 ATSMs within the prison system with a total of 231 cells.

49 Article 112 of the Prison Regulations (Presidential Decree No.230/2000) which provides for the possibility of placing a person in prison under psychiatric observation for a period of 30 days, renewable up to 60 days, by decision of a judge.

50 Law No. 9 of 17 February 2012 and other legislative reforms resulted in the closure of all OPGs and the transfer of all patients to new healthcare structures under the exclusive authority of the regional health authorities. In parallel, REMS were established to accommodate persons subject to an involuntary placement in a psychiatric establishment under Italian penal legislation.

132. **The CPT recommends that the Italian authorities ensure that prison officers working in units within prisons which accommodate persons with mental disorders are provided with appropriate training, notably inter-personal skills.**

Further, the CPT recommends that the debriefing of all staff involved in a "critical event" be introduced as a standard practice throughout the prison system.

133. The five ATSM cells were in essence a mirror image of the adjacent isolation unit and were staffed by the same prison officers. The three operational ATSM cells were equipped with a metal bed fixed to the floor and a sink, toilet and shower but no table, chair or lockers for belongings. Each cell was under CCTV and the patients were also observed by the custodial staff through the barred gate to the cell. Patients could access a small individual outdoor yard in the morning and early afternoon. The environment was clearly not therapeutic and should evidently not be used for accommodating any persons in prison requiring treatment for a mental disorder. Even for the observation of persons under Article 112 of the Prison Regulations, the conditions could not be considered good. **The CPT wishes to receive confirmation that the ATSM cells are only used for observation purposes.**

134. At Turin Lorusso e Cutugno Prison, the two sections comprising psychiatric unit "*Il Sestante*" in Pavilion A had been closed in November 2021 for renovation,[51] and the patients had mostly been transferred to Section 5 of Pavilion A. The conditions in Section 5 were poor and unsuitable. There was a lack of activities and psychosocial rehabilitation, and the constant noise from the drilling and hammering emanating from the sections being renovated undermined any attempt to create a calm environment. Further, the mixing of the eight closed regime patients and 20 open regime patients was not appropriate.

The situation was clearly unsatisfactory but temporary. The delegation was informed that the renovated "*Il Sestante*" would provide much better living conditions and there would be a wide range of rehabilitative activities and a much higher staffing complement.

The CPT wishes to receive information on the renovated "*Il Sestante*", including details about the staffing complement, the structured activities on offer, the number of patients in each section and the training provided to non-healthcare staff working in the unit.

135. In Section 10 of Pavilion B, a wing for new arrivals, four cells had been designated for "observation" purposes under Article 112 of the Prison Regulations. However, in practice these cells were also being used to accommodate persons who appeared at risk of committing suicide or who appeared to the duty GP as vulnerable, agitated or otherwise as affected by a mental disorder. However, there was no detailed reasoning set out in writing justifying their placement in one of these four cells.

The four cells in question were all bare (*celle lisce*) equipped with a metal frame bed bolted to the floor and a dirty broken sponge mattress and a floor-level toilet. There was no sink or other furnishings such as a table and chair or television. The cells were not under CCTV and the prison officers were not present in the section. Further, the cells were not safe as they possessed multiple sharp edges. The cells were filthy, and the persons were left alone like animals in a cage to be gawped at by other prisoners and staff who frequently walked past the metal grille gate of the cell.

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[51] Section 7 was intended for people subjected to observation under Article 112 of the Prison Regulations and patients coming from other prisons in an acute or sub-acute phase who required temporary assistance. The section had 23 single-occupancy cells, 10 of which were ATSM cells.
Section 8 was intended to accommodate persons suffering from an established psychiatric pathology including those transferred from Section 7 and it had a capacity for 20 persons.

136. The register on the placement of persons in these cells contained only the names of the persons held there at the beginning of each shift with no information about whether they were offered any time out of the cell or who visited them.

The management of these vulnerable persons was totally inappropriate and did not respect their human dignity. The delegation informed the director of the prison, accordingly, stating that any psychiatric observation should take place in "*Il Sestante*" or in premises supervised by healthcare staff and that, moreover, the cells were not safe for placing persons at high risk of committing an act of self-harm or suicide.

137. The CPT recommends that the Italian authorities ensure that all persons entering Turin Lorusso e Cutugno Prison who are deemed to require being placed under observation for a mental disorder be accommodated in the renovated "*Il Sestante*" or other premises under the direct supervision of healthcare staff. Further, persons assessed as being at high risk of committing an act of self-harm or suicide should be accommodated in safer cells with moulded fittings and furniture and placed under intensive direct supervision, as required. If needed, they should be transferred to a medical setting.

138. Further, the CPT recommends that all placements in a *celle lisce* should be fully recorded in a dedicated register. Information should include the reasonings for the placement and who ordered it, the time at which the measure started and ended as well as details on all entries and exit from the cell, access to outdoor exercise and visits by prison officers, healthcare and other staff.

139. At Rome Regina Coeli Prison, the mental health unit was located on the second floor of Wing 4 and consisted of four *celle lisce* (two of which were used as ATSM cells), three double and three triple cells with an overall capacity of 19. On the day of the visit, 16 persons were being accommodated on the unit.[52]

The material conditions in the unit were poor and the environment was not conducive for persons attempting to recover from a mental disorder. The *celle lisce* were similar in furnishings to those in other prisons except that there were fewer ligature points and none of the cells possessed tables or chairs or any cupboards for storing belongings. All cells were equipped with a TV. The delegation also noted that the CCTV in the *celle lisce* covered the toilet area completely but when challenged about this the officers on duty insisted this was necessary as "every suicide takes place in the toilet". This is evidently not true and for the dignity of the person it is essential to offer them some privacy by at least pixelating the image over the toilet.

140. The regime for patients was highly restrictive with only one room dedicated to mental health services (psychotherapy with psychologist/psychiatrist, any psychological testing, group therapy, contact with therapist etc.) which was totally insufficient. Patients therefore spent their days with no structured activities and even their access to the outdoor yard was apparently curtailed due to the yard only being unlocked around 11:30 a.m. and lunch being served at midday while in the afternoon the yard was opened at 4:00 p.m. and dinner was served at 4:30 p.m. The persons met by the delegation felt that they had to make a choice between outdoor exercise and taking their meals.

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[52] In fact, three persons had been discharged in the morning by the prison management without consultation with the mental health team as apparently their placement had been for "safety issues" and not due to their mental health.

141. **The CPT recommends that the Italian authorities upgrade the living conditions in the mental health unit at Regina Coeli Prison, equipping each of the ordinary cells with a table and chairs and cupboards for storing the belongings of the patients.**

Further, it recommends that the mental health team be provided with sufficient space to offer all patients a structured programme of activities to assist patients with their recovery and to take advantage of the mental health expertise available.

In addition, the CPT recommends that the CCTV images of the patients on the toilet in the *celle lisce* be pixelated to safeguard their dignity. The CPT also wishes to receive confirmation that all persons in Section 5 of the prison are offered two hours of outdoor exercise outside of mealtimes.

142. The lack of an integrated approach towards managing persons in prison with mental health problems and challenging behaviour was in evidence at Regina Coeli Prison. At this prison, the delegation met two persons in a cell in Section 7 (new admissions) who had been provided with no hygiene products at all (nor any sheets) since their arrival. Their cell was filthy with the food of several previous days littering the floor. Neither person had taken a shower for nearly a week (the delegation had insisted they be offered a shower immediately). One of them was even using bits of the foam mattress to wipe himself with when going to the toilet. They were not offered any outdoor exercise. In fact, their welfare was completely neglected except for a brief visit by a doctor once a day. Such treatment is an affront to their human dignity and the delegation requested to be informed about their ongoing treatment in prison by the Italian authorities. By communication of 31 May 2022, the Italian authorities informed the CPT that both of these persons were now being followed closely by the mental health team on the vulnerable persons unit in Wing 2.

As was the case highlighted above at Turin Prison, whenever it is deemed that a person upon arrival in prison may be suffering from a mental health disorder, that person should be placed in the mental health unit or infirmary where they will be under the direct supervision of healthcare staff.

143. The CPT recommends that the Italian authorities ensure that all persons entering Rome Regina Coeli Prison who are deemed to require being placed under observation for a mental disorder be accommodated in the mental health unit or infirmary under the direct supervision of healthcare staff.

d. substance use

144. As was the case during the 2019 visit, the delegation gained a very positive impression of the services offered to substance users by the recently created Services for Addiction (*Servizi per le dipendenze patologiche* or Ser.D). The Ser.D included the functions and organisation established for the previous Services for Drug Addiction (*Servizi per le Tossicodipendenze* or SerT) but extended their interventions to areas relating to abuse of legal substances and behavioural addictions.The Ser.D teams generally consisted of multidisciplinary staff visiting prisons on a regular basis and offering integrated treatment to persons in prison with a drug addiction (including those who had not been affiliated to a community service prior to imprisonment) through pharmacological and psychosocial treatment. Prisoners praised the professionalism of the visiting Ser.D teams, composed of psychologists, social assistants, educators, a GP and a psychiatrist, in the prisons visited. This is an example of good practice for the treatment of substance use in prison.

145. The delegation was particularly impressed by the advanced treatment unit "La Nave" at Milan San Vittore Prison. The unit, located on the 4th floor of Wing 3, had 57 places. All the cells, including the sanitary annexes, were clean and neat and in good order. A multi-disciplinary team (educator, nurse, therapeutic psychologist, criminologist and social worker) oversaw the programme which aimed to provide mental, physical and psychological support to persons with addictions in preparation for their reintegration into the community. There was an open regime on the unit between 8:00 a.m. and 8:00 p.m. and all persons met praised the unit team.

7. Women in prison

146. During the 2022 visit, the delegation visited the female sections within Milan San Vittore and Turin Lorusso e Cutugno Prisons, which were accommodating, respectively, 78 and 117 women.

The Committee wishes to emphasise that every establishment accommodating women should have distinct policies and approaches towards the treatment of women in prison based upon a gender sensitive risk and needs assessment.

147. In many countries, including Italy, prisons are largely designed by men for male prisoners and to be managed by male staff. Women prisoners are often treated like male prisoners with no specific rules and regulations addressing their particular needs as women. In fact, many prison systems and the conditions of detention they afford prisoners lack a gender focus, and prison policies and daily practices within prisons usually range from being gender-neutral to being gender-biased. In European countries, women make up a small minority of the overall prison population and the focus of prison systems is oriented toward the standard male prisoner (that is, how to provide a safe and secure environment and, if feasible, to prepare them for reintegration into the community). However, women have particular biological and gender-specific needs and vulnerabilities that require an alternative prison policy oriented toward their requirements. The physical environment is an important aspect of this.

Further, a gender-sensitive risk assessment and classification of prisoners should take into account that women prisoners generally pose a lower security risk than male prisoners. Such a requirement is reflected in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) of October 2010,[53] and more particularly in Rule 41(a).[54]

148. In practical terms, there is much to be said for developing a network of small, dedicated women-oriented custodial centres around the country to accommodate women who need to be held in secure accommodation. Such centres should be oriented towards preparing women to re-enter the community, enabling women to be detained closer to their families and homes and having a security regime commensurate with the risks posed by the women.

However, at present, such an approach does not exist in Italy and due to the small number of prison establishments that accommodate them, women are often placed far away from their homes. At the same time, the burden of caretaking responsibilities falls disproportionately on women and therefore they need to have good regular access to their families. Consequently, additional compensatory measures should be introduced for women prisoners to facilitate their possibilities of maintaining contact with their families.

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53 Adopted by UN General Assembly resolution 2010/16, A/C.3/65/L.5, on 6 October 2010.

54 Rule 41 of the Bangkok Rules reads as follows: The gender-sensitive risk assessment and classification of prisoners shall: (a) Take into account the generally lower risk posed by women prisoners to others, as well as the particularly harmful effects that high-security measures and increased levels of isolation can have on women prisoners.

149. As of 31 March 2022, Italy was accommodating 2 276 women in prison (4.2% of the overall prison population).[55] Of this number, 70% are sentenced and 30% are foreign nationals. There are only four all-female prisons holding 576 women, with the vast majority of women held in separate sections of male prisons. This means that the vast majority of women prisoners are held in one or two sections within predominately male prisons with no gender-specific approach towards the women. The male ethos of these prisons tends to pervade through to the female modules especially as there is no distinct management of women within these establishments.

150. The CPT recommends that the Italian authorities take active steps to develop a gender specific approach towards women in prison. Further, this approach should take into account that women generally pose a lower security risk when developing any gender sensitive risk and needs assessment and classification of prisoners, and that they have a high prevalence of prior traumatic experiences of physical and sexual abuse. In addition, if women have to be held in predominately male prisons, there should be a distinct prison management of women prisoners within the overall management of the establishment with a dedicated prison officer complement.

151. As noted above, the general screening of all persons entering the prisons visited was good and generally the healthcare of women was treated on an equal footing to those in the community regarding interventions such as breast cancer screening and gynaecological examinations, including cervical smear (Pap) tests. It was positive that a nurse was present on the women's section day and night. However, the delegation found that there was no gender specific screening for women upon their entry at either Milan San Vittore or Turin Lorusso e Cutugno Prisons.

Apart from a pregnancy test upon arrival, no screening was undertaken which looked at the history of the women, including any mental health and gynaecological issues, self-harm and medical care and, importantly, which addresses sexual abuse and other gender-based violence issues either upon arrival or in the days and weeks following arrival.

The CPT recommends that a gender-specific medical screening in the period following admission should be introduced at every prison accommodating women. Such screening should allow for the detection of vulnerabilities, including a history of sexual abuse and other gender-based violence, self-harming and suicide ideation and mental health concerns, and it should inform any care plan established for the woman to ensure appropriate care and avoid re-traumatisation.[56]

152. At Milan San Vittore Prison, the women's section consisted of three floors of 12 cells each. The ground floor accommodated 20 sentenced women who were working. The cells and common areas on this floor were impeccably clean and decorated with many plants, and there was a dedicated courtyard with a means of rest and shelter. The first floor accommodated 30 women on remand who were under an open regime with cells unlocked between 8:00 a.m. and 8:00 p.m. while the 25 women on the second floor, who were mostly recent arrivals, were held under a closed regime. Women on remand had access to a separate courtyard covered with artificial grass and equipped with a shelter and benches as well as a toilet and sink, which the women could access twice daily for one hour each time. The second floor also contained a four-cell infirmary and isolation unit with each cell under CCTV and possessing a sanitary annexe. A small section library was also situated on the third floor.

At the time of the visit, 34 women had a job either working in the kitchen, the laundry, the library, the hairdresser, distributing food or cleaning. A number of arts and crafts, wellbeing, recreational (theatre) and vocational (hairdressing, journalism) courses were also being offered.

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55 The median rate for the Council of Europe area is 4.7% according to SPACE 2021 figures (page 1).

56 Reference should be had to the Bangkok Rules and, in particular to Rule 6 e): "Rule 6. The health screening of women prisoners shall include comprehensive screening to determine primary healthcare needs, and also shall determine: […] (e) Sexual abuse and other forms of violence that may have been suffered prior to admission".

153. At Turin Lorusso e Cutugno Prison, there were 114 women and three infants. Pavilion F was accommodating 108 women and one infant,[57] Pavilion E four women and the separate mother and baby unit, which the delegation did not visit, two mothers and two infants.

154. Pavilion F consists of three accommodation sections and a ground floor with workshops. The vast majority of women (85) were held in Sections 1 and 3 where there was an open regime. The 23 cells in each of these sections measured 8m² and, although designed for single occupancy, were mostly accommodating two women. The material conditions were similar to those observed in the rest of the establishment, including the bedding although new sponge mattresses had been supplied in 2021. Access to natural light was impeded by a metal grate covering the window and the women also complained about the inability to regulate the temperature of the water to wash with, broken windows not being repaired and an infestation of cockroaches.

At the time of the visit, 26 women were working for a cooperative and three in a knitwear workshop, while another 25 were taking courses on restauration and textiles and 39 had work related to the functioning of the establishment such as kitchen work, cleaning and the distribution of food. Around 40% of those with a structured activity were foreign nationals.

155. **The CPT recommends that steps be taken to upgrade the material conditions in Pavilion F at Turin Lorusso e Cutugno Prison. In particular, the grates on the windows should be removed to improve access to natural light, the problem of regulating the temperature of the water should be resolved and the broken windows repaired.**

156. Section 2 of Pavilion F, with a similar layout, operated a closed regime and accommodated new arrivals, offence protection and women with mental disorders. The women were held in single cells. However, the section was chaotic and very noisy as the staff had severe difficulties in managing the seven women identified as having a mental disorder. One of the women was awaiting placement in a REMS and another was under a high level of attention from the court and was also being followed closely by an external forensic psychiatrist, while a third had been on a TSO and was often very aggressive towards both staff and other prisoners.

The women with mental health problems were not being offered a single structured activity. Apart from daily access to the outdoor yard, and contacts with mental health staff, they were locked in their cells for the rest of the day; and their cells did not even contain a television set. This is in contrast to the men with a mental disorder accommodated in Section 5 of Pavilion A, which was a temporary facility, who were offered some organised activities. Women with mental health problems should enjoy access to structured activities tailored to their needs on an equal footing with their male counterparts. That said, the level of medical care was good.

157. The CPT recommends that the Italian authorities take steps to provide those women with a mental disorder in prison with a structured programme of activities, which should include those of a therapeutic nature. Further, given the lack of activities on offer to these women, the cells should be equipped with a television and consideration should be given to the installation of a relaxation room and of using calming lighting and colours.

[57] The mother and infant were only accommodated in Pavilion F for a very short quarantine period before being transferred to the mother and baby unit.

158. The women's section in Pavilion E consisted of five cells and was accommodating four women at the time of the visit. The material conditions in the unit were of a decent standard and women had an open regime. However, only one of the four had a job for several hours each day and, contrary to the male prisoners accommodated in the Pavilion, they were not offered many activities or educational courses and were confined to their small unit, including limited access to the outside yard.

The CPT recommends that the women in Pavilion E be offered a greater range of activities commensurate to those on offer to male prisoners, including activities accessible outside of the unit.

159. Staffing levels were adequate in the female sections visited although the CPT considers that the introduction of mixed-sex staffing would be beneficial. The major deficiency observed was that the female prison officers responsible for managing the closed section at Turin Lorusso e Cutugno Prison were extremely young and inexperienced and felt overwhelmed by the women with mental disorders. They appeared frightened and incapable of engaging with these women which resulted in poor behaviour not being challenged and at times violence towards staff and other prisoners.

There is a need to provide the custodial staff working on this section with training on basic mental health issues, communication skills and in managing difficult and threatening situations. More generally, given the high prevalence of trauma among women in prison, the Italian authorities should seek to build an environment whereby staff are empowered to alleviate the distress of women prisoners and increase their ability to meaningfully engage in services. Staff need to be supported in balancing their responsibilities to act in a trauma informed manner while ensuring that negative behaviour by women is held to account. There should also be a proactive approach towards secondary trauma and burnout in staff such as relaxation skills training and mindfulness.

The CPT recommends that the Italian authorities invest resources in the training of prison staff on the use of trauma informed practices to enable them to support and manage women with mental disorders and other traumas.

8. Transgender persons in prison

160. At Milan San Vittore Prison, the delegation met four transgender women on remand who were accommodated in the male section for prisoners on protection, primarily men who were accused of or sentenced for sexual crimes. At Monza Prison, there were two transgender women, one of whom was accommodated in the protected and vulnerable wing (Section A) while the other was held in a single cell on a protection wing (Section 7). It did not appear that there were any specific policies in place for the management or care of the transgender women within these prison establishments. If a transgender person was on hormone therapy, this treatment could be continued in prison. The delegation was informed that once a transgender woman was sentenced, she would be transferred to Como Prison and would be able to attend a Gender Assignment Clinic at Milan Niguarda Hospital.

161. The CPT considers that transgender persons should either be accommodated in the prison section corresponding to their gender identity or, if exceptionally necessary for security or other reasons, in a separate section which will best ensure their safety. If accommodated in a separate section, they should be offered activities and association time with the other prisoners of the gender with which they self-identify.[58]

162. At the time of the visit, the four transgender women being held in Milan San Vittore Prison expressed to the delegation that they felt uncomfortable being accommodated in the same section as persons accused of sexual offences and that, consequently, they deliberately downplayed their femineity by not putting on make-up or wearing dresses. There were no female custodial officers present on the section which meant that the daily oversight of the women was carried out only by male custodial officers. This is not appropriate as such units should have a preponderance of staff from the same gender as the prisoners.[59]

At Monza Prison, the transgender woman in Section 7 stated that she had been sexually abused and assaulted by other prisoners in 2021 and a particular prison officer would racially abuse her after drinking while on duty. She did not appear to be getting any specific support following these traumatic events which had occurred the previous year and said she did not feel safe on her wing. She had requested to be placed with another transgender woman. The transgender woman on Section A stated that she kept to herself to avoid problems and focused on her hormone therapy and addressing her addictions.

163. The CPT recommends that the Italian authorities draw up a clear policy and guidelines for the management of transgender prisoners which guarantees that their specific needs are catered to, in line with the above-mentioned principles. It would also like to receive information on the specific measures being taken at Milan San Vittore and Monza Prisons to improve the care of transgender women.

Further, the CPT would like to receive information on the number of transgender persons (male and female) held in Italian prisons. It would also like to be informed whether there are sections within prisons specifically designated for accommodating trans persons and, if so, the arrangements in these prisons regarding accommodation allocation, staffing, regime and treatment.

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58 See also Principle 9 of the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity (March 2007).

59 It was at least positive that, at San Vittore, a prison officer was stationed inside the wing for prisoners on protection, with the duty office located opposite the cell accommodating the transgender women whereas in the other prisons visited prison officers were always located outside of the accommodation sections.

9. Other issues

a. persons placed in a drug filter unit (*isolamentro filtro*)

164. At Turin Lorusso e Cutugno Prison, the delegation visited a seven-cell filter unit on the ground floor of Pavilion A where persons suspected of concealing drugs within their body are held. The vast majority of persons located in the unit are remanded to prison by a judge as they are suspected by the police of having ingested drugs. Persons who are suspected of ingesting drugs while in prison are also placed in the unit. The persons would be released from the unit once they had defecated five times and no drugs had been detected by the duty prison officer (who verified each defecation). In the six months prior to the visit, some 35 persons held in the unit had been found to have ingested drugs which represented about 60% of all the placements, according to staff.

The CPT considers that persons suspected of having ingested or concealed drugs within their body should be transferred to a hospital to be placed under medical observation until all the drugs have been expelled. As there is always a risk that the receptacle in which the drugs are placed may burst with potentially life-threatening consequences, it is good practice for the persons concerned to be placed under medical observation in hospital rather than being kept in such a *filtro* unit in the prison. Further, good practice also demonstrates that a CT scan of a person is the most effective means of determining whether a person has ingested or secreted drugs within their body.

The CPT recommends that the Italian authorities review the way in which they treat persons suspected of having ingested or concealed drugs within their body, in light of the above remarks.

165. The cells in the drug filter unit were under CCTV and sparsely equipped, and the persons passed their time sleeping and watching television. In theory, outdoor exercise was offered between 9:00 and 11:00 a.m. and also between 1:00 and 2:45 p.m. However, in practice the three persons held in the unit at the time of the visit had not been offered access to the outdoor yard in the four days since their arrival.

The CPT recommends that all persons placed in the filter unit are offered a minimum of one hour of outdoor exercise every day and that this is clearly recorded in the unit register.

166. All persons placed in the unit are seen by the duty admission doctor upon arrival and thereafter are visited daily by nursing staff, and the Pavilion A doctor if needed. An information sheet provided to each person on the stay in the unit set out that a laxative to aid defecation could be provided if the prisoner wanted one. However, when the delegation raised this matter with one of the persons, he stated that he had never signed any form saying he did not want a laxative and, indeed a sample signature he provided to the delegation was different from the one on the form declining a laxative.

167. The doctor on duty responsible for admitting persons to prison told the delegation that laxatives should not be given to persons suspected of having ingested drugs as there was a risk of rupture of the intestine. While it is true that irritant type laxatives could cause the lining on any ingested drugs to burst and result in serious health consequences, including death, the use of lubricant type laxatives are considered safe. Such health and safety considerations should have been clearly identified prior to the adoption of the protocol offering the use of laxatives. At the same time, it is totally unacceptable for a member of staff to falsify a form to suggest that the correct procedures are being followed.

The CPT recommends that the prison and health management team at Turin Lorusso e Cutugno Prison ensure that the protocols for the management of persons suspected of having ingested drugs are fully agreed upon and properly followed.

b. discipline

168. As regards disciplinary procedures, the situation has not changed since the Committee's previous visits. The Prison Law and the Prison Regulations set out in detail the procedures to be followed when a person in prison is suspected of committing a disciplinary offence both in terms of the procedure before the Disciplinary Board and the possibilities of appealing any punishment.[60]

That said, it appeared that disciplinary decisions were still not always sufficiently reasoned. In many cases, decisions only contained one or two sentences summarising the statement made by the prisoner and the assessment by the disciplinary board. Prisoners were still not authorised to call witnesses on their behalf, to cross-examine evidence given against them or to have a lawyer present during hearings before the disciplinary board. Further, prisoners complained that they only received a brief notification of the sanction imposed and not a copy of the disciplinary decision itself. Even if a copy of the decision is placed in the personal file of the prisoner which they are entitled to access, good practice dictates that the person be provided with a copy of the reasoned decision in full. In addition, prisoners were usually only informed orally of the modalities to lodge an appeal. Given the potential consequences of a loss of 45 days of sentence reduction in case of a disciplinary sanction, the importance of these guarantees is all the more crucial.

169. The CPT calls upon the Italian authorities to ensure that prisoners facing disciplinary charges are allowed to call witnesses on their behalf, to cross-examine evidence given against them, and to have a lawyer present during hearings before the disciplinary board. Further, prisoners should receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal. The prisoners should confirm in writing that they have received a copy of the decision.

170. The delegation found no indications of excessive resort to disciplinary sanctions (including solitary confinement) in any of the prisons visited. For example, at Turin Lorusso e Cutugno Prison, although 257 disciplinary proceedings were opened in 2022 (1st quarter) and 943 were opened in 2021, for a prison population of some 1 400, the vast majority were dismissed.

Further, the delegation observed that the disciplinary punishment of exclusion from all activities (namely, solitary confinement) was only handed out on eight occasions in the first quarter of 2022 and never for a period in excess of 10 days, and on 22 occasions in 2021 for periods ranging from 3 to 15 days.

It was only at Monza Prison, that solitary confinement as a disciplinary punishment was issued more frequently although not excessively (e.g. 15 times in 2022 (1st quarter) and 80 times in 2021). However, the measure in the past two years was almost always suspended as long as the person concerned did not commit another disciplinary offence or if the segregation unit was already hosting a challenging prisoner.[61] The CPT considers such an approach to be positive. Nevertheless, the persons who had been served with a disciplinary punishment of solitary confinement did not know that the measure had been suspended and some of them were rather nervous about potentially serving such a sanction.

The CPT recommends that, for the purposes of transparency and fairness, persons sentenced to a disciplinary punishment of solitary confinement should be informed if the measure is suspended and of the terms of the conditionality, including the time period.

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60 See Articles 35bis, 36, 38 to 40 and 69 of the Prison Law, and Article 81 of the Prison Regulations.

61 During the Covid-19 pandemic, the segregation unit was also used for quarantining purposes.

c. contact with the outside world

171. The applicable legal provisions for persons in prison under a medium-security regime permit. six one-hour visits and four ten-minute telephone calls per month, which were being complied with in practice at the establishments visited.

Further, in the four prisons visited, the option for video-calls to be made to family members had been introduced early on during the Covid-19 pandemic to ensure that prisoners could keep in contact with the outside world. In many of the prisons, it was possible for prisoners to combine two one-hour non-contact visits (via a Plexiglass screen) with four videocalls of around 30 minutes each. Given the number of prisoners with family living abroad or at long distances from the prison, **the CPT supports the option being put forward by the DAP for one or more videocalls to be maintained even once physical visits are fully restored. The Committee would like to be informed about the official DAP policy regarding the continued access of prisoners to videocalls as an integral component for prisoners to maintain contact with the outside world.**

172. A major concern raised by newly admitted persons in all the prisons visited was the inability for them to contact their families for periods ranging from 10 to 20 days or even more. The problem lies in the fact that a person must obtain permission from the judge before being able to make a phone call. This entails making a written request with proof that the person to be contacted is a family member and enclosing a copy of the telephone contract of the person to be contacted. Foreign nationals from the African continent complained bitterly that obtaining such contracts was very complicated as firstly they did not normally exist and secondly, the names of the family members in their home countries were not the same as their names. Others complained that the administrative delays in being able to contact family or friends meant that they could not obtain a change of clothes or access to funds to buy products from the canteen.

The CPT considers that all persons entering prison should be offered the opportunity of one phone call to let their families know where they are and what they require. This is all the more important given that many persons deprived of their liberty by police (State Police or *Carabinieri*) do not contact their families prior to being transferred to prison.

The CPT recommends that the Italian authorities offer all newly arrived persons in prison the possibility to make one short phone call to a family member as part of the admission procedure.

C. Psychiatric institutions

1. Preliminary remarks

173. The Italian civil mental health system is organised on a territorial basis across 140 Mental Health Departments (*Dipartimenti di Salute Mentale* or DSMs). Each DSM consists of various community healthcare services (*Centri di Salute Mentale* or CSM)[62], day-hospital centres, (semi)-residential facilities for the rehabilitation and sub-acute treatment of patients,[63] as well as psychiatric wards in civil hospitals (known as *Servizi Psichiatrici di Diagnosi e Cura* or SPDCs) for the treatment of voluntary and involuntary patients during acute episodes of their disorders.[64] The SPDCs are the direct result of the 1978 reform of the Italian mental health system which led to the closure of special psychiatric hospitals. Consequently, Italy has one of the lowest ratios of beds to number of inhabitants in mental health facilities in Europe (namely, 9.9 beds per 100 000 adult inhabitants).

174. The recently published statistics of the Ministry of Health show that the number of involuntary hospitalisations, based on a measure of the number of compulsory treatment orders (*Trattamento Sanitario Obbligatorio* or TSO), is on the decrease and amounts to 1.1 per 10 000 inhabitants[65] and the average duration of a patient's hospitalisation in a SPDC is 13.4 days. In 2021, the Ministry of Health created a working group to reassess the procedure, circumstances and existing regional imbalances in the application of TSO measures in light of the tenets of Law No. 833 of 1978.[66] Articles 33 and 34 of Law No. 833 of 1978 clearly state that the basis of a TSO should not be the refusal of a medical intervention or the dangerous profile of the patient but rather the necessity to treat as a last resort a mental disorder which poses serious alteration of their state in the absence of other alternatives (see also paragraph 215).[67]

In this context, the Ministry of Health has also tasked the regional healthcare authorities to step up their efforts towards the reduction, and even possible eradication in the medium term, of the resort to mechanical restraint of patients in SPDCs through the implementation of clear benchmarks and guidelines (see paragraph 199). The Ministry is also conditioning the funding earmarked in the EU Recovery and Resilience Plan for mental health systems to the implementation of the above-mentioned measures.[68]

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62 In the context of the Region of Lombardy they are called Psycho-Social Centres (*Centri Psico-Sociali* or CPS).

63 Such facilities are known as Residential Rehabilitative Communities or Residential Protected Communities or *Comunità riabilitative ad alta e media intensità* (CRA and CRM) and *Comunità protette ad alta e media intensità* (CPA and CPM).

64 There are 328 SPDCs at national level with a total capacity of 4 156 hospital beds. In principle, each SPDC has a capacity of approximately 20 beds (that is, a ratio of one bed per 10 000 inhabitants).

65 The rate was 1.73 in 2015. A total of 5 398 TSOs were imposed in the course of 2020 nationally, which represents approximately 7% of the total number (76 351) of hospitalisations in an SPDC. In 2019, 6 737 TSOs were imposed.

66 In 2020, the ratio of TSOs per 10 000 inhabitants varied from 0.3 in the Basilicata Region to 2.6 in the Umbria Region.

67 In accordance with Article 34 of Law No. 833 of 1978, the three concurrent conditions which must be in place for the initiation and application of a TSO measure are as follows: *"if there are mental health alterations such as to require urgent therapeutic interventions, if the same are not accepted by the person, and if conditions and circumstances do not exist that would allow timely and appropriate non-hospital medical measures to be taken."*

68 The funding in question amounts to €30 million and concerns specific interventions in support of DSMs nationwide.

175. In the course of its 2022 periodic visit, the CPT's delegation visited the following four SPDCs in order to assess the treatment of patients and the impact of the above-mentioned reforms:

- Milan Niguarda Hospital SPDC, consisting of two identical wards (SPDC I and II) of 20 and 22 beds respectively, is located on the first floor of Pavilion 7. At the time of the visit, the two wards were accommodating a total of 37 patients (of whom 14 were women). In addition to its territorial catchment area of 350 000 inhabitants covering the North-East part of the Milan metropolitan area, the SPDC was the establishment of reference assigned by the Milan Metropolitan Area healthcare protection agency (*Agenzia per la Tutela della Salute* or ATS) for the treatment of patients with a mental disorder incarcerated at Milan San Vittore Prison, for un-registered foreign nationals as well as for patients who tested positive for Covid-19. At the time of the visit, three patients were or had recently been under a TSO measure.

- Cinisello Balsamo SPDC, consists of a 14-bed ward located on the first floor of the Bassani Hospital, which has a catchment area of 300 000 inhabitants across the north of Milan.[69] At the time of the visit, it was accommodating 13 patients with a mental disorder including seven women and one minor. None of them was under a TSO measure.

- Melegnano SPDC, consists of a 15-bed facility on the first floor of the Vizzolo Predabissi Hospital which has a catchment area of 650 000 inhabitants in the east and south of Milan province.[70] At the time of the visit, it was accommodating 15 patients (including seven women), two of whom were under a TSO measure.

- Rome San Camillo SPDC, consists of a 15-bed ward within the ground floor of the Morgagni Pavilion of San Camillo-Forlanini Hospital, which has a catchment area of 400 000 inhabitants in the west of Rome. At the time of the visit, it was accommodating nine patients with a mental disorder (five men and four women) including two under a TSO measure and three forensic patients under a security measure who were awaiting placement in a REMS (see paragraph 114). That said, on the relevant dashboard in the medical room of the SPDC, it was indicated that six additional beds could be placed in the SPDC's corridor in case of full occupancy of the establishment. Such a practice had been already criticised by the NPM in a recent report on its visit to the establishment.[71]

176. The CPT recommends that the Italian authorities ensure that the practice of placing patients in the corridor of the Rome San Camillo SPDC be discontinued and that the official capacity of the establishment be limited to 15 beds.

69 The Sesto San Giovanni SPDC also belonged to the same DSM.

70 The catchment area of the Melegnano SPDC had been enlarged following the closure of the Melzo SPDC in 2021 due to serious understaffing.

71 See in this respect the report of the NPM on its visit to the Rome San Camillo SPDC of 30 December 2021. In response to the NPM's report the competent ASL had reported that steps were being taken to reconvert an existing room of the SPDC for the accommodation of two additional patients.

2. Ill-treatment

177. The delegation spoke with all the patients accommodated in the SPDCs visited and received no credible allegations of physical ill-treatment by staff. On the contrary, it found that staff exhibited a positive and caring approach at all the facilities visited. Some claims were received by patients at Milan Niguarda and Melegano SPDCs in relation to sporadic episodes of verbal offences and derogatory comments on their status made by nurses and nursing assistants (*Operatori socio-sanitari* or OSSs). The reason for these altercations revolved primarily around the wearing of facemasks and the regulation of the use of mobile phones at the ward.

Further, the frequent resort to prolonged mechanical fixation of patients as well as chemical restraint described in paragraph 202 may also amount to ill-treatment.

The CPT recommends that the management of Milan Niguarda and Melegnano SPDCs exercise continuous vigilance and remind their staff at regular and frequent intervals that patients should be treated with respect, and that any form of verbal abuse, is not acceptable and will be sanctioned accordingly.

178. Episodes of inter-patient violence were rare at the SPDCs visited and their occurrence was confirmed by the electronic recording system of risk events in use in the Lombardy Region.[72] The instances in question referred to agitated patients occasionally physically attacking their roommates during an acute phase of their disorders and trying to escape from the SPDC through the secured terrace. OSS staff appeared to promptly intervene and separate the patients and managed to adequately de-escalate their conflicts.

3. Patients' living conditions

179. The SPDCs under the responsibility of the Lombardy regional healthcare authorities offered a satisfactory living environment and very good hygiene conditions for the patients, notably in light of the short periods of stay in these facilities.

180. At the Milan Niguarda SPDCs, the 21 rooms[73] were spacious, luminous and in a good state of hygiene. The rooms were equipped with hospital beds, bedside-tables, wardrobes, tables and chairs. Separate sanitary facilities (in principle one for two double rooms) consisted of a toilet, washbasin and shower. Each SPDC ward also possessed communal rooms equipped with television sets, tables and chairs, which also hosted group occupational therapy sessions and the refectory. A separate secured terrace with reinforced metal bars and a screen in order to prevent patients from escaping outside, equipped with chairs and benches was the sole possibility for patients to get access to fresh air (see paragraph 192).

181. At Cinisello Balsamo SPDC, the six rooms (for double and triple occupancy) were of a similar design and state of repair as Niguarda SPDC, and each room had a sanitary facility equipped with toilet and basin. However, there was only one functional common shower, to meet the needs of up to 5 patients. The communal facility consisted of a spacious room decorated with murals and plants and equipped with a television and a table-football set. The room also served as a refectory. Further, an outside space with reinforced metal grills in order to prevent the risk of patients escaping and equipped with chairs offered the only possibility to patients of access to fresh air.

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72 For example, at Milan Niguarda SPDC four such episodes had been recorded since 2019 in the register of critical events and one episode was recorded in the same electronic database at Cinisello SPDC since January 2022. Further, at Milan Niguarda SPDC eight episodes of patients' physical aggressions against staff had been recorded since 2019.

73 The rooms were in principle for double-occupancy with the exception of one triple and one single-occupancy room, with the latter generally used for the restraint of patients.

182. At Melegnano SPDC, the conditions in the seven double and triple rooms were rather austere (in terms of their age and furniture[74]) and cramped, in particular in the two triple rooms (measuring approximately 14m^2). The only communal facilities consisted of one smoking room equipped with an air extraction system. Patients did not have access to television, any table games or to an outside space.

183. At Rome San Camillo SPDC, the six rooms were adequately equipped with hospital beds, bedside tables, wardrobes, tables and chairs and an in-room sanitary facility (consisting of toilet, basin and shower). The patients' rooms were spacious with good ventilation and lighting. However, the communal room, which also served as a refectory, was in a state of neglect with dilapidated plastic chairs, broken window glass and a non-functioning television. Further, the entire SPDC was in a poor state of hygiene, which staff imputed to the under-performance of the cleaning company outsourced by the San Camillo-Forlanini Hospital.

184. The SPDCs should offer a therapeutic living environment which is conducive to the treatment and welfare of their patients. In this respect, notwithstanding the short average period of hospitalisation in a SPDC, rooms and communal facilities should always be kept in a satisfactory state of repair and hygiene and should be suitably furnished. Further, patients should preferably be provided with the necessary level of privacy to allow their prompt stabilisation.

The CPT recommends that the Italian national and regional healthcare authorities take the necessary steps to ensure that:

- **at Rome San Camillo SPDC rooms and communal facilities are maintained in a satisfactory state of hygiene and furniture and that the TV set in the communal facility be repaired;**
- **at Melegnano SPDC, triple occupancy rooms are converted to double-occupancy and the furniture of the rooms replaced and a communal facility equipped with a TV set should be put into service;**
- **at Cinisello SPDC, additional shower facilities be installed, in particular in light of the fact that SPDCs in Italy are invariably for mixed genders.**

Further, the CPT recommends that the Italian authorities should ensure that in the design of future constructions and refurbishments of SPDCs, or in the renovation of existing ones, attention be given to the creation of single rooms.

185. At Milan Niguarda Hospital, the management informed the delegation of a project to refurbish and re-adapt an existing pavilion to accommodate a fully integrated psychiatric hospital facility which would consist of a new SPDC unit (44 beds) and a department for child and adolescent psychiatry with an enhanced offer of rehabilitative and psychological assistance services to be provided by DSM staff. The €32 million project had already received funding approval. **The CPT would like to receive updated information on the implementation of this new psychiatric hospital facility including as regards the intended bed capacity, staffing levels, offer of recreational and therapeutic activities and possibilities for access to an outdoor area.**

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74 Namely, hospital beds, bedside tables, wardrobes, small tables and chairs.

4. Treatment

186. As mentioned in paragraph 170 the Italian mental health system considers hospitalisation in an SPDC (whether on a voluntary or involuntary basis) as an *ultima ratio* measure, to be resorted to when no alternative therapeutic interventions are possible within the relevant community health service or residential care facility. In this respect, the therapeutic interventions in a SPDC are seen as a stabilising factor to address the acute phase of a mental disorder prior to the transfer of the patient to a residential rehabilitation centre or their discharge into the community. Therefore, the SPDC's staff operate in symbiosis and as an integrated part of the rest of the DSM services.

At the four SPDCs visited, the delegation was able to ascertain that these guiding principles were reflected in the integrated and authentically individualised approach operating within these wards, based upon an individualised treatment plan for each patient.

187. In terms of psychopharmacological care, the delegation did not find any sign of disproportionate resort to medication in relation to the nature and severity of the mental disorders observed. Further, the medication prescribed to patients at the SPDCs visited was the object of daily reassessments and the clinical status of patients was accurately monitored to balance the therapy in view of their possible discharge.

188. The delegation found that the treatment on offer to patients at the SPDCs visited relied mainly on pharmacotherapy due to the penury of rehabilitative, recreational and therapeutic activities on offer and the limited duration of hospitalisation. With the exception of Milan Niguarda SPDC, where an art workshop was offered to patients on a weekly basis, no group or individual therapeutic activities were in place for patients at the rest of the SPDCs visited. The delegation was informed that the longstanding and persistent Covid-19 restrictions had limited the access of personnel from cooperatives to the SPDCs in question. Further, the staffing complement of Rome San Camillo and Cinisello Balsamo SPDCs did not include a mental health rehabilitation therapist (*terapista per la riabilitazione psichiatrica* or TERP, as mentioned in paragraph 194).

189. In principle, the non-pharmacological interventions on offer at the SPDCs visited consisted of individual psychological support (for the purpose of ensuring continuation of treatment after their discharge),[75] while the role of TERPs consisted of introducing patients to their future residential psychiatric care facility.[76] Despite the short duration of the average stay in the SPDCs as well as their integration into the DSM interface (notably in Lombardy), this cannot be considered adequate.

Despite the fact that patients usually stayed in the SPDC only for relatively short periods, the management of the SPDC should develop other forms of treatment (such as individual and group therapies). For this purpose, the existing nursing staff should receive additional training and the SPDC should be visited on a regular basis by a psychologist and a social worker.

The CPT recommends that action be taken by the relevant regional authorities to diversify the treatment available to patients in SPDCs, in light of the above remarks.

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75 For example, at Milan Niguarda SPDC, the clinical psychologists of the relevant community mental-health centre (*Centro Psico-Sociale* or CPS) were holding individual interviews with patients hospitalised at the SPDCs in view of their future treatment after their discharge.

76 Every DSM managed a network of residential rehabilitative or protected communities which consisted of open residential care facilities or apartments within its territory of reference, to which patients would be discharged after their periods of hospitalisation at an SPDC.

190. The Milan Niguarda SPDC is the reference institution for the hospitalisation of foreign nationals affected by mental health disorders in the metropolitan area of Milan (including migrants from the local Milan Centre for Reception and Return, or CPR). For this purpose, the DSM has, since 2000, provided a service of ethno-psychiatry staffed with multidisciplinary specialised teams of psychiatrists, nurses, OSS, psychologists, educators and social workers, as well as cultural mediators who were tasked to provide specialised psycho-therapeutic assistance to foreign nationals both in a community and a hospital setting.[77]

The Committee welcomes the approach of the Milan Niguarda DSM in respect of its service of ethno-psychiatry and encourages the Italian authorities to extend this project to other similar metropolitan areas of Italy where there is a strong presence of un-registered foreign nationals.

191. Rome San Camillo SPDC had a secured courtyard with vegetation surrounded by a metal fence and equipped with benches and a water tap, but which was temporarily inaccessible to patients due to recent escapes. None of the SPDCs visited possessed an operational outdoor facility. Consequently, the only possibility for access to fresh air for patients at Milan Niguarda and Cinisello SPDCs consisted of two secured exterior terraces, equipped with chairs, surrounded by an anti-escape metal grille and glass barriers. At Melegnano and Rome San Camillo SPDCs, patients were not offered any possibility of access to fresh air apart from sporadic walks in the hospital's outdoor area accompanied by a staff member. At Milan Niguarda SPDC, staff told the delegation that patients had been frequently accompanied on walks out of the SPDC within the perimeter of the hospital, but that these walks had been suspended since the start of the Covid-19 pandemic in March 2020. This situation was even more concerning in light of the fact that the vast majority of patients met at the SPDCs visited had been hospitalised on a voluntary basis.

192. The Committee recognises that the integration of SPDC wards into existing civil hospital facilities renders the creation of a suitable outdoor area difficult and that the management of SPDCs is often compelled to improvise the arrangement of existing premises to enable access to fresh air for patients. The CPT considers that the possibility for a patient to be outside, preferably in a pleasant garden area, should be a right for every patient. Further, spending time outdoors has a beneficial impact on patients' well-being and recovery. Hence, access to the outdoors should be proactively promoted. Further, the Committee holds that alternative arrangements should be put in place to allow patients to have access to an outdoor area daily. This may require, if necessary, having to accompany patients on short walks out of their wards under supervised conditions.

193. The CPT considers that all patients hospitalised in SPDCs should, health permitting, benefit from unrestricted access to outdoor exercise during the day, unless treatment activities require them to be present on the ward in a reasonably spacious and secure setting, which should also offer shelter from inclement weather.

In light of these precepts the CPT recommends that serious reflection be given to the need for designing properly equipped outdoor facilities in all SPDCs and allowing the use of the existing ones, such as at Rome San Camillo SPDC, under proper staff supervision.

Further, measures should be taken to increase access to fresh air for patients hospitalised at all SPDCs and, in particular, resume the practice of accompanying patients to outdoor facilities at Milan Niguarda SPDC. Finally, the CPT recommends that the Italian authorities ensure that, in the design of future of SPDCs, or in the renovation of existing ones, attention be given to the creation of adequate and suitably equipped outdoor facilities for patients.

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77 The Ethno-psychiatry centre of Milan Niguarda DSM provided assistance to 299 foreign nationals in the course of 2020 and 2021 (including 119 new arrivals to Italy).

194. The integration of SPDCs into the tissue of the existing civil hospitals guaranteed a prompt and comprehensive attention to the somatic healthcare needs of patients at each of the four SPDCs visited. In this respect, medical files of patients showed that the level of care provided to them was good and medical records bore testimony to the frequent examinations of patients by specialists from other medical branches within the same hospital. (see also paragraph 220 in relation to the treatment of patients with a mental disorder affected by Covid-19). This is positive.

5. Staff

195. The general level of healthcare staffing within the SPDCs visited was good in relation to the number of beds and patients, bearing in mind that the SPDCs operated as a part of the relevant DSM. The ratio and presence of staff was as follows at the SPDCs visited:

- *At Milan Niguarda SPDC a team of 11 psychiatrists out of 12 budgeted positions, 40 nurses (including a head nurse), 10 nursing assistants (OSS), two mental health rehabilitation therapists (TERPs), one social worker and one part-time psychologist were in service at both wards, for a maximum of 44 patients.*
- *The Cinisello Balsamo SPDC ward possessed a healthcare staffing complement of four psychiatrists, 12 nurses, three OSSs and one psychologist,[78] for a maximum of 15 patients.*
- *Melegnano SPDC relied on a staffing complement of four psychiatrists (including the SPDC Director), 19 nurses (including one head nurse), three OSSs and one TERP,[79] for a maximum of 15 patients.*
- *Rome San Camillo SPDC ward healthcare staffing complement consisted of four psychiatrists,[80] 19 nurses (including one head nurse),[81] one OSS, two psychologists and one social worker, for a maximum of 15 patients.*

Such staffing levels ensured an adequate coverage during the three daily working shifts. In principle, three to four nurses were present and one psychiatrist was always on duty either on site[82] or on call[83] during night shifts and at weekends at the four SPDCs visited.[84]

196. The delegation was informed that certain vacancies existing in different SPDCs of Lombardy, in particular in regard to the difficulty in recruiting psychiatrists willing to work outside the main urban areas. For example, ten of the 25 budgeted psychiatrist posts at the DSM of Melegnano-Martesana were vacant, which had led to the closure of the Melzo SPDC. Further, at Cinisello Balsamo SPDC, the management of the DSM experienced difficulties in attracting candidates for the three vacant nursing posts.

The CPT would like to be informed by the Lombardy Regional healthcare authorities about the outcome of the ongoing competitions in respect of the vacant posts at Melegnano and Cinisello SPDCs.

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78 In addition, with the support of the Faculty of Medicine of the Milan Bicocca University, several specialising psychiatrists also visited the SPDC.

79 The TERP was attending the SPDC once a week.

80 Out of a total of nine budgeted posts. The Director of the SPDC was also responsible for the Ostia SPDC and worked half-time at each establishment.

81 Out of a total of 21 budgeted posts.

82 At Milan Niguarda and Rome San Camillo SPDCs.

83 At Cinisello and Melegnano SPDCs.

84 Further, a GP from a different hospital ward was on call at each SPDC for round the clock assistance during night and weekend shifts, in case of emergencies of a somatic healthcare nature.

197. As mentioned in paragraph 172, every SPDC operates in full symbiosis with the rest of the component of the DSM. This was visible in particular and was a good example of burden-sharing among colleagues at Milan Niguarda Hospital, where 31 out of the 39 psychiatrists of the DSM worked, on a rota basis, at the psychiatric section of the hospital's emergency unit.

198. At the Milan Niguarda, Melegnano and Cinisello SPDCs, staff benefitted from an extensive offer of training activities offered by the Lombardy regional authorities, such as risk assessment of patients and de-escalation measures and teamwork in addressing complex psychiatric cases. The training events in question were in the form of webinars since the start of the Covid-19 pandemic, with the acquisition of credits for the maintenance of their licence. At Rome San Camillo SPDC, staff had recently been provided with targeted training activities on the standardisation of personal psychiatric medical records and ward management.

6. Use of means of restraint

199. In the 16th General Report on its activities, the CPT advocated for the reinforcement and uniform application of clear safeguards concerning the resort to means of restraint in respect of patients with a mental disorder.[85] In the Committee's view, the aim should be the gradual and progressive reduction of the resort to such a measure and the application of alternative methods to contain agitated patients. Consequently, the CPT has been advocating for such an approach in SPDCs. The mechanical restraint of patients with a mental disorder is still not clearly regulated in Italian legislation, which poses *prima facie* questions as to its compatibility with Article 13 of the Constitution.[86]

In practice, the mechanical restraint of patients with a mental disorder in an SPDC is generally applied based upon a doctor's assessment of a state of necessity clause contained in Article 54 of the CC, which is in principle rather restrictive and has a notion of exemption of criminal responsibility.[87] Some Italian regions (including the Regions of Lombardy and Lazio) have adopted protocols on the application of the means of restraint vis-à-vis patients in a healthcare setting in line with the 2008 guidelines issued by the State-Regions Conference.[88] Further, the Niguarda

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85 See paragraphs 36 to 54 of the 16th General Report on the CPT's activities (CPT/Inf (2006) 35)and in particular the sections on recourse to restraint, the means used, permanent monitoring of patients by qualified staff and staff training.

86 See Article 13, paragraph 2 of the Italian Constitution which stipulates: *"No one may be detained, inspected, or searched nor otherwise subjected to any restriction of personal liberty except by order of the Judiciary, stating a reason and only in such cases and in such manner as provided by the law*. Further, paragraph 4 of the same Article stipulates that *"any act of physical and moral violence against a person subjected to restriction of personal liberty shall be punished."*

87 Article 54 of the CC reads as follows: *"A person shall not be punishable if he has committed the act in consequence of being compelled to do so by the necessity of saving himself or others from the actual danger of serious personal injury, a danger not voluntarily caused by him, nor otherwise avoidable, provided that the act is proportionate to the danger."* The application of Article 54 of the CC in the context of a restraint measure of a psychiatric patient must be seen from the angle of the exemption of the staff's responsibility for criminal offences such as, for example, "abduction" pursuant to Article 605 of the CC or "infliction of bodily injury" in accordance with Article 582 of the CC.

88 The main tenets of the regional protocols and guidelines in question consist of the following seven points:1) monitor the phenomenon of restraint at the regional level through the systematic collection of information. 2) Monitor the violent behaviour in acute care settings at the regional level (agreeing on assessment tools to be adopted and how to process data at the level of the mental health services involved). 3) Promote training for all stakeholders, health and non-health, to foster appropriate practices for managing at-risk situations that are able to stop escalation. 4) Define and ensure structure and process standards for mental health that are able to counteract the occurrence of violent behaviours or enable them to be addressed and overcome as effectively as possible. 5) Assess the impact of information, training, and organisational appropriateness initiatives on improving the quality of mental healthcare and treatment; particularly in terms of reducing violent behaviours and episodes of physical restraint. 6) Promote in the mental health services systematic practices of verification and quality improvement with regard to the management of crisis situations and, in particular, to the use of physical restraint, which, in a psychiatric care oriented to best practices, assumes the significance of a sentinel event. 7) Encourage transparency in treatment facilities where acute cases are treated, with the involvement of associations of users, family members, and offices deputies to the defence of citizens' rights, in order to improve accessibility, liveability and reception, provide information on procedures in place and guarantees for users, facilitate communication with the outside world.

Metropolitan Hospital had developed a specific and comprehensive policy on the use of restraint, including in respect of patients hospitalised in a somatic healthcare ward.[89]

200. In the course of 2021, the Ministry of Health committed itself to the reduction and abolition of the resort to mechanical restraint, proposing to the regional healthcare authorities a series of activities such as a risk assessment of the patient's aggressive behaviour[90] and a limitation on their freedom, targeted training for staff, reporting and data analysis on the application of restraint, strengthening the legal safeguards and fundamental rights of patients with a mental disorder and ensuring a better integration between community health centres and SPDCs.[91] The Ministry had also conditioned the allocation of important funding foreseen by the EU Recovery and Resilience Plan for DSMs to the implementation of the above-mentioned principles (see paragraph 173).

201. In addition, it must be recalled that the issue of mechanical restraint of patients with a mental disorder has gained a certain visibility in recent years in light of the death of several patients during the application of such a measure in various SPDCs which have consequently been the subject of criminal investigations.[92] Further, in a landmark decision issued in 2018 in respect of the death of a psychiatric patient in 2008 after a period of restraint of 87 hours at Vallo della Lucania SPDC, the Cassation Court found that the mechanical restraint of a psychiatric patient *"represents the highest level of deprivation of personal liberty that can and must be ordered by the healthcare personnel only in extraordinary situations and for the time strictly necessary after exercising the maximum supervision over the patient"*.[93] Also, in 2015, the Italian Committee for Bioethics issued an advisory opinion inviting the authorities to *"develop(ing) programmes aimed at discontinuing the use of restraint in order to foster a general culture of respectful care of rights, acting on organisational models of services and training of staff"* and *"promoting innovation, introducing quality standards that favour no restraint services and facilities"*.[94]

202. In the course of its 2022 visit, the delegation examined the application of means of restraint at the four SPDCs visited, notably in light of the system of monitoring, data analysis and recording in place in Lombardy since 2010, as well as the relevant regional protocols. Further, the delegation visited Melegnano SPDC, which belongs to the network of 21 psychiatric establishments that have committed to a "no restraint policy" with the aim of limiting its use and instead applying alternative measures to contain patients such as manual control and de-escalation measures.[95]

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89 Such as, for example, in respect of neurological patients who might attempt to remove telemetry physiological monitoring equipment in the post-surgery phase.

90 The assessment in question was on a specific questionnaire and a consequent diagram set to predict the patient's possible behaviour (namely, the Broset violence scale which is a six-item checklist to assist in predicting imminent violent behaviour by a person.

91 See the Ministry of Health document under the title *"Per il superamento della contenzione meccanica nei luoghi di cura della salute mentale"* which was presented in June 2021 by the Minister of Health during the 2021 National Conference on Mental Health (*Conferenza sulla Salute Mentale in Comunità*).

92 For example, a female patient died on 13 August 2019 at Bergamo SPDC during a mechanical restraint measure, following a fire which she had started while restrained (having allegedly brought a lighter into the restraint room). The NPM conducted a visit to the SPDC and found numerous irregularities in relation to the poor recording of restraint measures at the SPDC, inadequate supervision of the measure, their order by the nursing staff and the unclear status of patients (in terms of intervals of periods of voluntary hospitalisation between two TSOs). The investigation into the death of the psychiatric patient focussed on the employees of the fire protection company in charge of the hospital.

93 See the decision of the Cassation Court No. 50497 of 7 November 2018 in respect of the "Mastrogiovanni case".

94 See the advisory opinion entitled: *"La contezione: problemi bioetici"* issued on 23 April 2015 by the National Committee of Bioethics

95 The "SPDC no restraint" network also developed minimum standards to be achieved in a move towards zero-growth and the eventual abolition of resorting to a measure of containment in SPDCs. These consist of continuous live monitoring of the application of the measure and its duration, exchange of best practices on how to reduce restraint and apply the relevant safeguards, training of staff and establishing a point system of rewards in the evaluation of SPDCs by the healthcare authorities.

203. The findings of the delegation showed that patients admitted via the respective emergency department in a serious state of agitation entailing the risk of harming the self or others were frequently subjected to mechanical restraint at Milan Niguarda, Cinisello and Rome San Camillo SPDCs for periods ranging from a few hours to nine days.[96]

Further, it was not uncommon for patients to be subject to the measure several times during the same hospitalisation, with no changes to their legal status.[97]

204. The restraint measure consisted of cloth-straps being applied to each of the four limbs to attach the patient in a supine position to a bed.[98] The measure would normally be implemented in a room with a single bed but could also take place in rooms with two beds or even in a corridor, as was the case at Rome San Camillo SPDC. The resort to mechanical restraint was ordered by a psychiatrist, invoking article 54 of the CC, and was applied equally to voluntary and involuntary patients with no consequent initiation of a TSO.[99] The Italian authorities have made clear in the past that there is no consequent, objective and causal link between the imposition of a TSO, given its pure therapeutic nature, and the mechanical restraint of a psychiatric patient.

In principle one of the patients' arms would be temporarily released for the purpose of providing food and plastic urinal bottles or disposable pads were used if patients needed to urinate.

205. The measure was monitored by a nurse every 15 minutes to one hour, and by a psychiatrist every two to four hours, and parameters such as the status of agitation,[100] heart rate, blood pressure and pulse oximetric level were accurately monitored and recorded in the relevant charts. Retrained patients could be subject to forced injections of sedative medication. Further, the Lombardy and Lazio protocols stipulated the provision of anti-coagulant therapy after 12 hours of restraint and the written approval of the Director of the SPDC for every extension beyond 24 hours. Dedicated registers on restraint existed at Milan Niguarda, Melegnano and Rome San Camillo SPDCs[101] but no such register was in place at Cinisello Balsamo SPDC.

206. In respect of critical events occurring during a period of mechanical restraint, the registers consulted by the delegation generally indicated no sign of specific alerts. However, one patient of Tunisian nationality had been subject to mechanical restraint for a period of five days from the moment of his hospitalisation at Ostia SPDC on 23 November 2021 until his death, due to an alleged cardio-respiratory failure, on 28 November 2021 in Rome San Camillo SPDC. At the time of the 2022 visit, a judicial investigation was ongoing. The Director of the Rome San Camillo SPDC informed the delegation that the patient had been under constant monitoring by staff.

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96 For example, at Milan Niguarda SPDC mechanical restraint had been resorted to 308 times in the course of 2021 and 58 times until March 2022. The examination of the registers showed that in 19 cases the measure had exceeded the duration of 40 hours. At Rome San Camillo SPDC, where a dedicated register had only been introduced in the months prior to the CPT visit, mechanical restraint had been employed 24 times in respect of 14 patients in the first three months of 2022 for periods ranging from 4.5 to 89 hours.

97 For example, a Tunisian national hospitalised at Milan Niguarda SPDC had been subject to restraint seven times in the course of March 2022 for periods ranging from 20 to 67 hours. His status of voluntary admitted patient had never been reviewed.

98 All hospital beds were equipped for the attachment of cloth-straps with a Velcro fastening.

99 If it concerned a voluntary patient.

100 In accordance with the Broset violence scale which is a 6-item checklist assisting in the prediction of imminent violent behaviour of a person.

101 A dedicated register on mechanical restraint had been introduced since January 2022 following a NPM recommendation.

207. As mentioned above, the Lombardy healthcare authorities were among those regions[102] ensuring accurate monitoring, recording and qualitative analysis of data on restraints of patients with a mental disorder which, combined with targeted training activities of staff, indicated a real commitment towards a reductionist approach. The data showed a slight progressive reduction over recent years. For example, the number of patients subject to mechanical restraint at the regional level had decreased from 1 156 in 2018 to 914 in 2021, while the number of restraint measures s had only decreased from 2 557 to 2 406. However, the overall percentage of restrained patients out of the overall number of hospitalisations remained stable at 8% and the average number of measures in respect of each restrained patient had increased from 2.2 to 2.6 during the same time period.

In their response to the delegation's preliminary observations, the Lombardy regional healthcare authorities reiterated their commitment to reduce the resort to restraint. They also pointed out that the numerous and prolonged restraint measures recorded at Milan Niguarda SPDC were due to the difficult and variegated population in terms of the social profile of patients from a specific metropolitan area such as Milan.

208. As regards Melegnano SPDC, which favoured a "no-restraint" policy by focussing on de-escalation and cooling off measures in order to decrease the necessity to resort to restraint, the delegation found that there was a significantly lower resort to the measure of restraint than in nearby SDPCs despite covering a larger catchment area.[103] Such a result was partly due to the application of de-escalation measures and the evaluation of the level of aggressiveness of patients based on specific contention risk assessment charts.

Nonetheless, the delegation observed a practice consisting of the administration of a strong sedative to patients, equivalent to chemical restraint, in a serious state of agitation at the emergency unit of the same hospital. The chemical restraint in question was decided upon by a duty doctor and was administered and monitored by an anaesthesiologist in a dedicated shock room of the emergency department.[104] On waking, patients would normally be transferred to the SPDC. Some patients met by the delegation at Melegnano SPDC who had undergone the above-mentioned chemical restraint in recent months said that they considered this practice to be no less intrusive and traumatic than mechanical restraint.

209. The Committee has serious concerns as to the practice of administering strong sedatives to agitated patients in a shock room of the emergency unit of Melegnano-Predabissi Hospital and is of the opinion that such chemical restraint, administered in order to reduce the level of agitation and to contain the patient in question, requires strict monitoring and accurate recording.

The CPT would like to receive information from the regional healthcare authorities of Lombardy about the protocol of chemical restraint of patients in place at Melegnano, including the precise monitoring and supervision of the measure as well as the statistics on its application in respect of patients with a mental disorder admitted to the emergency unit.

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102 A similar approach had been adopted by the healthcare authorities of Emilia-Romagna, Friuli Venezia Giulia Regions and the autonomous Province of Trento.

103 No mechanical restraint had been enforced in the course of 2022 and five had been performed in the course of 2021 in respect of three patients for a maximum duration of 64 hours. The delegation was able to verify that the recording and monitoring of the measure were accurate and the reasons for its application were justified in the relevant patients' files.

104 The chemical restraint in question consisted of Propofol and Midazolam.

210. At the Melegnano SPDC the delegation was informed that in case of prolonged and repeated self- and hetero-aggressive behaviour of patients or their refusal to accept therapeutic interventions if subject to a TSO, the healthcare staff would occasionally[105] resort to calling a patrol of the *Carabinieri* as they believed that the simple presence of uniformed police officers in the ward had a beneficial effect on the behaviour of patients (that is, in de-escalating tensions). Those interventions were only recorded in the nurses' daily logbook of the SPDC ward.

The CPT does not dispute that, in very exceptional cases, the assistance of law enforcement officers may be necessary on a SPDC ward for the purposes of preventing serious disruptions and threats to the personal integrity of patients and staff.[106] That said, in the present case, it questions the resort to the presence of law enforcement officials at the SPDC for the purpose of calming down patients, as such officers are not trained to manage agitated patients and their intervention has a high risk of intimidating the patients present on the ward. In addition, there was a lack of accurate recording of such interventions.

The Committee recommends that the practice of inviting a patrol of *Carabinieri* to the SPDC for the purpose of calming down agitated patients be reconsidered and subject to the adoption of a protocol of cooperation between the DSM and the competent law enforcement agencies. The protocol in question should, *inter alia* regulate the accurate recording in the relevant logbooks and exceptional circumstances of such interventions.

211. The findings of the 2022 visit highlight the necessity for a new impetus from the national and regional authorities to maintain their commitment to a consistent gradual reduction, and the eventual eradication, of the resort to the measure of restraint of patients in SPDCs. In this respect, the measures adopted by some regional healthcare authorities such as Lombardy in terms of monitoring, recording, training of staff and the adoption of comprehensive protocols on restraint are to be positively acknowledged. However, there still appeared to be too many prolonged and repeated episodes of restraint of patients at the SPDCs visited.

The Committee expresses its concern with the factual legal vacuum in which such an intrusive measure is applied, which raises concerns as to its compliance with Article 13 of the Constitution, notably in light of the absence of judicial supervision. Further, the Committee is of the opinion that the extensive resort to Article 54 of the CC,[107] which is a protective clause for the exemption of the staff's criminal responsibility, is being applied without a stringent assessment of the criteria of imminent danger, proportionality and residuality as set out in the Article 54. In the CPT's view, such criteria can hardly apply to patients who are restrained for days on end and who appear to be stable and co-operative with staff, as shown by the relevant monitoring charts examined by the delegation.[108] Further, the Committee also remains concerned that there is no uniform approach nor understanding from the Italian authorities as to the necessity to initiate a TSO procedure in the case of restraint of a voluntarily hospitalised patient.

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105 Four to five times per year.

106 For example, in the context of the procedure for the application of a TSO measure, several DSMs at the national level have concluded a protocol of cooperation with the competent law enforcement agencies in view of their intervention in case of serious disruptions caused by patients in a grave state of agitation, either in the emergency department or in an SPDC ward of a hospital.

107 A proportion of approximately 2 400 restraints in Lombardy in the course of 2021 suggests a ration of around 13 600 measures per year at national level (Lombardy in fact accounted for 17,57 %of all hospitalisations in an SPDC in the course of 2020).

108 See also in this respect the ECtHR's decision in the case of *Aggerholm vs. Denmark* of 15 December 2020 originating from a complaint of a patient with a mental health disorder being restrained to a bed on unjustified grounds. The Court concluded that a potential danger could not be equated with an immediate or imminent danger in terms of the decision of restraining a patient to a bed.

212. The CPT recommends that the Italian authorities, in the context of their efforts towards the progressive reduction in the resort to mechanical restraint of patients with a mental disorder, adopt uniform mandatory guidelines at national level considering the above-mentioned precepts. Attention should be given to the exploration of viable alternatives to restraint, clarification of the applicable legal safeguards in terms of judicial supervision and the maximum duration of the measure, and a more stringent interpretation of Article 54 of the Criminal Code.

Further, the CPT reiterates its recommendation that, whenever mechanical restraint is imposed in respect of a voluntary hospitalised patient, the procedure in view of the imposition of a TSO be initiated accordingly. This should guarantee the necessary legal safeguards foreseen by Law No. 833 of 1978 and also the judicial supervision of the measure which is, *inter alia,* required by Article 13 of the Constitution.

7. Safeguards

213. In the course of the 2022 visit, the delegation once again examined the procedure and safeguards surrounding the hospitalisation of patients admitted under the TSO procedure enshrined in Law No.833 of 1978 as well as those admitted voluntarily. To this end, it examined the documentation issued by doctors/psychiatrists in relation to the three concurrent circumstances for the enforcement of the TSO,[109] the order of the competent Mayor, and the role/co-validation of the guardianship judge in the assessment of the legality of the procedure.

214. At the outset of the visit, the delegation was informed that the overall number of TSOs was decreasing and amounted to 5 398 in 2020 (representing 7 %of the total number of hospitalisations in SPDCs).[110] In this respect, the Ministry of Health had tasked the working group with devising a set of measures to ensure a more uniform enforcement of TSO procedures to avoid regional imbalances and to reinforce safeguards for patients (see paragraph 171). The CPT delegation also learned that draft legislation had been tabled in 2017 at the Italian Parliament in view, *inter alia* of the reinforcement of legal safeguards of involuntary hospitalised patients in terms of judicial supervision of their fundamental rights, and in particular of any additional coercive measures which might be applied to them during hospitalisation.[111]

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109 These are in accordance with Article 34 of the Law No. 833 of 1978: "if there are mental health alterations such as to require urgent therapeutic interventions, if the same are not accepted by the person, and if the conditions and circumstances do not exist that would allow timely and appropriate non-hospital medical measures to be taken."

110 6 737 in the course of 2019, representing the same 7 %over the total number of hospitalisations.

111 The draft law in question (*Disegno di Legge* No. 2850 of May 2017 known as "Ddl Dirindin") stipulates, *inter alia* that, at the time of the co-validation of a TSO, the guardianship judge appoints a guarantor of the rights of the patient, who is tasked with verifying the compliance with his/her fundamental rights. Further, the same draft legislation foresees the obligation of healthcare staff to inform the patient of their right of complaint to the guardianship judge about any form of coercion and further limitation of liberty which might be applied to them in the course of their hospitalisation and provides for the possibility of the transmission of relevant documentation by healthcare staff to the guardianship judge.

215. The situation in relation to the procedure applied and legal safeguards concerning the application of a TSO[112] to a psychiatric patient at the SPDCs visited has not changed since the CPT's 2016 visit. Namely, the request for the initiation of a TSO and its co-validation were signed by psychiatrists from the same DSM and contained, in principle, an accurate description of the status of the patient and the circumstances which had led to its initiation.[113] However, both the placement order issued by the Mayor within 48 hours from the initiation of the procedure and the judicial decision of the guardianship judge continued to consist of a standardised and repetitive format with no indication of a real individual assessment of each case. In particular, it remained the case that guardianship judges never conducted visits to the SPDCs in order to meet the patient in person, nor held any hearings with them. Further, the judicial decisions of the guardianship judge were not always included in the patients' medical files.

Further, all patients met by the CPT delegation who were or who had recently been subject to a TSO stated that they had not been informed of the imposition of the measure, or of its cessation, or of any renewals, nor had they received any documentation in that respect. All of them were unaware of the avenues of complaint or how to challenge the legal decisions on their TSOs.[114] In addition, the delegation found that only at Melegnano SDPC was there a dedicated register in place of the TSO measure.

216. The CPT calls upon the Italian authorities to act (including at the legislative level) to ensure that, in the context of an initial TSO procedure, and in relation to any prolongation of the order:

- **patients are promptly informed of their legal status (including the cessation of the TSO or its renewal), fundamental rights and avenues to lodge complaints in accordance with the provisions of Law No. 833 of 1978;**
- **patients are, as a rule, heard in person by the competent guardianship judge, preferably on the hospital premises;**
- **medical files of patients contain the complete documentation concerning the procedure of the imposition of a TSO (namely, initial medical requests, co-validation of the second doctor, placement order of the Mayor, co-validation of the guardianship judge);**
- **a dedicated register of the imposition of TSOs initiated in a hospital setting be created and kept at the level of each SPDC at national level.**

Further, the CPT would like to receive information on the state of the adoption of the Draft Law No. 2850 of May 2017 ("Ddl Dirindin").

217. The delegation took positive note of the presence of information sheets (outlining the house rules governing life in the SPDCs) at Melegnano and Cinisello SPDCs.[115] The information sheets were distributed to the patients and countersigned by them upon admission, whether under a TSO or a voluntary hospitalisation measure. That said, the sheets did not contain information on the fundamental rights of patients under the legislation as regards issues such as avenues of complaint against the TSO procedure, legal status of the patient or consent to treatment. At Milan Niguarda and Rome San Camillo SPDCs, no information sheets were in place and patients appeared to be uninformed about the house rules, their legal status, the initiation or cessation of the TSO measure or any avenues of complaint.

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112 Pursuant to Article 33 of the Law No. 833 of 1978, a TSO measure can be imposed for up to seven days and renewed only once for the same duration.

113 In addition to the nature of the mental disorder, the psychiatrists described in general the circumstances of its occurrence and the absence of an available alternative.

114 Patients subject to a TSO procedure may lodge a complaint to the competent tribunal against the placement order of the Mayor, as well as the decision of the guardianship judge pursuant to Article 35 of the Law No. 833 of 1978.

115 At Cinisello SPDC such forms were available in different foreign languages.

The CPT recommends that an information brochure, available in an appropriate range of languages, setting out the facility's routine and patients' rights – including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures – be drawn up and issued to all patients upon admission, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance and its format should be adapted to such a vulnerable category of patients. Further efforts should be made to provide information to foreign patients on their treatment and situation in a language which they can understand.

218. In terms of consent to treatment, standard forms detailing the free and informed consent to treatment and therapeutic interventions signed by patients, or their guardians/support administrators were present in the medical files of patients at the SPDCs visited and were, in principle, provided to them upon admission.

8. Other issues

a. prolonged hospitalisation

219. At Rome San Camillo SPDC, four of the nine patients had been hospitalised for indefinite periods in conditions which appeared to the delegation as inadequate, as they clearly did not fit with the vocation and therapeutic profile of this type of acute ward facility. Three of them were forensic patients subject to a security measure under Article 216 of the CC and were being held temporarily in the SPDC pending the opening up of a place in a REMS. At the time of the visit, they had been hospitalised in the SPDC for periods of nine, seven and four months respectively. The patients in question were in a stabilised condition after the initial acute episodes of their disorders[116], and were exclusively receiving pharmacotherapy and were offered no type of rehabilitation activities nor individual counselling and had not been given access to outdoor exercise for several months.

The CPT refers to its remarks and recommendations outlined in paragraphs 116 to 118 concerning the prompt transfer of patients with a mental disorder subject to the security measure of REMS placement. Further, in light of the limited treatment available in the SPDC, the CPT recommends that steps be taken to transfer these patients rapidly to a REMS and that in the meantime they be offered access to outdoor exercise on a daily basis.

220. One additional patient, affected by a serious and treatment resistant form of paranoid schizophrenia, had been hospitalised within the SPDC for 14 years with several intervals of placements in residential care communities.[117] His renewed placement in a residential care protected community had been refused due to his aggressive and un-cooperative behaviour. The patient received daily, round-the-clock assistance from a team of staff from a cooperative on a rota basis who were helping him in his daily activities and were frequently accompanying him for walks in the outdoor facilities of the hospital. The management of the SPDC believed that, in light of his degraded status, he could no longer benefit solely from pharmacological care, as offered by the SPDC, and needed more complex and adapted therapeutic interventions.

The CPT recommends that the Italian and Lazio regional authorities take steps to transfer this patient to an adequate protected residential care facility, where an individual therapeutic programme of assistance and rehabilitation be devised for his specific needs and psychiatric diagnosis.

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116 All of them had been subject to various measures of mechanical restraint at the beginning of their hospitalisation.

117 The psychiatric patient had spent a few months in the course of 2021 in a residential care protected community, but he could not integrate due to his disruptive and unstable behaviour.

b. treatment of Covid-19 positive patients in SPDCs and prevention measures

221. As mentioned in paragraph 174, Milan Niguarda SPDC had been identified as the facility of reference for the entire territory of the Milan Metropolitan Area health-protection agency (ATS) in respect of hospitalised patients with a mental disorder affected by Covid-19. In this respect, a restricted zone had been created between the two SPDC wards consisting of four beds[118] with secured separation from the rest of the SPDC and a filter zone for staff for putting on and taking off Personal Protective Equipment (PPE). The approach of the hospital management had been to prioritise the hospitalisation in an SPDC of those patients who were asymptomatic or characterised by mild symptoms. The secured zone was staffed with trained mental health personnel and was reinforced by additional nurses and infectious disease doctors from the hospital. In total, 118 patients had been hospitalised in this restricted zone during the first two waves of the pandemic.[119]

222. At the time of the 2022 visit, the secure zone consisted of two double-bed rooms which accommodated two patients with a mental disorder affected by mild Covid-19 symptoms. They received the necessary pharmacological care from the healthcare staff, who accessed the premises in full PPE. The two rooms were very austere and the patients were not offered any type of activities in terms of reading material, access to television or even a functioning clock, which rendered their stay even more psychologically distressing.

While acknowledging the efforts of the Milan Niguarda SPDC in addressing the specific needs of hospitalised patients with a mental disorder affected by the Covid-19 infection, the Committee considers that these patients, in light of their double-diagnosis and specific vulnerable profile, should be offered a minimum level of occupational activities during their period of isolation/quarantine.

The CPT recommends that the secure zone of Milan Niguarda SPDC be equipped with TV sets and that the patients placed therein be offered reading material, board games and specific occupational activities from trained staff.

c. contact with the outside world

223. Patients at all SPDCs visited were given access to their mobile phones for extended periods during the day and telephone facilities were also available in communal rooms.

Patients had the right to receive visits on a daily basis from their families provided that they were in possession of the necessary Covid-19 certification and wore face-masks. At Milan Niguarda SPDC, visitors were admitted to one of the communal rooms, whereas in the other three SPDCs visits took place in front of the secured entrance door to the ward through an open window, with both the patient and the visitors having to remain in a standing position.[120]

The CPT recommends that, in light of the gradual and progressive relaxation of Covid-19 related restrictions, the visiting arrangements at SPDCs be reviewed to permit access for visitors wearing the appropriate protection to communal premises of the facility on a daily basis.

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118 The number of beds amounted to 18 at the time of the first and second wave of Covid-19 pandemic.

119 A quantitative study undertaken by the Niguarda Hospital had shown that the psychopathological status of the 118 patients in question had been less serious than the rest of the hospitalised patients during the same timeframe.

120 At Cinisello SDPC, restrictions to visiting arrangements had been recently re-imposed due to a Covid-19 infection cluster apparently vectored by a visitor.

d. complaints and inspection procedures

224. Patients with a mental disorder retain the same right to lodge complaints in relation to their treatment at the SPDC, in light of the legislation to the Office for Public Relations (*Ufficio Relazioni con il Pubblico* or URP) of the respective hospital, as any other patient. The CPT delegation reviewed a series of complaints and ascertained that they had been adequately processed by the URP within 30 days and that feedback had been provided to patients in writing.

225. Since 2017 the NPM has been paying regular visits to SPDCs and to date remains the only independent monitoring body conducting inspections. In several visit reports, the NPM had experience problems in accessing the facilities in various regions due to the management's lack of knowledge of its mandate. Further, the NPM had requested the creation of a special notification system of every TSO imposed at national level in order to monitor its execution.

The CPT would like to be informed of the status of the implementation of the NPM recommendation on the creation of a live register/database of TSOs at national level in order to allow monitoring.

D. Social care homes

1. Preliminary remarks

226. In the course of the 2022 visit, the delegation visited for the first time two Nursing Homes (*Residenze Sanitarie Assistenziali* or RSAs) in the Region of Lombardy. Within the Italian legal framework, RSAs are residential care facilities for the accommodation of elderly persons with limited autonomy providing an intermediate level of medical, nursing and rehabilitation services to residents.[121] RSAs operate under the responsibility of the relevant regional authorities which provide them with necessary accreditation and are responsible for the supervision and quality control of the services provided. The managing authority of the RSAs may be a public institution (such as a municipality or a region), or private entities, or a mixture of these arrangements. In the context of the Region of Lombardy, the regional legislation regulates the minimum standards of provision of care to RSA residents, their staffing resources and the accommodation criteria.[122]

227. A recent attempt at mapping and classification of all social care homes in Italy conducted by the Italian NPM in co-operation with an academic institution has identified a total of 3 417 RSAs throughout the country accommodating 225 981 elderly persons with limited autonomy. The Region of Lombardy is responsible for the operation of 768 RSAs which accommodate more than 70 000 residents, making it the region with both the greatest concentration of RSAs and the highest number of RSAs having more than 100 beds.

228. Italy ratified the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) in 2009 and, in implementation of this Convention, it has created a National Observatory on Disability and adopted a Framework Law on Disability in the course of 2021.[123] In this context, a dedicated thematic working group was mandated to draft various accompanying decrees on the Law on Disability in relation to anti-segregation measures o elderly persons placed in RSAs. Among the proposals advanced by the working group in question were a series of interesting measures such as the reinforcement of safeguards for residents through the setting up of individual plans to assist them in their autonomous life choices, a more variegated offer of individual projects for RSA residents, the reform of the guardianship and administrator support system (*amministratore di sostegno*), more privacy within RSAs, and better oversight and monitoring of RSA activities.

Further, in the course of 2021 the Ministry of Health had set up a Commission for the reform of healthcare and socio-sanitary assistance to elderly persons headed by a prominent Italian Bishop[124] who had produced a report urging, *inter alia* the adoption of urgent protective measures in respect of elderly persons with limited autonomy placed in RSAs and quantifying the possible target population of RSA residents as 2.7 million individuals.

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121 An initial definition of RSAs can be found in Law No. 67/1988 and in the subsequent decree of the President of the Council of Ministers of 22 December 1989, according to which RSAs are '*facilities for the elderly andpersons with limited autonomy who cannot be assisted at home and require continuous treatment, financed to provide accommodation, health, care and functional and social recovery services*'. Through Ministerial Decree 321/89, then, this definition was expanded through the specification of its integrated, functional and organic nature with respect to health and social health services. In subsequent years, further provisions have defined and specified the structural, technological and minimum requirements for private and public facilities to carry out healthcare activities.

122 See in particular the *Lombardy Regional Council Deliberation* No. 7/7435 of 2001 and 4569 of 2014.

123 See in this respect the Framework Law on Disability No. 227 of 22 December 2021.

124 The Commission in question *("Commissione per la riforma dell'assistenza sanitaria e sociosanitaria per la popolazione anziana")* had published a joint report with the Italian Institute for Statistics (ISTAT) identifying that out of a reference population of about 6.9 million people over 75 years old, more than 2.7 million individuals are affected with serious motor difficulties, co-morbidities, and compromised autonomy in daily personal care and instrumental activities of daily life.

229. The delegation visited the two largest RSAs in Lombardy, both of which are located in Milan. The CPT considered that although the placement in an RSA is in principle voluntary (see paragraph 265), the prolonged and indefinite restrictions in place at the RSAs could be considered as *de facto* deprivation of liberty, in particular in light of their isolation and high level of segregation from the community during the Covid-19 pandemic and the lack of viable alternative choices to live in the community.[125]

230. Pio Albergo Trivulzio, an iconic health-care institution founded in the XVIII century by a Milanese noble philanthropist to provide assistance for elderly persons, consists of a number of pavilions spread over 68 000m^2. The main campus is located in the western periphery of Milan[126] regrouping an outpatient clinic, rehabilitation centre, day-hospital centre, hospice, a home-care assistance service and two pavilions accommodating elderly persons with limited autonomy accredited as RSAs.

The delegation visited the Fornari Pavilion which was accommodating 103 elderly persons in five autonomous living units (of up to 25 beds each)[127] and the Bezzi Pavilion accommodating 163 elderly persons in seven autonomous living units (of up to 40 beds each). The Pio Albergo Trivulzio is managed by a public foundation[128] and its director is appointed by the Region of Lombardy in consultation with the Milan Municipality.

231. Istituto Palazzolo, located in a former health-care institution in the western part of Milan founded in 1937 by Cardinal Ildefonso Schuster to assist indigent elderlies, was a cluster-type facility regrouping various post-acute rehabilitation living units, a day-hospital, intermediate and home-care assistance services together with eleven living units accredited for RSA residential care of elderly persons with limited autonomy (ranging from 24 to up to 93 beds each) including two protected living units for patients affected by Alzheimer's disease.[129]

The delegation visited the eight living units offering residential care for elderly persons with limited autonomy which, at the time of the visit, was accommodating 543 residents for a capacity of 599 beds (including two protected living units for residents affected by Alzheimer's disease). The Istituto Palazzolo is managed by a non-profit religious foundation *"Fondazione Don Carlo Gnocchi"* which is responsible for the management of a total of 29 different social care establishments in Italy.

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125 See in this respect Article 19 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

126 The Pio Albergo Trivulzio also consists of two other RSA facilities: "Principessa Jolanda" in the centre of Milan and the "Frisia" in Merate.

127 The Fornari Pavilion included two protected living units for patients affected by Alzheimer's disease, which accommodated 24 patients each for a capacity of 25 beds.

128 Namely, the *"Azienda dei Servizi alla Persona Istituti Milanesi Martinitt e Stelline e Pio Albergo Trivulzio".*

129 The living units in question were located in the mezzanine and first floor of the Montini Pavilion and accommodated 23 and 29 residents respectively.

2. Ill treatment

232. The CPT's delegation did not receive any credible allegations of physical ill-treatment of residents from staff at both RSAs visited. On the contrary, the delegation was able to observe that the staff at both RSAs visited showed a caring attitude towards residents, who were complimentary of the manner in which they were treated by OSS and nursing personnel.

A few isolated complaints were received from residents about the lack of attention paid to them by staff which was attributed by the management to personnel being overburdened and the demanding nature of the staff's work during the Covid-19 pandemic restrictions. At the Istituto Palazzolo RSA, the delegation reviewed two disciplinary files concerning allegations of inappropriate behaviour by OSS staff vis-à-vis residents and found that the management of the RSA had handled the cases correctly.[130]

3. Covid-19 response and restrictions

233. The delegation's visit to the two Milan-based RSAs was inevitably impacted by the Covid-19 related restrictions which had been in place, without interruption, since February 2020.

Both RSAs had clearly been affected by the increased mortality rates caused by the pandemic in 2020, with 386 deaths recorded at the Istituto Palazzolo [131] and 333 deaths recorded at the Pio Albergo Trivulzio.[132]

234. In this respect, the high Covid-19 infection and mortality rates at RSAs in the Region of Lombardy between February and May 2020, notably in the Milan area, have attracted a lot of critical attention. In particular, they have been the subject of various criminal investigations, an official enquiry of the Regional Assembly[133] and oversight inspections by the health-care authorities[134] as well as the object of various reports from NGOs.[135] Further, several family associations of RSA residents have collected a wide range of witness statements and other evidence which were picked up by the investigations initiated by the Milan Prosecutor's Office in particular.[136]

Further, the NPM in co-operation with the Italian High Healthcare Institute (*Istituto Superiore della Sanità* or ISS) had conducted a survey of the 3 417 RSAs in the country which found that the underlying causes for the additional deaths caused by the Covid-19 pandemic were a lack of PPE, staff absenteeism and difficulties in isolating residents who had tested positive or were suspected to have developed the infection.[137]

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130 The staff in question had received disciplinary sanctions consisting of the termination of their contracts.

131 Compared with 279 deaths in 2019 and 300 deaths in 2018. In 2021, the number of deaths was 263.

132 Compared with 284 deaths in 2019 and 262 in 2018.

133 See in this respect the report of the special inquiry Commission of the Regional Council of Lombardy on the Covid-19 emergency of 12 April 2022 (*"Commissione d'inchiesta Emergenza Covid-19 della Regione Lombardia"*).

134 The Milan health-care authorities (ATS) had conducted several audits at each of the main RSAs in the Municipality. The Commission for the Verification of the Management of the Covid-19 Emergency at the Pio Albergo Trivulzio : (*"Commissione di verifica gestione emergenza Covid-19 presso il Pio Albergo Trivulzio"*) was created on 8 April 2020 and had published a report on its audit of the RSA based on the examination of 1 400 documents and 16 hearings of staff of the establishment.

135 See the report by Amnesty International Italy under the title "Muzzled and unheard during the pandemic" of 15 October 2021.

136 See in particular the "*Felícita"* Association for the rights of RSA residents.

137 See the NPM-ISS National survey on Covid-19 infection in residential and social care facilities. Update 5 May 2020.

235. The response of the Italian national and regional authorities in terms of the restrictive measures put in place in RSAs following the first wave of Covid-19 infections was to suspend all visits to RSA residents between February and June 2020 and since the second wave of the pandemic in November 2020,[138] with a limited progressive resumption of visits thereafter based on the adoption of specific protocols.[139]

On 8 May 2021, the Ministry of Health issued an order which, taking into account the high vaccination rate of RSA residents, training activities of RSA staff on the rigorous application of preventive measures and the possibility of screening of staff, residents and visitors, aimed to allow visitors in possession of Covid-19 green certification to pay visits to RSA residents[140] and RSA residents to participate in family reunions and planned outings under certain conditions.[141] That said, Article 2 of the same Ministry of Health order also stipulated that in relation to the specific epidemiological context, the medical director or the competent RSA may adopt more restrictive precautionary measures as necessary to prevent possible transmission of the infection.

236. Both the RSAs visited had strictly complied with the above-mentioned national and regional legislation and guidelines and their directors appealed to the above-mentioned clause on a more restrictive approach in light of the epidemiological context. In particular, at the Pio Albergo Trivulzio, the management of the establishment had set-up a Technical and Scientific Committee of three consultants[142] to devise a plan on the organisational measures to prevent and control Covid-19 infections which imposed additional restrictions to those advocated by the national guidelines, notably:

- the compulsory wearing of level 3 PPE (consisting of FPP2 facemasks, shoe-covers, plastic gloves, long sleeve gowns, full-face visor and fluid resistant hood) for staff and external visitors;
- antigen testing of staff and residents every 72 hours;
- the indefinite suspension of all group activities of residents;
- the stringent segregation of residents in their respective living units with access to outdoor facilities permitted only under exceptional circumstances.

237. When the delegation visited the Istituto Palazzolo RSA, the initial steps towards relaxing Covid-19 restrictions were being taken, such as the possibility for relatives to visit residents in the living units for up to 45 minutes daily and the reopening of certain facilities such as the central cafeteria.[143] No contact, however, was allowed between residents from different living units and access to outdoor facilities for residents had not yet been re-introduced.[144]

Staff and external visitors were requested to wear level 2 PPE[145] upon entering the living units. Further, common facilities such as the well-equipped gym for physiotherapy and the occupational therapy facilities were still not in use. Residents from the same living unit could attend religious services together at the Chapel.

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138 See Decrees of the President of the Council of Ministers of 8 March 2020 (Article 2) and 11 June 2020 (Article 9).

139 Further, in August 2020 the ISS issued detailed guidelines for the control and prevention of Covid-19 infections in social welfare establishments *("Rapporto ISS COVID-19 n. 4/2020 Rev. 2 - Indicazioni ad interim per la prevenzione e il controllo dell'infezione da SARS-CoV-2 in strutture residenziali sociosanitarie e socioassistenziali").*

140 The order in question stipulated that visits of up to two persons (excluding children) could take place in outdoor or indoor dedicated facilities and exceptionally at the respective living unit under supervision of the RSA staff.

141 Such as the signature of a risk sharing pact between the RSA and the family of the resident.

142 The consultants were one Professor of Biomedicine of the University of Milan (Prof. Claudia Ballotta), one Professor of General Hygiene of the University of Milan (Prof. Fabrizio Pregliasco) and one researcher in Occupational Medicine of the University of Milan Bicocca (Dr.Marco Italo d'Orso).

143 The vast area in front of the central cafeteria had served as a visiting facility until the week prior to the CPT visit. In total more than 6 000 visits had been carried out since November 2020.

144 Such as the specially equipped protected garden attached to the living units for residents affected by Alzheimer's disease.

145 The same as at the Pio Albergo Trivulzio with the exception of a full-face visor.

238. At the Pio Albergo Trivulzio RSA, every living unit was self-contained, and residents could not mix with other living units. A major deficiency was that only two of the eight units were equipped with small outdoor terraces, which meant that most residents had no access to outdoor facilities. Visits of up to 45 minutes per week were permitted when seated around a table with a glass screen down the middle to separate the resident from the visitors.[146] Visits were strictly supervised by staff to prevent physical contact and to stop any exchange of items. In addition, both staff and visitors were requested to wear level 3 PPE and different pathways were to be followed in order to access and exit from the respective pavilion. The establishment of separate visiting facilities for the different units resulted in other facilities having to be closed down or suspended, such as the well-equipped gyms for physiotherapy on the fifth floor of the Fornari Pavilion. In addition, the duties of the occupational therapists and animators had been redefined to facilitate video-calls for residents and to assist in the organisation of visits.

239. The impression of the delegation was that if the restrictions were protecting residents from potential Covid-19 infection, the same restrictions had slow, gradual but notable deleterious effects on their physical and mental state. The residents at both RSAs expressed their frustration and resignation to the delegation over what they considered were disproportionate and indefinite measures. Residents at the Pio Albergo Trivulzio were particularly outspoken about the situation. Further, it was not always easy for residents to understand and respect the quarantine periods imposed on them upon their arrival in the RSA from hospitalisation or in the event of being a contact case.

240. As concerns physiotherapy, the activities were in principle limited to passive interventions at the residents' beds in both RSAs due to the fact that their respective equipped gyms remained out of service. Personal medical records showed that physiotherapists strived to devote at least 15 minutes per day to residents confined to their beds, or assistance with postural recovery exercises performed in the resident's bed or wheelchair, assisted walks on the handrail and massages.

As regards the offer of activities and access to outdoor facilities, residents of both RSAs were still not permitted regular access to the spacious and well-equipped outdoor facilities of the respective RSA living units due to the impossibility of guaranteeing the necessary supervision of staff. Further, all group activities remain suspended with the exception of bingos organised at the level of the living unit and occasionally the celebration of residents' birthdays.

Turning to staff, the prolonged Covid-19 related restrictions in place were a source of frustration due not only to the obligation to wear level 2 and level 3 PPE but also by the surfeit of work caused by the absence of families, volunteers and caregivers (*badanti)*, who used to provide some assistance in the daily tasks, such as feeding and caring for the personal hygiene of residents.[147]

241. The delegation noted that at Istituto Palazzolo the management was willing to gradually resume all activities and return to a normal life in light of the distress suffered by residents and staff. The management of the Pio Albergo Trivulzio appeared reluctant to envisage a further relaxation of the restrictions in place and continued to rely on the advice of the epidemiologists of the internal Technical and Scientific Committee. This Committee took an overly cautious approach towards the management of the Covid-19 pandemic with little understanding for the fundamental rights of residents or of the distress that the restrictions continued to cause both to residents and staff.

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146 Approximately 6 000 visits had been conducted since December 2020 to March 2022. More than 3 000 video calls had also been facilitated within the same timeframe.

147 For example, The peak of staff absenteeism due to the effects of the Covid-19 infection had reached the level of 38 % of doctors, 63 % of nurses and 64 of OSS staff at the Pio Albergo Trivulzio in the course of 2020.

242. The Committee takes note of the efforts undertaken by the Italian authorities and in particular at the two RSAs visited to combat the Covid-19 pandemic and to minimise both infections and deaths, following the trauma of the first wave of the pandemic in spring 2020. At the same time, the CPT considers that protecting the residents in RSAs from the Covid-19 virus must also consider the impact that such restrictions have on the quality of life of the residents, which manifested itself in higher levels of stress and confusion. In light of the high rates of vaccination and other measures taken to monitor the virus, the CPT considers that there should be no further obstacles to a resumption of indoor and outdoor visitation, access to the fresh air, therapeutic and communal activities as well as resident outings. Further, the more stringent measures which could be adopted by RSA Directors individually in relation to the evolution of the epidemiological context should not be of an indefinite and disproportionate nature.[148]

243. The Committee considers that the effects of the prolonged and indefinite segregation of residents in particular at Pio Albergo Trivulzio in light of the persisting Covid-19 restriction measures in place since March 2020 described above, should not be underestimated and could raise an issue under Article 3 of the ECHR. In this respect, the Committee takes positive note of the Circular of the Ministry of Health No. 0012458 of 10 June 2022 which, in recognising the rights of RSA residents to receive in-ward visits of family members on a daily basis,[149] stipulates that any more stringent precautionary measures to be applied by RSA Directors must be communicated to the competent ASL, which shall review them within three days in light of objective and compelling scientific evidence.

244. **The CPT recommends that the Italian authorities take urgent measures to reduce the restrictions in place on visiting arrangements, access to fresh air, therapeutic and communal activities at all RSAs at the national level, and with particular reference to the Lombardy Region. In particular, the Ministry of Health in the context of the implementation of Circular No. 0012458 of 10 June 2022 should pay particular attention to ensure that the exceptional clause permitting RSA Directors to adopt more stringent measures in special epidemiologic circumstances is not interpreted and enforced so as to introduce restrictions of an indefinite and disproportionate nature.**

Further, the CPT recommends that the Lombardy regional authorities ensure a rapid resumption of the use and operation of the common physiotherapy gyms at both Pio Albergo Trivulzio and Istituto Palazzolo RSAs allowing access to the resident population in safe conditions and permitting more complex physiotherapeutic interventions.

4. Residents' living conditions

245. The Regional legislation of Lombardy provides for the minimum standards with which RSAs need to comply in order to obtain the necessary accreditation. The standards in question lay down a minimum of 12m^2 of living space for single occupancy rooms and 18m^2 for double occupancy ones. Rooms should be equipped with a three-jointed hospital bed, anti-decubitus mattresses and pillows, and cupboard space. Common rooms and the refectories must provide for 1.5 m² of space for residents as well as the mandatory presence of facilities for occupational therapy, gyms equipped for physiotherapy at each RSA, specially equipped toilets and showers for physically impaired residents.[150]

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148 See in particular the US Department of Health and Human Services (Centre for Medicare and Medicaid Service or CMR)revised advisory for Nursing Home visitation and Covid-19 of 10 March 2022.

149 Including the possibility for family members to provide caregiving assistance to the residents.

150 See the Lombardy Regional Council Deliberation No. 4679 of 2014.

246. At the Pio Albergo Trivulzio, the living units of the Pavilions Bezzi and Fornari[151] were designed to be self-contained and consisted of up to 18 double rooms, each with a sanitary annexe equipped with a toilet for physically impaired residents. There was also a communal dining and recreational room with kitchen area[152] with tables and chairs, storage for wheelchairs and walkers and a medical examination room. The living units' premises were in a good state of repair and properly equipped, rooms were spacious and well ventilated, and the hygiene conditions were impeccable. Rooms were equipped with hospital beds, personal lockers and shelving units and the sanitary annexes were equipped with a basin, toilet and shower. There was, however, little decoration and personalisation of rooms. Further, only three of the 12 living units of the RSA had direct access to a small outdoor facility allowing residents regular access to fresh air.

247. At the Istituto Palazzolo, RSA living units were larger in size, accommodating up to 90 residents[153] and were characterised by a more hospital-like design, with long corridors along which bedrooms and common facilities were located on each side. Rooms accommodating one to four residents were equipped with hospital beds, anti-decubitus mattresses, a personal locking space and tables and chairs. That said, not all rooms were equipped with a dedicated sanitary facility and a TV set. In several living units,[154] a common sanitary facility consisting of two toilets and one shower was in use by eight residents. Further, the rooms and communal facilities were austere, lacking personalisation and poorly decorated. Conditions were cramped and lacked privacy notably in those rooms accommodating three or four residents.

248. The CPT recommends that steps be taken at the Istituto Palazzolo and Pio Albergo Trivulzio RSA to allow that rooms be reserved for double occupancy, that they may be personally decorated and equipped with more domestic furniture. Further, the Committee considers that, in principle, every room should have its in-room sanitary facility equipped with a toilet, sink and shower. In addition, at the Istituto Palazzolo, efforts should be invested to ensure better decoration of communal facilities.

249. Residents of both RSAs were dressed in their own clothes and retained a certain autonomy in terms of access to their belongings. The installation of foldable dividing screens in multiple-occupancy rooms would guarantee more privacy, especially given that single rooms were only available to residents on a financial basis.

The CPT recommends that both RSAs install flexible privacy screens in the multiple-occupancy rooms for the time during which residents receive care-related services.

250. The level of personal hygiene of residents was satisfactory at both RSAs; OSS staff (working in pairs) assisted them in taking a shower/bath once a week and personal hygiene operations were provided in their beds on a daily basis. The bedding was clean and changed, in principle, every week while personal clothes were periodically washed by the respective laundry services. Further, the delegation was able to observe that the level of personal hygiene of residents at both RSAs visited was adequate.

The delegation was able to verify that the residents who wore incontinence pads had them changed four times a day. Further, anti-decubitus mattresses were provided to all residents who had been assessed at risk to develop pressure ulcers, disposable pads were largely available and one assisted toilet and an electric hoist were present on each ward.

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151 The living units had a capacity of 18 to 36 beds. In principle the living units for those affected by Alzheimer's disease accommodated 25 residents.

152 The kitchen areas in question were equipped for the purpose of heating meals, the preparation of dishes and the washing of cutlery and stoves.

153 The exceptions being the protected living units, which were accommodating residents affected by Alzheimer's disease and had a capacity of 25 beds.

154 Such as for example the living units Montini III and IV.

251. Meals, consisting of breakfast, lunch, an afternoon snack and dinner, were served either in the communal facilities or in the rooms when required for bed-ridden residents. The preparation and distribution of the food and in particular the provision of assistance to residents to eat constituted one of the more demanding tasks of OSSs. The delegation observed that in both RSAs they were well organised and trained, paying particular attention to dysphagic residents.[155] Seasonal menus were proposed at both RSAs, which were certified by a dietary commission and adapted to the needs of residents.[156]

5. Staff

252. As mentioned in paragraph 223 the Lombardy Regional legislation regulates in detail the number of minutes which each category of staff (i.e. doctors, nurses, OSS, physiotherapists, occupational therapists/animators) should dedicate to every RSA resident on a weekly basis. These amount to a minimum of 901 minutes in RSA living units and 1 220 in living units accommodating residents with Alzheimer's disease.[157]

Indicatively, the ratio of budgeted staff assigned to one 30-bed living unit of the Pio Albergo Trivulzio RSA Fornari ward was as follows: two doctors, 13 nurses (including one head nurse) and 27 OSSs.[158] Further, a 24-bed living unit for residents with Alzheimer disease would be staffed by two doctors, 10 nurses and 37 OSSs.

At the Istituto Palazzolo, a 90-bed ward would be assigned a component of three doctors, 11 nurses, 76 OSSs.

253. At both RSAs visited, the management informed the delegation of the difficulties in recruiting and maintaining nursing staff, especially during the Covid-19 pandemic. This was particularly noticeable at the Istituto Palazzolo where, during the night shift, only one nurse was responsible for over 250 residents.[159]

The complement of OSS would also have benefitted from reinforcement in particular during the day as the continued ban on access for volunteers, families and caregivers, meant that the OSSs were entirely responsible for assisting residents when eating and for supervising their personal hygiene. For example, in certain living units of Istituto Palazzolo RSA, the delegation observed that nurses were assisting OSS staff with these tasks in order to alleviate the pressure on their colleagues.

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155 The ingredients of their meals were mixed and offered separately to them in order to preserve their specific flavour.

156 The diet standards applied at both RSAs consisted of 1600 to 2200 Kcal per day (15% protein, 55 to 60% carbohydrates, 25 to 30% fat and 25 to 30g fibre). A standard RSA menu reviewed by the delegation consisted of 1800 Kcal with 79g protein, 251g carbohydrates, 54g fat, 25g fibre.

157 See the revised standards of RSA accommodation issued by the Regional Council of Lombardy in 2014 in its Deliberation No. 2569 of 2014. In principle in an RSA living unit a doctor would devote 28 minutes to a resident on a weekly basis, a nurse 140, an OSS 647, physiotherapist 42, occupational therapist 17 minutes. The ratio was slightly higher in respect of residents affected by Alzheimer's disease who received increased assistance from the OSS staff. Further, at Istituto Palazzolo the minimum number of minutes of assistance per resident were in principle increased by 20 % from those required by the regional regulations. For example, RSA residents received 1 195 minutes instead of 910 and residents affected by the Alzheimer's disease were provided 1 437 minutes instead of 1 210.

158 Which is, 24 FTE and three part-time OSSs.

159 Namely, Montini IV, Generosa III and IV living units.

254. The CPT recommends that the relevant regional standards of minute-based assistance (*minutaggi*) be reviewed by the Lombardy regional authorities to allow a stronger presence of nursing staff during night shifts. Further, if the restrictions on volunteers and family members visiting the RSAs are not eased, urgent steps should be taken to reinforce the complement of OSS staff during the day to relieve the pressure on the existing staff, notably during mealtimes and for carrying out personal hygiene tasks.

255. At both RSAs some of the living units were staffed by outsourced personnel through a tender to a co-operative.[160] In principle, this did not reflect any differences in terms of remuneration, presence of staff, training and working shifts. That said, these living units were affected by a higher turnover of staff, who had less chance to get to know the residents and thereby provide a more personalised approach. The management of both RSAs told the delegation that the best solution would be to have internal staff in charge of all RSA living units and to reduce reliance on outsourced staff.

The CPT would like to receive the comments of the Lombardy regional authorities on how to address the high turnover of agency staff and whether the proposal to increase the numbers of staff hired directly by the RSAs represents a solution.

256. The offer of training activities to RSA staff had continued during the pandemic in the form of webinars, with sessions organised on various topics related to geriatrics. Further, at Istituto Palazzolo, a psychological assistance service for staff had recently been introduced consisting of both individual and group activities. This was positive.

6. Health care and Treatment

257. The delegation gained a very good impression of the level of somatic healthcare provided to residents at both RSAs visited. This was largely facilitated by the presence of outpatient clinics with a large range of specialists[161] *in situ* and their interface with the respective RSA living units.

Every living unit possessed a GP who was the primary person responsible for the healthcare needs of residents. The ward doctors at both RSAs appeared to have a caring attitude, displayed empathy and had accurate knowledge of the status of their patients. The medical files of residents were well kept and attested to the detailed assessments, regular monitoring and follow-up of the healthcare status of residents in terms of nutrition scales, pain risk assessments, frailty scales and monitoring of ulceration. In case a more acute intervention was required, there was in principle easy access to the referring hospital for both facilities.

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160 For example, at Bezzi 1A living unit the nursing staff component belonged to a cooperative and the OSSs and unit coordinator to the core staff of the Pio Albergo Trivulzio. Further, the staff of the two living units for residents affected by the Alzheimer disease was directly affiliated to the Pio Albergo Trivulzio. At Istituto Palazzolo, the staff component of nurses and OSSs of the living units Montini IV and Generosa III and IV belonged to a cooperative.

161 For example, the outpatient clinic of Pio Albergo Trivulzio offered specialised care covering 26 branches of medicine.

258. In terms of medication for residents affected by Alzheimer's disease at both RSAs, the delegation found that there was a moderate resort to psychotropic medication and that staff adopted alternative therapeutic means to deal with episodes of anxiety or of aggressive behaviour such as doll therapy[162] and de-escalation techniques. Further, the delegation took positive note of the inclusive approach of the management of the Istituto Palazzolo in integrating the residents affected by a mental disorder into different living units accommodating ordinary RSA residents.

259. As mentioned in paragraph in Section 3 above, the Covid-19 restrictions had brought about a rearrangement of the premises at both RSAs and the discontinuation of the use of the relevant gyms for physiotherapy (see paragraph 239). This meant that such interventions took place on the living units and consisted mainly of passive physiotherapeutic activities such as massages in bed and assisted walks with elderly walkers.

The CPT recommends that the Lombardy regional authorities ensure a rapid resumption of the use and operation of the common physiotherapy gyms at both RSAs, allowing access to the resident population in safe conditions and permitting more complex physiotherapeutic interventions.

260. Every resident possessed an individual care plan[163] (*Piano di Assistenza Individuale* or PAI) which demonstrated an individualised approach in terms of therapeutic interventions, occupational and recreational activities and periodic reviews. The forms were detailed (including the monitoring of issues such as fall risks, pain and frailty scales, malnutrition, clinical and cognitive status of the patient, participation in activities and risk prevention). The forms provided a clear overview of the multidisciplinary interventions, their goals in the relevant timeline and achievements.

While this gave the impression of a really individualised approach the notes, especially in respect of recreational or occupational activities were sometimes scant and repetitive and reflected the penury of offers in that respect.

7. Use of means of restraint

261. RSA residents may be restrained for the purpose of preventing falls,[164] in light of the risk of injuries due to their non-compliance with medical indications,[165] for the correction of their posture and in order to contain episodes of agitation with risk to self or others. Certain means of restraint are applied in practice to RSA residents while in bed (for example, using bed rails), in a wheelchair (through the use of pelvic belts or mobility lap trays) and in order to prevent persons from touching certain body parts (such as wrist bands or zipped romper suits).

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162 Doll therapy involves giving a person with dementia a doll to hold as if it were a baby. Residents might rock the doll, sing to it or cuddle it. This may reduce aggressive and obsessive behaviour, wandering, and negative mood and can also improve a person's ability to relate to others.

163 As foreseen by the 2014 Deliberation of the Regional Council of Lombardy No.2569. In principle, according to the Deliberation, every new resident should be the subject of an initial multi-disciplinary assessment upon admission which should lead to the adoption of an Individual Project form (*Progetto Individuale* or PI) outlining the list of objectives to be attained in light of the initial assessment. The PI constitutes the basis for the Individual Care Plan (PAI) which enlists the various activities and interventions undertaken by the various categories of staff in view of the fulfilment of objectives. Both the PI and PAI were the object of monthly reviews by staff.

164 Causing potentially fatal bone fractures.

165 For patients with hypokinetic syndrome and serious postural instability.

262. As mentioned in paragraphs 198 *et seq*, the application and resort to the use of means of restraint in a psychiatric or social-care setting is not clearly regulated in the Italian legislation. Further, in its 2015 thematic report under the title *"La contenzione: problemi bioetici"* the National Council on Bioethics has inter alia stressed the necessity for better regulation, qualitative research, monitoring and recording of the use of means of restraint in respect o elderly persons with limited autonomy in the context of their placement in RSAs, highlighting in particular the fact that its variegated nature and the reason for its application differs significantly from a psychiatric setting.

263. At the time of the 2022 periodic visit, the protocols on use of means of restraint at both RSAs visited provided clear guidelines to staff on the application of various means of restraint. Its resort was contingent on preventive risk assessment,[166] the exploration of alternatives, the involvement and consultation of different categories of staff prior to its application, medical prescription and nursing intervention, recording of the measure, periodic monitoring and re-assessment, and consent forms. Further, the instructions contained a detailed description of the means of restraint in use and their application, with photos, as well as the legal background regulating it.

264. The findings of the delegation at both RSAs visited indicated that there was a justified, reasoned and proportionate resort to the application of means of restraint vis-à-vis residents such as pelvic anti-sliding belts, bed rails and to a lesser extent wrist bands and zipped romper suits. For example, in one living unit, 1B of the Bezzi Pavilion at the Pio Albergo Trivulzio, 23 out of 31 residents had an ongoing prescription for the use of means of restraint consisting mainly of pelvic belts and bed rails.

Further, the reason for the application of means of restraint as prescribed by the ward doctor, for a maximum period of 60 days subject to a periodic reassessment, was for protective purposes avoiding the risk of falls or for postural reasons.[167] The delegation did not find any indication of the resort to means of restraint for punitive reasons or due to understaffing.

265. The prescription certificates issued by the doctor were subject to periodic reviews and the relevant monitoring charts were compiled in detail by nurses and OSSs. The charts also contained reassessments of fall risks with an accurate and reasoned justification of the need for the application of means of restraint. Further, every restraint measure prescribed was subject to a consent form signed by the resident or their support administrator.

266. As regards alternatives to the resort to means of restraint, the delegation was positively impressed by the approach that staff at Istituto Palazzolo had shown in respect of an over-agitated resident affected by the Alzheimer's disease whose room had been completely rearranged with several mattresses placed on the floor in order to allow her "wandering' episodes without risks to her physical integrity. Such an alternative approach, in the CPT's view, had effectively prevented the possible resort to prolonged means of restraint. Further, the delegation noted that the regular doll-therapy sessions which were taking place at the two living units for the Alzheimer's residents of Istituto Palazzolo were being offered to residents for the purpose of alleviating anxiety thus reducing the risk of resort to the use of means of restraint.

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166 In relation in particular to the risk of falls.

167 The decision to apply means of restraint was taken by the doctor, agreed with the patient if mini-mental score exceeding 15 or a relative/support administrator if same score is less than 15. The need to maintain the measure was reassessed every 60 days and inserted in the PAI. The following criteria needed to be documented in the prescription certificate: type, duration, evaluation
by the doctor, date of prescription, notification to family, reason for its application.

267. The Committee takes note of the fact that there was no excessive and disproportionate resort to the use of means of restraint at either of the RSAs visited and that its application, re-evaluation and monitoring was accurately recorded and in principle applied with the informed consent of the residents or their support administrators. However, in light of the legal vacuum in the application of such a measure both in a psychiatric and a social welfare setting as well as its intrusive nature and the potential for its abuse, the CPT considers that the application of the means of restraint in RSAs should be specifically regulated as recommended by the National Committee on Bioethics.

Particular attention should be paid to distinguishing between those means of restraint which have a clear, anti-fall protective and postural correction nature (such as for example pelvic belts, anti-sliding bands etc.) from those which might have a more intrusive and potentially abusive effect, such as immobilisation armbands.

The CPT recommends that the Italian authorities at the level of the Ministry of Health and the National Agency for Regional Health Services (AGENAS) take the necessary steps to regulate the resort to means of restraint in an RSA setting in light of the above-mentioned precepts.

8. Safeguards

268. Placement in an RSA is voluntary and based on the conclusion of a standard private law contract between the resident (or their *amministratore di sostegno* or support administrator) and the management of the RSA in question. The procedure consisted of a request for placement addressed to the RSA and the person's eligibility as a resident of the Milan Municipality or the area under the responsibility of the respective health protection agency (ATS). Most of the residents filed a request after their hospitalisation in a sub-acute facility, rehabilitation ward, SPDC or directly from their home.

269. At the time of the visit a number of residents at both RSAs visited were under the responsibility of a support administrator (*amministratore di sostegno*).[168] An analysis of several decrees of the nomination of support administrators by the guardianship judge indicated that, in principle, the support administrator was a member of the resident's family, a lawyer or a delegate of the mayor of the municipality of residence. Support administrators were appointed in accordance with the relevant provisions of Law No. 6/2004, at a public hearing, in the presence of the beneficiary. All decisions were reasoned, support administrators were under the obligation to report to the guardianship judge and their appointment was for an indefinite duration but subject to a periodic court review once a year.

Further, the decrees examined by the CPT showed that guardianship judges had delegated the support administrators to decide on matters pertaining to the care and therapeutic interventions of the assisted persons. The CPT was able to ascertain that guardianship judges had fluid contacts and relationships with the management of the visited RSAs and the support administrators (primarily via video-conference). That said, they did not pay regular visits to the RSAs in order to meet the residents in person, due to being overburdened and to restrictions related to the pandemic.

The CPT suggests that guardianship judges from the competent territorial court pay regular visits to the residents of the RSAs in respect of whom support administrators have been appointed.

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168 For example, at the Bezzi and Fornari Pavillions of the Pio Albergo Trivulzio, 98 out of 266 residents were under the regime of administrator support. At the Istituto Palazzolo the same ratio was of 140 out of 465 residents.

270. As regards consent to treatment, the files of residents at both RSAs contained standard forms on informed consent (drawn up in line with the regional legislation) which concerned therapeutic interventions provided in the context of the RSA placement, as foreseen by the relevant accreditation. Further, in relation to more complex diagnostic and therapeutic interventions (such as specific diagnostic examinations, testing for infectious diseases etc.) as well as those with stronger ethical implications, ad hoc informed consent forms were signed and duly recorded in personal files and health-care staff were investing efforts to explain the nature of and reason for the interventions either to residents or to their support administrator prior to signature. Doctors were particularly attentive to seek the consent of the respective resident's support administrator in case of application of means of restraint.

271. Information brochures and leaflets were widely available at both RSAs, listing all aspects of daily life at the RSA. Further, a copy of the *Carta dei Servizi* was handed over and was accurately explained to residents in the context of their admission procedure. Further, information leaflets and *Carte dei Servizi* at both RSAs were being updated in order to reflect the changes brought about by the pandemic situation.

9. Other issues

272. As part of their obligation towards the implementation of the UNCRPD, the Italian authorities were, at the time of the CPT's visit, in the process of drafting secondary legislation to the 2021 Framework Law on Disability. In this context, a thematic working group on anti-segregation issues[169] had formulated a series of proposals to offer elderly persons with limited autonomy the possibility to choose on an equal basis with others their place of residence without being *de facto* compelled to a particular living arrangement. The proposal in question concerned both the *modus operandi* of the social services, proposing to elderly persons with limited autonomy, based on an individual project of life, viable alternatives to placement in a residential facility[170] as well as the existence of adequate financial resources for the implementation of such projects. Further, the working group had also recommended the revision of a national data collection system to monitor the application of Articles 14 and 19 of the UNCRPD as well as a radical revision of the criteria for the accreditation of social care homes and, consequently, their monitoring at the national and regional levels.[171]

In this respect, the delegation took positive note of the fact that both RSAs were operating open RSA projects (*RSA aperte*), providing caregiving and socio-sanitary assistance to elderly persons with limited autonomy in their homes as an alternative to their institutional placement.

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169 The working group operated out of the National Observatory on the Condition of Persons with Disabilities, a part of the Presidency of the Italian Council of Ministers. A first discussion paper of its proposals was published in June 2021

170 Such as in-home assistance or community support services and residential facilities of up to 10 places.

171 Among the formulated proposals are, *inter alia* the necessity to prioritise independent living projects of persons with disabilities in respect of which the person concerned must be able to count on the same economic resources reserved for residential services. Further, individual living projects of persons with disabilities should also envisage de-institutionalisation pathways towards other alternative forms of civil and family housing.

273. The Committee welcomes the operation of the "*RSA aperte*" and would like to receive information on the general de-institutionalisation efforts being undertaken by the regional authorities of Lombardy and the Italian authorities more generally in the context of the implementation of the 2021 Framework Disability Law.

Further, the Committee would like to receive information on progress towards the adoption of the implementing legislation of the Framework Law on Disability and in particular the working group on anti-segregation issues.

274. In light of Law No. 135/2000, residents have the right to lodge complaints in relation to their treatment, to the competent Office with Relations with the Public (*Ufficio Relazioni con il Pubblico* or URP), which was present in each RSA. Complaint forms existed on all living units as well as on the relevant websites, and relatives of residents could lodge complaints which had to be processed and resolved within 30 days, with feedback provided to the complainant.

Further, to strengthen relatives' interface with residents, both RSAs had established platforms and set up procedures to transfer residents' complaints to the management of the establishment. At the Pio Albergo Trivulzio, a Board of Relatives had been operating since 2015 as an interface with the management. At the Istituto Palazzolo the management of the RSA organised five meetings per year with families of the residents to address concrete problems and needs raised in their complaints and communications to the management (*Progetto Famiglia*).

275. In terms of inspection procedures, the Lombardy Regional Council Deliberation No. 2569 of 2014 entrusts the competent healthcare authorities with the task of inspection and oversight of the operation of RSAs. This includes the compliance with the minimum criteria of accreditation in terms of treatment, quality control, staffing, hygiene and material conditions and application of protocols. Both RSAs have been subjected to several audits by the Milan Metropolitan Area ATS in the course of the pandemic. Recently, the National Agency for Regional Health Services (AGENAS) has developed a specific checklist for the assessment of the level of respect of the fundamental rights of residents in socio-residential establishments.[172]

The CPT would like to be informed about the development and concrete application of the specific checklist on the monitoring of RSAs recently developed by the National Agency for Regional Health Services (AGENAS).

276. The delegation was also positively impressed by the efforts invested by the Italian NPM since 2017 in the context of a Memorandum of Understanding with two academic institutions.[173] The MoU resulted in the creation of a national database of all social care institutions (including their mapping, geo-localisation, capacity and occupancy levels) as well as the drafting of a checklist for the monitoring of such establishments (based *inter alia* on the CPT's checklist).[174] This laudable effort had also led to the establishment of a database of alerts of problems related to the treatment of residents in respect of all social care establishments included in the database. The alerts in question mainly originated from families, family associations, staff and syndicates and were related to issues such as material conditions, contact with the outside world in the context of the Covid-19 pandemic, isolation and lack of integration of RSAs with the surrounding territory etc.

The Committee considers the efforts of the NPM to create a national database of social-care institutions and a system of alerts for problems related to the treatment of residents to be good practice.

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172 The checklist in question focussed in particular on issues such as residents' contacts with the outside world, psychological assistance and counselling, level of information exchange between the management of the RSA and families of residents etc.

173 Namely, the Faculty of Law of the University of Florence and the "Robert Castel" Centre for Government and Disability Studies of the University of Naples.

174 See the CPT's "Checklist for visits to social care institutions where persons may be deprived of their liberty" CPT/Inf 2015 (23).

APPENDIX I

List of the establishments visited by the CPT's delegation

Law enforcement establishments

- Milan State Police Headquarters (Questura, Via Fatebenefratelli)
- Milan *Carabinieri* Porta Monforte Station (Comando di Compagnia, Viale Umbria)
- Milan Municipal Police Bureau for Arrests and Apprehensions (Ufficio Arresti e Fermi, Via Custodi)
- Rome State Police Headquarters (Questura, Via di San Vitale)
- Rome State Police Lazio Railway Police Department
- Rome *Carabinieri* Centro Station (Comando di Compagnia, Via Giovanni Giolitti)
- Turin State Police San Paolo Station (Commissariato, Corso Racconigi)
- Turin *Carabinieri* Oltre Dora Station (Comando di Compagnia, Corso Vercelli)
- Turin *Carabinieri* Mirafiori Station (Via Guido Reni)

Prison establishments

- San Vittore Prison, Milan
- Monza Prison
- Lorusso e Cutugno Prison, Turin
- Regina Coeli Prison, Rome (targeted visit)

Psychiatric establishments

- Niguarda Great Metropolitan Hospital (SPDC unit), Milan
- Cinisello Balsamo Hospital (SPDC unit)
- Melegnano Hospital (SPDC Unit)
- San Camillo Hospital (SPDC Unit), Rome

Social care establishments

- Pio Albergo Trivulzio Nursing Home (RSA), Milan
- Palazzolo Nursing Home (RSA), Milan

APPENDIX II

List of the national authorities, other bodies and non-governmental organisations with which the CPT's delegation held consultations

A. National authorities

Ministry of Interior

Sergio Bracco	Prefect and Head of the Public Security Department

Ministry of Justice

Marta Cartabia	Minister
Carlo Renoldi	Director of the DAP
Gemma Tuccillo	Director of the Department for Juvenile and Community Justice

Ministry of Health

Pierpaolo Sileri	State Secretary
Davide La Cecilia	Diplomatic Advisor
Gianfranco Pasquadibisceglie	Director of the Office of the Directorate General for Communication and European and International Relations
Liliana La Sala	Director of Office VI of the Directorate General for Health Prevention
Mariadonata Bellentani	Director of Office II of the Directorate General for Health Planning

Ministry of Foreign Affairs

Benedetto Della Vedova	State Secretary
Fabrizio Pietri	Minister Counsellor and Head of the Inter-Ministerial Committee on Human Rights

Region of Lombardy

Letizia Moratti	Regional Minister of Welfare and Vice-President of the Lombardy Region
Giovanni Pavesi	Director of the General Directorate of Welfare

B. ***Garante Nazionale dei Diritti delle Persone private della libertà***

Mauro Palma	*Garante Nazionale*
Daniela De Robert	Member of the Bureau of the *Garante Nazionale*
Emilia Rossi	Member of the Bureau of the *Garante Nazionale*
Alessandro Albano	Head of Unit for National and International Relations and Studies of the *Garante Nazionale*

C. **Non-governmental organisations**

Amnesty International
Antigone
Diritti alla Follia
Felícita Associazione per i Diritti nelle RSA