

ITALY – PROVISIONS TO FIGHT THE COVID-19 CONTAGION IN PRISONS

The Head of the Penitentiary Administration took the first measures on 22, 25 and 27 February 2020, issuing circular letters which aimed at preventing the contagion first from the so-called “red zone”, then from the larger area of two regions (Lombardia and Veneto) and 14 districts, mainly of Northern Italy.

Those initial measures focused on the limitation of entries and exits from the prisons. The Head of Department also recommended to draft operational protocols with the Local Healthcare Agencies and to close cooperate with them.¹

Instructions were given to identify, inside the prisons of the containment area, premises to be dedicated to the health solitary confinement of prisoners infected with COVID-19.

Further, the Head of Department highlighted the need to substitute the visits with relatives or third parties, other than the defense counsel, with remote talks carried out through the tools available for the penal institutions (Skype) and telephone calls that shall be authorized exceeding the limits set by the Penitentiary Act and Regulations.

Moreover, the prison governors were invited to start an awareness-raising and information campaign among both prisoners and staff, in order to explain the situation and the need for those measures.

You can find the detail of those first measures published in the replies of Italy to the EuroPris KMS questionnaire (<https://www.europris.org/epis/kms/?detail=366>).

SUMMARY OF THE PROVISIONS ISSUED BY THE HEAD OF THE ITALIAN PRISON SERVICE ON 13 MARCH 2020

The provisions below are addressed to the Regional Directorates of the Penitentiary Administration, to the Prison Governors, to the Commanders of Detachments of Penitentiary Police at the penal institutions, all over Italy

[...]

Further to the widening of the protected area to the whole nation, it is necessary to provide further specific directions for prisons to be enforced throughout the Country.

§ 1. Healthcare Measures

[..]

¹ In 2008 all the tasks and duties relevant to prisoners’ healthcare were transferred from the Ministry of Justice to the Ministry of Health. The healthcare service in prisons is therefore delivered by healthcare staff employed by the Local Healthcare Agencies, in cooperation with prison staff.

Considering the increasing contagion, I invite you to implement joint actions with the Local Healthcare Agencies (ASL) and to draft shared operational protocols, adequate to the penitentiary context.

[..]

I recommend to promote every possible form and modality to inform staff and prisoners and to raise their awareness.

In particular, the following precautions shall be adopted:

- **Medical examinations of the “newcomers” from liberty or from other prisons:** upon their entry into the prison facility, the staff shall make a first screening (triage) of the inmate. The staff will make such screening wearing the personal protection equipment (DPI). Such examination will occur, where possible, in the tensile structure outside the prisons. The prison physician, during the first entry medical examination, shall make all the necessary healthcare interventions: in the cases where the healthcare confinement of the inmate is ordered, it will be enforced by placing the inmate in a specific wing – already chosen by the prison governor. The confinement shall be in a single cell, with in-cell toilet, under the ordinary precautions of healthcare confinement. The staff working in those health confinement wings shall wear DPIs (FFP2 masks, gloves and visor).

Outside the health confinement wings entrance and inside those wings, dispensers with disinfecting solutions shall be put in place in an adequate quantity. Where a hospitalization is necessary for a suspect case of COVID-19 (hereinafter: **SARS-CoV 2**), the medical doctor of the prison shall inform the prison governor so that the latter shall make a decision accordingly.

- **Prisoners who are already in the prison facility:** where an inmate shows symptoms compatible with SARS-CoV 2, the medical doctor shall visit him in his own cell in order to decide the procedure to follow. It is opportune that the inmate is not transferred to the infirmary. The co-inmates sharing the cell with the sick prisoner or those ones who had contacts with him shall undergo the medical screening and tests, as ordered by the medical doctor.
- **Pharyngeal swab sample taking:** if there are specific elements requiring to take a swab sample from the subject, this procedure shall be carried out by the Local Healthcare Agency medical or nursing staff, who will access the prison and go in the cell of the inmate to take the sample.
- **Positive outcome of the swab test:** in case of positive outcome of the swab test, the healthcare staff, coordinated by the chief medical doctor of the prison, shall assess, based on clinical conditions of the prisoner, whether he should stay in a healthcare confinement in dedicated premises inside the prison or he should be hospitalized.
- **Negative outcome of the swab test:** in case of negative outcome of the swab test, the inmate shall stay in a healthcare confinement until the date set by the healthcare authorities.

- **Visits to inmates in healthcare confinement:** irrespective with the swab test and its outcome, direct contacts with inmates under health confinement are prohibited. Protected meetings are allowed (in premises fully partitioned with glasses and with different ways of entry) as well as remote contacts.
- **Exit of prisoners from the prison:** all the inmates who must exit the establishment shall undergo a medical examination.
- **Release or granting of measures alternative to detention:** in these cases, if the inmates have flu-like symptoms or fever, they shall be signalled to the healthcare authorities and shall be informed to comply with the current laws and regulations.
- **Decontamination of premises accommodating inmates suspected to be affected or verified as affected with SARS-CoV 2:** I recommend to clean the floor and to disinfect the surfaces at least once a day.

§ 2. Transfers to and from prisons

[...]

Escorted transport of inmates: only the transfer of inmates for reasons of health and those ones grounded on situation of need are allowed, and namely:

- transfers for reasons of order and security, in consequence of the recent riots and troubles occurred in penal establishments;
- transfers for reasons of justice (where it is not possible to participate in the hearing through the video-conference system).

With reference to the transfers for security reasons, each inmate leaving a prison shall undergo a swab sample test, taken by the competent healthcare staff, in order to provide a thorough picture of the prisoner's health conditions upon his arrival at the prison of his destination.

§ 3. Penitentiary Police Staff

Some penitentiary police officers on duty at the various Units for Escorted Transports of inmates, given the current reduction of those Units, shall be re-assigned to operational services inside the premises of the penal establishments.

Staff members shall not enter the prison if they have flu-like symptoms or fever. If flu-like symptoms arise while they are on duty, they shall wear a protection mask, live the prison and prevent their medical practitioner and the healthcare authorities.

Please procure thermo-scanners to all prisons, in order to check the temperature of the staff entering the penal establishments.

Please continue to input data relevant to possible positive cases of infection in our database of “Critical events”: this will allow our Headquarters a constant monitoring of the national situation. In particular, as for inmates, please provide the following details: date of entry, allocation, co-inmates sharing the cell, participation in group activities, if any, placement in healthcare confinement, actions and interventions carried out, possible hospitalization. For staff members, please report: type of service performed; contacts with other staff or with prisoners; whether they are accommodated in barracks; actions and interventions carried out, possible hospitalization.

All the information above shall be then forwarded to the members of the crisis unit established at the Headquarters, for the relevant analysis.

**PROVISIONS ISSUED BY THE PENITENTIARY ADMINISTRATION IN MATTER OF
COMMUNICATION, CORRESPONDENCE AND TALKS OF INMATES**

Provision concerning the modalities to carry out interviews at-a-distance and use of e-mail by prisoners

With the purpose of ensuring the continuation of the ongoing school and education courses, the graduation final exams, the university exams and tests, the interviews between teachers and detained students are allowed through the video-conference system and through Skype. That authorization is valid for prisoners assigned to the Medium security level as well as to those assigned to High security level.

If prisoners are enrolled in university courses, the correspondence through electronic mail is allowed, for quick communication with teachers.

Moreover, prisoners assigned to the Medium security level and those assigned to High security level are authorized to communicate with their families through electronic mail.

The provisions above will last for the duration of the emergency, as determined by the regulations in force.

Provision regulating details of communications with families for the high security inmates and for maximum security prisoners

The High security inmates are immediately authorized to have contacts with their families through mobile phones numbers, where the owner of the number is a subject who was already authorized to have telephone talks with the inmate. If the family member was not previously authorized to talk on the phone with the inmate, such authorization will be requested through the ordinary procedure.

The High security inmates are allowed to use the *Skype for business* platform to make video-calls with their family members who are entitled to visits

The video talks of inmates with their defense counsels are always allowed, also through the use of the *Skype for business* platform.

The prisoners undergoing the Maximum Security regime (as per article 41-b of the Penitentiary Act) will continue to receive visits as provided for by the law, given that they receive visits out in premises separated from the visitors by a glass partition.

The visitors shall be invited to wear masks. The rooms will be sanitized after the visit.

The Italian Penitentiary Administration is monitoring the situation in all 196 prison premises existing in our Country, moment by moment.

The provisions below have been issued by a law by decree, signed by the Prime minister, which include comprehensive provisions of social and economic nature, for all sectors that are part of the economic and social fabric of our country.

**Summary of some provisions set by the Law by Decree of 17 March 2020, n. 18,
(Measures to empower the National Healthcare Service and to support families, workers
and businesses, in connection with the COVID-19 epidemic emergency)**

The Decree “Cura Italia” [Nursing Italy], approved by the Council of Ministers and published in the Official Journal on 17 March 2020, is one of the governmental provisions adopted to tackle the epidemic and the spreading of COVID-19 contagion.

That Decree provides for *Measures to empower the National Healthcare Service and to support families, workers and businesses, in connection with the COVID-19 epidemic emergency* and includes – inter alia – new provisions as well as the enlargement of the effectiveness of provisions previously approved concerning the functioning of Justice, including the penitentiary system.

The most relevant provisions concerning the penitentiary system are the following:

- *As for the functioning of Law Enforcement Agencies* [including the Penitentiary Police, N.d.T.]: in order to ensure order and security inside the prisons during the COVID-19 pandemic situation, **an increase is provided in the 2020 budget for paying extra-time hours** to Penitentiary Police staff and to prison governors in penal establishments for adults and in prisons for minors, **to cover other costs connected with the temporary prolonged stay far from their homes of staff** working in prisons, as well as to pay for the **sanitization and disinfection** of all the premises and facilities, for the protection of both inmates and staff.
- *As for new urgent measures in matter of justice*: from 9 March 2020 to 30 June 2020, **detained persons shall participate in any hearing** – whenever possible – **through the video-conference system² or by a remote connection**, in compliance with the legislation currently in force.

Moreover, in the prisons for adults and in the prisons for minors, from 9 March 2020 to 22 March 2020, the prisoners shall have **talks with family members** or with other persons entitled to meet them **at-a-distance**, through technical devices and equipment in the possession of the Penitentiary Administration and of the Juvenile

² The system of video-connection with courts active in the Italian penal system ensures the participation of thousands of inmates belonging to high security category in the hearings at-a-distance. Such system is regulated by law and is being extended to a larger number of inmates, in order to avoid too many transfers of inmates throughout Italy. [N.d.T.]

Justice Administration, or **by telephone calls**. The number of said calls can exceed the usual limits provided for by the Penitentiary Act and its Regulations.

The Supervisory Judiciary – the specialized branch of Judiciary in charge of managing the benefits for inmates – can suspend the granting of prison bonus leaves and of semi-liberty, during the period from 9 March 2020 until 31 May 2020

- *As for Home Detention*: derogating from the legislation currently in force, starting from the day of entry into force of this Decree and until 30 June 2020, **the sentence to imprisonment is to be executed, upon request, at the sentenced person's home** or in other public or private healthcare center, where the sentence to be served is under 18 months, even if it is the remaining part of a longer sentence.

The following offenders are excluded from that measure: persons sentenced for crimes of criminal mafia association, national and international terrorism, kidnapping for ransom, international drug trafficking; persons sentenced for crimes of domestic violence and harassments; habitual offenders; the inmates who participated in the recent riots in prisons.

The prison governor may not draft the behavioral report indicated by the law, but shall certify that the sentence to be served is under eighteen months, even if remaining part of a longer sentence, that the inmate does not fall into the categories excluded from the measure and that the inmate gave his consent to the activation of the control procedures. The prison governor shall verify also the fitness of the domicile, which can be different from the residence of the offender if the latter has to undergo a rehabilitation treatment program in a dedicated facility.

The Supervisory Judge issues the provision ordering home detention, unless said Judge finds serious reasons contrary to the granting of the measure.

All the offenders benefiting from home detention in that circumstance, except all minor offenders and those adult offenders who have to serve a sentence up to six months, **shall undergo electronic surveillance**, giving their consent to it. During the time, when the sentence remaining to be served falls under the threshold of six months, the electronic surveillance will no longer be applied.

- *As for offenders already in semi-liberty*: the offenders who are already benefiting from semi-liberty regime can have their prison leaves extended until 30 June 2020.

Some News from the MoJ website

Tensile structures

Among the measures adopted by the Italian prison Administration to fight the risk of contagion by COVID-19 in the prisons, for the protection of both staff and inmates, there is the provision of tensile structures which have been placed at the entries of the penal establishments. In those tensile structures, the staff will carry out the necessary procedures provided for by the law to check the “newcomers”, the persons arrested and the prisoners coming from other prisons.

As of 18 March, there are 120 tensile structures placed at the prison and twenty more are going to be installed in the next days.

Protection kit

Specific anti-contagion protection kits were delivered to the penitentiary staff to be used in the workplaces requiring contacts with subjects at risk or accessing penal establishments from outside, in particular the “newcomers” (prisoners at their first entry into a penal establishment), the arrested persons and the inmates coming from other prisons.

The kit includes the same type of equipment indicated by the Ministry of Health for the protection of the healthcare staff: googles, ffp2 mask (with filter), gloves and protective coat. All of them are disposable items.

Entry into service of 1,100 new Penitentiary police agents

The Minister of Justice of Italy, Mr. Alfonso Bonafede, announced that very soon one thousand and one hundred new agents of the Penitentiary Police will join their colleagues in many prisons throughout the country.

Minister Bonafede undersigned a decree providing for an early conclusion of the training basic courses which the newly recruited staff is attending.

The 176th Course will end next 17 March, while the 177th Course will conclude their training next 20 March.

The total number of new penitentiary police agents soon on duty is 1,100 units.

This will help the Italian prison system, providing new energies in this very delicate and critical moment of emergency in our history.

“The Ministry of Justice” said the Minister “is working non-stop in order to protect safety and health of those who work and live in our prisons”.