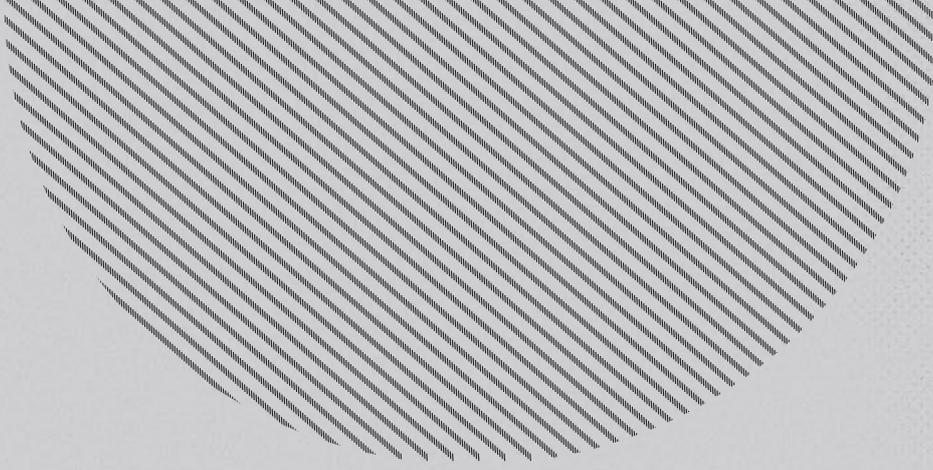


# BLACK HOLES

**Detention without charge in Repatriation Centres for  
Migrants - Centri di Permanenza per i Rimpatri (CPRs)**

**January 2020 - July 2021**



# BLACK HOLES

*For Harry (20 years old)  
Hossain Fasal (32 years old)  
Aymen Mekni (33 years old)  
Vakhtang Erukidze (38 years old)  
Orgest Turia (28 years old)  
Moussa Balde (23 years old)*

*All of whom passed away in CPRs within  
the last two years while detained.  
Detained without having committed a  
crime. "Guilty" of travelling.*

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# INTRODUCTION

“Black Holes: Detention without charge in Repatriation Centres for Migrants - Centri di Permanenza per i Rimpatri (CPRs)” is the first report on Italian immigration detention centres produced by the Italian Coalition for Civil Liberties and Rights (Coalizione Italiana Libertà e Diritti Civili, CILD).

The report offers an extensive analysis of the conditions inside the ten Italian CPRs currently operating in Italy, where people are deprived of their freedom for months on end despite not having committed any crime and without the guarantees offered by the criminal justice system<sup>1</sup>.

Despite the Italian Government and the private entities managing the CPRs needing to ensure respect for the human dignity of the detainees and give information about the management of the Centres to society, in these facilities fundamental rights are either neglected or completely denied, and the lack of transparency and accountability is evident.

In this context, this Report intends to provide information about the origin and nature of CPRs, the living conditions for the detained population and the denial of their fundamental rights, the geo-social composition of the detained population, the costs incurred for running these facilities, and the critical events that have occurred in recent years.

<sup>1</sup> M. Marzano, “Black Holes”: *Detention Without Charge and Violations of Human Rights in Italian Detention Centres*, 21 January 2022.

# Field of research and methodology adopted

## OBJECT AND PURPOSE OF RESEARCH

The Report aims to shed light on the hidden aspects of immigration detention in Italy. The latter can take many different forms: hotspots, “quarantine ships” and other so called “suitable premises” for detention and CPRs. The Report will be limited to Italian CPRs, whose creation was established in 1998 and with respect to which it is therefore possible to conduct an in-depth analysis over a longer period of time.

More precisely, CILD aimed to analyse:

- (I) The system of immigration detention in Europe and notably in Italy (**Chapter 1**);
- (II) The ten Italian CPRs currently operating in Italy, addressing issues including the costs incurred for running them, as well as their management and maintenance (**Chapter 2**);
- (III) The current (2020/2021) geo-social composition of the population detained in the Centres (**Chapter 3**);
- (IV) The protection of the fundamental rights of detainees (**Chapter 4**);
- (V) Critical events (suicides, deaths, episodes of self-harm) that occurred within the CPRs in recent years (**Chapter 5**). Finally, the Report dedicates a short appendix to the response to the COVID-19 pandemic within CPRs.

## REQUESTS TO ACCESS TO THE CPR<sup>S</sup>

In order to prepare the Report, CILD asked the Italian Ministry of the Interior for authorisation to access the ten CPRs currently operating in Italy. However, this request went unanswered.

In this context, CILD has in any case considered it appropriate to use a methodology that combines quantitative and qualitative methods of analysis, using different tools like questionnaires, Freedom of Information Act (FOI) requests and interviews with key stakeholders.

# QUESTIONNAIRES AND FOI REQUESTS

## 1) THE PRIVATE ENTITIES MANAGING THE CPRS AND THE RELEVANT PREFECTURES

At the beginning of July 2021, CILD **sent a questionnaire to the private entities managing the ten CPRs currently operating in Italy** (Milan, Turin, Gradisca d'Isonzo, Rome - Ponte Galeria, Palazzo San Gervasio, Bari, Brindisi, Caltanissetta, Trapani and Macomer) in order to get information on:

- ▶ The **number, nationality and legal status** of the persons detained in the CPRs as of July 2021;
- ▶ The **condition of the facilities**;
- ▶ The effectiveness of freedom of communication with the outside world, even during the COVID-19 pandemic;
- ▶ The **“legal information” service** and information on compliance with the **right to defence**;
- ▶ The **existence of protocols with civil society associations** and the presence of **recreational and cultural activities**.

At the beginning of 2021, such questionnaires were filled out and returned only by the managing body of Milan's CPR. Indeed, the other managing bodies: (I) in some cases, did not respond at all despite several reminders (Caltanissetta, Trapani, Bari, Gradisca, Turin); (II) in other cases, answered that the requested information was going to be communicated to the Regional Guarantor of the Rights of Persons Deprived of their Liberty (Roma); (III) in some other cases, answered that the questionnaire could be filled in only with the approval of the relevant Prefecture (Macomer, Brindisi) or that the relevant Prefecture didn't authorise them to communicate such information (Palazzo San Gervasio). In these last three cases, CILD also made requests directly to the relevant Prefectures (Nuoro, Brindisi, Palazzo San Gervasio). However, only the Prefecture of Nuoro provided an answer on 20 August 2021.

In this context, in August 2021, CILD decided to submit four FOI requests to the Prefectures of Trapani, Caltanissetta, Brindisi and Bari which, were followed by some positive answers from the Prefecture of Trapani, on 13 September 2021 and the Prefecture of Brindisi, on 14 September 2021. On 14 September 2021, the Prefecture of Bari specified that it was waiting to hear the position of the Italian Ministry of the Interior on the topic.

## 2) THE LOCAL GUARANTORS OF THE RIGHTS OF PERSONS DEPRIVED OF THEIR LIBERTY

At the beginning of July 2021, CILD sent a questionnaire to the Regional and Municipal Guarantors of the Rights of Persons Deprived of their Liberty, which operates on the territories where the Centres are located. Such questionnaires had the same object as that submitted to the managing bodies of the Centres, enriched by requests for additional information.

## 3) THE RELEVANT HEALTH AUTHORITIES

At the end of July 2021, CILD sent a questionnaire to the Health Authorities of the territories where the ten CPRs are currently operating in Italy, in order to get information on:

- ▶ The **existence and the effective operation of a Memorandum of Understanding between the relevant Prefecture and the Local Health Authority**;
- ▶ The procedures for the conduct of **suitability assessments for detention**;
- ▶ The effectiveness of the **provision of health services** (for instance, the release of “Temporarily present foreigner” codes; administration and monitoring of psychotropic drugs and anxiolytics);
- ▶ The **inspection** carried out by the Health Authority inside the Centres and the **critical issues** encountered;
- ▶ **COVID-19 contagion risks, tracking and vaccination** within the Centres;
- ▶ The **procedure for ascertaining the age** of

detainees claiming to be minors.

As at the beginning of August 2021, only the Local Health Authority of Rome 3 and the University Local Health Authority “Giuliano Isontina” (with regard to the Centre of Gradisca d’Isonzo) had filled in the questionnaire.

On 12-13 August 2021, CILD sent **six FOI requests to the Health Authorities of Milano, Nuoro, Brindisi, Bari, Caltanissetta and Trapani**. They were followed by some positive answers from (I) the Local Health Authority of Milano, on 13 September 2021; (II) the Local Health Authority of Caltanissetta, on 14 September 2021; (III) the Local Health Authority of Trapani, on 22 September 2021 and (IV) the Local Health Authority of Bari, on 27 September 2021. On the contrary, the FOI request submitted to the Health Authorities of Nuoro and Brindisi went unanswered.

#### **4) LAWYERS ASSISTING THE DETAINEES**

On 23 July 2021, CILD submitted a questionnaire to some lawyers assisting persons detained in the Centres, in order to get information on:

- ▶ Practices observed before the judicial authority in relation to validation and extension of detention hearings;
- ▶ Methods of carrying out defence interviews within the CPRs, including during the COVID-19 pandemic;
- ▶ Any critical issues encountered in relation to the protection of the right to health of the assisted detainees.

The questionnaire was filled in by 11 lawyers assisting persons detained in the following Centres: Turin; Gradisca d’Isonzo; Palazzo San Gervasio; Rome - Ponte Galeria; Bari - Palese; Brindisi - Restinco; Trapani - Milo and Caltanissetta - Pian del Lago.

## INTERVIEWS

Finally, in order to get more detailed information on immigration detention inside Italian CPRs, CILD carried out some interviews with key stakeholders whom we thank for their availability.

## **CHAPTER 1**

# **THE ANATOMY OF A FAILURE: DATA ON THE INEFFECTIVENESS OF ADMINISTRATIVE DETENTION IN ITALIAN CPRs**

1.1 REPATRIATIONS FROM 2013 TO 2021

1.2 THE NUMBER OF MIGRANTS PRESENT IN ITALY AND NUMBER  
OF MIGRANTS DETAINED FROM 1991 TO 2020



## 1.1

# REPATRIATIONS FROM 2013 TO 2021

Before analysing the legislation and practices found within the immigration detention centres in Italy, it is appropriate to question the effectiveness of administrative detention and whether this measure responds or not to the functional need to make repatriations effective. The principle of proportionality is expressly enshrined in the Charter of Fundamental Rights of the European Union, and Directive 2008/115/EC<sup>1</sup> establishes that detention must be as short as possible and the authorities are required to conduct relevant due diligence. The principle of proportionality and exceptionality of resorting to detention has also been referred to several times by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), according to which engaging in the detention of migrants must be proportionate and represent a necessary individual measure to prevent illegal immigration.

According to the Italian legislative framework, detention should only last as long as is strictly necessary and useful to overcome the transitory situations that hinder the preparation of repatriation or carrying out the deportation. With the introduction of Law Decree no. 130/2020, a new provision within Article 14 of Legislative Decree no. 286/1998 (Immigration Act) was added and establishes that “the detention of foreigners who cannot be immediately expelled or pushed back at the border is required and is a priority for those who are considered to be a threat to public order and security, or who have been convicted, even with a non-final judgement [...] as well as for those who are nationals of, or come from, third countries with which Italy has cooperation agreements or other arrangements around return”.

As noted by the National Guarantor for the Rights of Persons Deprived of their Liberty (National Guarantor), it is clear that the effectiveness of the deprivation of liberty in ensuring successful repatriation remains steady regardless of the length of detention. The rate of repatriation of those in detention in 2020 was 50.1%; quite similar to previous years (it has fluctuated between 43% and 59% since 2013, but the average has always hovered at 50%). This is despite changes in the maximum period of detention during these years - in 2013 the maximum period of detention was 18 months under Law Decree n. 89/2011, and that remained in force until 2014, when the maximum period of detention decreased to 90 days pursuant to the introduction of the Law n. 163/2014.

**Tab.01 - Repatriation percentage relative to the maximum period of detention**

<b>Year</b>	<b>Average percentage of repatriations</b>	<b>Maximum period of detention under the law</b>
2020	50,1%	180 days
2019	48,5%	180 days
2018	43%	180 days
2017	59%	90 days
2016	44%	90 days
2015	52%	90 days
2014	55%	18 months (until 24.11.14)
2013	45%	18 months

<sup>1</sup> Official Journal of the European Union, Directive 2008/115/EC of the European Parliament and of the Council, 16 December 2008.

The ineffectiveness of Italy's return policy is even more obvious if we consider the figures of the total number of repatriations, *i.e.* including not only individuals held in immigration detention centres, but also foreigners pushed back at the border or forcibly accompanied to the border in Italy. According to data provided by the National Guarantor,<sup>2</sup> 3,351 people were repatriated in 2020 out of 517,000 undocumented migrants present in Italy. Considering these numbers, the National Guarantor has affirmed that it is time to rethink administrative detention as a whole, rather than seeking to resolve the numerous individual shortcomings of this measure that recur daily, creating multiple situations of injustice for those who are detained.<sup>3</sup>

<sup>2</sup> National Guarantor for the Rights of Persons Deprived of their Liberty, [Relazione al Parlamento 2021](#) (Report to the Parliament), 2021.

<sup>3</sup> *Ibidem*.

## 1.2

# THE NUMBER OF MIGRANTS PRESENT IN ITALY AND NUMBER OF MIGRANTS DETAINED FROM 1991 TO 2020

The Foundation for Initiatives and Studies on Multiethnicity (Fondazione ISMU - Iniziative e Studi sulla Multiethnicità) estimates that in 2020 the total number of foreigners present in Italy were 5,923,000 - equal to approximately 10% of the Italian population. Among these, 517,000 undocumented migrants were present, representing 8.7% of the foreign population.<sup>4</sup> Taking a look at the estimates from 1991 to 2020, there has been exponential growth in the total number of foreigners present: from 807,000 to 5,923,000.<sup>5</sup> However, the number of undocumented migrants has remained relatively stable over the last 30 years, while the number of documented migrants has exponentially increased.

However, the increase in the number of regular migrants is not attributable to legislative policies that seek to confront migratory phenomena from a systemic point of view, but to an emergency approach that periodically intervenes to regularise foreigners who are already present in Italy. Therefore, the main instrument to foster legal entry in the country - the so called Flows Decree<sup>6</sup> - has not been the main factor determining regular migration over the last thirty years. The latter is in fact mainly the result of the recurrent amnesty laws (so called “sanatorie” in Italian) and of the exponential growth of family reunifications, which today account for more than 50% of regular entries into the country.

In particular, between 2011 and 2016, there was a net decrease in the issuance of residence permits

(from 361,690 in 2011 to 226,934 in 2016) and “family unity” has always been the main impetus for the granting of residence permits to non-EU citizens: 38.9% in 2011, 44.3% in 2012, 41.2% in 2013, 40.8% in 2014, 44.8% in 2015 and 45.1% in 2016. The decrease in the granting of residence permits is also evident over the years following 2016 (177,254 new residence permits were issued in 2019). According to the Italian National Institution of Statistics (ISTAT), in 2020, 46% of regular non-EU citizens were present in Italy for family reasons, 29.4% for work and 16.2% for international protection. However, permits issued for asylum have been declining: from about 51,000 to 500 in 2018 to 27,029 in 2019 (- 47.4%).

When analysing immigration detention policies and practice, it is useful to focus on the trends concerning foreign citizens in Italian prisons. According to statistics published by the Ministry of Justice, foreign citizens detained in prison amounted to 5,365 in 1991 and have increased in the following years, reaching 17,344 in 2020. Despite the number of foreigners registered in Italy increasing from 807,000 (in 1991) to 5,923,000 (in 2020), the number of foreign citizens detained in prison did not follow the same trend: foreign citizens detained in prison have increased only by 12,000 over the same period. Foreign citizens in prison are predominantly awaiting a final sentence and they are less likely to get access to alternative measures to detention compared to their Italian counterparts.

<sup>4</sup> Fondazione ISMU - Iniziative e Studi sulla Multiethnicità, [Ventiseiesimo rapporto sulle migrazioni 2020](#).

<sup>5</sup> Ibidem.

<sup>6</sup> The [Flows Decree \(Decreto Flussi\)](#) sets the maximum number (so-called “quotas”) of foreign citizens from non-EU countries who can enter in Italy each year to work. The decree provides for separate entry quotas for seasonal workers, self-employed workers and non-seasonal subordinate workers. Quotas are also set for converting residence permits issued for study purposes into work purposes or for converting residence permits issued for seasonal work into non-seasonal employment.

As of 31 December 2020, the crimes for which foreigners were mostly convicted were offences against property, crimes against the person and violations of drug laws. Conversely, the number of imprisonments for organised crime activities (250 foreign detainees compared to over 7,024 Italian prisoners) and for violation of gun laws (769 foreigners compared to 8,628 Italians) was conversely quite low. This is an important fact to take into account noting the narrative which has spread concerning the threat to public security that non-Italian citizens purportedly represent.

As for the penalties imposed, as of 31 December 2020, foreign prisoners who were serving sentences between 1 month and 1 year in length represented 45.9% of the total number of inmates with the same penalty. In addition, foreigners represented 30.3% of the inmates who were serving sentences between 5 and 10 years, 12.4% of the inmates serving sentences over 20 years, and only 6.3% of those serving a life sentence. Therefore, the percentage of foreign prisoners is growing largely within the stages preceding judicial sentencing, due to the frequent use of pre-trial detention.

Foreign prisoners in Italy mainly come from Morocco, Romania, Albania and Tunisia.<sup>7</sup> The more the integration process of an immigrant community is consolidated, the more the rate of deviance decreases. Foreigners in Italy, as already noted, can rarely get access to alternative measures to custodial sentencing due to a legal system of deportations that discourages investing in social reintegration projects. They make up 17.5% of people who are the subject of non-custodial sentences.

Ultimately, statistical data over the last 30 years shows that the exponential increase of the number of foreigners in Italy has not led to any increase in criminality rates. In fact, the number of foreigners detained in Italian prisons has proportionately decreased.

Overall, the aforementioned considerations allow us to conclude that migration policies adopted in Italy so far are ineffective, as they are characterised by emergency-based measures justified by misleading crime-related data. As has been noted by experts, including Giuseppe Campesi, “an ordinary part of politics, migration policy, ended up being pushed into the sphere of security issues”.<sup>8</sup> This occurred even though there is no correlation between the exponential increase of foreigners present in Italy and the crime rate.

The Italian legislative system does not challenge administrative detention. Detention in CPRs, ultimately, does not fulfil its original purpose - overcoming obstacles that prevent repatriation - and, on the other hand, it has acquired a sanctioning nature, punishing individuals who have not committed any crime by depriving them of their liberty when they are only “guilty” of being undocumented.

<sup>7</sup> Additional information can be found in the Annual Reports of the [Association Antigone](#).

<sup>8</sup> G. Campesi, “La detenzione amministrativa degli stranieri” (The administrative detention of foreigners), Carocci, Roma, 2018, page 21.

## **CHAPTER 2**

# **THE CPRs: FACILITIES, COSTS AND PRIVATE COMPANIES**

2.1 10 CPRs AND THEIR 44 MILLION EURO PRICE TAG



## 2.1

# 10 CPRs AND THEIR 44 MILLION EURO PRICE TAG

In 2007 there were 14 active immigration detention centres (CPRs) throughout Italy, with a total capacity of 1940 people.<sup>9</sup>

Over the following years, after numerous detainee protests and complaints from civil society about the inhuman conditions of detention, many of the facilities were shut down. As of February 2016, 6 centres were active in Bari, Brindisi, Rome, Turin, Caltanissetta and Crotona with capacity for 720 people.<sup>10</sup> In December 2017 the number of active centres was reduced to 5 (Bari, Brindisi, Rome, Turin and Caltanissetta) with capacity for 700 people (realistically, however, for 486 people).<sup>11</sup>

However, Decree Law no. 13/2017 gave new force to the administrative detention system as it envisioned the creation of a CPR for each region. Thus, 10 Centres are currently active in Milan, Turin, Gradisca d'Isonzo, Rome, Palazzo San Gervasio, Macomer, Brindisi - Restinco, Bari - Palese, Trapani - Milo and Caltanissetta - Pian del Lago, with a capacity of about 1100 places. Between 2018 and 2021, 44 million euro was spent (precisely 43,964,512.00 euro, excluding VAT<sup>12</sup>) for the management by private companies of the 10 CPRs currently open in Italy. It is notable that this figure does not include additional costs concerning police personnel and the maintenance of the facilities.

Between 2018 and 2021  
**44 MILLION EURO**  
was spent for the  
management by private  
companies of the 10 CPRs

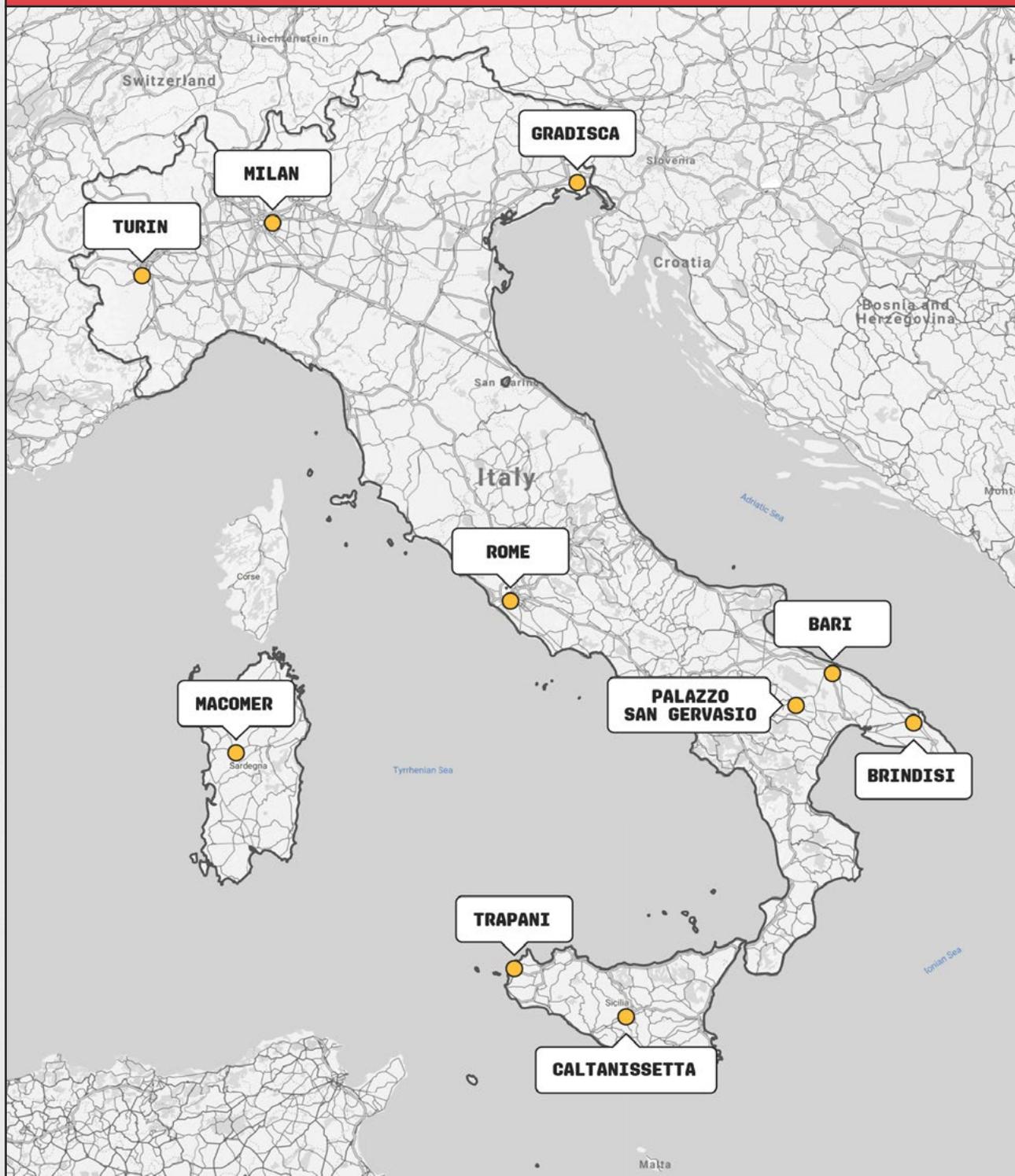
<sup>9</sup> Ministry of the Interior, "[Rapporto De Mistura: rapporto della Commissione per le verifiche e le strategie dei Centri di accoglienza e Permanenza Temporanea](#)", 1 February 2007.

<sup>10</sup> Senate, Commission for the protection and promotion of human rights, "[Rapporto sui Centri di Espulsione e di Identificazione in Italia](#)", February 2016, page 13.

<sup>11</sup> Senate, Commission for the protection and promotion of human rights, "[Rapporto sui Centri di Espulsione e di Identificazione in Italia](#)", December 2017, page 15.

<sup>12</sup> This figure results from the sum of the costs indicated in the contracts awarded to the companies that manage the CPRs.

**Active CPRs in Italy (October 2021)**



## 2.1 CPRs and their 44 million euro price tag

CPR	COST	CONTRACT PERIOD	MANAGING PRIVATE COMPANY	NOTES
MILAN capacity: 140 people	3.948.000,00 €	Contract 2019: 12 months + renewal	RTI Versoprobo s.c.s. - Luna s.c.s	Contract 2021: Almost 5 million € New capacity: 84 people New private company: Engel Italia s.r.l (since October 2021)
TURIN capacity: 180 people	7.497.290,00 €	Contract 2017: 36 months (from January 2018)	Gepsa Italia	Contract 2021: Around 8 million € (12 months + renewals) New capacity: 144 people Deadline for application: 22nd October 2021
GRADISCA capacity: 150 people	4.752.472,00 €	Contract 2019: 12 months + renewal	Cooperativa Edeco (which became "Ekene" in January 2021)	
MACOMER capacity: 50 people	1.877.896,00 €	Contract 2019: 12 months + renewal	ORS Italia	
ROMA capacity: 210 people	8.847.350,00 €	Contract 2017: 36 months (from February 2018)	Albatros s.c.s	Contract 2021: Around 7 million € (12 months + renewal) New capacity: 125 people October 2021: no grant has been given yet
PALAZZO SAN GERVASIO capacity: 150 people	6.210.292,00 €	Contract 2018: 36 months	Engel Italia s.r.l.	
BARI capacity: 126 people	5.021.541,00 €	Contract 2017: 36 months (from June 2018)	Cooperativa Badia Grande	

BRINDISI capacity: 48 people	1.246.863,00 €	Contract 2019: 12 months + renewal	Consorzio Coop. Soc. HERA and AGH Resort s.r.l	
CALTANISSETTA capacity: 96 people	3.832.668,00 €	Contract 2019: 12 months + renewal	Essequadro s.c.s and Ad Majora s.r.l	
TRAPANI capacity: 150 people	730.140,00 €	Negotiated procedure Contract 2019: 5 months	Cooperativa Badia Grande	Procedure negotiated in December 2020 for the management of Trapani's CPR for 2 months. New capacity: 36 people Granted to Vivere Con Onlus and Coop. soc. Consorzio HERA
TOTAL	43.964.512,00 €			

In three years, 44 million euro has been spent to support private management of administrative detention which, in the last twenty years, has amply demonstrated its ineffectiveness and unproductivity in terms of repatriations<sup>13</sup>. In this period, the average daily expenditure was 40,150 euros, covering the expenses to detain around 400 individuals per day. This can be considered a failure in terms of use of public resources. Administrative detention has become a “very profitable supply chain”<sup>14</sup> and the privatised management of the Centres (even for health-related services) is one of the most controversial aspects of the immigration detention system.

As Michael Flynn from the Global Detention Project has pointed out,<sup>15</sup> there is always something to worry about if a State decides to involve a private organisation in the management of facilities such as immigration detention centres. The private management of such places inevitably benefits companies' profits and does not take into account detainees' and staff members' rights. On the one hand, companies that manage these centres aim at profit maximisation and, on the other hand, there is a continuous push towards cost minimisation by the State.<sup>16</sup> In between, there are men and women who risk being deprived not only of their freedom but also of their dignity.

<sup>13</sup> Additional details can be found in the publications of the National Guarantor for the Rights of Persons Deprived of their Liberty:

<sup>14</sup> Rosa-Luxemburg-Stiftung, “IL fiorente business della detenzione dei migranti nell’Unione Europea”, April 2017.

<sup>15</sup> Nielsen N. “Private security firm bid on Greek asylum centres”, EU Observer, 2 April 2014.

<sup>16</sup> The tendency to decrease CPR management costs is evident in Italy by examining the awarded contract schemes, prepared by the Ministry of the Interior: (I) Decree of the Ministry of the Interior dated 7 March 2017, containing the specifications for the supply of goods and services relating to the management and operation of the centres; (II) Decree of the Ministry of the Interior of 20 November 2018, containing the tender specifications scheme for the supply of goods and services relating to the management and operation of the centres; (III) Decree of the Ministry of the Interior of 24 February 2021, containing the new tender specifications scheme for the supply of goods and services relating to the management and operation of the centres.

## **CHAPTER 3**

# **PEOPLE WHO HAVE BEEN DETAINED IN CPRs**

- 3.1 DETAINEES' NATIONALITIES IN 2020 AND 2021
- 3.2 DETAINEES IN THE PERIOD 2015 - 2021
- 3.3 TRENDS AROUND THOSE DETAINED IN CPRs IN 2020
- 3.4 THE DETENTION OF TUNISIAN NATIONALS
- 3.5 THE DETENTION OF MINORS



### 3.1

## DETAINEES' NATIONALITIES IN 2020 AND 2021

From 1 January 2020 to 15 September 2021 more than 50% of returnees from Italian immigration detention centres were Tunisian citizens, while in 2019 Tunisian nationals represented 21% of foreigners subject to forced repatriation.<sup>17</sup> In addition, Tunisian nationals represented the majority of third-country nationals detained in CPRs in 2020 (59.8%). The second most common nationality amongst detainees in CPRs is Morocco, as 490 Moroccan citizens entered CPRs in 2020. Other prominent nationalities include Nigerians (204), Egyptians (125), Albanians (110), Gambians (101) and Algerians (97). The limited number of women who were detained in 2020 (223) is due to the fact that the female section of the CPR of Rome - Ponte Galeria was temporarily closed. The most common nationality among women was Chinese (47), followed by Nigerian (33), Moroccan (14) Tunisian (13) Georgian (12) Ukrainian (12) and Albanian (10).<sup>18</sup>

Nationality	2020	%
Tunisia	2.623	59,8
Morocco	490	11,2
Nigeria	204	4,7
Egypt	125	2,8
Albania	110	2,5
Other	835	19,0
<b>Total</b>	<b>4.387</b>	<b>100,0</b>

Source: Ismu, data collected by the National Guarantor

In the first four months of 2021, Tunisian citizens kept representing the majority of detainees (61.9%), followed by Egyptian citizens.

Nationality	1 Jan. 2021 - 20 Apr. 2021	%
Tunisia	922	61,9
Egypt	100	6,7
Morocco	83	5,6
Albania	72	4,8
Romania	33	2,2
Other	280	18,8
<b>Total</b>	<b>1.490</b>	<b>100</b>

Source: Ismu, data collected by the National Guarantor

<sup>17</sup> National Guarantor for the Rights of Persons Deprived of their Liberty, *Rapporto tematico sull'attività di monitoraggio delle operazioni di rimpatrio forzato di cittadini stranieri (gennaio 2019 - giugno 2021)*, 1 October 2021.

<sup>18</sup> *Fondazione ISMU - Iniziative e Studi sulla Multietnicità, data collected by the National Guarantor.*

### 3.2

## DETAINEES IN THE PERIOD 2015-2021

In observing the data related to the period 2015 - 2021, it is apparent that the year in which the highest number of individuals entered CPRs is 2019 (when 6,172 third-country nationals were detained in the Centres) followed by 2015 (5,242) and 2020 (4,387). Surprisingly, even during the pandemic, a considerable number of individuals entered CPRs, despite the concrete impossibility of carrying out repatriations during this emergency period. This period is a particularly stark example of immigration detention being resorted to when such detention was useless and futile.

Women represent on average less than one fifth of the third-country nationals that have entered CPRs since 2017. Indeed during the first 4 months of 2021, no woman was detained, while the Regional Guarantor for the Rights of Persons Deprived of their Liberty of Lazio reported the presence of only two women in Rome's CPR during the summer of 2021.<sup>19</sup>

### 3.3

## TRENDS AROUND THOSE DETAINED IN CPRs IN 2020

In 2020, despite the number of individuals who entered immigration detention centres over the whole year remaining relatively constant compared to prior years (4,387), there was a substantial emptying of the CPRs during the first months of the pandemic (i.e. from 8 March 2020 onwards), while from the month of July onwards, a renewed increase in the number of detainees in Italian CPRs was observed. In that period, 1067 people transited through the largest Italian CPR (Rome - Ponte Galeria): 363 in the first half of the year and 704 in the second half.<sup>20</sup>

At the beginning of March 2020, there were 9 active CPRs in Italy: Turin, Gradisca d'Isonzo (Gorizia), Rome - Ponte Galeria, Caltanissetta, Trapani, Bari, Brindisi - Restinco, Palazzo San Gervasio (Potenza) and Macomer (Nuoro). During the pandemic, the Centres in Trapani, Caltanissetta and Palazzo San Gervasio were closed. As of 12 March 2020, 425 people were detained within the aforementioned centres and this number dropped significantly to 240 on 28 April, against a total capacity of 525 (as of 29 May). On 15 May 2020, there were 204 people detained; on 22 May 2020, 195 people were detained, on 25 June 2020, 282 people were detained and on 2 July 2020, 332 people were detained.<sup>21</sup>

If we take a look at the data of 2 July 2020 it is apparent that there were more migrants detained in hotspots than within CPRs.<sup>22</sup> More specifically, as of that date, 451 people were held in hotspots and 332 people were detained in CPRs. Moreover, on the same date, 207 people were kept on the Moby Zazà ship. The number of people detained in CPRs increased in November 2020, rising from 348 on 12 November to 455 on 20 November.

<sup>19</sup> This information was included in the response to the questionnaire that CILD addressed to Regional Guarantor for the Rights of Persons Deprived of their Liberty of Lazio in July 2021.

<sup>20</sup> Ibidem.

<sup>21</sup> National Guarantor, "Il punto", October 2020.

<sup>22</sup> For a deeper understanding of the impact of COVID-19 in hotspots and quarantine ships, see G. Santoro, F. Delle Cese, P. Petrucco "Detenzione migrante ai tempi del Covid" (Immigration detention during the COVID-19 pandemic), July 2020.

### 3.3 Trends around those detained in CPRs in 2020

On the same date, there were 894 migrants who were held in hotspots (763 of which were in Lampedusa) and 5,112 migrants held on 5 quarantine ships. By 28 November 2020, 450 people were detained in CPRs.

Despite the decline in detention numbers between March and June 2020, the total number of transits in CPRs over that year has remained constant compared to other years. This is an alarming figure, given the interruption of repatriations during 2020: according to the data provided by the National Guarantor, repatriations affected 3,351 third-country nationals in 2020, 6,531 individuals in 2019 and 6,398 individuals in 2018.<sup>23</sup> However, it is important to note that detaining people in CPRs is only legitimate when repatriations are carried out, otherwise, immigration detention must be considered illegitimate.<sup>24</sup>

In this context of dubious legitimacy, CILD and other civil society organisations have tried to raise awareness on this matter by pushing Justices of the Peace not to validate or extend the detention of third-country nationals in CPRs. In fact, that detention was unnecessary due to the closure of borders and therefore illegitimate under the Return Directive, according to which the member states of the European Union can detain the third-country nationals subject to return procedures only to prepare repatriation or removal.

Despite the many initiatives implemented by NGOs and civil society organisations, migrants have kept being detained illegitimately and in violation of numerous legal provisions in 2020.

<sup>23</sup> National Guarantor, "[Rapporto tematico sulle attività di monitoraggio delle operazioni di rimpatrio forzato di cittadini stranieri \(January 2019 - June 2021\)](#)", 1 October 2021.

<sup>24</sup> Cfr. Article 14 of the Immigration Act.

## 3.4

# THE DETENTION OF TUNISIAN NATIONALS

As aforementioned, Tunisian nationals represent a considerable percentage of the individuals who entered in CPRs in 2020 (59.8%) including in the first months of 2021 (61.9%). Italy has consistently entered into readmission agreements with Tunisia since 1998.<sup>25</sup> However, in 2020 there was a push for the repatriation of Tunisian citizens: as a matter of fact, at the beginning of August 2020, the Minister of Foreign Affairs Luigi Di Maio and the Minister of the Interior Luciana Lamorgese, during a visit to Tunis, approved the strengthening of cooperation with the Tunisian government to manage departures and repatriation flights.<sup>26</sup> Over four months (August, September, October, and November 2020) 1509 Tunisian nationals were repatriated, a number that “is close to the figure of 1793 Tunisian nationals repatriated throughout the year 2019”.<sup>27</sup>

The speed with which these repatriations were carried out resulted in serious violations of Tunisian citizens’ fundamental rights, including the violation of the right to be informed on the possibility of applying for international protection and the inadequate guarantees offered to Tunisian asylum seekers who were subjected to a fast-track procedure and that caused a significant contraction of the right to defence.

In the following paragraphs, we will discuss two examples regarding the CPR of Palazzo San Gervasio (in the Basilicata region, Southern Italy) and the CPR of Gradisca d’Isonzo (in the Friuli-Venezia-Giulia region, North-eastern Italy).

### 3.4.1 PALAZZO SAN GERVASIO

Italian authorities reopened the CPR of Palazzo San Gervasio in 2018, before the completion of renovations of the facility. The Ministry of the Interior claimed that more detention facilities were needed “in consideration of the significant number of foreign citizens coming from Tunisia who are in these days reaching our shores and of which it is necessary to ensure the execution of repatriation”.<sup>28</sup>

Arturo Covella, a lawyer who assists numerous detained people in the CPR of Palazzo San Gervasio, highlighted that there is a clear prevalence of Tunisian citizens in the facility. “It is possible to describe these as real roundups because I received, both directly and through the association Osservatorio Migranti Basilicata, phone calls from Sicilian colleagues who asked for information on their clients transferred from Sicily to the CPR of Palazzo San Gervasio. Many lawyers had difficulties in contacting their clients: once they were transferred to the CPR, communications were down for three or four days and the detainees could communicate with their defenders only after the validation [of detention] hearings”.<sup>29</sup>

Such praxis is simply illegitimate and has been applied to every citizen detained in the CPR of Palazzo San Gervasio. “Moreover”, says Arturo Covella “in Italy, there is this conception that we must prove that we are successful in repatriating as many people as possible. Tunisian citizens are the most vulnerable people because of the strong readmission agreements that our country has

<sup>25</sup> See Martina Cociglio, Lorenzo Figoni e Marina Mattiolo in “[Le conseguenze concrete degli accordi fantasma: Italia e Tunisia fra rimpatri e opacità](#)”, 20 December 2020, on “Sciabaca e Oruka” project by ASGI (Association for Juridical Studies on Immigration).

<sup>26</sup> See Ministero dell’Interno, “[Procederemo ai rimpatri dei migranti economici dalla Tunisia](#)”, 31 July 2020.

<sup>27</sup> See Carolina Di Luciano, in “[Molti rimpatri, poche garanzie: un’analisi dei dati sui rimpatri dei cittadini tunisini degli ultimi mesi](#)”, 26 March 2021.

<sup>28</sup> Prefecture of Potenza “[Procedura negoziata affidamento servizio di gestione straordinario CPR Palazzo San Gervasio](#)”, 13 November 2017.

<sup>29</sup> Interview with lawyer Arturo Covella, 5 August 2021.

### 3.4 The detention of Tunisian nationals

signed with Tunisia. In many cases, Tunisian citizens who ended up in detention may have even lived in Italy for many years, however, they have failed to regularise their status”.<sup>30</sup>

#### 3.4.2 GRADISCA D’ISONZO

Eva Vigato, a lawyer that was in charge of the legal information service in the CPR of Gradisca d’Isonzo until November 2020, highlighted that there have been many grave violations of the right to information and defence.<sup>31</sup> “Many people came from Tunisia”, says Eva Vigato “and, within a few days, they were transferred to the CPRs throughout Italy. They also arrived in the centre of Gradisca d’Isonzo and after three days only, they were ‘magically’ repatriated [...]. We, as members of the information service, understood when they arrived in Italy that they were not informed of their right to seek international protection. Many were not informed at all”.<sup>32</sup>

Eva Vigato highlights that in the CPR of Gradisca d’Isonzo, 20 people from Tunisia arrived in only one day and that in the few hours dedicated to the legal information service only a few could be interviewed: “we tried to organise fast appointments to talk with the highest number of people, but we didn’t make it”.<sup>33</sup>

<sup>30</sup> Ibidem.

<sup>31</sup> Interview with lawyer Eva Vigato, 9 August 2021.

<sup>32</sup> Ibidem.

<sup>33</sup> Ibidem.

## 3.5

# THE DETENTION OF MINORS

There are no official statistics relating to the number of detainees in the CPRs who claim to be underage and that are actually recognised as such after age assessment procedures are carried out. The only certain data that we have concerns the CPR of Rome - Ponte Galeria, where 19 minors were detained and subsequently released in 2020.<sup>34</sup> This information demonstrates the failure to comply with the principle of the best interests of the child, according to which minors are not supposed to be detained, but have to be hosted in proper reception facilities.<sup>35</sup>

Despite the extreme clarity of the relevant legislation, it does occur that those who claim to be underage and are then subjected to age assessment procedures are held in CPRs without enjoying the protection and guarantees which are supposed to be ensured to alleged minors.<sup>36</sup> Pursuant to Article 5, paragraph 4 of Law no. 47/2017, the Prosecutor's Office at the Juvenile Court must necessarily be involved, as the only body that is able to arrange any socio-sanitary assessment. This is especially so where the public authority has doubts about the statements of the individual who claims to be underage and of the documents presented by them. This procedure also guarantees that caution is applied when assessing the age and that the individual is hosted in a centre dedicated to minors.

However, the National Guarantor highlighted the illegitimacy of the decision to transfer alleged minors from the Lampedusa hotspot directly to the CPR of Trapani, treating them as adults. Only after these individuals were transferred to the CPR of Trapani, "dozens of people from Lampedusa who were registered there as adults were recognised as minors at the end of the age assessment procedure and released after several weeks spent within the CPR".<sup>37</sup>

<sup>34</sup> This information was included in the response to the questionnaire that CILD addressed to Regional Guarantor for the Rights of Persons Deprived of their Liberty of Lazio in July 2021.

<sup>35</sup> Decree Law no. 142/2015, Article 19bis, paragraph 2.

<sup>36</sup> National Guarantor, "Rapporto sulle visite effettuate nei CPR (2019 - 2020)", page 37.

<sup>37</sup> Ibidem.

## **CHAPTER 4**

# **CPRs AND THE RIGHTS OF DETAINEES**

- 4.1 THE RIGHT TO HEALTH
- 4.2 THE RIGHT TO INFORMATION AND DEFENCE
- 4.3 THE RIGHT TO AFFECTIVE RELATIONSHIPS  
AND FREEDOM OF COMMUNICATION



## 4.1

# THE RIGHT TO HEALTH

### THE REGULATORY FRAMEWORK

The right to health, enshrined in Article 32 of the Italian Constitution, cannot be suspended or restricted during administrative detention. All foreign nationals must be guaranteed essential health care services<sup>1</sup> and there are specific provisions which aim to provide further protection to asylum seekers.<sup>2</sup> In CPRs health care is managed by private parties, the procurement of which is entrusted to the managing body of the Centres and not to the National Health Service. The privatised management of CPRs is one of the most controversial issues in administrative detention and has been a catalyst for serious violations of the rights to health, welfare and safety of detainees.

#### 1. SUITABILITY ASSESSMENTS FOR ENTRY AND DETENTION

Pursuant to Article 3 of the CIE Single Regulation,<sup>3</sup> the National Health Service is tasked with carrying out medical examinations to verify the suitability of the detainee for life in a restricted community. A medical examination must be carried out upon entry to the CPR. Thereafter, if elements that may indicate incompatibility with the restricted community life are detected, which didn't emerge during the initial certification of suitability, further medical examinations should be carried out. Finally, in the case of a transfer to a new facility, certificates of suitability must be renewed upon entering the CPR of destination.

#### 2. "PRIVATE" HEALTH CARE IN CPRS

Even if in CPRs the provision of health care service is entrusted to the private sector, the primary legislation in Italy requires the Government to continue to ensure "adequate sanitary and housing standards".<sup>4</sup> Furthermore, health care inside CPRs should be considered "complementary" (not substitutive) to services provided by the National Health Service,<sup>5</sup> implying a necessary link with the latter.

- a) First of all, the managing body should ensure the presence of sufficient medical staff. However, several specifications approved by the Italian Ministry of the Interior over the years<sup>6</sup> have reduced the hours of staff employed by the Centres' managing bodies. The health sector was not spared cuts either, despite the unchanged need for a nurse to be present 24 hours a day.

More precisely:

- ▶ For **CPRs with a capacity of up to 50 places**: in the transition from 2017 to 2018/2021 requirements, the number of hours required to be worked by doctors was reduced by 41.7%, and those required by psychologists were reduced by 55.6%;
- ▶ For **CPRs with a capacity of 51 to 150 places**: in the transition from 2017 to 2018 requirements, there was a reduction in the number of hours required to be worked by doctors of 27.1%. Thereafter the hours rose again by 2021 - by

<sup>1</sup> Article 35, paragraph 4, of Legislative Decree no. 286/1998 (Immigration Act).

<sup>2</sup> Article 11 of Directive 2013/33/EU (Asylum Reception Conditions Directive); Article 7, paragraph 5 of Legislative Decree no. 142/2015.

<sup>3</sup> Regulation containing criteria for the organisation and management of Identification and Expulsion Centres provided for in Article 14 of Legislative Decree No. 296 of 1998, as amended (CIE Single Regulation).

<sup>4</sup> Article 32 of the Italian Constitution and Article 35 of Legislative Decree no. 286/1998 (Immigration Act).

<sup>5</sup> Article 14, paragraph 2 Legislative Decree no. 286/1998 (Immigration Act), as replaced by article 3 of Decree-Law no. 130/2020.

<sup>6</sup> See: [ministerial decree of 7 March 2017](#) and its respective [tender specification](#), in particular [Annex 1](#); [ministerial decree of 20 November 2018](#) and its respective [tender specification](#), in particular [Annex A](#); [ministerial decree of 24 February 2021](#) and its respective tender specification, in particular [Table A](#).

	Up to 50 places			From 51 to 150 places			From 151 to 300 places		
	2017	2018	2021	2017	2018	2021	2017	2018	2021
Nurse (n.1)	24h per day	24h per day	24h per day	24h per day	24h per day	24h per day	24h per day	24h per day	24h per day
Doctor (n.1)	6h over 6 days	3h per day	3h per day	8h over 6 days	5h per day	8h per day	24h over 6 days	6h per day	12h per day
Psychologist (n.1)	18h per week	8h per week	8h per week	24h per week	16h per week	16h per week	54h per week	24h per week	24h per week

16.7%. For psychologists, there was a 33.3% reduction in the number of hours worked from 2017 to 2018/2021.

- ▶ For **CPRs with a capacity of 151 to 300 places:** compared to 2017, the number of hours worked by doctors was reduced by 70.8% in 2018 and by 41.7% in 2021. With regard to psychologists, there was a 55.6% reduction in the number of hours in the transition from 2017 to 2018/2021 requirements.

b) The CIE Single Regulation<sup>7</sup> also provides that:

- ▶ All areas used for medical examinations must include a specific room, as well as places for solitary confinement and short observation;
- ▶ Such areas must be equipped with adequate hygienic services and comply with the common structural rules for clinics open to the public;
- ▶ All clinics must be equipped with windows and the necessary equipment (for example, examination and treatment couches; common and life-saving medicines).

Furthermore, the Centres' managing bodies must provide minimum equipment, which includes

visitor logs, all the necessary elements for rapid blood tests (for instance, saliva-based tests for HIV), glucostix reagent strips and an emergency trolley (equipped, for example, with defibrillators).

- c) Finally, the Centres' managing bodies are required to ensure specific health care services for individuals held in administrative detention, and notably they shall:

- ▶ Ensure thorough and professional screening of migrants entering detention centres to identify medical and mental health conditions, disabilities, as well as any characteristics that would place the person at particular risk in a detention facility;<sup>8</sup>
- ▶ Take into consideration the presence of elements which didn't emerge during the initial certification of suitability and that may indicate incompatibility with the restricted community life and put the detainee in a sanitary observation room so that the Local Health Authority can carry out a new suitability assessment;<sup>9</sup>
- ▶ Ensure privacy and human dignity during medical examinations inside CPRs;<sup>10</sup>

<sup>7</sup> Annexes 1-b and 1-c.

<sup>8</sup> Article 3, paragraph 2 of the CIE Single Regulation.

<sup>9</sup> Article 3, paragraph 3 of the CIE Single Regulation.

<sup>10</sup> Article 3, paragraph 4 of the CIE Single Regulation.

## 4.1 The right to health

- ▶ Ensure that doctors working for the Centres prepare and keep a thorough and updated medical file for each guest;<sup>11</sup>
- ▶ Ensure that, in the case of transfer, healthcare professionals transmit a copy of the medical file of the detainee to the facility of destination;<sup>12</sup>
- ▶ Ensure the registration of migrants with the National Health Service, or the attainment of the “Temporarily Present Foreigners” (STP) codes, as appropriate.<sup>13</sup>

Each of these provisions entails rights of the detainees to: (I) see and obtain copy of his/her medical file; (II) confidentiality during medical examinations inside CPRs; (III) obtain a STP code; and obligations imposed on the managing body to: (I) transmit a copy of the detainee’s medical file to the facility of destination in case of transfer; (II) set up adequate health observation rooms.

### 3. MEMORANDA OF UNDERSTANDING BETWEEN PREFECTURES AND THE LOCAL HEALTH AUTHORITY

As aforementioned, health care inside CPRs should be considered “complementary” (not substitutive) to services provided by the national health service, implying a necessary link with the latter. This connection should be guaranteed by MOUs between the relevant Prefecture and the Local Health Authority, as expressly provided for by the CIE Single Regulation and several specifications approved by the Italian Ministry of the Interior. Such connection is essential to guarantee (i) a timely access of the detainees to Local Health

Authority facilities; (ii) periodical inspections by the health authority inside the centres.

### PRACTICE AND DISCRETION IN CPRs

The above-mentioned legal framework denotes the absence of a structured legislation in relation to the right to health of persons detained in CPRs. Furthermore, health services are mainly regulated by secondary sources (regulation, tender specifications, memoranda of understanding, and so on) and there are no judicial remedies for their actual implementation. Finally, the few existing provisions concerning the protection of the right to health of detainees are ineffective and not respected.

### 1. SUITABILITY ASSESSMENTS FOR ENTRY AND DETENTION

The CIE Single Regulation provides that suitability assessments for migrants’ entry and detention should be carried out only by a doctor working in a public hospital or affiliated to the Local Health Authority; however, non-compliant and harmful practices were found in several CPRs.

In **Turin’s CPR**, certificates of suitability are actually issued, in most cases, by a private doctor working for the managing body.<sup>14</sup> Moreover, despite the lack of specialised medical staff, several people with psychiatric diseases have entered the Centre.<sup>15</sup> This threatened the effective protection of the basic rights of detainees:

- ▶ **Hossain Faisal, a 32-year-old Bengali citizen, died on the premises of the CPR Hospital in**

<sup>11</sup> [Ministerial decree of 24 February 2021](#) and its respective [tender specification](#), in particular [Annex 5 bis](#), page 3. See also National Guarantor of the Rights of Persons Deprived of their Liberty, [“Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021”](#), published on 8 September 2021, page 11.

<sup>12</sup> [Ministerial decree of 24 February 2021](#) and its respective [tender specification](#), in particular [Annex 5 bis](#), page 3.

<sup>13</sup> *Ibidem*.

<sup>14</sup> On 7 July 2021, CILD submitted a questionnaire to Turin’s Guarantor of the Rights of Persons Deprived of Personal Liberty, Monica Cristina Gallo. The reply was provided on 14 July 2021 and Guarantor Gallo confirmed that suitability assessments for entry and detention are not always carried out by a doctor of the National Health Service. On the basis of a questionnaire administered by CILD to some lawyers assisting persons detained in CPRs, information was gathered regarding the fact that suitability assessment is issued by a private doctor working for the managing body.

<sup>15</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, [“Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021”](#), published on 8 September 2021, pages 6-7.

## 4.1 The right to health

**Turin, on 8 July 2019.** He died in the same cell where he had been initially detained 5 months earlier. The cause of death was said to be a sudden heart attack. Faisal was deemed fit for detention, although during visits he appeared “confused and disoriented” and refused to take part in any kind of dialogue;<sup>16</sup>

- ▶ **Y.M., a young Tunisian who declared to be affected by a leukaemia and requested on several occasions a medical visit,** has been locked up in the CPR of Turin on 23 November 2020 and then released only on 8 January 2021;<sup>17</sup>
- ▶ **Moussa Balde, a 23-year-old Guinean boy, committed suicide within the premises of the CPR Hospital in Turin, 22 May 2021.** Balde was attacked in the streets of Ventimiglia on 9 May by three Italian men. After being briefly hospitalised, Balde was taken to the Head of Police of Imperia, who ordered his confinement at the CPR of Turin in order to deport him. At the CPR he was placed in solitary confinement without any preliminary assessment on his psychological suitability for detention<sup>18</sup> and without being recognized as a victim.<sup>19</sup>

Moreover, the National Guarantor for the Rights of Persons Deprived of Personal Liberty

underlined that in Turin’s CPR, except for the initial certificate, no further suitability assessments are generally carried out.<sup>20</sup> This was the case with A.M., a Pakistani citizen who entered the CPR of Turin on 7 April 2021 and - due to his vulnerable condition - was immediately placed in the Ospedaletto (small hospital within Turin’s CPR), where he stayed for months, waiting for a new suitability assessment.<sup>21</sup>

Regarding **Milan’s CPR**, the managing body claims that certificates of suitability are always issued by a doctor of the National Health Service.<sup>22</sup> However, it appears that such certificates are actually prepared on National Health Service letterhead, but are signed by private doctors working for the Centre.<sup>23</sup> More precisely, medical examinations are carried out at the Police Stations and the certificates of suitability are drawn up on pre-printed forms.<sup>24</sup> In addition, in June 2021, two people subject to methadone treatment were detained in the CPR of Milan<sup>25</sup> even if - according to the National Guarantor - people undergoing scalar therapy with methadone should not be considered suitable for life in a restricted community.<sup>26</sup>

In the **CPR of Palazzo San Gervasio (Potenza)**, certificates of suitability are issued by a private

<sup>16</sup> ASGI, “[Il libro nero del CPR di Torino](#)”, 4 June 2021, pages 5-6.

<sup>17</sup> Ibidem, pages 10-11.

<sup>18</sup> ASGI, Antigone, Antigone Piemonte, Legal Team Italia, Giuristi democratici, Osservatorio Carcere Piemonte e Valle d’Aosta, Unione Camere Penali Italiane, Adif-Associazione Diritti e Frontiere. A.P.I. Onlus, Strali, “[Il CPR di Torino è una ferita nello stato di diritto](#)”, 4 June 2021.

<sup>19</sup> Orlando Trinchi, “[Balde era una vittima e non lo abbiamo salvato](#)”, interview with Gianluca Vitale, 26 May 2021, on the online newspaper “Il Dubbio”.

<sup>20</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, “[Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021](#)”, published on 8 September 2021, page 8.

<sup>21</sup> Ibidem, page 9.

<sup>22</sup> Such information was gathered through a questionnaire administered by CILD to the managing body of Milan’s CPR, RTI Versoprobo-Luna, on 6 July 2021. The respective reply was provided on 7 July 2021.

<sup>23</sup> Senator Gregorio De Falco, “[Delle pene senza delitti. Istantanea del CPR di Milano. Report dell’accesso presso il Centro di Permanenza per il Rimpatri di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021](#)”, 24 July 2021, page 38.

<sup>24</sup> Ibidem, pages 38-39.

<sup>25</sup> Ibidem, page 43.

<sup>26</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, “[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)”, 12 April 2021, page 18, note 56.

## 4.1 The right to health

doctor working for the managing body or by the health staff of the hotspot where the foreigner was previously located.<sup>27</sup>

As regards the **CPR of Bari**, certificates of suitability are issued by the body managing the Centre: this is confirmed both by lawyers assisting persons detained in the Centre and by the National Guarantor. The latter also reported that some detainees in the Centre were subject to methadone treatment or suffering from diabetes mellitus, although these people should be considered incompatible with handling the conditions of administrative detention.<sup>28</sup>

Concerning the **CPR of Brindisi**, the local Prefecture claims that suitability assessments are always carried out by doctors working for the National Health Service<sup>29</sup>. However, lawyers assisting persons detained in the Centre and the National Guarantor<sup>30</sup> highlighted that certificates of suitability are usually issued by a private doctor working for the body managing the hotspot. The case of E.H., a 20-year-old Nigerian boy, who committed suicide in Brindisi's CPR on 2 June 2019 is significant in this regard. Indeed, in spite of the fact that the Mental Health Centre of Bolzano had certified his strong psychiatric vulnerability

(as he had experienced previous episodes of self-harm and suicide attempts), he was considered fit for detention. His medical documentation was taken into consideration by the health staff of the CPR only after his suicide.<sup>31</sup>

As to the **CPR of Macomer**, the Prefecture of Nuoro claims that suitability assessments are always carried out by doctors working for the National Health Service<sup>32</sup>. However, lawyer Rosaria Manconi - who assists several detainees in the Centre - informed us that she has never been allowed to get access to those certificates and that, in her opinion, medical examinations are carried out by the staff of the managing body. This was made evident in the case of a detainee who, despite suffering from a severe form of diabetes, was deemed fit for detention<sup>33</sup>.

Both lawyers assisting persons detained in CPRs currently operating in Italy<sup>34</sup> and the National Guarantor<sup>35</sup> observed that certificates of suitability are mainly issued by the health staff working for the Centres, hotspots or quarantine ships. This is further exacerbated by the fact that - until quite recently - the hotspot of Lampedusa and the CPR of Trapani - Milo were both managed by the "Cooperativa Badia Grande".<sup>36</sup>

<sup>27</sup> On 23 July 2021, CILD administered a questionnaire to some lawyers assisting persons detained in CPRs (as for instance the CPR of Palazzo San Gervasio) currently operating in Italy.

<sup>28</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 18.

<sup>29</sup> On 6 July 2021, CILD submitted a questionnaire to the managing body of the Brindisi's CPR in order to gather information and data on the Centre. On 13 July 2021, the managing body answered that the questionnaire could be filled in only with the approval of the Prefecture of Brindisi. Therefore, on 13 July 2021, CILD sent a request for authorization to the Prefecture. Then, on 28 July, 2 and 6 August, CILD also reached out to some representatives of the Prefecture in order to have news and they reported that they had submitted a request for authorization to the Ministry of the Interior. In this context, on 13 August 2021 CILD submitted a request for civic access to the Prefecture of Brindisi, whose reply was received on 14 September 2021.

<sup>30</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 18, note 56.

<sup>31</sup> Ibidem, page 21. See also M. Lucia Dell'Anna, Medical Director of Institute San Gallicano-Roma, "[Condizioni di salute incompatibili con il trattenimento nei CPR](#)", page 13, from the [days of formation FAMI](#) organised by the National Guarantor on October 2019.

<sup>32</sup> Such information was gathered through a questionnaire administered by CILD to the Prefecture of Nuoro on 12 July 2021; the respective reply was provided on 20 August 2021.

<sup>33</sup> CILD interviewed lawyer Rosaria Manconi on 3 August 2021.

<sup>34</sup> Such information was gathered through a questionnaire administered by CILD to some lawyers assisting persons detained in the CPRs of Caltanissetta and Trapani, on 23 July 2021.

<sup>35</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 18.

<sup>36</sup> Ibidem.

Since July 2021, services of the **CPR of Trapani** fell within the competence of the temporary joint venture between “Vivere Con Onlus” and “Consorzio Hera”. According to the relevant Prefecture: (i) the first detainees have entered the Centre on 17 August 2021; (ii) in order to enter the CPR, a certificate of suitability is required, together with a negative Covid-19 test.<sup>37</sup> In the light of the above, it is clear that the different practices occurring inside CPRs lead to a violation of Article 3, paragraph 1 of the CIE Single Regulation. Indeed, such provision states that suitability assessments for foreigners’ entry and detention in CPRs should be carried out by a doctor working for the National Health Service, at the Local Health Authority facilities, in order to ensure independence and third-party impartiality.<sup>38</sup>

This also implies a serious violation of detainees’ right to defence: **90% of interviewed lawyers stated that there were no certificates of suitability in the file of the judicial authority concerning their clients**, even if they are a prerequisite for confirming or extending detention.

### 2. “PRIVATE” HEALTHCARE IN CPRS: ILLEGAL PRACTICES AND DENIED RIGHTS

According to the National Guarantor,<sup>39</sup> the organisation of health services within CPRs appears to be “particularly critical”, due to: (i) the lack of staff adequately trained in medicine related to migration; (ii) the total absence of risk prevention protocols, despite the numerous episodes of self-harm occurring in the Centres. Additionally, there are critical issues arising from the new scheme

of contract specifications approved in November 2018 and only partly revised in 2021, which has led to a drastic decrease in the number of hours per week dedicated to personal services, starting with health services. Moreover, the practice of adjusting the medical staff’s working hours according not to the regulatory capacity but to the effective one, continues to be a constant. As a result, if we look at the regulatory capacity of the CPRs, medical and psychological assistance is guaranteed to each detainee for only a few minutes per week.

In **Milan’s CPR** (140 places) the tender specifications for management services, published in February 2019, refers to the resource allocation template approved by the Ministerial Decree in November 2018. The Centre should therefore ensure the presence of: (I) a nurse 24/7; (II) 1 doctor 5 hours a day; (III) 1 psychologist 16 hours a week. In this regard, the managing body claimed the presence of: (I) the nursing service 24/7; (II) 4 doctors working in shifts from 4 to 5 hours a day, with availability.<sup>40</sup> Nevertheless, during a visit in the Centre, Senator De Falco found that the working hours of the medical staff are adjusted not according to the regulatory capacity of the Centre, but to the effective presences in the CPR, that for months now have been of around 56 detainees. Consequently, in practice, it is ensured the presence of only: 1 nurse 24/7; 1 doctor 3 hours a day; 1 psychologist 8 hours a week.<sup>41</sup>

In addition, Senator De Falco reported that:

- ▶ Two nurses, both employed by the managing body for less than a week, were not informed on the Centre medical system;<sup>42</sup>

<sup>37</sup> On 13 August 2021, CILD submitted a request for civic access to the Prefecture of Trapani, in order to gather information and data on the Centre. The Prefecture replied on 13 September 2021.

<sup>38</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, “[Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021](#)”, published on 8 September 2021, pages 6-7.

<sup>39</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)”, 12 April 2021, page 23.

<sup>40</sup> Such information was gathered through a questionnaire administered by CILD to the managing body of Milan’s CPR, RTI Versoprobo-Luna, on 6 July 2021. The respective reply was provided on 7 July 2021.

<sup>41</sup> Senator Gregorio De Falco, “[Delle pene senza delitti. Istantanea del CPR di Milano. Report dell’accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021](#)”, 24 July 2021, page 22.

<sup>42</sup> Ibidem, page 23.

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- ▶ The doctors' timetables affixed to the wall did not correspond to the real situation;<sup>43</sup>
- ▶ The presence of psychologists is an exceptional event, which takes place only by appointment. Furthermore, the two psychologists of the Centre, Dr. Federico Boco (also Director of the facility) and Doctor Andrea Montagnini, are both members of the Board of "Luna S.c.s." that, together with "Versoprobono S.c.s.", belongs to the temporary joint venture managing the Centre.<sup>44</sup> Finally, Senator De Falco noticed that the CPR appeared unequipped to provide adequate mental health services. For instance, he found a list of 12 detainees in (urgent) need of professional help for psychological problems, and yet no appointment had already been scheduled.

In **Turin's CPR** (180 places) the tender specification of March 2017 should, in theory, apply.<sup>45</sup> However, such a Centre was the first to provide services according to the tender specification approved by the Ministerial Decree in November 2018. As a consequence, in the CPR of Turin there are only: (I) 4 nurses working 24 hours shifts; (II) 4 doctors working 5 hours shifts each; (III) 1 psychologist working 24 hours a week.<sup>46</sup> In addition, the National Guarantor noticed that: (I) in the rooms used as infirmary/clinic, samples

are usually taken without specific authorisations from the Local Health Authority; and (II) sanitary facilities which are connected to the nursery/clinic face a serious risk of spreading contagious disease.<sup>47</sup> The inadequacy of the service<sup>48</sup> offered by the managing body (Gepsa) was such that, in February 2021, the latter signed a memorandum of understanding with the Order of Doctors of the province of Turin.<sup>49</sup> Such protocol has been criticised both by some civil society associations<sup>50</sup> and the National Guarantor,<sup>51</sup> according to which it could not overcome the criticalities observed in this Centre, with particular reference to the provision of specialist services within the competence of the territorial services.

As to the **CPR of Gradisca d'Isonzo** (150 places), the tender specification of 2019 refers to the Ministerial Decree of November 2018<sup>52</sup> and provides for the presence of: (I) 1 nurse 24/7; (II) 1 doctor 5 hours a day; (III) a psychologist 16 hours a week. In such scenario, the Municipal Guarantor of Gradisca d'Isonzo highlighted the need for "additional staff, starting from the medical one".<sup>53</sup>

In the **CPR of Rome - Ponte Galeria** (210 places) the tender specification of March 2017 should, in theory, apply.<sup>54</sup> However, the tender specification actually applied is the one introduced by the

<sup>43</sup> Ibidem, page 24.

<sup>44</sup> Ibidem, pages 24-25.

<sup>45</sup> Prefecture of Turin, "Avviso pubblico per la fornitura di beni e servizi relativi al funzionamento del Centro di Permanenza per i Rimpatri sito in Torino in via Santa Maria di Mazzarello per una ricettività di n. 180 posti", CIG 72602958F6, 27 November 2017, Annex 15.

<sup>46</sup> Such information was gathered through a questionnaire administered by CILD to Turin' Guarantor of the Rights of Persons Deprived of their Liberty, Monica Cristina Gallo, on 7 July 2021. The respective reply was provided on 14 July 2021.

<sup>47</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 23.

<sup>48</sup> Also confirmed by ASGI, "Il libro nero del CPR di Torino", 4 June 2021, pages 7-10.

<sup>49</sup> Memorandum of understanding between Gepsa S.A. and the Medical Association of Turin, 24 February 2021, prot.2536/2021.

<sup>50</sup> "Lettera aperta all'Ordine dei Medici di Torino contro l'accordo medici volontari al CPR", 20 July 2021.

<sup>51</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri (CPR) di Torino il 14 giugno 2021", published on 8 September 2021, page 8.

<sup>52</sup> Prefecture of Gorizia, "Gara europea a procedura aperta per l'affidamento dell'appalto dei servizi di gestione e funzionamento del CPR", 7 March 2019 and its Annex A.

<sup>53</sup> Giansandro Merli, "Gradisca, la Garante comunale: i CPR vanno ripensati", 18 July 2020, on the online newspaper "Il Manifesto".

<sup>54</sup> Prefecture of Roma, "Fornitura di beni e servizi relativi al funzionamento del C.P.R. di Ponte Galeria (RM)", 11 December 2017, CIG 73018350DD and its Annex, page 8.

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Ministerial Decree on 20 November 2018. Indeed, such Centre ensures the presence of only: (I) 1 doctor 48 hours a week,<sup>55</sup> instead of 24 hours a day, six days a week; (II) 1 psychologist 24 (instead of 54) hours a week.<sup>56</sup> Moreover, the working hours of the medical staff are adjusted not according to the regulatory capacity of the Centre, but to the effective presences in the CPR.<sup>57</sup>

In the **CPR of Macomer** (50 places) the tender specifications approved by the Ministerial Decree in November 2018 should, in theory, apply<sup>58</sup> and the presence of (I) 1 nurse 24/7; (II) 1 doctor 3 hours a day; (III) mental health services 8 hours a week should be ensured. However, after only three weeks of opening the Centre (February 2020), the internal health staff threatened to strike and resign, claiming the absence of conditions in which to work safely.<sup>59</sup> The National Guarantor, in March 2020, found that: (i) the doctor on staff was working also within the Sassari - Bancali prison; and (ii) the number of nursing staff and health workers was inadequate<sup>60</sup>. This led the Prefecture of Nuoro<sup>61</sup> to increase the medical assistance service to 5 hours a day, while the psychological assistance, according

to the lawyers assisting detainees in the Centre, continues to be “non-existent”.<sup>62</sup>

With reference to the **CPR of Bari - Palese**, the new tender procedure of April 2021<sup>63</sup> refers to a capacity of 80 places and to a resource allocation template which corresponds to the new tender specification introduced by the Ministerial Decree in November 2021.<sup>64</sup> The Centre should therefore ensure the presence of: (I) healthcare services 24/7; (II) medical services 8 hours a day; (III) mental health services 16 hours a week.

However, during a visit in June 2019, the National Guarantor found that:

- ▶ After entering the Centre, no further medical examinations are carried out;
- ▶ Despite the numerous episodes of self-harm occurring in the Centre, transfers to the E.R. are complicated, if not impossible.<sup>65</sup>

Lawyers assisting persons detained in the Centre confirmed the inadequacy of its health services, due to the lack of medical staff and the difficulties

<sup>55</sup> Such information was gathered through a questionnaire administered by CILD on 6 July 2021 to the Regional Guarantor of Lazio. The latter answered on 31 July 2021 and then on 24 August 2021.

<sup>56</sup> Councilor of the Region Lazio, Alessandro Capriccioli, carried out an inspection in the CPR of Rome - Ponte Galeria, on 10 September 2021 and then communicated to CILD such information few days later.

<sup>57</sup> Such information was gathered through a questionnaire administered by CILD to the Lazio Region's Guarantor of the Rights of Persons Deprived of their Liberty, Stefano Anastasia, on 6 July 2021. Mr Stefano Anastasia filled in the questionnaire on 31 July 2021 and then on 24 August 2021. As to the number of doctors present in the facility, the Lazio Region's Guarantor has indicated that, according to the managing body of the Centre, the presence of medical staff relies on the “tender specification and effective presences”.

<sup>58</sup> Prefecture of Nuoro, “Gara di appalto europea per il funzionamento e la gestione del C.P.R. di Macomer (NU)”. C.I.G. 778513724A,, 1 February 2019, and its Annex 0.6.

<sup>59</sup> Paolo Merlini, “Aggressioni agli infermieri: ora il CPR è a rischio caos”, 14 February 2020, on the newspaper “La nuova Sardegna”. Such information is also confirmed by the regional Council of the Sardinia, question no. 614/A, ORRÙ – CADDEO – PIU.

<sup>60</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)”, 12 April 2021, page 23.

<sup>61</sup> Prefecture of Nuoro, “Determina affidamento prestazioni in aumento contratto rep.1131-2019 gestione CPR Macomer”, 5 May 2020. Such information was also gathered through a questionnaire administered by CILD to the Prefecture of Nuoro, on 12 July 2021; the respective reply was provided on 20 August 2021.

<sup>62</sup> CILD interviewed lawyer Rosaria Manconi on 3 August 2021.

<sup>63</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “Relazione al Parlamento 2021-Mappe e dati”, 21 June 2021, page 8.

<sup>64</sup> Prefecture of Bari, “Gara europea a procedura aperta per l'affidamento dei servizi di gestione del Centro di identificazione ed espulsione CPR (Ex CIE) di Bari-Palese”, 18 May 2021.

<sup>65</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)”, 12 April 2021, page 23.

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in accessing National Health Service services.<sup>66</sup> In addition: (I) the managing body, the Prefecture and the Local Health Authority never answered our requests aimed at gathering information on the Centre health services;<sup>67</sup> and (II) due to the fact that the previous notice of participation (June 2018 – June 2021) was never published online, it is impossible to acknowledge the effective working hours consecrated to the Centre health services in the last three years.

In the **CPR of Brindisi** (49 places) the tender specifications approved by the Ministerial Decree in 2017 should, in theory, apply.<sup>68</sup> However, the tender specifications which are actually applied in the Centre is the one approved by the Ministerial Decree in November 2018,<sup>69</sup> ensuring the presence of only: (i) 1 doctor 3 (instead of 6) hours a day; and (ii) 1 psychologist 8 (instead of 18) hours a week. Both the National Guarantor<sup>70</sup> and lawyers assisting persons

detained in the CPR<sup>71</sup> have been denouncing the lack of adequate health services within the Centre.

As to the **CPR of Trapani-Milo**, in July 2021 the temporary joint venture between “Vivere con Onlus” and “Consorzio Hera”<sup>72</sup> was awarded the tender for managing services in the Centre. As confirmed by the Prefecture of Trapani,<sup>73</sup> according to the Ministerial Decree of 24 February 2021, it should ensure the presence of: (I) 1 nurse 24/7; (II) 1 doctor 3 hours a day; (III) mental health care 8 hours a week. However, lawyers assisting persons detained in the Centre have highlighted that medical care and mental health services are inadequate.<sup>74</sup>

The **CPR of Caltanissetta** (96 places)<sup>75</sup> follows the tender specifications approved by the Ministerial Decree in November 2018. Consequently, as confirmed by the Public Services Agency of Caltanissetta,<sup>76</sup> it should ensure the presence of:

<sup>66</sup> Such information was gathered through a questionnaire administered by CILD to some lawyers assisting persons detained in the Italian CPRs (as for instance the CPR of Bari-Palese), on 23 July 2021.

<sup>67</sup> On 6 July 2021, CILD administered a questionnaire to the managing body of the CPR of Bari-Palese, Cooperativa Badia Grande, to gather information on the protection of detainees’ rights. In the absence of a reply, CILD contacted by phone a manager of the Centre, who: (I) on 28 July claimed that she had never seen the questionnaire and asked us to send it again; (II) on 4 August, stated that our request was still under consideration by the administration; (III) on 6 August, informed us that they were having difficulties in filling out the questionnaire, due to the COVID-19 outbreak in the centre. By consequence, on 17 August 2021, CILD submitted a request for civic access to the Prefecture of Bari. On 14 September 2021, the latter informed us that it was waiting for the authorization of the Ministry of the Interior. Moreover, on 21 July 2021 CILD submitted a questionnaire to the Public Services Agency (Public Service Agency) of Bari in order to gather information on the protection of detainees’ right to health. On 6 August 2021, the latter informed us that “the District has no competence in relation to the CPRs”. On 12 August, CILD submitted a request for civic access.

<sup>68</sup> Prefecture of Brindisi, “Bando di gara CPR -2018/2021”, published on 20 March 2018 and its [Annexes](#).

<sup>69</sup> On 6 July 2021, CILD administered a questionnaire to the managing body of the Brindisi’s CPR in order to gather information and data on the Centre. On 13 July 2021, the managing body answered that the questionnaire could be filled in only with the approval of the Prefecture of Brindisi. Therefore, on 13 July 2021, CILD sent a request for authorization to the Prefecture. Then, on 28 July, 2 and 6 August, CILD also reached out to some representatives of the Prefecture in order to have news and they informed us that they had submitted a request for authorization to the Ministry of the Interior. In this context, on 13 August 2021 CILD submitted a request for civic access to the Prefecture of Brindisi, whose reply was received on 14 September 2021.

<sup>70</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)”, 12 April 2021, page 23.

<sup>71</sup> On 23 July 2021, CILD administered a specific questionnaire to some lawyers assisting persons detained in the Italian CPRs, as for instance the CPR of Brindisi-Restinco.

<sup>72</sup> Prefecture of Trapani, “Procedura negoziata ex art.36 co.2 lett.c) del D.Lgs.n.50/2016 per l’affidamento del servizio di gestione del C.P.R. di Milo-Trapani per la durata di due mesi con capienza di n.36 ospiti - CIG :859157”, 23 July 2021.

<sup>73</sup> On 13 August 2021, CILD submitted a request for civic access to the Prefecture of Trapani in order to gather information and data on the Centre. The Prefecture answered on 13 September 2021.

<sup>74</sup> On 23 July 2021, CILD administered a specific questionnaire to some lawyers assisting persons detained in the Italian CPRs, as for instance the CPR of Trapani-Milo.

<sup>75</sup> Prefecture of Caltanissetta, “Bando di gara per il Centro di permanenza per i rimpatri sito in Caltanissetta - contrada Pian del Lago”, 4 March 2019.

<sup>76</sup> On 21 July 2021, CILD submitted a questionnaire to the Public Service Agency of Caltanissetta in order to gather information on the protection of detainees’ right to health. In the absence of a reply, on 12 August 2021, CILD submitted a request for civic access to the same Public Service Agency, that finally answered on 14 September 2021.

(I) nursing services 24/7; (II) medical services 5 hours a day; (III) mental health services 16 hours a week. However, the National Guarantor<sup>77</sup> and lawyers assisting persons detained in the Centre<sup>78</sup> have highlighted the lack of nursing staff and adequate mental care.

Furthermore, at the request of the National Guarantor, in February 2020 the Public Service Agency of Caltanissetta has carried out, for the first time, inspection activities within the Centre and found out its insalubrity and poor sanitary conditions which then led to its closure from April 2020 to May 2021. It is important to note that - pending such inspection activities - on 10 February 2020 E.A., a 34 year-old Tunisian citizen, died due to an illness in the Caltanissetta's CPR. With regard to this death, the National Guarantor pointed out that more effective surveillance and a prompter intervention on the facility would certainly have helped to dispel, at least in part, doubts about the responsibilities of the institutions.<sup>79</sup>

As already mentioned, in relation to the CPR's health services, the CIE Single Regulation lays down obligations for managing bodies and provides specific rights for detainees. However, even in this regard, detainees' right to health is challenged by illegal practices in many CPRs.

### **2-A. OBSERVATION ROOMS: IMPROPER LOCATIONS AND INAPPROPRIATE USE OF SOLITARY CONFINEMENT**

Provisions regulating CPRs do not foresee, unlike the Penitentiary Ordinance, recourse in the form of solitary confinement (for justice, health, disciplinary or security reasons), but only the possibility to place detainees in sanitary "observation" rooms, for the time necessary for a new suitability assessment, in case of the presence of elements that may reflect incompatibility with the restricted community life, which didn't emerge during the initial certification of suitability (Article 3, paragraph 3 of the CIE Single Regulation).

The National Guarantor found that, in general, health observation rooms lack medical/paramedical staff and they are often nothing more than "ordinary detention facilities with capacity for one or two people".<sup>80</sup> Furthermore, in January 2020 two foreigners died while detained in Caltanissetta and Gradisca CPRs: it is important to notice that, even when they started to feel poorly, they were kept in detention, far from the infirmary and medical assistance.<sup>81</sup>

In addition to the above, it should be noted that illegitimate isolation practices are being put in place, allegedly for "safety reasons", in several CPRs.<sup>82</sup> In his latest report, the National Guarantor uncovered evidence of "improper premises or the improper use of premises in theory intended for medical purposes".<sup>83</sup>

<sup>77</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 23.

<sup>78</sup> On 23 July 2021, CLD administered a specific questionnaire to some lawyers assisting persons detained in the Italian CPRs, as for instance the CPR of Caltanissetta-Pian del Lago.

<sup>79</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, pages 21-22.

<sup>80</sup> Ibidem, page 23.

<sup>81</sup> Ibidem, page 22.

<sup>82</sup> Ibidem, page 35. See also Council of Europe, "[Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 7 to 13 June 2017](#)", 10 April 2018, paragraph 66.

<sup>83</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 33.

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The most striking example in this regard is **Turin's CPR**, where solitary confinement was enforced in the premises of the "ospedaletto" (small hospital). The latter was clearly ill-suited for health observation, since it was too far from the Centre medical facilities and often used for inappropriate reasons (security and public order).<sup>84</sup> In particular, according to the National Guarantor at least three fundamental aspects were problematic:

(I) The architectural configuration: the ospedaletto was divided into 12 bedrooms, separated by high iron bars, with a capacity of 24 places. There were no common spaces and the overall effect was similar to some "old sections of a zoo".<sup>85</sup>

(II) The regime under which detainees were held: in the ospedaletto<sup>86</sup> there was no possibility to spend some time outdoors and there were no fixed telephones.<sup>87</sup>

(III) The lack of safeguards: in these premises, detainees were put in isolation for a wide range of reasons (from disciplinary reasons to claimed reasons of "protection"), without a maximum time limit being fixed, which in some cases reached 5 months.<sup>88</sup>

The National Guarantor also reported the practice of putting in isolation people with mental disorders.<sup>89</sup> In this regard, 2 detainees have died within the ospedaletto in the last few years: a 32-year-old Bengali national, Hossain Faisal, who died on 8 July 2019, and Moussa Balde, a 23-year-old Guinean national who committed suicide there on 22 May 2021. In both cases, isolation was purportedly justified by their psychological state.

Over the years, numerous criticisms with respect to solitary confinement within the Ospedaletto have been raised by both the European Committee for the Prevention of Torture (CPT) and the National Guarantor, who, on his visit in June 2021, called for the immediate and definitive closure of the hospital.<sup>90</sup> Following this recommendation, the Prefecture of Turin, on 10 August 2021, informed the National Guarantor about the closure of the ospedaletto.<sup>91</sup> However, the presence of security cells in Turin's CPR, for which there is no clarity or transparency about their use, continues to create concern around the risk that they are used as improper detention facilities.<sup>92</sup>

<sup>84</sup> Ibidem. See also Council of Europe, "[Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 7 to 13 June 2017](#)", 10 April 2018, paragraph 64.

<sup>85</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulle visite tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)](#)", 18 October 2018, page 5.

<sup>86</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 34.

<sup>87</sup> Ibidem.

<sup>88</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021](#)", published on 8 September 2021, pages 13-14. See also ASGI, "[Il libro nero del CPR di Torino](#)", 4 June 2021, page 6.

<sup>89</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021](#)", published on 8 September 2021, page 15.

<sup>90</sup> Ibidem.

<sup>91</sup> Prefecture of Turin, [Reply to the Report on the National Guarantor visit in the Turin's CPR on 14 June 2021](#), page 8. Such reply was received on 10 August 2021 and was published on 8 September 2021.

<sup>92</sup> See: National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulle visite tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)](#)", 18 October 2018; National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 36; National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021](#)", published on 8 September 2021, page 18.

Finally, another CPR where illegal isolation practices seem to be present is in **Brindisi-Restinco's CPR**. During a visit in 2018, the National Guarantor found an improper use of the health observatory rooms: one was primarily served as a storage, while the other one was equipped with two masonry bunk beds<sup>93</sup>. Such observatory rooms were under the responsibility of people who had no medical expertise and 5 detainees were held there by some police officers against the advice of the managing body. Furthermore, in March 2018 a transsexual person was placed in a room formally used as medical observatory room. In this regard the Chief of Police – Director General of Law Enforcement admitted that rooms formally used as medical observation rooms are also used for other purposes<sup>94</sup> and that there are no specific areas for the detention of transsexual people and that consequently, transsexual persons should not even be held in the Centre.<sup>95</sup> Meanwhile the Minister of the Interior claimed that the transsexual person in question was held in observatory rooms “for the time strictly necessary to effect transfers to a more appropriate facility, namely the CPR of Caltanissetta”.<sup>96</sup>

### **2-B. LACK OF MENTAL CARE AND ABUSE IN THE ADMINISTRATION OF ANXIOLYTIC AND PSYCHOTROPIC DRUGS.**

Mental care in the CPRs should be exclusively managed by the National Health Service and

covered by memoranda of understanding between Prefectures and the Local Health Authority (where such exists) or examined by specialists, from time to time, in accordance with the general rules. However, in practice, the lack of protocols between Prefectures and Local Health Authority is almost absolute: this implies that the monitoring of psychiatric cases and the administration of psychotropic drugs is often managed by psychologists and nurses appointed by the managing body. An additional factor is that the facility of origin of the detainee frequently does not transmit the latter's medical records to the Centre of destination.<sup>97</sup> In this regard, the percentage of detainees subjected to the administration of psychotropic drugs and anxiolytics appears very high.

In **Milan's CPR**, this percentage reaches - according to the managing body - 80%. This situation is made even more concerning by the lack of connection with the Local Health Authority and, therefore, the total absence of adequate psychiatric assistance. Recently, mental care of detainees turned out to be even more neglected in the Centre. In this regard, in May 2021 Federico Bodo (Director of the CPR and staff psychologist) submitted a report to the National Guarantor and to the Municipal Guarantor of Milan.<sup>98</sup> In addition, during a visit in Milan's CPR in June 2021<sup>99</sup> Senator De Falco noticed that: (i) in general, detainees end up using anxiolytics because of the terrible living conditions

<sup>93</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, [“Rapporto sulle viste tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)”](#), 18 October 2018, page 11.

<sup>94</sup> [Reply from the Chief of Police](#) (Department of Public Safety – Central Directorate for Immigration and Border Police – Immigration Service), to the National Guarantor in relation to his report, [“Rapporto sulle viste tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)”](#), 2 January 2019, page 4.

<sup>95</sup> Ibidem.

<sup>96</sup> [Reply from the Ministry of the Interior](#) (Department for civil liberties and immigration) to the National Guarantor in relation to his report, [“Rapporto sulle viste tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)”](#), 11 October 2018, page 6.

<sup>97</sup> National Guarantor of the Rights of Persons Deprived of their Liberty [“Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)”](#), 12 April 2021, page 20.

<sup>98</sup> Federico Bodo, manager of the Milan's CPR, [“Segnalazione al Garante nazionale dei diritti delle persone private della libertà personale e al Garante del comune di Milano”](#), 25 May 2021, available on the Facebook page of the managing body of Milan's CPR, “Versoprobono Scs”. Such letter was delivered by the managing body to Senator De Falco, on the occasion of his inspection within the CPR of Milan in June 2021, in [“Delle pene senza delitti. Istantanea del CPR di Milano. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021”](#), 24 July 2021, pages 9-10.

<sup>99</sup> Senator Gregorio De Falco, [“Delle pene senza delitti. Istantanea del CPR di Milano. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021”](#),

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of the administrative detention; (ii) on both days of his visit, a detainee (A.O.)<sup>100</sup> committed acts of self-harm. Following such episodes, on 13 June 2021, Senator De Falco sent a notice to the managing body, the local Prefecture, the ATS, as well as - for information - to the National Guarantor and the mayor of Milan, asking them to promptly carry out a new suitability assessment of A.O. More in general, Senator De Falco found that medications usually administered to detainees could cause side-effects such as suicidal thoughts and behaviors, which require careful and constant follow-up, and should therefore be prescribed by psychiatrists.<sup>101</sup>

As to **Turin's CPR**, in October 2019 Fulvio Pitanti, the medical director at the facility, confirmed a situation of anxiolytic and psychotropic drugs abuse without adequate monitoring, considering the lack of mental services (only 24 hours a week) and of psychiatric care.<sup>102</sup> This is confirmed by the fact that, throughout 2020, no psychiatrist has ever visited the facility.<sup>103</sup>

In **Gradisca's CPR**, according to data provided by the regional Guarantor, 70% of the detained population is subjected to therapies requiring the administration of psychotropic drugs and tranquilisers<sup>104</sup>, even if the Local Health Authority claims that the percentage only reaches 30%.<sup>105</sup>

In any case, lawyer Eva Vigato who, until November 2020, carried out the service of providing information to detainees for the managing body of the CPR of Gradisca, submitted a report to the Minister of the Interior and to the National Guarantor underlying delays in scheduling urgent psychiatric visits and the lack of prompt registration of the detainees' pharmacological treatments.<sup>106</sup> According to her, there is no adequate monitoring in the administration of these drugs: "maybe an extra tranquiliser was useful to keep everybody calm".<sup>107</sup> This is confirmed by lawyer Andrea Guadagnini, according to whom detainees participating at validation and extension of detention hearings often seemed to be "sedated, in a state of non-full consciousness".<sup>108</sup>

Anxiolytic and psychotropic drugs were administered also during lockdown, even though the Mental Health Centre and Addiction Service (SER.D.) staff were not allowed to enter the CPR, which is why follow-ups were performed only through Skype.<sup>109</sup>

In this context, it should be remembered that T.O., a 28-year-old Albanian man, died in the Gradisca d'Isonzo's CPR on 14 July 2020 from a methadone overdose, raising doubts as to how he had come into possession of the substance.<sup>110</sup> Such an episode clearly highlights: (I) the issues related to the lack of follow-up in the administration of

<sup>100</sup> Ibidem, pages 31-32.

<sup>101</sup> Ibidem, pages 35-36.

<sup>102</sup> "Migranti, il medico: Al CPR di Torino gli psicofarmaci si usano a litri", 14 October 2019, on the online newspaper "Il Corriere della Sera".

<sup>103</sup> Such information was gathered through a questionnaire administered by CILD to Turin's Guarantor of the Rights of Persons Deprived of Personal Liberty, Monica Cristina Gallo, on 7 July 2021. The reply was provided on 14 July 2021.

<sup>104</sup> Such information was gathered through a questionnaire administered by CILD to Friuli Venezia Giulia Region's Guarantor of the Rights of Persons Deprived of Personal Liberty, Paolo Pittaro, on 6 July 2021. The reply was provided on 13 July 2021.

<sup>105</sup> Such information was gathered through a questionnaire administered by CILD to the Local Health Unit "Giuliano Isontina" on 21 July 2021. The reply was provided on 27 July 2021.

<sup>106</sup> On 21 November 2021, lawyer Eva Vigato submitted a report to the Ministry of the Interior, to ANAC and to the National Guarantor, aimed at denouncing all the critical issues encountered during her service within the CPR of Gradisca from December 2019 to November 2020. lawyer Eva Vigato kindly forwarded us such a report.

<sup>107</sup> CILD interviewed lawyer Eva Vigato on 9 August 2021.

<sup>108</sup> CILD interviewed lawyer Andrea Guadagnini on 4 August 2021.

<sup>109</sup> Giansandro Merli, "Gradisca, la Garante comunale: i CPR vanno ripensati", 18 July 2020, on the online newspaper "Il Manifesto".

<sup>110</sup> Antonio Di Bartolomeo, "Un morto nel CPR di Gradisca. Un altro ospite grave in ospedale", 14 July 2020, on Rainews' online site.

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medicines; (II) the administrative detention of people undergoing scalar therapy with methadone – as also confirmed by lawyer Guadagnini<sup>111</sup> – even if, according to the National Guarantor, they should not be considered suitable for life in a restricted community.<sup>112</sup>

In **Rome's CPR**, according to the competent health authority, the percentage of detainees who are given psychotropic drugs and anxiolytics is 65-70%.<sup>113</sup> Lawyers assisting persons detained in the Centre also confirm: (I) lack of mental health and; (II) abuse in the administration of anxiolytic and psychotropic drugs.<sup>114</sup>

In **Macomer's CPR**, according to the Prefecture of Nuoro, 10% of the detained population is subjected to such therapies and, in most cases, already “at the time of entry to the Centre”.<sup>115</sup> However, according to lawyer Rosaria Manconi, it is obvious that detainees are calmed down with psychotropic drugs. This is the case of a detainee who was deemed fit for detention despite his state of mental distress and the lack of mental care within the Centre.<sup>116</sup> In addition, on 30 July

2020, following a visit in the Centre, the Regional Councillors Orrù and Caddeu presented a question, having received several reports on “a widespread use of sedation” in the CPR of Macomer.<sup>117</sup>

In the **CPR of Brindisi**, according to the relevant Prefecture, on 31 July 2021 there were 47 detainees of which 16 (34%) were undergoing therapy with anxiolytic and psychotropic drugs.<sup>118</sup> However, a lawyer assisting persons detained in the Centre reported that most of them are mentally unstable and also highlighted the lack of adequate psychological and psychiatric assistance.<sup>119</sup>

Suffice it to mention that E.H., a 20-year-old Nigerian boy, tragically committed suicide in Brindisi's CPR, on 2 June 2019.<sup>120</sup> In spite of the fact that the Mental Health Centre of Bolzano had certified his strong psychiatric vulnerability (having had previous episodes of self-harm and suicide attempts), he was considered fit for detention and spent 2 months in the Centre without seeing a psychologist.<sup>121</sup> His medical documentation was taken into consideration by the health staff of the CPR only after his suicide.<sup>122</sup>

<sup>111</sup> CILD interviewed lawyer Andrea Guadagnini on 4 August 2021.

<sup>112</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)”, 12 April 2021, page 18, note 56.

<sup>113</sup> Such information was gathered through a questionnaire administered by CILD to the Local Health Authority of Rome on 21 July 2021; the reply was provided on 25 July 2021.

<sup>114</sup> On 23 July 2021, CILD administered a specific questionnaire to some lawyers assisting persons detained in the Italian CPRs, as for instance the CPR of Rome-Ponte Galeria.

<sup>115</sup> Such information was gathered through a questionnaire administered by CILD to the Prefecture of Nuoro, on 12 July 2021; the reply was provided on 20 August 2021.

<sup>116</sup> CILD interviewed lawyer Rosaria Manconi on 3 August 2021.

<sup>117</sup> Regional Council of Sardinia, [question no. 614/A](#), ORRÙ – CADDEO – PIU, 30 July 2020.

<sup>118</sup> On 6 July 2021, CILD submitted a questionnaire to the managing body of the Brindisi's CPR in order to gather information and data on the Centre. On 13 July 2021, the managing body answered that the questionnaire could be filled in only with the approval of the Prefecture of Brindisi. Therefore, on 13 July 2021, CILD sent a request for authorization to the Prefecture. Then, on 28 July, 2 and 6 August, CILD also reached out to some representatives of the Prefecture in order to have news and they informed us that. They had submitted a request for authorization to the Ministry of the Interior. In this context, on 13 August 2021 CILD submitted a request for civic access to the Prefecture of Brindisi, whose reply was received on 14 September 2021.

<sup>119</sup> On 23 July 2021, CILD administered a specific questionnaire to some lawyers assisting persons detained in the Italian CPRs, as for instance the CPR of Brindisi-Restinco.

<sup>120</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)”, 12 April 2021, page 21.

<sup>121</sup> LasciateCIEntrare campaign, “[Morire di mala accoglienza. Il caso di Harry. Arrivato, come invisibile. Morto da invisibile](#)”, 3 June 2019.

<sup>122</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)”, 12 April 2021, page 21.

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### 2-C. THE RIGHT TO SEE AND OBTAIN COPIES OF MEDICAL FILES AND THE OBLIGATION OF TRANSMITTING MEDICAL RECORDS

Article 3 paragraph 5 of the CIE Single Regulation, as well as several specifications approved by the Italian Ministry of the Interior over the years<sup>123</sup> provide that “a copy of the medical file shall be released to detainees at the moment of leaving the Centre” and, in any event, in case of transfer of the detainee, a copy of his/her medical records shall be transmitted to the director of the facility of destination. Far from having a merely formal value, these provisions are closely linked to the protection of detainees’ right to health, and in fact:

- ▶ **The release of a copy of the medical file to the detainee and his/her lawyer** is essential to guarantee (I) continuity of treatment; (II) detection of possible pathologies that could allow the detainee to enter the institutional circuit, after being released from a CPR.
- ▶ **The transmission of a copy of the medical file** in case of transfer of the detainee to another facility is essential to guarantee: (I) an accurate suitability assessment for detention, which can give immediate relevance to pathologies considered incompatible with the restricted community life; (II) an adequate access to any external medical examinations; (III) the effective protection of the right to therapeutic continuity.

### This notwithstanding, non-compliant and harmful practices occur in several CPRs.

In **Turin’s CPR**, according to the Municipal Guarantor, detainees have no opportunity to access their medical files.<sup>124</sup> Moreover, not even lawyers, delegated by the detainees, are allowed to have a copy of the medical documentation.<sup>125</sup>

As a consequence, after leaving the Centre, migrants encounter several difficulties in entering the reception system: this is the case of a young Tunisian citizen who – despite suffering from Hodgkin’s lymphoma – was held in the CPR for a month and a half, and then released without any copy of his medical file.<sup>126</sup> In this regard, the Municipal Guarantor of Turin denounces that: (I) in case of foreigners coming from criminal circuits or hotspots, the CPR never receives their medical files; (II) in case of transfer of the detainee to a new facility, the CPR never transmits a copy of their medical files to the facility of destination.<sup>127</sup>

As to the content of the medical records, the CPT had found, in 2017, that in Turin’s CPR the medical staff of the managing institution were filling in medical files of each detainee in a very general, broad way, with a noticeable absence of detail, especially in registration of possible injuries (necessary to verify possible ill-treatment).<sup>128</sup> In the meantime, the situation has not improved: indeed, in June 2021, the National Guarantor recommended that the medical files of each detainee should be properly filled in, including the records of possible complaints of ill-treatment and beatings suffered by the detainee.<sup>129</sup>

<sup>123</sup> See, in this regard, the tender specification (Annex 5-bis, page 3) approved by the ministerial decree of November 2018 (currently implemented in all the CPRs) which provides the right for the detainee to obtain a copy of the medical file when leaving the Centre.

<sup>124</sup> Such information was gathered through a questionnaire administered by CILD to Turin’s Guarantor of the Rights of Persons Deprived of Personal Liberty, Monica Cristina Gallo, on 7 July 2021. The reply was provided on 14 July 2021.

<sup>125</sup> ASGI, “Il libro nero del CPR di Torino”, 4 giugno 2021, page 23.

<sup>126</sup> Ibidem.

<sup>127</sup> Such information was gathered through a questionnaire administered by CILD to Turin’s Guarantor of the Rights of Persons Deprived of Personal Liberty, Monica Cristina Gallo, on 7 July 2021. The reply was provided on 14 July 2021.

<sup>128</sup> Council of Europe, “Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 13 June 2017”, 10 April 2018, paragraph 53.

<sup>129</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, “Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri (CPR) di Torino il 14 giugno 2021”, published on 8 September 2021, page 11.

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In **Milan's CPR**, during a visit in June 2021, Senator De Falco found that 2 migrants were released from the Centre without receiving a copy of their medical files.<sup>130</sup>

In **Gradisca's CPR**, according to the Local Health Authority, medical files of foreigners coming from criminal circuits or hotspots and then transferred to the Centre are not released.<sup>131</sup> Moreover, according to lawyer Guadagnini, in Gradisca, lawyers obtain, at best, the certification of suitability for detention, without any additional documents.<sup>132</sup> This is confirmed by lawyer Eva Vigato, who also denounces: (I) the lack of prompt registration of detainees' pharmacological treatments in their medical files;<sup>133</sup> (II) the difficulties experienced to obtain medical files of detainees coming from other facilities, in particular from the CPR of Bari;<sup>134</sup> (III) the brief and inaccurate way in which medical files are usually filled in.<sup>135</sup>

In the **CPR of Roma-Ponte Galeria**, according to the Regional Guarantor of Lazio, detainees have access to their medical files; however, there are problems concerning the receipt of the latter from

the facility of origin of the detainee,<sup>136</sup> especially when it comes to hotspots and criminal circuits<sup>137</sup> (as for instance Rebibbia prison).<sup>138</sup>

Moreover, according to the Regional Guarantor, in case of transfer of the detainee, a copy of his/her medical file is sent in some cases to the facility of destination, while in some other cases directly to the detainee, in contradiction with Article 3, paragraph 5 of the CIE Single Regulation.<sup>139</sup> On top of that, according to a former detainee, when he was released from the CPR of Ponte Galeria in August 2021, he didn't receive any documentation, not even his medical file.<sup>140</sup>

In **Macomer's CPR**, according to the Prefecture of Nuoro: (I) detainees have access to their medical files; (II) in case of transfer of the detainee to another facility, the Centre always ensures sending his/her medical file to the latter. Nevertheless, the same Prefecture failed to give information on the receipt of medical files from the facilities of origin to the CPR of Macomer.<sup>141</sup>

<sup>130</sup> Such information was gathered through a questionnaire administered by CILD to the managing body of the Milan's CPR, RTI Versoprobo-Luna, on 6 July 2021. The respective reply was provided on 7 July 2021.

<sup>131</sup> Such information was gathered through a questionnaire administered by CILD to the Local Health Unit "Giuliano Isontina" on 21 July 2021. The reply was provided on 27 July 2021.

<sup>132</sup> CILD interviewed lawyer Andrea Guadagnini on 4 August 2021.

<sup>133</sup> On 21 November 2021, lawyer Eva Vigato submitted a report to the Ministry of the Interior, to ANAC and to the National Guarantor, aimed at denouncing all the critical issues encountered during her service within the CPR of Gradisca from December 2019 to November 2020. lawyer Eva Vigato kindly forwarded us such a report.

<sup>134</sup> CILD interviewed lawyer Eva Vigato on 9 August 2021.

<sup>135</sup> Ibidem.

<sup>136</sup> Such information was gathered through a questionnaire administered by CILD to the Lazio Region's Guarantor of the Rights of Persons Deprived of their Liberty, Stefano Anastasia, on 6 July 2021. Mr Stefano Anastasia filled in the questionnaire on 31 July 2021 and then on 24 August 2021.

<sup>137</sup> Such information was gathered through a questionnaire administered by CILD to the "Local Health Authority Roma 3" on 21 July 2021. The reply was provided on 25 July 2021.

<sup>138</sup> Such information was gathered through a questionnaire administered by CILD to some lawyers assisting persons detained in the CPR of Roma-Ponte Galeria, on 23 July 2021.

<sup>139</sup> Such information was gathered through a questionnaire administered by CILD to the Lazio Region's Guarantor of the Rights of Persons Deprived of their Liberty, Stefano Anastasia, on 6 July 2021. Mr Stefano Anastasia filled in the questionnaire on 31 July 2021 and then on 24 August 2021.

<sup>140</sup> On 19 August 2021, CILD interviewed a former detainee of the CPR of Ponte Galeria.

<sup>141</sup> Such information was gathered through a questionnaire administered by CILD to the Prefecture of Nuoro on 12 July 2021; the respective reply was provided on 20 August 2021.

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In **Brindisi's CPR**, according to the relevant Prefecture there are no problems concerning the receipt of the medical files from the facility of origin of the detainee and the sending of the same to the destination Centre.<sup>142</sup> However, lawyers assisting persons detained in the Centre highlighted that, on the contrary, the CPR of Brindisi actually does not receive nor send medical records.<sup>143</sup> This practice, besides being against the law, entails serious problems in the evaluation of the suitability of the detention of the person, with the risk of detention of persons suffering from diseases not compatible with life in a restricted community. The above-mentioned case of E.H., who committed suicide inside the CPR in June 2021, is emblematic of such.<sup>144</sup>

### 2-D. THE PRESENCE OF LAW ENFORCEMENT PERSONNEL DURING MEDICAL EXAMINATIONS

The presence of law enforcement personnel during medical examinations appears to be very frequent

in CPRs, despite this practice contradicting what is required by the CIE Single Regulation (in particular Article 3, paragraph 4) and what is prescribed by the CPT, which considers the absence of “medical confidentiality” as one of the factors preventing the detection of possible ill-treatment.<sup>145</sup> Nevertheless, the Chief of Police stated that the presence of the police during medical examinations, such as was detected in the CPRs of Palazzo San Gervasio,<sup>146</sup> Turin<sup>147</sup> and of Milan<sup>148</sup> was an isolated episode<sup>149</sup>.

### 3. MEMORANDA OF UNDERSTANDING BETWEEN PREFECTURES AND LOCAL HEALTH AUTHORITIES: THE GAP BETWEEN FORMAL EXISTENCE OF MOUS AND ACTUAL OPERATION

As aforementioned, health care inside CPRs should be considered “complementary” (not substitutive) to services provided by the national health service, implying a necessary link with the latter. This connection should be guaranteed by MOUs between the relevant Prefecture and the Local Health Authority, expressly provided for by the

<sup>142</sup> On 6 July 2021, CILD submitted a questionnaire to the managing body of the Brindisi's CPR in order to gather information and data on the Centre. On 13 July 2021, the managing body answered that the questionnaire could be filled in only with the approval of the Prefecture of Brindisi. Therefore, on 13 July 2021, CILD sent a request for authorization to the Prefecture. Then, on 28 July, 2 and 6 August, CILD also reached out to some representatives of the Prefecture in order to have news and they informed us that they had submitted a request for authorization to the Ministry of the Interior. In this context, on 13 August 2021 CILD submitted a request for civic access to the Prefecture of Brindisi, whose reply was received on 14 September 2021.

<sup>143</sup> On 23 July 2021, CILD administered a specific questionnaire to some lawyers assisting persons detained in CPRs (as for instance the CPR of Brindisi-Restinco) currently operating in Italy.

<sup>144</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)”, 12 April 2021, page 21.

<sup>145</sup> Council of Europe, “[Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 12 to 22 March 2019](#)”, 21 January 2020, paragraph 75. The Italian Government replied as follows: “On May 26, 2017, a note signed by the Head of Department regulating the topic “Confidentiality in medical examinations of prisoners” was sent to all the Regional Directorates and the prisons. Our Department accepts the observation about the presence of Penitentiary Police staff during medical examinations despite the instructions given. However, the CPT delegation itself understands that the reasons of this critical aspect are to be found in the particular care put by penitentiary police officers on the safety of healthcare staff, in order to prevent them to be victims of aggressions, in particular cases and situations”, in “[Response of the Italian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) on its visit to Italy from 12 to 22 March 2019](#)”, 21 January 2020, paragraph 75. See also National Guarantor of the Rights of Persons Deprived of their Liberty, “[Rapporto sulle visite tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)](#)”, 18 October 2018, page 5.

<sup>146</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)”, 12 April 2021, page 18.

<sup>147</sup> Such information was gathered through a questionnaire administered by CILD to Turin's Guarantor of the Rights of Persons Deprived of Personal Liberty, Monica Cristina Gallo, on 7 July 2021. The reply was provided on 14 July 2021.

<sup>148</sup> Senator Gregorio De Falco, “[Delle pene senza delitti. Istantanea del CPR di Milano. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021](#)”, 24 July 2021, page 23.

<sup>149</sup> [Reply from the Chief of Police](#) (Department of Public Safety – Central Directorate for Immigration and Border Police – Immigration Service), to the National Guarantor in relation to his report, “[Rapporto sulle visite tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)](#)”, 2 January 2019, page 7.

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CIE Single Regulation and several specifications approved by the Italian Ministry of the Interior. Such a connection is essential to guarantee (I) a timely access of the detainees to Local Health Authority health facilities; (II) periodical inspections of the health authority inside the centres.

However, as pointed out by the Guarantor, apart from a few exceptions these MOUs have never been signed or, despite their formal existence, they have never been implemented.

In **Caltanissetta's CPR**, despite the formal presence of a MOU between the Local Health Authority and Prefecture signed in 2015,<sup>150</sup> the National Guarantor - in November 2019 - found a complete absence of a connection with the National Health Service,<sup>151</sup> as well as a critical situation of degradation and insalubrity of the facilities not monitored by the Local Health Authority. In particular, the National Guarantor found: (I) the absence of glass in the bedrooms' and bathroom's windows; (II) only two working showers for 72 people and (III) moist, worn-out and mouldy mattresses.

Furthermore, as already mentioned, only after a reminder from the Guarantor the Public Service Agency of Caltanissetta carried out inspections in that Centre, concluding that it was necessary to proceed with its closure (from 17 April 2020 to 3 May 2021), given existent risk factors around the health of the detainees.<sup>152</sup> Nevertheless, pending such inspection activities, E.A. a 34

years-old Tunisian citizen died due to an illness, in Caltanissetta's CPR on 10 February 2020. With regard to this death, the National Guarantor pointed out that more effective surveillance and a prompter intervention on the facility would certainly have helped to dispel, at least in part, doubts about the responsibilities of the institutions. According to the APS of Caltanissetta, on 19 July 2021 a memorandum of understanding has been concluded with the relevant Prefecture.<sup>153</sup> Given the recent conclusion of such MOU, we couldn't find further information regarding its actual implementation.

In **Turin's CPR**, despite the formal existence of a MOU between the Local Health Authority and the Prefecture:<sup>154</sup>

- ▶ Suitability assessments for entry and detention are normally carried out by a private doctor appointed by the managing body;
- ▶ Samples are usually taken without specific authorisations from the Local Health Authority in those rooms of the Centre which are used as infirmary/clinic.<sup>155</sup>

Moreover, no inspections have ever been carried out by the Local Health Authority in the Centre to verify the state of hygienic and sanitary conditions, of the quality of sanitary services and of the food administered,<sup>156</sup> not even after a serious fire that

<sup>150</sup> Reply from the Ministry of the Interior (Department for civil liberties and immigration) to the National Guarantor's report, "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", April 2021, pages 8-9.

<sup>151</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 20.

<sup>152</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, pages 21-22.

<sup>153</sup> On 21 July 2021, CILD submitted a questionnaire to the Public Service Agency of Caltanissetta in order to gather information on the protection of detainees' right to health. In the absence of reply, on 12 August 2021, CILD submitted a request for civic access to the same Public Service Agency, that finally answered on 14 September 2021.

<sup>154</sup> The existence of a memorandum of understanding, signed in 2015 between the Prefecture of Turin and the Local Health Authority is confirmed by the reply from the Ministry of the Interior (Department for civil liberties and immigration) to the National Guarantor's report, "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", April 2021, page 9; as well as by Turin' Guarantor, Monica Cristina Gallo, in her questionnaire reply provided on 14 July 2021.

<sup>155</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 23.

<sup>156</sup> Such information was gathered through a questionnaire administered by CILD to Turin's Guarantor of the Rights of Persons Deprived of Personal Liberty, Monica Cristina Gallo, on 7 July 2021. The reply was provided on 14 July 2021.

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occurred on 25-26 December 2020 and led to the transfer of 23 persons in the mess hall, where they have been sleeping on the floor without mattresses.<sup>157</sup> Additionally<sup>158</sup> (I) as of July 2021, there is no signed MOU between the Prefecture and Addiction Service (SER.D.);<sup>159</sup> (II) the average waiting time for a specialist examination in external hospital facilities is just under two weeks; and (III) detainees' hospitalisations are not usually notified to their family members.

The lack of connection with the National Health Service also emerges from some concrete examples. This is the case of H.O., a Tunisian citizen who arrived in Lampedusa on 20 October 2020, with a gunshot wound to his right foot. He was quarantined on the Rhapsody ship and then transferred to the CPR of Turin, where he underwent surgery despite the lack of adequate hygienic and sanitary conditions of the Centre and the absence of a previous specialist examination. Only in February 2021 was he seen at the local hospital and then accommodated in a reception centre for asylum seekers, since medical examination showed that he still had tens of buckshot in his foot and, therefore, he had to go into surgery.<sup>160</sup>

As to the **CPR of Gradisca d'Isonzo**, a MOU between the Prefecture and the Local Health Authority was concluded only in January 2020,<sup>161</sup> in addition to a formally existing memorandum with the Addiction Service (SER.D.).<sup>162</sup> Following some inspection activities in the Centre, it has been found that: (I) there is overcrowding in the overnight rooms and (II) the average waiting time for specialist examination in external hospital facilities varies depending on the urgency. Moreover, on 18 January 2020 a Georgian citizen died in the Centre: although he had shown signs of illness and severe pain the day before his death, he was retained in detention, separate from the infirmary and without adequate supervision and health care.<sup>163</sup>

Furthermore, according to lawyer Eva Vigato, it is difficult to promptly schedule urgent psychiatric visits<sup>164</sup> and, in general, there are long delays in the National Health Service medical care of individuals suffering from psychiatric diseases.<sup>165</sup> Finally, it appears that detainees' hospitalizations are not usually notified to their family members.<sup>166</sup>

Concerning the **CPR of Ponte Galeria**, the latest MOU with the Local Health Authority "Roma 3" was signed on 29 November 2019.<sup>167</sup> In this regard, it was found that:

<sup>157</sup> ASGI, "Il libro nero del CPR di Torino", 4 June 2021, page 24.

<sup>158</sup> Such information was gathered through a questionnaire administered by CILD to Turin's Guarantor of the Rights of Persons Deprived of Personal Liberty, Monica Cristina Gallo, on 7 July 2021. The reply was provided on 14 July 2021.

<sup>159</sup> Ibidem.

<sup>160</sup> ASGI, "Il libro nero del CPR di Torino", 4 June 2021, pages 7-9.

<sup>161</sup> Reply from the Ministry of the Interior (Department for civil liberties and immigration) to the National Guarantor's report, "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", April 2021, page 8.

<sup>162</sup> The existence of a memorandum of understanding between the Prefecture of Gorizia and the territorial Addiction Service (SER.D.) is confirmed by the Friuli Venezia Giulia Region's Guarantor as well as by the Local Health Authority "Giuliano Isontina", in reply (respectively on 13 and 27 July 2021) to a questionnaire administered by CILD (respectively on 6 and 21 July 2021).

<sup>163</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, pages 22-23.

<sup>164</sup> On 21 November 2021, lawyer Eva Vigato submitted a report to the Ministry of the Interior, to ANAC and to the National Guarantor, aimed at denouncing all the critical issues encountered during her service within the CPR of Gradisca from December 2019 to November 2020. lawyer Eva Vigato kindly forwarded us such a report.

<sup>165</sup> On 9 August 2021, CILD interviewed lawyer Eva Vigato.

<sup>166</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, pages 25-26.

<sup>167</sup> Resolution of the Director General of the Local Health Authority "Roma Tre" no. 891 of 29 November 2019: "Memorandum of Understanding between the Prefecture of Rome and the Local Health Authority Rome 3" and "Operating Protocol between the Local Health Authority Rome 3 and the managing body of the CPR of Ponte Galeria, according to the Regulation of the Ministry of the Interior (Department for civil liberties and immigration) of 20 October 2014".

## 4.1 The right to health

- ▶ Even if the memorandum provides that a doctor working for the Local Health Authority shall be present 6 days a week (for a total of 30 hours a week) in order to carry out suitability assessments, according to the Local Health Authority “Roma 3” such a doctor is actually available only 2 days a week, for 12 hours in total;<sup>168</sup>
- ▶ As to the waiting time for specialist examination: (I) according to the Regional Guarantor of Lazio it varies from 15 days to 1 month;<sup>169</sup> (II) according to the Local Health Authority “Roma 3” it varies depending on the type of specialist examination: in particular, as to psychiatric and gynaecological visits, the waiting time varies from a few days to a week; while as to the other types of visits, the waiting time varies from 2 weeks to 2 months, depending on the availability of the Unique Regional Reservation Centre (ReCUP).<sup>170</sup> Moreover, some lawyers assisting persons detained in the Centre noticed the “impossibility of making reservations for specialist examinations” as well as the fact that medical examinations to verify the suitability for detention are not, in most cases, carried out in an adequate manner, in particular with regards to detainees’ mental disorders.<sup>171</sup>

As to the inspection activities provided for in the memorandum, the Local Health Authority “Roma 3” has confirmed to carry out regular inspections to monitor the quality of medical services and the health and hygiene conditions of the CPRs’ premises, and not instead of food preservation, manipulation, preparation and administration.<sup>172</sup>

In **Brindisi’s CPR**, according to the prefecture, as of July 2021: (I) the MOU with the Local Health Authority is being updated; (II) there is no MOU with the Addiction Service (SER.D.), with which there is alleged to be a “fruitful cooperation”; (III) no inspection activities by the health authority have ever been carried out within the Centre.<sup>173</sup> Furthermore, during his latest visit in the Centre, the National Guarantor noticed that sanitary facilities were in “very bad conditions” and that medical services – carried out by the staff appointed by the managing body – showed serious deficiencies.<sup>174</sup>

Regarding the **CPR of Trapani**, it appears that a memorandum of understanding with the Public Service Agency no. 9 was signed in July 2021, and it also covers drug addiction issues and detainees’ epidemiological surveillance.<sup>175</sup>

<sup>168</sup> Such information was gathered through a questionnaire administered by CILD to the “Local Health Authority Roma 3” on 21 July 2021. The reply was provided on 25 July 2021.

<sup>169</sup> Such information was gathered through a questionnaire administered by CILD to the Lazio Region’s Guarantor of the Rights of Persons Deprived of their Liberty, Stefano Anastasia, on 6 July 2021. Mr Stefano Anastasia filled in the questionnaire on 31 July 2021 and then on 24 August 2021.

<sup>170</sup> Such information was gathered through a questionnaire administered by CILD to the “Local Health Authority Roma 3” on 21 July 2021. The reply was provided on 25 July 2021.

<sup>171</sup> On 23 July 2021, CILD administered a questionnaire to some lawyers assisting persons detained in CPRs (as for instance the CPR of Rome-Ponte Galeria) currently operating in Italy.

<sup>172</sup> Such information was gathered through a questionnaire administered by CILD to the “Local Health Authority Roma 3” on 21 July 2021. The reply was provided on 25 July 2021.

<sup>173</sup> On 6 July 2021, CILD submitted a questionnaire to the managing body of the Brindisi’s CPR in order to gather information and data on the Centre. On 13 July 2021, the managing body answered that the questionnaire could be filled in only with the approval of the Prefecture of Brindisi. Therefore, on 13 July 2021, CILD sent a request for authorization to the Prefecture. Then, on 28 July, 2 and 6 August, CILD also reached out to some representatives of the Prefecture in order to have news and they informed us that they had submitted a request for authorization to the Ministry of the Interior. In this context, on 13 August 2021 CILD submitted a request for civic access to the Prefecture of Brindisi, whose reply was received on 14 September 2021.

<sup>174</sup> National Guarantor of the Rights of Persons Deprived of their Liberty “Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)”, 12 April 2021, respectively pages 15 and 21-23.

<sup>175</sup> On 13 August 2021, CILD submitted a request for civic access to the Prefecture of Trapani, in order to gather information and data on the Centre. The Prefecture replied on 13 September 2021. See also: Ministry of the Interior, “[Trapani, servizi sanitari più efficaci per i migranti del Centro di permanenza](#)”, 21 July 2021; Ansa, “[Migranti: Asp Trapani, accordo per Centro permanenza rimpatrio](#)”, 21 July 2021.

## 4.1 The right to health

In **Milan's CPR**, until July 2021, there was a complete absence of a MOU with the Local Health Authority and the Addiction Service (SER.D.),<sup>176</sup> despite (I) 80% of detainees were undergoing therapy with anxiolytic and psychotropic drugs;<sup>177</sup> (II) Senator De Falco, during his visit in the Centre in June 2021, found that a significant number of detainees were addicted to heroin.<sup>178</sup> This, according to the CPR itself, the impossibility for the detainees to have access to medical examinations through the National Health Service.<sup>179</sup> Pending the conclusion of a memorandum with the Addiction Service (SER.D.), the Prefecture of Milan had started a project with a private entity (SMI Relazioni), related to the Eris Foundation, that should have been financed by Lombardy Region but that on May 2021 had yet to be activated.<sup>180</sup> In this regard, according to the Prefecture of Milan, the memorandum has not been signed because the Directorate-General for Welfare of the Lombardy Region did not consider it necessary to sign it and, in any case, because it is not mandatory for the Prefecture.<sup>181</sup> Such a statement is in direct contradiction with Article 3 of the CIE Single Regulation.

In any case, as Senator de Falco has highlighted,<sup>182</sup> the lack of a MOU with the Local Health Authority involves that:

- ▶ **Waiting lists** for detainees' specialist examinations within the CPR in some cases do not indicate any appointment date, or refer to very **long waiting times**;
- ▶ Some of the **specialist examinations** are carried out not in a public clinic of the Local Health Authority, but by the "Opera San Francesco per i Poveri" (a third sector entity) and transfer charges are borne by the managing body;
- ▶ **Transfers outside of the Centre for specialist examinations** involves: (I) handcuffing of detainees, in contradiction with Article 3 paragraph 7 of the CIE Single Regulation; (II) 2 police cars escort; (III) the presence of 2, maximum 3, CPR workers, who therefore have to leave the Centre and interrupt their main activities.

The failure to conclude a memorandum with the Addiction Service, on the other hand, implies the total lack of adequate assistance for drug addicts detained in Milan's CPR. This is the case of K.M. who, despite having declared to be a heroin addict for over 10 years, was not deemed entitled to methadone within the Centre. As a consequence, K.M. started to commit acts of self-harm so that he would be brought to the E.R. and ask for methadone.<sup>183</sup>

<sup>176</sup> Such information was gathered through a questionnaire administered by CILD to the managing body of Milan's CPR RTI Versoprobo-Luna, on 6 July 2021. The respective reply was provided on 7 July 2021.

<sup>177</sup> Ibidem.

<sup>178</sup> Senator Gregorio De Falco, "[Delle pene senza delitti. Istantanea del CPR di Milano. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021](#)", 24 July 2021, page 20.

<sup>179</sup> Federico Bodo, manager of the Milan's CPR, "[Segnalazione al Garante nazionale dei diritti delle persone private della libertà personale e al Garante del comune di Milano](#)", 25 May 2021, available on the Facebook page of the managing body of Milan's CPR, "Versoprobono Scs".

<sup>180</sup> Ibidem.

<sup>181</sup> Senator Gregorio De Falco, "[Delle pene senza delitti. Istantanea del CPR di Milano. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021](#)", 24 July 2021, page 20.

<sup>182</sup> Ibidem, pages 41-42.

<sup>183</sup> Senator Gregorio De Falco, "[Delle pene senza delitti. Istantanea del CPR di Milano. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021](#)", 24 July 2021, pages 43 and following.

## 4.1 The right to health

Only in July 2021 - after countless interventions by the National Guarantor, civil society associations and some parliamentarians - the Prefecture of Milan signed two memoranda of understanding with the Local Health Authority of Milan:<sup>184</sup>

- ▶ One being aimed at the detainees' access to the National Health Service and inspection activities by health authorities. This MOU runs from 1 July 2021 to 31 December 2021;
- ▶ The other one is aimed at issuing "Temporarily Present Foreigners" (STP) codes to detainees who do not have it and runs from 1 July 2021 to 30 June 2022.

**However, it is not clear why such strict time limits have been set for their validity.** It seems unreasonable to have waited so long for the finalisation of a MOU between the health authorities and the Prefecture of Milan and then to only provide for a period of operation of six months and one year respectively of those instruments. On top of that the first memorandum contains very general provisions and does not envisage that the ATS should carry out supervisory activities on the Centre health services and on the food preservation/manipulation.

As to the **CPR of Palazzo San Gervasio**, no memorandum of understanding between the Prefecture of Potenza and the local Public Service Agency has ever been concluded.<sup>185</sup> In this regard, on 30 July 2021 the health authority informed CILD that the Public Service Agency deals only with the release of "Temporarily Present Foreigners" (STP) codes to detainees who do not have it.<sup>186</sup>

Concerning the **CPR of Bari**, the relevant social health district informed us that it is not competent in relation to the CPRs and therefore it cannot fill in our questionnaire.<sup>187</sup> This answer – which does not seem to consider the provisions of the CIE Single Regulation – reveals the non-existence of a MOU with the Prefecture.

<sup>184</sup> On 30 July 2021, CILD administered a questionnaire to the Agency for Health Protection (ATS) of Milan in order to gather some information on the protection of detainees' right to health. In the absence of reply, on 13 August 2021, CILD submitted a request for civic access to the same ATS. The latter replied one month later and sent us: (I) ATS resolution no. 783 of 2 September 2021 with the subject: "acknowledgment of the conclusion of a memorandum of understanding between the ATS of Milan and the local Prefecture for the provision of health services to the migrants detained in the CPR of Via Corelli 28, Milan"; (II) ATS resolution no. 784 of 2 September 2021 with the subject: "acknowledgment of the conclusion of a convention between the ATS of Milan and the local Prefecture for the release of "Temporarily present foreigner"(STP) codes and the National Health Service prescription pad for the care of the irregular migrants detained in the CPR of Via Corelli 28, Milano".

<sup>185</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 20, note 61.

<sup>186</sup> On 7 July 2021, CILD administered a questionnaire to the managing body of the CPR of Palazzo San Gervasio (Engel Italia s.r.l.) in order to gather some information on the Centre. On 27 July, the managing body informed us that it had not received any authorization to fill out the questionnaire from the Questura and Prefecture of Potenza. On the same day, CILD submitted a request for information to the Prefecture of Potenza, but it remained unanswered. Moreover, on 21 July, CILD administered a questionnaire to the Public Services Agency (Public Service Agency) of Potenza in order to gather information on the protection of detainees' right to health. On 30 July 2021, a manager of the Public Service Agency of Bari informed us by phone that there is no memorandum of understanding with the Prefecture, and that the Local Health Authority only deals with the release of "Temporarily present foreigner"(STP) codes.

<sup>187</sup> On 21 July 2021 CILD submitted a questionnaire to the Public Services Agency (Public Service Agency) of Bari in order to gather information on the protection of detainees' right to health. On 6 August 2021, the latter informed us that "the District has no competence in relation to the CPRs". On 12 August, CILD submitted a request for civic access.

## 4.1 The right to health

### **CRITICAL ASPECTS OF THE REGULATION AND RECOMMENDATIONS**

In light of the above it is clear that illegal practices taking place in CPRs ensure a significant violation of detainees' right to health. Therefore, we recommend that Italian authorities:

- ▶ Entirely assign the health care system within the Centres to the National Health Service; alternatively
- ▶ Ensure that adequate suitability assessments are carried out by a doctor working for the National Health Service at the time of entry and transfer of detainees;
- ▶ Prevent the managing bodies from hiring medical staff based on the effective (and not regulatory) capacity of the Centres;
- ▶ Immediately finalise and implement MOUs between local Prefectures and Local Health Authorities or, if already existing, ensure that they are actually implemented;
- ▶ Set up, in each CPR, adequate health observation rooms (to be used only for the purposes provided for by the CIE Single Regulation) as well as an attendance register;
- ▶ Immediately put an end to the illegitimate isolation practices of detainees in CPRs for disciplinary, security, protection and order reasons;
- ▶ Ensure that anxiolytic and psychotropic drugs are administered to detainees only on prescription of the National Health Service doctors, following an adequate psychiatric examination at the public hospital;

- ▶ Ensure the right of detainees to: (I) see at any time their medical file; (II) obtain copy of their medical file when leaving the Centre;
- ▶ Ensure the right of detainees to confidentiality during medical examinations carried out in the CPRs, thus preventing the presence of law enforcement personnel during the latter.

Moreover, we recommend lawyers to always verify that safeguards concerning the suitability assessments of detainees, as well as their medical file, are respected.

## 4.2

# THE RIGHT TO INFORMATION AND DEFENCE

### THE REGULATORY FRAMEWORK

#### 1. THE RIGHT TO INFORMATION

The CPT<sup>188</sup> affirms that undocumented migrants detained in the Centres must systematically receive an index factsheet informing them of their rights and of the procedures which may be applied to their case. Such documents must be available in the most widespread languages spoken by foreign detainees and, if necessary, interpretation services should be guaranteed. The persons concerned must be able to provide written confirmation that they have been informed of their rights in a language that they can understand.

The CIE Single Regulation foresees that, at the time of entry to the Centre, the staff of the managing body – assisted by a linguistic-cultural mediator – should inform detainees of: their rights and obligation; detentions modalities; rules of coexistence within the Centre (Article 2, paragraph 1). To this end, the managing body must provide: (I) the Charter of Detainees' Rights and Duties; (II) a list of lawyers offering free legal aid; (III) as to the applicants for international protection, the information brochure provided for by Article 10, paragraph 2 of Legislative Decree no. 25/2008 (paragraph 2).<sup>189</sup> Such material must be made available in a language that detainees can understand and, in any case, translated in English, French, Spanish and Arabic.

The same provisions are reaffirmed in the latest tender specification introduced by the Ministry

of the Interior in 2021, which entails the provision of adequate detainees' information and legal guidance services.<sup>190</sup>

As to detention conditions, the law states that “the applicant shall be informed of the existing rules in the Centre, as well as of his/her rights and duties in the first language that he/she has indicated or in a language that he/she can understand” (Article 7, paragraph 4, Legislative Decree no. 142/2015). Moreover, vulnerable persons must be guaranteed with additional rights to information: for instance, foreigners shall enjoy specific information requirements on the possibility to apply for international protection.

In any case, in relation to “legal information” activities, several specifications approved by the Italian Ministry of the Interior over the years,<sup>191</sup> have modified the minimum number of hours (which varies according to the capacity of the Centres) dedicated to such service, with inevitable impacts on the effective protection of the fundamental rights of detainees. In particular, in the transition from the 2017 to the 2018/2021 specifications, there was the number of hours decreased by:

- ▶ In centres with up to 50 places, a **66%** drop in the number of hours required;
- ▶ In centres up to 150 places, a **70%** drop in the number of hours required;
- ▶ In centres up to 300 places, a **78%** drop in the number of hours required.

<sup>188</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Immigration detention- Factsheet”, March 2017, page 3.

<sup>189</sup> Article 10, paragraph 2 of Legislative Decree no. 25/2008 provides that “the National Commission shall draw up, according to the modalities set out in the regulation to be adopted in accordance with Article 38, an information leaflet regarding: a) the stages of the procedures for the recognition of international protection; b) the main rights and duties of the applicant during his/her stay in Italy; c) health and reception services and how to receive them; d) the address and telephone number of the UN Refugee Agency in Italy (ACNUR), as well as of the main organisations dealing with applicants for international protection”.

<sup>190</sup> Ministerial decree of 24 February 2021 and its respective tender specification, page 3 .

<sup>191</sup> Ministerial decree of 7 March 2017, and its tender specification, in particular Annex 1, page 21; ministerial decree of 20 November 2018, and its tender specification, in particular Annex A, page 2; ministerial decree of 24 February 2021, and its tender specification, in particular Table A.

## 4.2 The right to information and defence

### 2. THE RIGHT TO DEFENCE

The right to defence is guaranteed by the Italian Constitution (Articles 24 and 111) as well as by the European Convention on Human Rights (Article 6) and, within the CPRs, it is subject to standard law starting from the validation hearing. Furthermore, the principle of dual protection, provided by law and the judiciary (see Article 13 of the Italian Constitution) also applies here: therefore, detention can take place only where required by law and it shall be validated by judiciary authorities within a strict peremptory deadline which – if not respected – entails the nullity of the administrative detention.<sup>192</sup>

#### 2-A. THE RIGHT TO COUNSEL

As to the right of detainees to have access in private to a lawyer, Article 21 of Presidential Decree 394/99 provides that detention modalities shall ensure that detainees have the right to communicate within the Centre and with visitors coming from the outside world, in particular with the lawyers assisting them (paragraph 1). Moreover, paragraph 7 reiterates the right of detainees to have access to a lawyer, but it does not specify anything about the method of their appointment, public availability and withdrawal.

In this regard, the CIE Single Regulation merely establishes that “in order to meet their lawyers, supervisory staff shall verify if foreigners gave them a special mandate” (Article 7).

#### 2-B. VALIDATION AND EXTENSION HEARINGS

Orders of detention shall be validated by the competent judicial authority (Justices of the Peace). More precisely, according to Article 14, paragraph 3 and 4 of the Consolidated Immigration Act:

- ▶ The “Questore” has 48 hours to submit a request for validation to the judiciary authority;
- ▶ The Justice of the Peace, at the request of the “Questore”, has an additional 48 hours to validate the detention.

**The Justice of the Peace is responsible for validating the detention with two exceptions, regarding: (I) asylum seekers** who have received a detention order; and 2) **pending proceedings related to right to family unity** or entry clearance and/or residence permit for family members of foreign minors (Article 31, paragraph 3 of the Consolidated Immigration Act).

Article 14 of the Consolidated Immigration Act provides that validation hearings shall take place “in closed session, with the necessary presence of a lawyer who must be notified in good time”. The person concerned has the right to attend such hearing and to be assisted by a lawyer.

Article 15 paragraph 3 of Directive 2008/115/EC extends the above-mentioned guarantees also to extension and review hearings. However, in practice, such hearings offer less safeguards and they usually take place *in audita altera parte*.

In addition, there are no *ad hoc* procedures for reporting violation of the rights within the CPRs, except for the right to a non-judicial complaint. Indeed, Decree Law No. 130/2020, converted into law No. 173/2020, introduced the possibility of making requests or complaints in written or oral form to the National, Regional or local Guarantors. However, the lack of: (I) judicial complaints; (II) judgement of compliance; (III) compensatory remedies; and (IV) specialised Courts, cannot guarantee an effective protection of the rights of detainees.

<sup>192</sup> Italian Constitutional Court, order no.105/2001, hearing of 22 March 2001, filed on 10 April 2001, point 4 of *Considerato in Diritto* (“de jure considered that”).

### PRACTICE AND DISCRETION IN CPRs

The above-mentioned provisions are, in most cases, disregarded in practice.

#### 1. ILLEGAL PRACTICES REGARDING THE LEGAL INFORMATION SERVICES

In **Milan's CPR**, according to the managing body, upon entering the Centre detainees receive: (I) a copy of the Regulation containing the Centre's internal rules; (II) an index factsheet on the possibility to seek asylum<sup>193</sup>. Moreover, pursuant to the tender specifications approved by the Ministerial Decree in 2018, since this Centre has a capacity of 140 places, the legal information service should be ensured for a total of 16 hours a week.<sup>194</sup> However, during his visit in June 2021, Senator De Falco found that such service is adjusted according to the effective number of detainees present in the CPR, that for months now have been of around 56.<sup>195</sup> As a consequence, the legal information service, besides being totally inconsistent, is ensured only for 8 hours a week. Law No. 173/2020, introduced the possibility of making requests or complaints in written or oral form to the National, Regional or local Guarantors. However, the lack of: (I) judicial complaints; (II) judgement of compliance; (III) compensatory remedies; and (IV) specialised Courts, cannot guarantee an effective protection of the rights of detainees.<sup>196</sup>

In **Turin's CPR**, according to the Municipal Guarantor, upon entering the Centre detainees receive: (I) a Regulation containing the Centre's internal rules; (II) an index factsheet on the possibility to seek asylum. Such documents are translated in English, French and Arabic.<sup>197</sup> However, during his latest visit, the National Guarantor<sup>198</sup> ascertained **that there was an absence of internal regulations** explaining the rules of the facility (e.g. provision of services): detainees only received the Charter of Detainees' Rights and Duties, which, moreover, included incomplete information on the non-judicial complaint. Furthermore, since the Centre has a capacity of 180 places, the 2017 Ministerial Decree should apply and ensure a legal information covering for 72 hours a week.<sup>199</sup> However, the CPR of Turin was the first to provide services according to the tender specification approved by the Ministerial Decree in 2018.<sup>200</sup> As a consequence, the legal information service is ensured for only 16 hours a week.<sup>201</sup>

In the **CPR of Gradisca d'Isonzo**, according to the Regional Guarantor of Friuli Venezia Giulia:<sup>202</sup> (I) information on the possibility to seek asylum is only available verbally and; (II) the Centre's internal regulations (translated in English, French, Spanish, Arabic, Bengalese, Hurdu) are only stuck on the walls, instead of being handed to each detainee as provided for by law. Moreover, such internal

<sup>193</sup> Such information was gathered through a questionnaire administered by CILD to the managing body of the Milan's CPR, RTI Versoprobo-Luna, on 6 July 2021. The respective reply was provided on 7 July 2021.

<sup>194</sup> Prefecture of Milan, "[Gara europea a procedura aperta telematica per l'appalto dei servizi di gestione del Centro di permanenza per il rimpatrio \(capienza sino a 140 posti\) presso la struttura demaniale sita in via Corelli 28, Milano](#)", 8 February 2019, in particular see Annex A, page 2.

<sup>195</sup> Senator Gregorio De Falco, "[Delle pene senza delitti. Istantanea del CPR di Milano. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021](#)",

<sup>196</sup> Ibidem, page 27.

<sup>197</sup> Such information was gathered through a questionnaire administered by CILD to Turin' Guarantor of the Rights of Persons Deprived of their Liberty, Monica Cristina Gallo, on 7 July 2021. The respective reply was provided on 14 July 2021.

<sup>198</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulla visita effettuata nel Centro di Permanenza per i Rimpatri \(CPR\) di Torino il 14 giugno 2021](#)", published on 8 September 2021, page 16.

<sup>199</sup> Prefecture of Turin, "[Avviso pubblico per la fornitura di beni e servizi relativi al funzionamento del Centro di Permanenza per i Rimpatri sito in Turin in via Santa Maria di Mazzarello per una ricettività di n.180 posti](#)", CIG 72602958F6, 27 November 2017, Annex 15.

<sup>200</sup> Turin's Guarantor of the Rights of Persons Deprived of their Liberty, "[Torino e la detenzione amministrativa](#)", 20 January 2020, page 8.

<sup>201</sup> ASGI, "[Il libro nero del CPR di Torino](#)", 4 June 2021, page 19.

<sup>202</sup> Such information was gathered through a questionnaire administered by CILD to the Regional Guarantor of Friuli Venezia Giulia, Paolo Pittaro, on 6 July 2021. The reply was provided on 13 July 2021.

## 4.2 The right to information and defence

regulation contains arbitrary and inadmissible provisions concerning the application of disciplinary sanctions in cases of violations of the structure's rules.<sup>203</sup>

Since the Centre has a capacity of 150 places, the 2018 Ministerial Decree applies,<sup>204</sup> ensuring a legal information service for only 16 hours a week. In addition, lawyer Eva Vigato - a former operator of the legal information service - reported: (I) a violation of the rights of Tunisian detainees who were deported even before having had an interview with the operators informing them of the possibility to apply for asylum;<sup>205</sup> (II) obstacles in the remote carrying out of the legal information service during COVID-19. In particular, lawyer Vigato claims that from the end of March 2020 to the withdrawal of her mandate (in November 2020) information services could only take place remotely. Moreover, on 15 November 2020 she reported to the Prefecture of Gorizia and to the National Guarantor that, in the weeks before, lawyers were not allowed to remotely communicate with detainees. On the same day, the managing body of the Centre withdrew lawyer Vigato from the legal information service.<sup>206</sup>

In the **CPR of Roma-Ponte Galeria**, upon entering the Centre detainees receive: (I) a copy of the Regulation Regulation containing the Centre's

internal rules; (II) an index factsheet on the possibility to seek asylum.<sup>207</sup> The number of hours consecrated to the legal information service should be 72 hours as provided for by the 2017 Ministerial Decree;<sup>208</sup> however, in practice, the Centre applies the 2018 Ministerial Decree, for a total of only 16 hours a week (little more than 4 minutes a week per detainee). It should be also specified that the Prefecture of Rome has for some years been concluding MOUs with some civil society organisations, for the provision of additional services within the CPR of Ponte Galeria. The latest memorandum was signed in January 2020.<sup>209</sup> This notwithstanding, detainees are only dimly aware of their rights.<sup>210</sup>

In **Macomer's CPR**, according to the Prefecture of Nuoro: (I) the Internal Regulation, translated into the most widespread languages spoken by foreign detainees, is distributed and affixed in several areas of the Centre, among which the mess hall;<sup>211</sup> (II) detainees receive documents containing information on the possibility to seek asylum and, when meeting with their lawyers, the presence of intercultural mediators is ensured.<sup>212</sup> The number of hours dedicated to the information service is very small: since the Centre has a capacity of 50 places, the 2018 Ministerial Decree is applied, and it ensures only 8 hours a week (around 9 minutes a week for each detainee).

<sup>203</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 40.

<sup>204</sup> Prefecture of Gorizia, "Gara europea a procedura aperta per l'affidamento dell'appalto dei servizi di gestione e funzionamento del CPR", 7 March 2019. See, in particular, Annex A.

<sup>205</sup> On 9 August 2021, CILD interviewed lawyer Eva Vigato.

<sup>206</sup> Lawyer Vigato kindly forwarded CILD: (I) the report she sent to the Prefecture of Gorizia and to the National Guarantor on 15 November 2020 in relation to the issues encountered during her legal information service; (II) the letter she received, on the same day, revoking her mandate.

<sup>207</sup> Such information was gathered through a questionnaire administered by CILD to the Lazio Region's Guarantor of the Rights of Persons Deprived of their Liberty, Stefano Anastasia, on 6 July 2021. Mr Stefano Anastasia filled in the questionnaire on 31 July 2021 and then on 24 August 2021.

<sup>208</sup> Prefecture of Rome, "Fornitura di beni e servizi relativi al funzionamento del C.P.R. di Ponte Galeria (RM)", 11 December 2017, CIG 73018350DD. See, in particular, Annex, page 8.

<sup>209</sup> Prefecture of Rome, "Protocollo Servizi di mediazione e assistenza all'interno del CPR di Ponte Galeria", 23 January 2020.

<sup>210</sup> On 5 August 2021, CILD interviewed the legal operator working for "A Buon Diritto-Onlus".

<sup>211</sup> Such information was gathered through a questionnaire administered by CILD to the Prefecture of Nuoro on 12 July 2021; the respective reply was provided on 20 August 2021.

<sup>212</sup> Ibidem.

## 4.2 The right to information and defence

As to the **CPR of Trapani-Milo**, according to the relevant Prefecture,<sup>213</sup> upon entering the Centre detainees receive: (I) a Regulation containing the Centre's internal rules (translated in English, French, Spanish, Arabic, Albanese, Romanian); (II) an index factsheet on the possibility to seek asylum. Since its reopening on 17 August 2021,<sup>214</sup> the Centre – which has regulatory capacity of 36 places<sup>215</sup> – applies the 2021 Ministerial Decree,<sup>216</sup> according to which the information service is ensured for only 8 hours a week.

On a more general basis, in 2021 **the National Guarantor**, ascertained that legal information services within the CPRs are poor and inadequate.<sup>217</sup> In some cases, the Centres' managing bodies haven't even adopted an Internal Regulation. This is the case at:

- ▶ The **CPR of Brindisi-Restinco** where, despite the relevant Prefecture claims that detainees receive an index factsheet on the possibility to seek asylum and a copy of the Regulation containing the Centre's internal rules,<sup>218</sup> it has been found that the latter does not actually exist.<sup>219</sup>

- ▶ The **CPR of Bari-Palese**, where in June 2019 there was no Internal Regulation: indeed, the Prefecture sent such a document to the Guarantor only later, in December 2020.<sup>220</sup>

- ▶ The **CPR of Palazzo San Gervasio**, where even if the managing body assures that the Internal Regulation is distributed to detainees, these latter are not even aware of the existence of such document.<sup>221</sup>

As for the CPR of **Caltanissetta-Pian del Lago**, all requests for information that CILD has sent have so far gone unanswered.<sup>222</sup>

### 2. ILLEGAL PRACTICES REGARDING THE RIGHT TO DEFENCE OF DETAINEES

On the basis of a questionnaire administered by CILD to some lawyers assisting persons detained in CPRs currently operating in Italy<sup>223</sup> information was gathered regarding: (a) defence interviews between lawyers and detainees inside the Centres; (b) the modalities of conducting hearings for the validation and extension of detentions.

<sup>213</sup> On 13 August 2021, CILD submitted a request for civic access to the Prefecture of Trapani, in order to gather information and data on the Centre. The Prefecture replied on 13 September 2021.

<sup>214</sup> Ibidem.

<sup>215</sup> Prefecture of Trapani, "Procedura negoziata ex art.36 co.2 lett.c) del D.Lgs.n.50/2016 per l'affidamento del servizio di gestione del C.P.R. di Milo-Trapani per la durata di due mesi con capienza di n.36 ospiti - CIG :859157", 23 July 2021.

<sup>216</sup> Ministerial decree of 24 February 2021 and its respective tender specification, in particular Table A.

<sup>217</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 39.

<sup>218</sup> On 6 July 2021, CILD submitted a questionnaire to the managing body of the Brindisi's CPR in order to gather information and data on the Centre. On 13 July 2021, the managing body answered that the questionnaire could be filled in only with the approval of the Prefecture of Brindisi. Therefore, on 13 July 2021, CILD sent a request for authorization to the Prefecture. Then, on 28 July, 2 and 6 August, CILD also reached out to some representatives of the Prefecture in order to have news and they informed us that they had submitted a request for authorization to the Ministry of the Interior. In this context, on 13 August 2021 CILD submitted a request for civic access to the Prefecture of Brindisi, whose reply was received on 14 September 2021.

<sup>219</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 39, note 98.

<sup>220</sup> Ibidem, pages 39-40, note 98.

<sup>221</sup> Ibidem.

<sup>222</sup> On 6 July 2021, CILD submitted a questionnaire to the managing body of the CPR of Caltanissetta-Pian del Lago (Rti Essequadro-Ad Majora), in order to gather information on the services provided within the Centre. In the absence of reply, CILD contacted by phone the managing body that, on 28 July, asked us to send the questionnaire again. Despite the resubmission, we haven't received any reply. By consequence, on 13 August 2021, CILD submitted a request for civic access to the Prefecture of Caltanissetta. However, such request remained unanswered as well.

<sup>223</sup> Methodological note: on 23 July 2021, CILD administered a questionnaire to some immigration lawyers. Such questionnaire has been filled in by 11 lawyers assisting persons detained in the following CPRs: Turin; Gradisca d'Isonzo; Palazzo San Gervasio; Rome-Ponte Galeria; Bari-Palese; Brindisi-Restinco; Trapani-Milo; Caltanissetta-Pian del Lago.

## 4.2 The right to information and defence

### 2-A. INTERVIEWS BETWEEN DETAINEES AND LAWYERS

The CPT affirms that migrants in irregular situations detained in the Centres, from the first stages of deprivation of liberty, **must enjoy the fundamental right to have access to a lawyer, including “the right to have an unwitnessed conversation with the lawyer and to have access to legal advice on issues related to residence, detention and expulsion”.**<sup>224</sup>

With respect to this, it is notable that:

▶ 45.5% of the lawyers who filled in the above-mentioned questionnaire pointed out that the administration had placed limitations on access to the Centres for the conduct of defence interviews with their clients. In some cases, these limitations were justified because of the effects of COVID-19 (**Rome**) or for public order-related problems (**Turin and Bari**). In the **Palazzo San Gervasio, Brindisi and Macomer** Centres, lawyers are prevented from using their mobile phones inside the facility. Initially, in the Sardinian CPR, lawyers were not allowed access to their own computers or even a pen, which made it impossible for them to collect their client’s history.<sup>225</sup> It is only in August 2021 that a room dedicated to meetings between detainees and lawyers was set up and lawyers were finally allowed to enter the Centre with their pens and paper (but not their bags, nor mobiles).<sup>226</sup>

In the **CPR of Gradisca d’Isonzo**, lawyers’ reception hours are not respected, and - in some cases - lawyers are not even allowed to enter the Centre. During the COVID-19 emergency, the number of hours dedicated to defence interviews has been strongly reduced.<sup>228</sup>

In **Milan’s CPR**, following some Covid cases among detainees, lawyers were forbidden to enter the Centre,<sup>229</sup> in contradiction with Article 7 of the CIE Single Regulation (according to which visitors shall be subject to controls only to prevent the introduction of offensive weapons into the CPR).

▶ 45.5% of the lawyers who filled in the questionnaire pointed out that confidentiality is not always guaranteed during defence interviews with their clients. This practice was found, in particular, in the CPRs of **Rome, Brindisi and Milan**.<sup>230</sup>

This practice is in breach of Article 7 of the CIE Single Regulation, which provides that supervision shall not restrict the right to privacy and confidentiality of defence interviews. This has been recently confirmed by the European Court of Human Rights (ECtHR), according to which “whether in the context of assistance for civil or criminal litigation or in the context of seeking general legal advice, individuals who consult a lawyer can reasonably expect that their communication is private and confidential”.<sup>231</sup>

<sup>224</sup> Consiglio d’Europa, Comitato europeo per la prevenzione della tortura e delle pene o trattamenti inumani o degradanti (CPT), “Scheda tematica-Trattenimento dei migranti”, marzo 2017, page3.

<sup>225</sup> Lawyer Sabrina Mura, speaking at the Conference “La detenzione amministrativa dei migranti. La tutela giurisdizionale della libertà personale dello straniero irregolare”, organized by ASGI and the Criminal Bar Association of Oristano, 11 June 2021.

<sup>226</sup> On 3 August 2021, CILD interviewed lawyer Rosaria Manconi.

<sup>227</sup> On 21 November 2021, lawyer Eva Vigato submitted a report to the Ministry of the Interior, to ANAC and to the National Guarantor, aimed at denouncing all the critical issues encountered during her service within the CPR of Gradisca from December 2019 to November 2020. lawyer Eva Vigato kindly forwarded us such a report.

<sup>228</sup> On 9 August 2021, CILD interviewed lawyer Eva Vigato.

<sup>229</sup> ASGI and Naga, “Oggetto: Urgente segnalazione impedimento accesso e svolgimento colloqui avvocati nominati CPR di MILANO”, 27 November 2020.

<sup>230</sup> ASGI, Naga, LasciateCIEntrare and Mai più Lager – No ai CPR, “Violato il diritto di difesa e alla comunicazione nel centro di detenzione per migranti di Milano”, 9 December 2020.

<sup>231</sup> European Court of Human Rights (ECtHR), “CASE OF SABER v. NORWAY”, 17 December 2020, paragraph 51.

## 4.2 The right to information and defence

- ▶ Finally, 90% of the lawyers interviewed stated that there was no assistance of an interpreter during the defence interviews, in clear violation of the provisions of the CIE Single Regulation. As to the **CPR of Macomer**, lawyer Rosaria Manconi reported that she had been denied the assistance of an interpreter during a meeting with a detainee who only spoke Arabic, therefore she had to ask one of his roommates for support.<sup>232</sup> The practice of **requesting the assistance of other detainees**, in the absence of any interpreters, was also found in the **CPR of Gradisca d'Isonzo**.<sup>233</sup>

However, such a practice is in stark contrast with the CPT recommendations,<sup>234</sup> according to which lawyers shall be able to meet detainees before hearings with the assistance of an interpreter.<sup>235</sup> Furthermore, the Charter of Detainees' Rights and Duties annexed to the CIE Single Regulation, provides that during defence interviews, detainees shall have the right to express themselves in their own language **“even by resorting to, where necessary, language mediation services”**.

### 2-B. VALIDATION AND EXTENSION OF DETENTION HEARINGS

- ▶ **The presence of certifications of suitability for detention in judicial files**  
During the validation and extension hearing, the judicial authority must verify the existence of the foreigner's certificate of suitability for life

in a restricted community, since this medical certificate is an “unavoidable condition of validity of the detention”.<sup>236</sup> Indeed, suitability assessments **shall always be carried out before and not after validation**.<sup>237</sup> Nevertheless, 90% of interviewed lawyers stated that, in the file of the validation and extension of the judicial authority, the certificate of fitness required to detain their client was not always present. This practice was found, in particular, in **Rome, Turin, Brindisi, Bari, Trapani, Caltanissetta, Potenza and Melfi**. As to the **CPR of Gradisca d'Isonzo**, it was found that it was difficult for the lawyers to find the certificate of suitability and that there was uncertainty about its presence in the file of the judicial authority. In particular, lawyer Andrea Guadagnini clarified that such certificates are usually held by the managing body and not the Questura.<sup>238</sup> With regard to the **CPR di Palazzo San Gervasio**, lawyer Anna Maria Bitonti<sup>239</sup> stated that **she never found the presence of a certificate of suitability for detention in the files of the judicial authority**. Moreover, she noted the case of Omar Mohammed, a 24-year old man from Niger who, in October 2019, was held in the CPR of Palazzo San Gervasio, despite his psychological vulnerability. On 30 November 2019 he was repatriated to Nigeria on the basis of a Nigerian Consulate declaration recognising him as a fellow citizen, although he claimed to have been born in Niger.<sup>240</sup> As confirmed by lawyer Arturo Covella, this illegal practice continues to be a constant.<sup>241</sup> As to the **CPR of Macomer**, lawyer Rosaria Manconi stated that

<sup>232</sup> On 3 August 2021, CILD interviewed lawyer Rosaria Manconi.

<sup>233</sup> On 9 August 2021, CILD interviewed lawyer Eva Vigato.

<sup>234</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *“Immigration detention- Factsheet”*, March 2017, page 3.

<sup>235</sup> Council of Europe, *“Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 13 June 2017”*, 10 April 2018, paragraph 57.

<sup>236</sup> Italian Supreme Court, Civil Section no. 6, *order no. 15106/2017*, 19 June 2017.

<sup>237</sup> Ibidem.

<sup>238</sup> On 4 August 2021, CILD interviewed lawyer Andrea Guadagnini.

<sup>239</sup> On 4 August 2021, CILD interviewed lawyer Anna Maria Bitonti.

<sup>240</sup> LasciateCIEntrare campaign, *“La storia di Omar, nigerino di 24 anni recluso nel CPR di Potenza e rimpatriato in Nigeria”*, 10 December 2019.

<sup>241</sup> On 5 August 2021, CILD interviewed lawyer Arturo Covella.

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she never found the presence of a certificate of suitability for detention in the files of the judicial authority.<sup>242</sup> Finally, in Turin's CPR, judicial authorities do not carry out an adequate assessment of detainees' health when validating their detention. This was evident in the case of:

- **Y.M., a young Tunisian who had advised that he had leukaemia and had requested, on several occasions, a medical visit,** was locked up in the CPR of Turin on 23 November 2020 and was then released only on 8 January 2021; and
- **E.M., a 21 years-old Egyptian asylum seeker who, despite having had previous episodes of self-harm, was conducted to the hospital only after the validation hearing** and then arrested because of a fight with 5 police officers within the CPR.<sup>243</sup>

### ► The modalities of conducting hearings for validation and extension of detentions.

Regarding the **place** where validation and extension hearings take place, interviewed lawyers answered as follows: (I) 63.6% stated that they take place mainly within the premises of the CPR; (II) 36.4% replied that they take place only on the premises of the CPRs.

This is quite problematic, since “the Centres are **inaccessible to the public (which affects the open access of hearings) and subject to the control of the State Police, the Carabinieri Corps, the Financial Police and the Army**”<sup>244</sup>. In this regard, the Italian Superior Council of the Magistracy (CSM) stated that “validation and extension hearings shall take place within judicial offices, except for situations of absolute impossibility (...) **“ensuring an exercise of the judicial function that also appears externally impartial and endowed with all the prerogatives**

**that characterise it”**.<sup>245</sup> Moreover, in 2017 the CPT had recommended that Italian authorities put in place additional safeguards to ensure that hearings with detainees were conducted in conditions that allowed for confidentiality, i.e. the absence of police officers or security personnel.<sup>246</sup> Thus, both the indications of the CSM and the CPT seem to have remained completely unheeded. In fact, the practice of holding validation and extension hearings in the premises of the Centres continues to be a constant.

In particular, this is the case of **Ponte Galeria**, where all hearings regarding the validation or extension of the detention are exclusively held within the Centre. Moreover, since the beginning of the COVID-19 pandemic, detainees, lawyers and - if necessary - interpreters all appear in the Centre, while the Justice of the Peace participates via video conference, which implies that lawyers cannot have access to the judicial file.

Another critical element of the validation and extension of detention hearings is the guarantee of the **presence of the detainee** during such hearings, which is expressly required by art. 14, paragraph 4, of the Consolidated Immigration Act. In this regard, from the information provided by the lawyers of the assisted persons, we note that the presence of the foreigner in the hearing is not always an occurrence: (I) in 9.1% there is almost never their presence; (II) in 45.5% their presence is not always guaranteed; and (III) in 45.5% it is constant.

With regard to the absence of the foreigner in such hearings, the Italian Supreme Court underlined that: (I) it entails relative nullity that must be promptly objected under Article 157, paragraph 2 of the Italian Civil Procedural Code;<sup>247</sup> (II) if the judge considers that the health

<sup>242</sup> On 3 August 2021, CILD interviewed lawyer Rosaria Manconi.

<sup>243</sup> ASGI, “Il libro nero del CPR di Torino”, 4 June 2021, pages 10-13.

<sup>244</sup> Ibidem, page 28.

<sup>245</sup> Italian Superior Council of the Magistracy, [Resolution of 21 July 2010](#).

<sup>246</sup> Council of Europe, “[Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 7 to 13 June 2017](#)”, 10 April 2018, paragraph 55. In relation to the absence of reply on this point from the Italian Government, see: “[Response of the Italian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) on its visit to Italy from 7 to 13 June 2017](#)”, 10 April 2018.

<sup>247</sup> Italian Supreme Court, Civil Section no. 1, [judgment no. 5520/2021](#), published on 1 March 2021.

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reasons of the person concerned are as serious as not allowing him/her to appear in court, he/she cannot validate the detention in order to allow the foreigner to be treated in a suitable place;<sup>248</sup> (III) more in general, the right to adversarial procedure must be observed during both validation and extension hearings.<sup>249</sup>

Nevertheless, as to the **CPR of Turin**, detainees almost never attend validation and extension hearings;<sup>250</sup> only recently, such practice has partially changed, as a result of the above-mentioned established case-law.<sup>251</sup>

With regard to the **CPR of Gradisca**, there were episodes of non-transfer of the detainees for the external validation and extension hearings (at the Justice of the Peace of Padua and the Court of Trieste), due to the absence of staff to accompany them.<sup>252</sup> Regarding the **presence of an interpreter** in such hearings, which is expressly required by Article 14, paragraph 4 of the Consolidated Immigration Act, interviewed lawyers answered as follows: (I) 63.6% stated that presence of an interpreter is constant; (II) 18.2% replied that it is not always guaranteed; (III) another 18.2%, claimed that there is almost never his/her presence. More precisely, interpreting services seem to be ensured in **Turin, Caltanissetta, Trapani and Potenza**; while referring to **Rome**, we have received contradictory information. Moreover, lawyer Rosaria Manconi reported the case of a migrant detained in the CPR of **Macomer** who – despite not speaking a word of Italian – did

not receive any interpretation assistance during the validation hearing.<sup>253</sup> In this regard, the Italian Supreme Court stated that **“the failure to provide interpreting assistance during validation hearings, doesn’t imply in itself a breach of the foreigner’s right to defence, if no relevant and specific complaint is filed as a direct consequence of such failure”**.<sup>254</sup>

### ► Critical issues in the appointment of lawyers and the notification of hearings.

According to Article 14, paragraph 4, of the Consolidated Immigration Act, validation and extension hearings shall take place with the “necessary presence of a lawyer, who should be promptly notified”. Failures to do so may result in a breach of the right of detainees to defence, which cannot be remedied by any other legal acts having equivalent effect.<sup>255</sup> Nevertheless, several critical points were found concerning the appointment of lawyers by the detainees and the timing of communications to the lawyers of the validation and extension hearings. For instance, in the **CPR at Palazzo San Gervasio**, dangerous mechanisms have been found, which imply a violation of the right of defence of the detainees. In particular: (I) in June 2019, the **LasciateCIEntrare** campaigns,<sup>256</sup> reported that lawyers were made aware of their appointments **only after validation or extension hearings**; (II) in December 2019 a circular letter from the Prefecture of Potenza specified that **detainees could appoint a trusted lawyer only at the time of entering the Centre**,<sup>257</sup> and

<sup>248</sup> Italian Supreme Court, Civil Section no. 6, [order no. 25767/2016](#), published on 14 December 2016.

<sup>249</sup> Italian Supreme Court, Civil Section no. 1, [judgment no. 4544/2010](#), filed on 24 February 2010; Italian Supreme Court, Civil Section no. 2, [judgment no. 18321/2020](#), hearing of 25 June 2020, filed on 3 September 2020.

<sup>250</sup> Carla Lucia Landri, Maurizio Veglio, [“Ricerca sui provvedimenti in materia di espulsione e trattenimento emessi dal giudice di pace di Torino: anno 2015”](#), published on the Review “Diritto, Immigrazione e Cittadinanza”, dossier no. 2/2017, page 33.

<sup>251</sup> ASGI, [“Il libro nero del CPR di Torino”](#), 4 June 2021, page 28, note 33.

<sup>252</sup> On 9 August 2021, CILD interviewed lawyer Eva Vigato.

<sup>253</sup> On 3 August 2021, CILD interviewed lawyer Rosaria Manconi.

<sup>254</sup> Italian Supreme Court, Civil Section no. 1, [judgment no. 8373/2019](#), published on 26 March 2019.

<sup>255</sup> Italian Supreme Court, Civil Section no. 1, [order no. 10926/2019](#), hearing of 16 January 2019.

<sup>256</sup> LasciateCIEntrare campaign, [“CPR di Palazzo San Gervasio: violato il diritto di difesa”](#), 8 July 2019.

<sup>257</sup> Prefecture of Potenza, Circular with the subject: CPR of Palazzo San Gervasio, 26 September 2019. In such Circular it is also specified that: “in case of failure to appoint a lawyer at the time of entry, the foreigner will be able to do so at the hearing in front of the competent judge. Afterwards, the person concerned will be able to appoint a trusted lawyer in front of a police officer who will inform the Registry of the Court”.

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**not afterwards**, in contrast with the national and European legislation,<sup>258</sup> (III) in August 2021, lawyer Covella found that authorities were **illegitimately seizing mobile phones of detainees** upon entering the CPR of Palazzo San Gervasio and that, during the first days of detention, they also could not use the phone of the managing body. In short, detainees were and are prevented from communicating with their lawyers until the day after the validation of their detention and this illegitimate practice was implemented to facilitate the smooth execution of validation procedures: “not having a trusted lawyer who knows the history of the individual detainee and who also has the possibility to produce a series of defensive documents, makes the whole validation process of the Justice of the Peace much faster, much more streamlined and much more effective”.<sup>259</sup>

As regards detainees in the **CPR of Macomer**, lawyers are notified very little in advance (even only 30 minutes before) of the validation and extension hearings of their clients<sup>260</sup> and, in the **Rome** office, it was found by the lawyers that a few days before the validation hearing of the extension, a pre-printed sheet is issued and if the detained foreign citizen does not indicate again the name of his/her trusted lawyer appointed for the previous validation of the detention on that form, it is assumed that for the next extension hearing, a public defender should be appointed. It was also found that even when there is a private lawyer retained by the client in question, a publicly provided lawyer is appointed regardless. With reference to the **CPR of Palazzo San Gervasio**, it is not uncommon for notification to be sent not to the trusted lawyer, but to a

different one, and that the judicial authority - even if aware of that - does appoint a public defender.<sup>261</sup>

Finally, reference should be made to the case of I.B., a Ukrainian citizen who was held in the **CPR of Gradisca in August 2020 and then in the CPR of Rome-Ponte Galeria**, although: (I) the CSM in Trieste had confirmed his psychiatric disorders; (II) the INPS had identified a disability of 70% in 2015 and of 55% in 2017. His trusted lawyer Andrea Guadagnini, despite having informed the relevant authorities of his mandate, has never been notified of the extension hearing and he was even replaced by a public defender.<sup>262</sup>

In addition, 30% of the interviewed lawyers stated that when they submit medical certificates at the validation or extension hearings, such documents are not considered by the judicial authority, as also confirmed by lawyer Rosaria Manconi with reference to the **CPR of Macomer**.<sup>263</sup>

### ► The duration of hearings and the reasoning of validation/extension orders.

Other extremely critical aspects of the validation and extension hearings at the CPRs are: (I) the duration of the hearings themselves and (II) the reasoning of the orders.

As to the first aspect, the interviewed lawyers pointed out the very short duration of such hearings: between 5 and 10 minutes in 63.6% of cases and between 10 and 20 minutes for the remaining 36.4%. This is an established practice that lasts for years<sup>264</sup> and, in this regard, lawyer Manconi, who assists detainees in the CPR of Macomer, defined the validation hearing as “a farce”, a “mortification of the right of defence”,

<sup>258</sup> ASGI, “Oggetto: lettera aperta relativa alla circolare della Prefettura di Potenza - Area IV - Prot. Uscita N. 0066008 del 26/09/2019, concernente le modalità di nomina dei legali di fiducia da parte degli ospiti del C.P.R. di Palazzo San Gervasio”, 30 January 2020.

<sup>259</sup> On 5 August 2021, CILD interviewed lawyer Raffaele Covella.

<sup>260</sup> On 3 August 2021, CILD interviewed lawyer Rosaria Manconi.

<sup>261</sup> On 5 August 2021, CILD interviewed lawyer Raffaele Covella.

<sup>262</sup> On 4 August 2021, CILD interviewed lawyer Andrea Guadagnini.

<sup>263</sup> On 3 August 2021, CILD interviewed lawyer Rosaria Manconi.

<sup>264</sup> Fabrizio Mastromartino, Enrica Rigo, Maurizio Veglio, “Lexilium. Osservatorio sulla giurisprudenza in materia di immigrazione del giudice di pace: sintesi Rapporti 2015”, published on the Review “Diritto, Immigrazione e Cittadinanza”, dossier no. 2/2017, page 4.

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where opportunities for genuine defence are very slim, also considering the fact that the file is made available to the lawyers just before the hearing.<sup>265</sup> This latter practice was noted by the CPT itself in 2017, along with a request to Italian authorities to take appropriate measures to allow lawyers to have access to the files well before hearings; however, this request remained completely unanswered.<sup>266</sup> As to the second aspect, 100% of interviewed lawyers stated that the motivation of the validation and extension decree is not well argued, being reduced to mere standard formulas. In this regard, already in 2015: (I) in **Bari**, validations were at 86% and extensions at 71%; (II) in **Rome**, validations were at 76% and extensions at 68%; (III) in **Turin**, validations were at 98% and extensions at 97%.<sup>267</sup> Furthermore, in Turin, in 60% of cases, minutes of hearings showed that no time was spent hearing any defence to detention and in 50% of the cases, the judicial authority used a pre-printed form containing “standardised” grounds for validation and extension of detention, with no additional arguments in response to the defence. Additionally, in all (84) cases in Turin where the expulsion order was issued based on the dangerousness of the foreigner, the proceeding ended with validation of the restrictive measure.<sup>268</sup> It is precisely with regard to the presence of “standardised” grounds for validation and extension that the most recent case-law of legitimacy has expressed itself. In particular, the Italian Supreme Court: annulled the extension decree issued by the Justice of the Peace of Melfi regarding a Moroccan citizen detained in the CPR of Palazzo San Gervasio, pointing out that the judicial authority had not

adequately explained the motivation behind its decision;<sup>269</sup> dismissed the decree of a Justice of the Peace who prolonged for the fourth time the detention of a foreigner in a CPR, pointing out the total absence of adequate reasons. In fact, the judicial authority had limited itself to “explaining” their decision by marking two crosses on a pre-printed form.<sup>270</sup>

### CRITICAL ASPECTS OF THE REGULATION AND RECOMMENDATIONS

In the light of the above, detainees’ rights risk being seriously infringed upon. Therefore, we recommend Italian authorities:

- ▶ Increase the number of hours dedicated to the “legal information” service;
- ▶ Adopt primary national legislation, expressly granting to detainees the right to be properly informed;
- ▶ Confer jurisdiction over the validation and extension hearings to the specialised sections in the Civil Courts, responsible for immigration;
- ▶ Adopt national legislation, of primary rank, which uniformly regulates the right of detainees to defence and the safeguards covering defence interviews with lawyers;
- ▶ Adopt national legislation, of primary rank, on the safeguards covering the validation and extension of detention hearings.

<sup>265</sup> On 3 August 2021, CILD interviewed lawyer Rosaria Manconi.

<sup>266</sup> Council of Europe, “[Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 7 to 13 June 2017](#)”, 10 April 2018, paragraph 57. In relation to the absence of reply on this point from the Italian Government, see: “[Response of the Italian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) on its visit to Italy from 7 to 13 June 2017](#)”, 10 April 20.

<sup>267</sup> Fabrizio Mastromartino, Enrica Rigo, Maurizio Veglio, “[Lexilium. Osservatorio sulla giurisprudenza in materia di immigrazione del giudice di pace: sintesi Rapporti 2015](#)”, published on the review “Diritto, Immigrazione e Cittadinanza”, dossier no. 2/2017, page 4.

<sup>268</sup> Ibidem, page 5.

<sup>269</sup> Italian Supreme Court, Civil Section no. 1, [order no. 9440/2021](#), published on 9 April 2021.

<sup>270</sup> Italian Supreme Court, Civil Section no. 3, [order no. 13172/2021](#), published on 17 May 2021.

### 4.3

## THE RIGHT TO AFFECTIVE RELATIONSHIPS AND FREEDOM OF COMMUNICATION

### THE REGULATORY FRAMEWORK

Administrative detention in CPRs must be accompanied by appropriate guarantees, including freedom of communication with the outside world, a right closely related and instrumental to the exercise and guarantee of other rights, such as the right to defence and to maintaining relationships.

In this regard, Article 8 of the European Convention on Human Rights guarantees the right to the respect of one's "private and family life, home and his correspondence", subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society". Moreover, the European Prison Rules (EPR), adopted by the Council of Europe in 2006 provides that "Prisoners shall be allowed to communicate as often as possible via letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons".<sup>271</sup> Although the reference is to individuals detained in prisons, this should apply a fortiori to individuals held in administrative detention. In this context, the practice of seizing mobile phones of detainees is illegitimate, since it is neither required by any law nor compliant with the principles of necessity and proportionality. Indeed, Article 15 of the Italian Constitution ensures that: "freedom and confidentiality of correspondence and of every other form of communication is inviolable. Restrictions thereto may be imposed only by a reasoned warrant issued by a judicial authority with the guarantees established by law". In addition, Article 14, paragraph 2 of the Consolidated Immigration Act provides that foreign individuals held in CPRs must be granted with freedom of correspondence, even by telephone, with the outside world.

In addition, Article 4, paragraph 2, point F) of the CIE Single Regulation explicitly states that telephone communication with the outside world must be ensured through the presence of landline telephones within the Centre, in a number not lower than 1 for every 15 detainees. On the contrary, the possibility for detainees to keep their own mobile phone comes indirectly from Article 4, paragraph 1, point A) of the same Regulation, which does not include personal mobile phones among the prohibited items.<sup>272</sup> Lastly, in implementation of the Consolidated Immigration Act, as provided for in Article 21, paragraph 2 of Presidential Decree 394/99, individuals held in CPRs must be granted "freedom of communication, even by telephone, and fundamental rights".

### PRACTICES AND DISCRETION IN CPRs

Freedom of communication with the outside world faces several obstacles in CPRs: (I) in most centres, personal mobile phones are seized upon entrance in the centre and detainees can only use provided landline telephones (whose access is subordinated to the economic availability of detainees), or mobiles made available by the managing body, upon request and at scheduled times; (II) in other centres, detainees are allowed to keep their mobile phones without the use of a camera or access to the internet, or they can buy a new one with the above-mentioned characteristics; (III) during the COVID pandemic, the illegitimate practice of seizing personal mobile phones was extended also to CPRs where previously it was not the case.<sup>273</sup>

More precisely, in **Turin's CPR** (180 places), there are 12 fixed landline telephones, but no information was provided as to how many of them are currently working.<sup>274</sup> Access to such telephones

<sup>271</sup> Council of Europe, "European Prison Rules", June 2006, see rule 24.1.

<sup>272</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 30.

<sup>273</sup> [Circular no. 3567 of 26 March 2020](#), addressed by the Ministry of Justice to the Prefectures of the territories where the CPRs are located, with the subject "Measures to prevent dissemination of the virus within the CPRs".

<sup>274</sup> Such information was gathered through a questionnaire administered by CILD to Turin' Guarantor of the Rights of Persons Deprived of their Liberty, Monica Cristina Gallo, on 7 July 2021. The respective reply was provided on 14 July 2021.

is subordinated to the economic resources of detainees.<sup>275</sup> In this regard, in June 2020, some civil society associations have organised a collection of prepaid cards in order to distribute them within the Centre.<sup>276</sup> Moreover, the managing body withheld the number of such telephones and the few available numbers usually ring unanswered.<sup>277</sup> Detainees cannot keep their own mobile phone and, since the beginning of the COVID-19 pandemic in March 2020, they cannot meet their relatives or arrange a video call with them.<sup>278</sup>

In **Gradisca's CPR** (150 places), there are only 8 fixed landline telephones.<sup>279</sup> Access to them is dependant on the economic resources of detainees and incoming calls are not allowed.<sup>280</sup> Moreover, detainees can use their own smartphones,<sup>281</sup> but often the latter are "seized" at the first sign of an alleged "emergency", such as in case of protests.<sup>282</sup> Finally, during the

COVID-19 pandemic, detainees had the possibility to have video calls with their family members.<sup>283</sup>

As to the **CPR of Palazzo San Gervasio**, no information was provided regarding the presence of fixed telephones within the Centre.<sup>284</sup> According to the National Guarantor, the managing body's telephone is made available to detainees upon request.<sup>285</sup> Furthermore, at first, detainees were allowed to keep their own mobile (without camera), while, currently, the latter are all seized.<sup>286</sup> Lastly, during the COVID-19 pandemic, detainees were not allowed to make video calls with their family members.<sup>287</sup>

In **Rome's CPR** (210 places), there are only 10 fixed landline telephones which are working in the male section. Access to such telephones is subordinated to the economic availability of detainees and incoming calls are not allowed.<sup>288</sup>

<sup>275</sup> Ibidem.

<sup>276</sup> *Pressenza-International Press Agency "CPR Torino: la raccolta solidale di schede telefoniche per i trattenuti"*, 11 June 2020.

<sup>277</sup> Such information was gathered through a questionnaire administered by CILD to Turin' Guarantor of the Rights of Persons Deprived of their Liberty, Monica Cristina Gallo, on 7 July 2021. The respective reply was provided on 14 July 2021.

<sup>278</sup> Ibidem.

<sup>279</sup> Such information was gathered through a questionnaire administered by CILD to Friuli Venezia Giulia Region's Guarantor of the Rights of Persons Deprived of Personal Liberty, Paolo Pittaro, on 6 July 2021. The reply was provided on 13 July 2021.

<sup>280</sup> Ibidem.

<sup>281</sup> Ibidem.

<sup>282</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 32. This was confirmed also by lawyer Andrea Guadagnini, during the interview conducted by CILD on 4 August 2021.

<sup>283</sup> Such information was gathered through a questionnaire administered by CILD to Friuli Venezia Giulia Region's Guarantor of the Rights of Persons Deprived of Personal Liberty, Paolo Pittaro, on 6 July 2021. The reply was provided on 13 July 2021.

<sup>284</sup> In particular, on 7 July 2021, CILD administered a questionnaire to the managing body of the CPR of Palazzo San Gervasio (EngelItalia s.r.l.) in order to gather information on the management of the Centre. On 27 July, the managing body informed us that it had not received any authorization to fill out the questionnaire from the Questura and Prefecture of Potenza. On the same day, CILD submitted a request for information to the Prefecture of Potenza, but it remained unanswered.

<sup>285</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 31.

<sup>286</sup> On 4 and 5 August 2021, CILD respectively interviewed lawyer Anna Maria Bitonti and lawyer Arturo Raffaele Covella. See also National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 31.

<sup>287</sup> On 5 August 2021, CILD interviewed lawyer Arturo Raffaele Covella.

<sup>288</sup> On 6 July 2021, CILD administered a questionnaire to the Lazio Region's Guarantor of the Rights of Persons Deprived of their Liberty, Stefano Anastasia, in order to gather information on the CPR of Rome-Ponte Galeria. Mr Stefano Anastasia filled in the questionnaire on 31 July 2021 and then on 24 August 2021, indicating that - according to the CPR's managing body - there were only 10 working phone booths in the male Section of the Centre.

### 4.3 The right to affective relationships and freedom of communication

In addition, telephone booths are installed on the outer wall of the Centre, next to the doors of the living areas, so that the confidentiality of communications cannot be secured.<sup>289</sup> Moreover, male detainees cannot keep their own mobiles,<sup>290</sup> while female detainees can but only if cameras are obscured.<sup>291</sup> Lastly, during the COVID-19 pandemic, detainees were not allowed to make video calls with their family members, but they had the possibility to have conversation with lawyers via videoconference.<sup>292</sup>

In **Macomer's CPR** (50 places) there are 3 fixed telephone, whose access is subordinated to the economic availability of detainees<sup>293</sup>. In this regard, in September 2021, the *LasciateCIEntrate* campaign has organised a collection of prepaid cards in order to distribute them within the Centre.<sup>294</sup> Detainees are not allowed to keep their own mobiles,<sup>295</sup> but during the COVID-19 pandemic they were allowed to have video calls with their family members.<sup>296</sup>

As to the **CPR of Trapani-Milo** (36 places), each block has 1 fixed landline telephone, but no further information was provided on their total number.<sup>297</sup> Such phone booths are set in the courtyard and therefore exposed to bad-weather.<sup>298</sup> Detainees are not allowed to use their own mobiles for reasons of security and public order; however, now that quarantine periods are over, detainees have been again able to see their relatives (this has been the case since September 2021).<sup>299</sup>

With reference to the **CPR of Brindisi** no information was provided regarding the presence of fixed telephones within the Centre.<sup>300</sup> According to the National Guarantor, detainees can: (I) keep their own mobile but only if cameras and internet access are out of use; or (II) buy a mobile, with the characteristics as indicated above, or borrow the telephone of the Centre. Moreover, during the COVID-19 pandemic, detainees were not allowed to make video calls with their relatives.

<sup>289</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 31 and note 81.

<sup>290</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 30.

<sup>291</sup> On 5 August 2021, CILD interviewed Francesco Portoghese, a legal operator working for "A Buon Diritto-Onlus" and carrying out activities within the CPR of Ponte Galeria.

<sup>292</sup> Such information was gathered through a questionnaire administered by CILD to some lawyers assisting persons detained in the CPR of Rome-Ponte Galeria.

<sup>293</sup> Such information was gathered through a questionnaire administered by CILD to the Prefecture of Nuoro on 12 July 2021; the respective reply was provided on 20 August 2021.

<sup>294</sup> *LasciateCIEntrate* campaign "[Campagna di solidarietà con le persone rinchiusi nel CPR di Macomer](#)", 7 September 2021.

<sup>295</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 30.

<sup>296</sup> Such information was gathered through a questionnaire administered by CILD to the Prefecture of Nuoro on 12 July 2021; the respective reply was provided on 20 August 2021.

<sup>297</sup> On 13 August 2021, CILD submitted a request for civic access to the Prefecture of Trapani, in order to gather information and data on the Centre. The Prefecture replied on 13 September 2021.

<sup>298</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 31.

<sup>299</sup> On 13 August 2021, CILD submitted a request for civic access to the Prefecture of Trapani, in order to gather information and data on the Centre. The Prefecture replied on 13 September 2021.

<sup>300</sup> On 6 July 2021, CILD submitted a questionnaire to the managing body of the Brindisi's CPR in order to gather information and data on the Centre. On 13 July 2021, the managing body answered that the questionnaire could be filled in only with the approval of the Prefecture of Brindisi. Therefore, on 13 July 2021, CILD sent a request for authorization to the Prefecture. Then, on 28 July, 2 and 6 August, CILD also reached out some representatives of the Prefecture in order to have news and they informed us that they had submitted a request for authorization to the Ministry of the Interior. In this context, on 13 August 2021 CILD submitted a request for civic access to the Prefecture of Brindisi, whose reply was received on 14 September 2021.

### 4.3 The right to affective relationships and freedom of communication

As to the **CPRs of Bari<sup>301</sup> and Caltanissetta<sup>302</sup>**, the exact number of the phone booths set up in the centres is unknown since all requests for information that CILD submitted to the relevant Prefectures went unanswered. In any event, according to the National Guarantor:<sup>303</sup> (I) in **Bari's CPR**, detainees can keep their own mobile but only if cameras and internet access are out of use; (II) in **Caltanissetta's CPR**, smartphones are seized, and detainees can buy a phone with the characteristics as indicated above, depending on their economic availability.

In **Milan's CPR** (140 places), there are only 4 fixed telephones.<sup>304</sup> Incoming calls are not allowed, and international calls are subordinated to the economic availability of detainees.<sup>305</sup> Personal mobile phones of detainees are seized when entering the Centre. Finally, during the COVID-19 pandemic, detainees were not allowed to make video calls with their relatives.

In this regard, it is important to highlight that in March 2021 the Court of Milan<sup>306</sup> accepted an appeal filed by an asylum seeker detained at the CPR of Milan, aimed at achieving restitution of his mobile phone. In fact, the court pointed out that, in order to guarantee the freedom of correspondence, it is necessary to consider the

need to ensure the contact of the detainee with different people, including family members, their lawyer, UNHCR and consular authorities. It follows that this cannot be adequately guaranteed by the availability of fixed or portable devices, indiscriminately present in the Centre, which, moreover, do not allow access to the address book of one's contacts and the possibility of obtaining updated information on one's country of origin. However, this order of the Court of Milan, although affirming the right to keep one's own mobile phone while in detention, established a series of strong limitations that greatly diminished the progressive value of the decision. These limits have been implemented by the Prefecture of Milan,<sup>307</sup> which modified the internal regulation of the CPR in via Corelli, providing that the detainees: (I) can keep their mobile phone (with an obscured camera) for the time strictly necessary to make a phone call; (II) that calls can be made only at fixed hours and in a dedicated space in the centre, under the "discreet surveillance" and in the presence of the staff of the managing body. These provisions have been criticised by many civil society associations, which have pointed out that the above-mentioned limitations are totally unreasonable and do not guarantee the effective protection of the detainees' freedom of communication.<sup>308</sup>

<sup>301</sup> On 6 July 2021, CILD administered a questionnaire to the managing body of the CPR of Bari-Palese, Cooperativa Badia Grande, to gather information on the protection of detainees' rights. In the absence of a reply, CILD contacted by phone a manager of the Centre, who: (I) on 28 July claimed that she had never seen the questionnaire and asked us to send it again; (II) on 4 August, stated that our request was still under consideration by the administration; (III) on 6 August, informed us that they were having difficulties in filling out the questionnaire, due to the COVID-19 outbreak in the centre. By consequence, on 17 August 2021, CILD submitted a request for civic access to the Prefecture of Bari. On 14 September 2021, the latter informed us that it was waiting for the authorization of the Ministry of the Interior.

<sup>302</sup> On 6 July 2021, CILD administered a questionnaire to the managing body of the CPR of Caltanissetta-Pian del Lago (Rti Essequadro- Ad Majora), to gather information on the protection of the rights of detainees. In the absence of a reply in the following days, CILD has contacted by phone, several times, a manager of the Centre, who: (I) on 28 July asked us to send again the questionnaire; (II) on 5 August, asked us to send the questionnaire to the Director of the Centre. In this context, on 13 August 2021, CILD submitted a request for civic access to the prefecture of Caltanissetta that, as of 24 September 2021, remained unanswered.

<sup>303</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)", 12 April 2021, page 31.

<sup>304</sup> Such information was gathered through a questionnaire administered by CILD to the managing body of the Milan's CPR, RTI Versoprobo-Luna, on 6 July 2021. The respective reply was provided on 7 July 2021.

<sup>305</sup> Ibidem.

<sup>306</sup> Court of Milan, order of 15 March 2021, no. 2021/5291, pages 10-13.

<sup>307</sup> Prefecture of Milan, "Allegato 1 al Regolamento interno del CPR di Milano", April 2021.

<sup>308</sup> Border Criminologies, "Milano, il nuovo CPR a porte girevoli e lo struzzo", 10 June 2021. See also the Letter sent by 19 civic society associations to the Ministry of Interior, the Prefecture, the Questura of Milan, the managing body of Milan's CPR, the National and Municipal Guarantor of the Rights of Persons Deprived of their Liberty 16 April 2021.

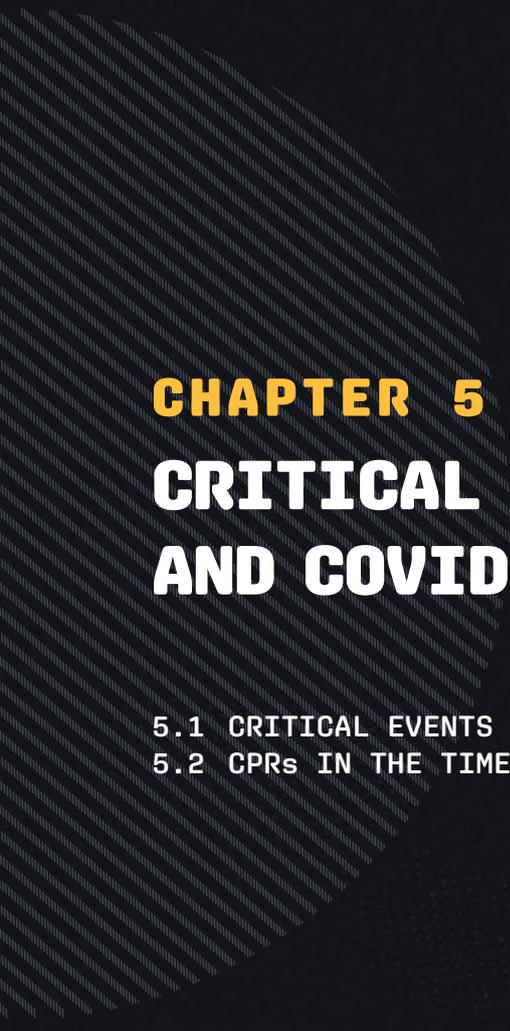
### 4.3 The right to affective relationships and freedom of communication

#### **CRITICAL ASPECTS OF THE REGULATION AND RECOMMENDATIONS**

In the light of the above it is clear that the unlawful practices taking place within CPRs imply the breach of detainees' freedom of communication. Therefore, we recommend that Italian authorities adopt national legislation, of primary rank, which:

- ▶ Guarantees the freedom of communication, including via the availability of fixed landlines within CPRs;
- ▶ Allows for the installation of laptops within the Centres ensuring the right of detainees to access the Internet and make video calls;
- ▶ Ensures the right of detainees to keep their own mobiles within the CPRs, including the possibility to use the phones' cameras and access the internet for interviews with lawyers.





# **CHAPTER 5**

# **CRITICAL EVENTS AND COVID-19**

5.1 CRITICAL EVENTS

5.2 CPRs IN THE TIME OF COVID-19



## 5.1

# CRITICAL EVENTS

Several critical events occurred within CPRs, including episodes of self-harm, brawls, fires, riots, damages, committed or attempted suicides, hunger strikes and deaths. Nevertheless, there is no reliable, effective and comprehensive system in place within the CPR network to record such critical events.<sup>309</sup>

For instance:

- ▶ In **Milan's CPR** a critical events log is non-existent;<sup>310</sup>
- ▶ In **Caltanissetta's CPR** the log consists of some loose sheets;
- ▶ In the **CPRs of Palazzo San Gervasio and Trapani-Milo** the log appears to be incomplete and difficult to read.

In this regard, the National Guarantor has been recommending, for several years, that a standardised and centralised system of recording critical events be introduced, updated on a daily basis and made available from remote navigation,<sup>311</sup> as an indispensable tool for the protection of the rights of both persons detained and staff working with them. Indeed, it would allow overseeing bodies to have rapid knowledge of the most relevant events occurring in the Centres and ensure greater transparency of what happens in these relatively opaque places of detention.<sup>312</sup>

## DEATHS

The number of deaths in CPRs **has never been as high as in recent years**: indeed, between June 2019 and July 2021, 6 foreign nationals lost their lives while detained in administrative detention. The specific instances differ in terms of causes and circumstances but what is common between them is a lack of clarity about what happened.

**Harry**, a 20-year-old Nigerian boy, committed suicide in **Brindisi's CPR** on 2 June 2019. He arrived in Italy during summer 2017 and immediately showed signs of strong psychiatric vulnerability, which led the CSM of Bolzano to deem him incompatible with administrative detention (having had previous episodes of self-harm and suicide attempts)<sup>313</sup>. His vulnerability was also reported by the *LasciateCIEntrare* campaign to the relevant Prefecture, the National and regional Guarantor, IOM and UNHCR members.<sup>314</sup> In June 2018 Harry was placed in a SPRAR (protection system for asylum seekers and refugees). Since his residence permit had expired, at the end of March 2019 he was placed in the CPR of Brindisi and deemed fit for detention despite his mental disorders.<sup>315</sup> During his detention, he never had the opportunity to talk with a psychiatrist, and yet was prescribed drug therapy in relation to which no information has been provided.

<sup>309</sup> As to Turin's CPR, in 2011 (the only year in relation to which data on attempted suicides or acts of self-harm have been provided) there were "156 episodes of self-harm, 100 of which by ingestion of medicines or foreign bodies, 56 of which for stab wounds". Human Rights and Migration Law Clinic, "*Betwixt and Between – Turin's Cie, Un'indagine sui diritti umani all'interno del Centro di identificazione ed espulsione di Torino*", September 2012, page 47.

<sup>310</sup> Such events log appears to be accessible only to the Director of the Centre and locked in his personal drawer, as confirmed by Senator De Falco, in "*Delle pene senza delitti. Istantanea del CPR di MILANO. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021*", 24 July 2021, page 31.

<sup>311</sup> National Guarantor of the Rights of Persons Deprived of their Liberty "*Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)*", 12 April 2021, page 8.

<sup>312</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "*Rapporto sulle viste tematiche effettuate nei Centri di Permanenza per il Rimpatrio (CPR) in Italia (febbraio-marzo 2018), 18 ottobre 2018*", pages 15-16.

<sup>313</sup> Psychiatric care within CPRs is almost totally lacking and the administration of psychotropic drugs is managed by psychologists.

<sup>314</sup> Press office of the *LasciateCIEntrare* campaign "*Morire di "malaccoglienza". La storia di Harry. Arrivato come invisibile, morto da invisibile*", 3 June 2019, on the *LasciateCIEntrare* campaign's online site.

<sup>315</sup> The medical staff working for the CPR started to take into account his medical records only after his suicide, as reported by the National Guarantor of the Rights of Persons Deprived of their Liberty in "*Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)*", 12 April 2021, page 21.

**Hossain Faisal**, a 34-year-old Bengali citizen, lost his life on the premises of the **CPR Hospital in Turin** (the ospedaletto), on 8 July 2019. He died in the same cell where he had been initially detained 5 months earlier. Indeed, he was deemed fit for detention and immediately placed in isolation on 16 February 2019, despite his certificates of suitability confirmed that he was “confused and disoriented<sup>316</sup> and refused to take part in any kind of dialogue. In protest at Hossain’s death, acts of arson spread within the CPR and tensions have arisen also outside of the Centre.<sup>317</sup> According to the results of the autopsy examination, he died of a sudden heart attack, and no signs of violence have been found.<sup>318</sup>

**Aymen Mekni**, a 34-year-old Tunisian citizen, died on 12 January 2020 due to an illness in **Caltanissetta’s CPR**, where he was detained since December 2019. During the night he started to feel bad and asked for help, without however receiving adequate and prompt medical assistance.<sup>319</sup> In this regard, the National Guarantor pointed out that – although he did not intend to draw conclusions, as this was the exclusive role of judicial authorities – one cannot “not notice how more effective surveillance and a more timely intervention on the facility, at least following the visit of the National Guarantor, would certainly have helped to dispel, at least in part, doubts about the responsibilities of the institutions”.<sup>320</sup> Such an

episode led to some protests in the Centre, which resulted in a fire. Moreover, some regional and national associations organised a garrison in front of the CPR of Pian del Lago.<sup>321</sup>

**Vakhtang Ehlukidze**, a Georgian citizen detained in the **CPR of Gradisca d’Isonzo**, lost his life in the Hospital of Gorizia on 18 January 2020. Four days before, he had a violent fight with an Egyptian detainee and, after spending some days in the prison of Gorizia, on 16 January he was taken back to the Centre before being found unconscious in his cell two days after. The cause of his death was said to be a sudden heart attack.<sup>322</sup> In any case, the prosecutor began building a case against unidentified persons assuming a first-degree murder, since around 8-9 detainees witnessed that security forces had hit his back during the fight.<sup>323</sup> According to the autopsy examination, carried out by Professor Carlo Moreschi at the presence of the medical examiner Lorenzo Cociani (expert chosen by the National Guarantor) beating is not the cause of Vakhtang’s death.<sup>324</sup> Always with reference to the CPR of Gradisca D’Isonzo, Orgest Turia, a 28-year-old Albanian man, lost his life on 14 July 2020, four days after his entry to the Centre. The autopsy stated that he had died of a methadone overdose,<sup>325</sup> raising doubts as to how he had come into possession of the substance and its uncontrolled use in such quantities as to cause his death.<sup>326</sup>

<sup>316</sup> ASGI, “Il libro nero del CPR di Torino”, 4 June 2021, page 5.

<sup>317</sup> Carlotta Rocci and Alessandro Contaldo, “Si indaga per omicidio colposo sulla morte del bengalese al Centro di permanenza di Torino”, 9 July 2019, on the online newspaper “La Repubblica”.

<sup>318</sup> Daniel Angi, “Morte di Hossain Faisal al Cpr, la polizia esclude ipotesi delittuosa”, 10 July 2019, on the online site “Torino Oggi”.

<sup>319</sup> Border Criminology, Francesca Esposito, Emilio Caja, Giacomo Mattiello, “No one is looking at us anymore. Migrant Detention and COVID-19 in Italy”, November 2020.

<sup>320</sup> The CPR’s managing body is a temporary joint venture composed by Essequadro Società Cooperativa Sociale di Caltanissetta and AdMajora s.r.l.; the latter is already subject to judicial inquiries for the deplorable conditions in which its Centres have been found. Borderline Sicilia, “Mai più CPR. Il presidio antirazzista a Pian del Lago”, 20 January 2020, on the Borderline Sicilia’s online site.

<sup>321</sup> Press office of the LasciateCIEntrare campaign, “Aymen, Morto di CPR a Caltanissetta”, 12 January 2020, on the LasciateCIEntrare campaign’s online site.

<sup>322</sup> Antonio di Bartolomeo, “Morto al CPR di Gradisca, si indaga per omicidio”, 19 January 2020, on the Rainews’ online site.

<sup>323</sup> Redazione, “Picchiato da dieci agenti, così è morto il georgiano del CPR”, 22 January 2020, on the Rainews’ online site.

<sup>324</sup> Fabio Tonacci, “Gradisca, il migrante georgiano non è morto per il pestaggio”, 27 January 2020, on the online newspaper “La Repubblica”.

<sup>325</sup> The National Guarantor stated that people undergoing methadone treatments should be considered incompatible with handling the conditions of administrative detention. National Guarantor of the Rights of Persons Deprived of their Liberty “Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)”, 12 April 2021, page 18, note 56.

<sup>326</sup> On 4 August 2021 CILD interviewed lawyer Andrea Guadagnini.

## 5.1 Critical events

**Moussa Balde**, a 23-year-old Guinean man, committed suicide in the CPR of Turin on 22 May 2021 by hanging himself with bed sheets after experiencing days of isolation within the Ospedaletto. On the days preceding his entry to the Centre, he had been brutally beaten by 3 Italian citizens who accused him of attempting to steal a mobile. Balde had denied the allegations and reported to his lawyer that he was just begging for alms in front of a supermarket. The aggressors were charged with inflicting injury, while Balde – already the subject of an expulsion order -- was taken from the hospital to the CPR **“without any preliminary assessment on his psychological suitability for administrative detention”**.<sup>327</sup> His lawyer reports that Balde was surprised about his detention and complained that he couldn't bear it any longer.<sup>328</sup> To date, the CPR's manager and a doctor have been charged with manslaughter after pressure from civil society associations and following an inspection within the Centre carried out by the Turin Prosecutor's Office.<sup>329</sup>

### SELF-HARM

The National Guarantor recently denounced the total lack of risk prevention measures in CPRs, despite the several episodes of self-harm having occurred in the Centres.<sup>330</sup>

As to the **CPR of Milan**:

- ▶ Following a visit in the Centre, on 13 June 2021 Senator De Falco sent a notice to the managing body, the Prefecture, the Agency for Health

Protection, as well as - for information - to the National Guarantor and the mayor of Milan asking to promptly carry out a new suitability assessment of **A.O., a detainee who had been committing for a long time acts of self-harm and had become addicted to anxiolytics**. The very same day, A.O. was released from the centre.

- ▶ **K.M., despite having declared to be a heroin addict for over 10 years, was not deemed to be entitled to methadone in the Centre**, due to the lack of a MOU between the managing body and the Addiction Service (SER.D.). As a consequence, K.M. started to commit acts of self-harm so that he could be taken to the E.R. and ask for methadone. K.M. was repatriated on the 1st of July 2021.<sup>331</sup>
- ▶ It appears that **L.A., a detainee who had shown signs of psychological fragility, was released on the 2nd June** despite a pending precautionary proceeding and without first having informed his lawyer. There has been no news about him since his release.<sup>332</sup>

As to the **CPR of Turin**, acts of self-harm are not unusual.<sup>333</sup>

- ▶ **E.M. is a 21-year-old Egyptian asylum seeker who shortly after entering the centre started to injure his arms, legs and abdomen**. However, he was taken to the nearby hospital only after the validation hearing. He was then dismissed, taken back to the Centre and put in isolation.

<sup>327</sup> Orlando Trinchi, *“Balde era una vittima e non lo abbiamo salvato”*, Interview to Gianluca Vitale, 26 May 2021, on the online site “Il Dubbio”.

<sup>328</sup> Press office of the LasciateCIEntrare campaign, *“Un altro morto di CPR. Un'altra vita spezzata nell'Ospedaletto del CPR di Torino”*, 24 May 2021, on the LasciateCIEntrare campaign's online site.

<sup>329</sup> Sarah Martinenghi, *“Morte Moussa Balde, indagati dalla procura il direttore del CPR e un medico”*, 12 June 2021, on the online newspaper “La Repubblica”.

<sup>330</sup> National Guarantor of the Rights of Persons Deprived of their Liberty *“Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri (2019-2020)”*, 12 April 2021, page 23.

<sup>331</sup> Senator De Falco, *“Delle pene senza delitti. Istantanea del CPR di MILANO. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021”*, 24 July 2021, pages 67-68.

<sup>332</sup> Ibidem, pages 18-19.

<sup>333</sup> ASGI, *“Il libro nero del CPR di Torino”*, 4 June 2021, pages 7-14.

- ▶ **H.A.K.**, a 46 year-old father of 3 coming from Libya, arrived in Lampedusa and expressed his intention to apply for international protection in Italy. However, in Messina he was not given the possibility to seek asylum and he was the subject of an expulsion order in addition to a detention order within the CPR of Turin. There, H.A.K. finally had the opportunity to apply for international protection, but his detention was extended several times. After 84 days of detention, on 5 February 2021, **H.A.K. committed acts of self-harm and fractured his left leg.**
- ▶ **B.B.A. had graduated in Computer Science and had applied for international protection in Italy in order to escape the homophobic pressures** that he experienced in Tunisia. However, the territorial commission rejected his request and he was held in detention for another 8 months, before **he started to commit acts of self-harm and was subsequently repatriated.**
- ▶ **T.A.**, arrived in the CPR of Turin from Pisa, where he was living with his older brother. During the validation hearing, he claimed to be a minor, but the Justice of the Peace validated the detention order due to the lack of certainty about his age. Although the verification proceeding was still ongoing, **T.A. was detained in the CPR of Turin. Such an experience was overwhelming for him:** T.A. started to be treated for anxiety and cut himself on his left arm. Only after 95 days of detention, on 12 May 2021, did the doctor appointed by the managing body of the CPR state that **detention could compromise his psychophysical state and affect his health.**

Several cases of **nonsuicidal self-injury (NSSI)** have occurred also in other CPRs, notably in **Bari's CPR** where, however, it is often complicated or even impossible to transfer detainees to the E.R., due to a shortage of staff working for the Centre.<sup>334</sup>

In addition to that, between June 2019 and July 2020, several rebellious acts and related damages have taken place within many CPRs<sup>335</sup> in protest against the inhuman and degrading conditions within administrative detention.

In July 2019, following the death of Hossain Faisal, some detainees set fires in **Turin's CPR** and tension has arisen even outside the Centre.<sup>336</sup> Moreover, on the night of 31 August, continuing into the early hours of 1 September, a fight between detainees and security forces erupted, after which a migrant - who was refused medicine - fell from a 6-foot height. By the time the incident subsided, 2 were wounded and 3 were arrested for damage caused, resisting the police and personal injuries.<sup>337</sup>

In September 2019 four sections of the **CPR of Ponte Galeria** burnt up during a protest against repatriation.<sup>338</sup> Early as July 2019, 12 migrants were able to escape from the Centre during a protest that took place against the presence of expired food and the small number of working fixed telephones. Few days after, on 9 July, a new protest took place.<sup>339</sup>

At the end of November 2019, a group of detainees set up a fire in **Turin's CPR** and burnt up 8 housing block, in protest against the detention conditions and duration, the food, as well as the lack of health

<sup>334</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulle visite effettuate nei Centri di Permanenza per i Rimpatri \(2019-2020\)](#)", 12 April 2021, page 23.

<sup>335</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "[Rapporto sulle viste tematiche effettuate nei Centri di Permanenza per il Rimpatrio \(CPR\) in Italia \(febbraio-marzo 2018\)](#)", 18 October 2018, page .3.

<sup>336</sup> Carlotta Rocci, "[Un migrante muore al Cpr di Torino. scattano le proteste](#)", 8 July 2019, on the online newspaper "La Repubblica".

<sup>337</sup> The lack of staff in Turin's CPR does not concern only law enforcement officers, but also doctors, psychologists, translators, cultural mediators. See Elisa Sola, "[Pochi medici, avvocati e psicologi: perché esplode la rivolta nel CPR di Torino](#)", 4 September 2019, on the online newspaper "Il Corriere della Sera"; "[Rivolta al Cpr di Torino. ispettore ferito. «In 6 contro 158 «ospiti», non parlatemi di accoglienza»](#)", 1 September 2019, on the online newspaper "Il Messaggero".

<sup>338</sup> "[Protesta al Centro per i rimpatri di Ponte Galeria: materassi dati alle fiamme](#)", 20 September 2019, on the online newspaper "Il Messaggero".

<sup>339</sup> "[Migranti, rivolta nel CPR di Ponte Galeria: fuggita una dozzina di persone](#)", 8 July 2019, on the online newspaper "La Repubblica".

## 5.1 Critical events

care.<sup>340</sup> In January 2020, a protest within the **CPR of Trapani-Milo** led to a fire, making it necessary for firefighters to intervene.<sup>341</sup>

In **Caltanissetta's CPR**, the death of Aymen Mekni on 12 January 2020 led to several protests and fires.<sup>342</sup>

As to the **CPR of Ponte Galeria**, in July 2020 there have been at least 3 escape attempts with a fire, as a result of which a police inspector suffered injuries to his face and a police officer was intoxicated.<sup>343</sup>

Protests and rebellions within the Centres also took place in **2021**.<sup>344</sup> It is the case of the 17 migrants on the roof of **Milan's CPR** in January 2021, or of the group of migrants that has set fire in Turin's CPR, rendering unusable 35 places available at the facility in September 2021.

What happened in Milan's CPR deserves a special mention. On the morning of 25 May 2021 a dispute degenerated into a fight making it necessary for the anti-riots police to intervene.<sup>345</sup> According to eye-witness reports, the police would have hit some detainees, 8 of whom were injured. Some of them were taken to the E.R. only after many hours, while others were not hospitalised at all.<sup>346</sup> That evening, another sector of the CPR was set on fire and the next morning some of the detainees

were taken to jail. Following these events, many detainees began a hunger strike and committed acts of self-harm. On 30 May 2021 the Court of Milan rejected to impose provisional measures against those detainees under investigation for arson, who were thus taken back to the CPR few days later.

<sup>340</sup> "Migranti: nuova rivolta al CPR, a fuoco unità abitative", 25 November 2019, on the ANSA's online site.

<sup>341</sup> Damiano Aliprandi, "CPR, da Gorizia a Trapani migranti in rivolta per le condizioni di vita", 8 January 2020, on the online site "Il Dubbio".

<sup>342</sup> Press office of the LasciateCIEntrare campaign, "Aymen, Morto di CPR a Caltanissetta", 12 January 2020, on the LasciateCIEntrare campaign's online site.

<sup>343</sup> Salvatore Giuffrida, Rome, "A Ponte Galeria fughe e roghi: "Stop al Centro per i rimpatri", 18 August 2020, on the online newspaper "La Repubblica".

<sup>344</sup> ANSA, "Migranti: protesta al CPR Milano, in 17 sul tetto", 6 January 2021; Carlotta Rocci, "Torino, migranti in rivolta al CPR: fuoco ai materassi, alcuni intossicati lievi, gravi danni", 10 September 2021, on the online newspaper "La Repubblica (Torino)".

<sup>345</sup> The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had recommended Italian authorities to reduce the excessive use of force, in ensuring the internal order of the Centres: see Council of Europe, "Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 13 June 2017", 10 April 2018, paragraph 62.

<sup>346</sup> Senator De Falco, "Delle pene senza delitti. Istantanea del CPR di MILANO. Report dell'accesso presso il Centro di Permanenza per il Rimpatrio di Milano, via Corelli n.28, del Senatore Gregorio De Falco nelle giornate del 5 e 6 giugno 2021", 24 July 2021, page 75.

## 5.2

# CPRs IN THE TIME OF COVID-19

At the beginning of the pandemic (March 8, 2020) the operational CPRs in Italy were 9: Turin, Gradisca d'Isonzo (Gorizia), Ponte Galeria (Rome), Caltanissetta, Trapani, Bari, Brindisi Restinco, Palazzo San Gervasio (Potenza) and Macomer (Nuoro). During the pandemic, the centres of Trapani, Caltanissetta and Palazzo San Gervasio have been closed. During the first months of the pandemic there was a substantial emptying of the Italian CPRs, but then a renewed increase in the number of persons detained in the Centres commenced: notably, on 12 March 2020 there were 425 detained persons, which on 28 April reduced to 240, despite a maximum capacity of 525 (on 29 May), then to 204 on 15 May and to 195 on 22 May. This number then rose by 25 June to 282 and then to 332 on 2 July.

If the functionality of administrative detention for return purposes is questionable in “normal” circumstances, doubts about the utility of this measure deepen in moments where international mobility is interrupted. Indeed, as the purpose of detention in CPRs, as established in law, is repatriation, then any detention must be considered illegitimate when repatriation is not concretely possible.

In any case, in the CPRs, measured response to the COVID-19 pandemic was delayed: it was only on 26 March that a first ministerial circular was issued; however its provisions were inadequate to avoid the spread of the virus within the Centres.

**In April, the first case of COVID-19 was detected in Gradisca d'Isonzo's CPR.** This led to a climate of tension within the Centres and, in some of them (for instance the CPR of Macomer), even to personal injury cases, attacks, episodes of self-harm and to at least one attempted suicide. CILD together with the civil society has asked the Justices of the Peace not to confirm nor extend detention orders, which

was unnecessary given the closing of borders, as well as unlawful according to Directive 2008/115/EC. CILD also asked local bar associations to monitor detention hearings and provide public defenders with all the information. In this context, the National and local guarantors have constantly monitored the numbers and conditions of detention within the Centres, as well as co-operated with the civil society for a reduction in the numbers of detained persons.

**The intervention of national judges has been fundamentally important as well:**

- ▶ On 18 March, the Court of Rome didn't extend the detention order concerning an asylum seeker coming from Bangladesh and detained in the CPR of Ponte Galeria who, on 16 January had applied for international protection;
- ▶ Always on 18 March, the Court of Trieste didn't confirm the detention of an asylum seeker detained in Gradisca d'Isonzo's CPR;
- ▶ On 27 March, due to the ongoing pandemic, the Court of Rome granted the request for review of a Venezuelan asylum seeker's detention and then ordered her immediate release.

## CONTAGION RISKS, TRACKING, VACCINATION

Besides the valuable information provided by the National Guarantor,<sup>347</sup> several study centres<sup>348</sup> and the civil society,<sup>349</sup> no data has been provided in relation to: (I) the total number of persons detained in CPRs who, from March 2020 to today, tested positive to COVID-19; (II) the tracking and sanitisation systems which have been set up in each detention facility; (III) the state of implementation of vaccination plans within the Centres. In this regard, CILD has sent specific questionnaires to the relevant health authorities as well as, in case of no

<sup>347</sup> See the National Guarantor bulletins during the different stages of the COVID-19 pandemic, available on its institutional website.

<sup>348</sup> Border Criminologies, “No one is looking at us anymore-Migrant Detention and COVID-19 in Italy”, November 2020.

<sup>349</sup> See, in this regard, the monitoring activities conducted, among others, by the LasciateCIEntrare campaign and by the Project Melting Pot Europe.

## 5.2 CPRs in the time of COVID-19

response, requests for civic access. Unfortunately, in 4 cases our requests have remained unanswered (**Local Health Authority Brindisi**,<sup>350</sup> **Public Service Agency Potenza**,<sup>351</sup> **Local Health Authority Nuoro**<sup>352</sup>) or they were given a negative answer (**Local Health Authority Turin**<sup>353</sup>). Moreover, the remaining 6 replies are, in some cases, not fully exhaustive.

Following our request for civic access, the **Local Health Authority of Milan**,<sup>354</sup> specified that:

from March 2020 to September 2021 there were 4 cases of COVID-19 confirmed amongst detainees; as of 8 September 2021, based on the available information, nobody tested positive.

The ATS also stated that the positive detainees are put in quarantine in a specific area of the Centre, where health care is guaranteed, but it didn't provide information on the square metres of the isolation rooms nor on the guarantee for such detainees to have a daily contact with the medical staff of the Centre. Moreover, the ATS reported that swap tests are conducted at the time of both entry and transfer, but it didn't provide any information on the sanitization methods. Finally, no update was offered, in spite of a specific request for such, regarding the state of vaccinations within the centre.

**The Local Health Authority of Rome**<sup>355</sup> highlighted that, as to the CPR of Ponte Galeria:

- ▶ From March 2020 to June 2021 there were 4 cases of COVID-19 confirmed amongst detainees;
- ▶ As of June 2021, nobody tested positive.

In Rome's CPR, the COVID-positive detainees are put in quarantine in 60 square metres rooms, equipped with toilets, and they have the guarantee of daily contact with both the Local Health Authority staff and the medical staff appointed by the managing body. Furthermore, it appears that the managing body has regularly carried out: (I) sanitising activities of the centre premises, making protective masks available to detainees; (II) swab tests on detainees in order to ensure the efficacy of the tracking system. Finally, according to the Local Health Authority of Rome, as of 25 July 2021 vaccinations of detainees had not yet commenced.

**The Local Health Authority of Bari**<sup>356</sup> was not able to provide information on the number of detainees who – from March 2020 to today – had tested COVID-19 positive in Bari's CPR, nor on the possible presence of positive detainees in September 2021. Indeed, the Local Health Authority merely declared to collaborate with the centre to

<sup>350</sup> On 21 July 2021, CILD administered a questionnaire to the Local Health Authority of Brindisi to gather information on the protection of detainees' rights. In the absence of a reply, on 12 August 2021 CILD submitted a request for civic access to the Local Health Authority of Brindisi, but as of 6 October 2021, it remained unanswered.

<sup>351</sup> On 21 July 2021, CILD administered a questionnaire to the Public Service Agency of Potenza to gather information on the protection of detainees' right to health. However, such request remained unanswered.

<sup>352</sup> On 21 July 2021, CILD administered a questionnaire to the ATS of Nuoro to gather information on the protection of the detainees' right to health. In the absence of a reply, on 12 August 2021 CILD submitted a request for civic access to the ATS of Nuoro, but as of 6 October 2021, it remained unanswered.

<sup>353</sup> On 21 July 2021, CILD administered a questionnaire to the Local Health Authority of Turin to gather information on the protection of detainees' right to health. On 3 August 2021, the Local Health Authority of Turin gave a negative answer, highlighting that it is not in possession of the information requested and, in any case, these are sensitive data that may be transmitted only in accordance with the current legislation.

<sup>354</sup> On 30 July 2021, CILD administered a questionnaire to the ATS of Milan, to gather information on the protection of detainees' right to health. In the absence of reply, on 13 August 2021 CILD submitted a request for civic access to the ATS of Milan, that replied on 13 September 2021.

<sup>355</sup> On 21 July 2021, CILD administered a questionnaire to the Local Health Authority "Roma 3" to gather information on the protection of detainees' right to health. The Local Health Authority "Roma 3" replied on 25 July 2021.

<sup>356</sup> On 21 July 2021, CILD administered a questionnaire to the Local Health Authority of Bari to gather information on the protection of detainees' rights to health. On 6 August, the Local Health Authority informed us that "the District has no competence in relation to the CPRs". On 12 August, CILD submitted a request for civic access that so far remained unanswered. A reply was provided by the Public Service Agency of Bari on 27 September 2021.

## 5.2 CPRs in the time of COVID-19

conduct swab tests as well as the epidemiological surveillance of positive cases. Moreover, despite the announcements of the Apulia Region and the regional Guarantor's recommendations, the Local Health Authority specified that, as of 27 September 2021, vaccinations of detainees had not yet commenced.

**The Public Service Agency of Trapani**<sup>357</sup> reported that as of 22 September 2021, in the local CPR (which was closed from April 2020 to August 2021), there was 1 positive COVID-19 case, and vaccinations of the detainee population had not started yet. However, the Public Service Agency was not able to provide information on quarantine, tracking and sanitization systems adopted within the Centre.

**The Public Service Agency of Caltanissetta**<sup>358</sup> reported that as of 14 September 2021 in the local CPR (which was closed from April 2020 to May 2021), there were 4 detainees who had tested positive to COVID-19. No update was offered, in spite of a specific request for such, regarding the state of vaccinations nor the medical isolation and quarantine systems adopted within the Centre. The Public Service Agency merely stated that: (I) "sanitising activities are carried out by an outside firm entrusted by the managing body"; (II) the tracking system (i.e. swab tests) is conducted on detainees by the Public Service Agency itself.

**The Local Health Authority of Gradisca D'Isonzo**<sup>359</sup> reported that in the local CPR:

- ▶ From March 2020 to June 2021, there were no more than 10 cases of COVID-19 confirmed

amongst detainees. They were put in quarantine in a 25 square metres room, with the guarantee of daily human contact, several times a day;

- ▶ The managing body has regularly carried out (I) swab tests on detainees in order to ensure the efficacy of the tracking system; (II) sanitising activities of the Centre premises, making protective masks available to detainees;
- ▶ As of June 2021, vaccinations of detainees had commenced, even if no information was provided on the number of detainees already vaccinated, nor on the type of vaccine which was used.

However, such statements were contradicted by: (I) migrants detained in the centre and their lawyers; (II) staff members of the managing body; (III) the mayor of Gradisca d'Isonzo. In particular - despite requests to stop entries in CPRs emerged right at the start of the health emergency - between 15 March and 17 April, 6 new people entered the centre, one of whom resulted to be COVID-19 positive and put in isolation.<sup>360</sup> On 26 March, due to the worsening of his conditions, he was taken to the nearby hospital of Cattinara.

It appears that the detainees had received no information about the overall situation nor about the presence of the virus in the facility. The lack of clarity combined with the absence of personal protection equipment led to several protests in the Centres (e.g. hunger strike and fires).<sup>361</sup>

In particular, on 25 March 2020 detainees initiated a hunger strike in protest against the high risk of contagion inside the facility as well

<sup>357</sup> On 13 August 2021, CILD submitted a request for civic accesso to the Public Service Agency of Trapani to gather information on the protection of detainees' rights to health. The Public Service Agency of Trapani replied on 22 September 2021.

<sup>358</sup> On 21 July 2021, CILD submitted a questionnaire to the Public Service Agency of Caltanissetta in order to gather information on the protection of detainees' right to health. In the absence of a reply, on 12 August 2021, CILD submitted a request for civic access to the same Public Service Agency, that finally answered on 14 September 2021.

<sup>359</sup> Such information was gathered through a questionnaire administered by CILD to the Local Health Unit "Giuliano Isontina" on 21 July 2021. The reply was provided on 27 July 2021.

<sup>360</sup> Paola Petrucco-CILD, "CPR Gradisca d'Isonzo", 15 March 2020- 27 April 2020, page1; see also Ministry of the Interior, [Reply to the parliamentary question presented by Sabrina de Carlo](#), 8 April 2020.

<sup>361</sup> Paola Petrucco-CILD, "CPR Gradisca d'Isonzo", 15 March 2020- 27 April 2020, page 1.

## 5.2 CPRs in the time of COVID-19

as the inhuman conditions of detention.<sup>362</sup> On 26 March 2020 a video was posted from the CPR of Gradisca. It showed a detainee, lying on the floor during an epileptic seizure or respiratory failure, who was taken away by staff members equipped with anti-covid protections, while the other detainees were not protected at all. On 29 March 2020, persons detained in the Centre started a protest to denounce the absence of adequate prevention measures.

Police officers violently put an end to the protest, and one of the detainees was transferred to the hospital for the beatings received. Following such episode, several civil society associations reported that personal mobile phone of detainees had been seized in order to find those who were liable for having posted the video.<sup>363</sup> In any case, as early as March 2020 both detainees and the mayor of Gradisca, Linda Tomasinsig, reported the lack of clarity and the absence of personal protection equipment in the Centre.<sup>364</sup>

In addition, between March and April 2020, two parliamentary questions were presented, asking for explanations on the state of contagion inside the CPR in Gradisca.<sup>365</sup> Moreover, according to the National Guarantor,<sup>366</sup> a detainee was released from the centre on 24 April 2020, without receipt of results of a COVID-19 swab test. After having tested positive, he was tracked down in Pistoia,

where he was served a quarantine order. In the meantime this situation has not improved, as confirmed by some civil society associations<sup>367</sup> and lawyers of the detainees in the CPR of Gradisca, who reported instances of their clients being placed in overnight rooms with other detainees who had tested positive for COVID-19<sup>368</sup> and reported the lack of appropriate measures to contain the virus within the Centre.<sup>369</sup>

<sup>362</sup> No-CPR Friuli Venezia Giulia, "[Una richiesta d'aiuto dal CPR di Gradisca](#)", 25 March 2020.

<sup>363</sup> No-CPR Friuli Venezia Giulia, "[Le contraddizioni che affiorano: aggiornamenti da Gradisca](#)", 8 April 2020.

<sup>364</sup> Linda Tomasinsig, denunciation made through her Facebook page, on 25 March 2020.

<sup>365</sup> One presented on 30 March 2020 by Riccardo Magi; the other, presented on 8 April 2020, by [Sabrina De Carlo](#).

<sup>366</sup> National Guarantor of the Rights of Persons Deprived of their Liberty, "[Bulletin no. 27](#)", 24 April 2020, page 2.

<sup>367</sup> Marinella Salvi, "[CPR di Gradisca, silenzi e contraddizioni intorno ai casi di COVID-19](#)", 15 May 2020, on the newspaper "Il Manifesto".

<sup>368</sup> On 4 August 2021, CILD interviewed lawyer Andrea Guadagnini.

<sup>369</sup> On 21 November 2021, lawyer Eva Vigato submitted a report to the Ministry of the Interior, to ANAC and to the National Guarantor, aimed at denouncing all the critical issues encountered during her service within the CPR of Gradisca from December 2019 to November 2020. Lawyer Eva Vigato kindly forwarded this report to us.





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Founded in 2014, the Italian Coalition for Civil Liberties and Rights (CILD) is a network of 43 civil society organisations that works to defend and promote the rights and freedoms of all, combining advocacy activities public campaigns and legal action. The thematic areas which CILD deals with are mainly migrant and refugee justice, LGBTI rights, health justice, Roma and Sinti rights and freedom of expression.

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## **BLACK HOLES**

### **Detention without charge in Repatriation Centres for Migrants (CPRs)**

The report aims at informing on what the CPRs are and on what happens within these grey zones where undocumented migrants are locked up without having committed any crime. CILD's purpose is to shed light where spotlights and cameras are non-existent. In this report, you can find data, statistics, cases and stories concerning the right to health, information, defence and communication with the outside world. Moreover, you can find information concerning the current detention facilities, costs and private management of detention centres. No public place should be a "grey zone". And if it is a place of suffering, then it is necessarily a legal and ethical obligation to make it visible and known. This is the only way possible to bring this topic back to the public and political debate in order to overcome this controversial form of detention.