



**Optional Protocol to the  
Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**Visit to Italy undertaken from 16 to 22 September 2015:  
observations and recommendations addressed to the State  
party**

**Report of the Subcommittee\***

**Addendum**

**Replies of Italy\*\*, \*\*\***

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\* In accordance with article 16 (1) of the Optional Protocol, the report of the Subcommittee was transmitted confidentially to the State party on 26 February 2016.

\*\* On 1 September 2016, the State party requested the Subcommittee to publish its replies, in accordance with article 16 (2) of the Optional Protocol.

\*\*\* The present document is being issued without formal editing.

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## I. Introduction

1. The 1948 Basic Law determines the political framework for action and organization of the State. The fundamental elements or structural principles of the constitutional law governing the organization of the State are as follows: Democracy, as laid down in Article 1; the so-called *personalistic* principle, as laid down in Article 2, which guarantees the full and effective respect for human rights; the importance of labour, as a central value of the Italian community (Arts. 1 and 4); the principle of solidarity (Article 2); the principle of equality, as laid down in Article 3 (it is also the fundamental criterion applied in the judiciary system when bringing in a verdict); the principles of unity and territorial integrity (Article 5); and overall, the principles of social state/welfare, the rule of law and the respect for human rights and fundamental freedoms. Among the “Fundamental Principles”, Articles 10 and 13 of the Italian Constitution set forth as follows:

*“The Italian legal system conforms to the generally recognised principles of international law. The legal status of foreigners is regulated by law in conformity with international provisions and treaties. A foreigner who, in his home country, is denied the actual exercise of the democratic freedoms guaranteed by the Italian constitution shall be entitled to the right of asylum under the conditions established by law. A foreigner may not be extradited for a political offence”;*

*“Personal liberty is inviolable. No one may be detained, inspected, or searched nor otherwise subjected to any restriction of personal liberty except by order of the Judiciary stating a reason and only in such cases and in such manner as provided by the law. In exceptional circumstances and under such conditions of necessity and urgency as shall conclusively be defined by the law, the police may take provisional measures that shall be referred within 48 hours to the Judiciary for validation and which, in default of such validation in the following 48 hours, shall be revoked and considered null and void.*

*Any act of physical and moral violence against a person subjected to restriction of personal liberty shall be punished. The law shall establish the maximum duration of preventive detention”.*

2. Indeed, the Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively protect the fundamental rights of the individual. To this end, we rely on a solid framework of rules, primarily of a constitutional rank, of which the respect for human rights is one of the main pillars.

### **Part I - Preliminary remarks**

#### **Large migratory movements**

3. Although large migratory movements have started in 2013-2014, as recently recalled by UNHCR, *“Persecution, conflict and poverty forced over 1 million people to flee to Europe in 2015. Many came seeking safety for themselves and their families, risking their lives and facing a treacherous journey”.*

4. Italy, through the Navy, Coast Guards and Revenue Guards Corps (*Guardia di Finanza*), is at the forefront of search and rescue activities at sea (SAR), along with the other Forces involved in the Frontex Triton Plus operation.

5. According to recent data made available by UNHCR, during the month of July 2016, 93% of people who disembarked in Europe have been registered in the Italian Regions of Sicily, Calabria, Apulia, Sardinia, and Campania.

6. From 1 January to 31 July 2016 256,319 migrants reached Europe via sea. In particular, between April – July 2016, 75,000 migrants reached the Italian shores; monthly peaks of over 20,000 people have been registered in June-July 2016. In the course of the third week of July 2016, following SAR operations, 5,243 people, mainly from Nigeria, Eritrea, and the Sudan, in distress and need of specific help disembarked at Sicily. As of August 1, 2016, about 140,000 migrants are **accommodated in the Italian reception Centres**.

7. As of 30 June 2016 unaccompanied minors (UAMs) amounted to 12,241<sup>1</sup> - 35 new ad hoc Centres are to be made available in the coming weeks, in order to respond to their increasing number. In this context, funding for the year 2016 has been nearly doubled, compared to the previous year - from 90 million Euros to 170 million Euros.

8. In the course of the year 2016, the endless arrival of irregular migrants, asylum-seekers and refugees in the Italian coasts has been continuing - even at a faster pace, if comparing it with the previous years.

9. Migration remains a priority of a specific complexity and urgency. In this regard, we recall the last relevant UN Secretary-General's report (UN Doc.A/70/59), which stresses the need for, "*Comprehensive responses and enhanced responsibility-sharing for refugees*".

#### **Relevant normative framework**

10. On April 23, 2015, during an extraordinary European Council meeting, the leaders of EU Member States, recognizing the humanitarian emergency in the Mediterranean, adopted a number of initiatives, aimed at dealing more effectively with migration flows, on the basis of renewed solidarity among EU countries<sup>2</sup>.

11. In line with the European Migration Agenda - setting three main strategies for the management of migration flows, i.e. relocation and international resettlement, return, readmission, and cooperation with countries of origin and transit - the European Commission presented a series of concrete measures, to give an immediate response to the current crisis.

12. By EU Decisions No.1523 of 14 September 2015 and No.1601 of 22 September 2015, the EU Council and the European Parliament, on the basis of the emergency response system provided for by Article 78, para. 3 of the TFEU, adopted a number of temporary measures in the field of international protection for those countries that, like Italy and Greece, and, most recently, Hungary, have been facing a growing number of asylum-seekers.

13. In accordance with the above-mentioned EU Decisions, Italy submitted to the European Commission a "*Road-map*", aimed at measures - mostly already adopted - to: improving the capacity, quality and efficiency of the Italian system in the field of asylum, first reception, and repatriation; and ensuring adequate measures for the implementation of the above Decisions. To this end, Italy has put in place a new approach, called "*Hotspot*", aimed at channeling arrivals of nationals from third countries at selected disembarking harbors.

14. At *hotspot* areas, Italian Authorities, supported by EASO, Frontex and Europol officials, carry out the following operations: health-care screening; identification of those being most in need of aid; pre-identification; information activities; identification of

<sup>1</sup> <http://www.lavoro.gov.it/notizie/Documents/Report%20MSNA%2030-06-2016.pdf>.

<sup>2</sup> Excerpt from « The reception plan – 2016 ».

requests for international protection; identification of potential candidates for relocation procedure.

15. By Legislative Decree No. 142/2015 (published in the Official Bulletin, on 09.15.2015), Italy has implemented Directive 2013/33/EU, on standards for the reception of applicants for international protection ("recasting" Directive 2003/9/EC), and Directive 2013/32/EU on common procedures for granting and withdrawing international protection status ("recasting" Directive 2005/85/EC) - thus completing the transposition of the main provisions of the common European system of Asylum.

16. Legislative Decree No. 142/2015 contains in: Chapter I (Arts. 1-24), the new rules on reception (it repeals Legislative Decree No. 140/2005, except for financial coverage provided for by Article 13 of the latter); Chapter II (Arts. 25 and 26) introduces changes to Legislative Decree No. 25/2008, which thus remains in force, though partially modified; Article 27 introduces changes to Article 19 of Legislative Decree No.150/2011 ([http://europa.eu/rapid/press-release\\_IP-15-5596\\_it.htm](http://europa.eu/rapid/press-release_IP-15-5596_it.htm)).

17. Within this framework, mention has to be made of the Agreement (*Intesa*) at the State-Regions Conference, dated 10 July 2014, which establishes and has made operational a relevant integrated strategy between different levels of the national and local Government, besides approving the first National Plan to deal with the extraordinary flow of Non-EU citizens, adults, families and unaccompanied minors. This Agreement (*Intesa*), to be considered as a policy reference document, has been expressly confirmed in the Legislative Decree No. 142/2015.

18. Article 8 of Legislative Decree No. 142/15 stipulates that the Italian reception System for international protection applicants is based on cooperation between the various levels of Government concerned, in accordance with national and regional coordination forms referred to under the following Article 16, which establishes and defines the powers and functioning of both relevant national and regional working groups.

19. Article 16 provides for the national and regional coordination working modalities. The national working group (also known as the National Coordination Committee) is set up within the Ministry of the Interior (See Article 29 of Legislative Decree No. 251/2007, as amended), with the aim, among other things, to improving the reception system of international protection. This WG is tasked with drafting the National Plan for the reception and identification of the reception capacity/availability at the regional level and the relating distribution - to be later determined in consultation with the above Conference (*Conferenza Unificata*).

20. In terms of governance, at the territorial level, there are regional WGs established at the main local Prefectures, with the task of implementing the plans elaborated by the above national WG.

- The National Plan identifies the need for places to be allocated for reception purposes, based on the estimated arrivals in a given period of time.

- The regional WG identifies the criteria for the distribution of migrants within a given Region, besides identifying the facilities of first reception, as well as extraordinary ones.

- The composition and working modalities of both the national and regional WGs are determined by decree of the Minister of Interior.

21. To sum up, Article 8, para.2 indicates the facilities for rescue and first assistance. Article 9 defines the measures for the first reception; Article 14 confirms the role of the SPRAR system (standing for, the System of protection of asylum-seekers and refugees) as the only system for the so-called second level of reception. Article 11 identifies the

extraordinary and temporary measures of reception (the so-called CAS, standing for Extraordinary Reception Centres), should accommodate in the above-mentioned facilities lack.

22. Articles 18 and 19 provide for principles and pathways for the reception of minors.

### **The Italian reception system**

23. The overall picture of the first reception, from 2014 onwards, has gone through an evolutionary process, both with regard to the number of the facilities concerned and the functions performed at some of them.

24. For the purposes of the very first reception and identification of migrants rescued at sea by the vessels engaged in patrol operations and in accordance with the above-mentioned *Road-map*, some Municipalities - where landings take place - have been identified as *Hotspots*, including Lampedusa Island, Trapani, Pozzallo (RG), and Taranto.

25. *Hotspots* allow not only the health-care screening, but also the cataloguing/pre-identification of all migrants before their transfer to reception Centres.

26. For each *Hotspot*, an additional Center has been identified for the reception of migrants from countries that allow relocation processes. In this regard, UNHCR, EASO and IOM organize dedicated information sessions.

27. For the purposes of the first reception, Centres defined as *Hubs* in the Plan approved on 10 July 2014 and in the above-mentioned *Roadmap* (and now referred to as the First Reception Centres under Article 9 of Legislative Decree No. 142/15) are open facilities, to be used in the first phase of reception of those third country nationals who have already undergone the preliminary identification procedures. These Centres have two tasks: enabling to fill in the so-called "C3" paper for international protection purposes; facilitating the transfer to the SPRAR network (the second level of reception).

28. The Centres in Siculiana, Bari, Crotone, and Rome have been also identified as Centres to be partially used for the reception of migrants to be relocated (*relocandi*) to other European countries.

29. Despite the increase in the places made available in the First Reception Centres of the SPRAR System, the high number of asylum-seekers makes it necessary to maintain temporary Centres activated by the Prefects pursuant to Article 11 of Legislative Decree No. 142/15 (commonly referred to as the Extraordinary Reception Centres - acronym in Italian, CAS, standing for *Centri di Accoglienza Straordinaria*). The capacity of this last system has increased from 35,011 (as of 31 December 2014) to 76,683 places (as of 31 December 2015).

30. Based on practices developed under the emergency measures launched under the Borders Fund, the Authority responsible for the Asylum, Migration, and Integration Fund, in collaboration with the Ministry of Health, is implementing a number of "measures to enhance the very first health-care aid during the rescue operations at sea". In order to assist migrants landed on the national territory, this activity is carried out in close cooperation with the Coast Guards, the *Guardia di Finanza* (Revenue Guards Corps) and the Italian Navy, so as to ensure the presence of physicians and paramedics aboard the vessels engaged in relevant rescue operations.

31. With a view to strengthening the reception system, the competent Authority has undertaken, with regard to cases of psychological and health-care vulnerabilities, the revision of specific programs of assistance, treatment and rehabilitation, including long-term ones, for the benefit of the target groups concerned. This process envisages (a) specific operations at reception facilities and (b) integrated psycho-social care by competent

public departments, including through mobile units, in collaboration with the public health-care service, the third sector and the so-called “primary care medicine”.

32. The medium-term objective is to provide support to the public health-care service in the management of those individuals with a specific vulnerability and to raise awareness among local social and health-care service providers, through information-sharing activities.

33. To ensure information and legal support to migrants, particularly vulnerable groups, in the areas concerned by the arrivals by sea, from the month of July 2015 onwards, UNHCR and IOM have launched measures to ensure specific support, in close collaboration with the institutional actors involved, coupled with monitoring of reception conditions in governmental and temporary Centers.

34. As above reported, Article 14 of Legislative Decree No. 142/15 outlines the territorial system of reception-SPRAR (Asylum-Seekers and Refugees Protection System), which is already operational throughout the Italian territory, thanks to the commitment of both central and local Institutions, according to a responsibility-sharing approach between the Ministry of Interior and local Authorities.

35. In implementing the SPRAR system locally, in collaboration with third sector, local Authorities guarantee “integrated reception measures”, which go beyond the mere supply of food and accommodation. Indeed, they also include complementary orientation and accompanying measures of a legal and social nature, in addition to individual pathways of inclusion and socio-economic integration (In this regard, Italy’s efforts are proven by the increase in SPRAR places: from 3,000 in 2012 to 32,000 places in the first months of 2016).

36. In this context, the capacity of “*turn over*” within the SPRAR system is of the utmost importance, meaning how many times the same place can be used by more than one beneficiary, in a year. Data indicates a nine-month long stay in 2015: this is an improvement, compared to the previous year, when the average stay in the reception system was of an 11 month-term.

37. As earlier reported, due to massive migration inflows recorded in 2014, the Institutions concerned have implemented extraordinary reception measures, in accordance with Article 11 of Legislative Decree No. 142/15, so that many asylum-seekers have been accommodated temporarily, within both the first and second level of reception, in apartments or other available structures such as the above-mentioned Extraordinary Reception Centres – CAS. The latter, as of 31 December 2015, were hosting 76,683 people. By strengthening the second level of reception, the Authority responsible of the Fund for Asylum, Migration, and Integration has envisaged specific support actions for individuals entitled to protection, through the definition and implementation of an individualised plan, including targeted interventions of a socio-economic integration nature, which supplements the pathway undertaken under the SPRAR circuit. The latter, which can be realized by all “other relevant stakeholders”, enrolled in the Register referred to under Article 42 of the Immigration Act (in mandatory partnership with local Authorities adhering to SPRAR network), includes the implementation of actions aimed at rehabilitation and socio-economic integration for beneficiaries of international protection (also to conclude the inclusive pathway previously initiated under SPRAR).

38. As part of the second level of reception, mention has to be made of the action, entitled “Protecting the health of applicants and beneficiaries of international protection under psychological vulnerability, including by means of strengthening the institutional capacity”.

39. Within SPRAR - but still on an experimental basis -, we have tested in some cities (Turin, Asti, Parma and Fidenza) hosting family-related initiatives for persons who have been already involved for some time in the SPRAR system.

40. In May 2014, the Department for Civil Liberties and Immigration of the Ministry of Interior indicated to the Prefectures the possibility of signing memoranda of understanding in order to facilitate asylum-seekers integration, by proposing to them to carry out either charity work or community services. The 2016 Stability Law also envisages specific support for the above initiatives, by establishing, on an experimental basis, for the years 2016 and 2017, at the Ministry of Labor and Social Policy, a Fund designed to reintegrating the INAIL mandatory insurance against diseases and injuries. At the end of 2015, seven regional MoUs and more than fourteen provincial and 70 municipal protocols have been signed.

41. The stay at the various Centers<sup>3</sup> responds to the need to complete all the necessary formalities, including identification and recording of applications - before moving the applicant without means of support into decentralized reception. The stay can also vary according to the flows and the availability of places in the various facilities. As earlier reported, this system provides for the possibility of setting-up temporary facilities to deal with consistent arrivals of applicants - which can exhaust the ordinary capacity. The latter must be identified by the Prefectures, in consultation with the local Authority concerned. However, in case of extreme urgency, it is allowed to use the procedures of direct procurement.

42. Reception is ensured throughout the proceedings before the Territorial Commission up to the Decision by the latter, and, in case of judicial proceedings, up to their outcome.

43. To ensure an adequate reception to unaccompanied minors, specific first reception Centers for relief and immediate protection are directly managed by the Interior Ministry.

44. As earlier indicated, the general reception system (Arts. 8, 9, 11, 14 of Legislative Decree No. 142/15) is divided into several stages: rescue; first, and second reception levels.

45. The preliminary phase of rescue, first reception and identification of foreigners can occur in First Rescue and Assistance Centres (acronym in Italian, CPSA), as established pursuant to Law No. 563/1995 (the so-called Puglia Law) in the areas most affected by massive inflows. More generally, the reception system for applicants for international protection is divided into:

(1) The phase of initial reception. It takes place in facilities provided for by Arts. 9 and 11, namely Government reception Centres for asylum-seekers (where operations of identification, application's recording, and assessment of the health conditions take place) and emergency accommodations (should governmental Centres accommodation lack, in accordance with the above-mentioned Article 11). In all cases, applicants who have special needs are transferred, on a priority basis, in the SPRAR system;

(2) The second level of reception takes place when the applicant who has been identified, has formalized his/her application, has no means of subsistence and is accepted at one of the operating facilities under SPRAR system, in accordance with Article 14.

46. The rescue activities include: comprehensive information, in a language understood by migrants, including about the right to express their will to apply for asylum and their rights, as provided for in Article 8 of Directive 2013/32/EU.

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<sup>3</sup> We take this opportunity to stress that the reception at CIE is the result of a measure issued by Police Authority, upon confirmation by judicial Authorities. These Centers are solely meant to facilitate identification and definition of the legal status of the migrant concerned.

- The identification operations must take place only under the circumstances and within the terms provided for by relevant legislation and Regulation (EU) No. 603/2013, concerning the establishment of the “Eurodac” system.

- Moreover, during identification operations, Police forces may be supported by EASO, Frontex, Europol and Eurojust representatives.

47. The listed forms of reception do not result in any kind of coercive measure restricting personal liberty. In the Centres (Article 10 of Legislative Decree No. 142), respect is ensured for: privacy; gender- and age-related needs; health-care protection; family unity; worship; in addition to ad hoc measures for people with special needs. It is guaranteed the right to communicate with the UNHCR, and refugee protection bodies, lawyers, family members, and so forth. Furthermore, the staff of the Centers must ensure data confidentiality and respect for privacy.

- When getting out of the Centers for a period longer than the ordinary one, existing must be justified and authorized by the competent Prefect.

- The unjustified departure from government Centers triggers the withdrawal of reception measures and impacts on the application-related procedure, which will be suspended.

48. Article 17 identifies, in accordance with the relevant European Directive, the categories of vulnerable people who may need special assistance measures: minors; unaccompanied minors; persons with disabilities; the elderly; pregnant women; single parents with children; victims of trafficking in human beings (THB); people suffering from serious illness or mental disorders; people ascertained to have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence; and victims of female genital mutilation (FGM). For these categories, there are special reception services at governmental Centers and under the territorial reception system. Article 29, paragraph 3, of Legislative Decree No. 18/2014, implementing Directive 2011/95/EU on “Standards for third-country nationals or stateless persons as beneficiaries of international protection (...), as well as on the content of the protection granted”, states that the national Working Group for coordination drafts every two years a "national Plan which identifies lines of action to achieve the effective integration of beneficiaries of international protection, with specific regard to socio-labour inclusion (...), access to social and health-care, housing, language teaching and education, as well as fight against discrimination”.

49. The Technical Group of the National Coordination Committee has developed an annotated index of the National Plan, which starts from the analysis of the various needs of the individual in order to plan individualised integrated pathways.

50. The definition of an integrated care model also reflects the existing integrated system of services, aimed to avoid both fragmentation of the expenses and duplication of efforts - besides maximizing effectiveness.

51. Within the Operational Program of the Asylum Migration and Integration Fund, 2014-2020, and based on the results of the inter-institutional consultation process, the following priority areas have been identified: language courses; education; support for employment; integration; social and intercultural mediation; information; capacity-building; fight against discrimination.

#### **Unaccompanied minors (UAMs)**

52. Articles 18 and 19 of Legislative Decree No. 142/2015 are devoted to the reception of unaccompanied minors. Following changes made to the 2015 Stability Law, primarily the transfer of the Fund for the reception of unaccompanied foreign minors to the Interior Ministry, Italy has moved towards a unified reception system, aimed to overcome the



distinction between unaccompanied minors and unaccompanied minors seeking international protection.

53. In particular, in line with the provisions contained in the above *Intesa*, dated 10 July 2014, as for the first reception of unaccompanied minors, the Interior Ministry sets up and manages, also upon agreement with local Authorities, specialized Centers for rescue and immediate protection hosting minors for the strictly necessary time – not exceeding a sixty day-term - for the identification and possible age assessment.

54. The first reception is therefore provided at highly specialized governmental facilities, while the second level of reception is within the enhanced SPRAR framework.

55. Pending the completion of the new system and in line with what was covered in the above *Intesa*, dated 10 July 2014, the Interior Ministry:

(1) Coordinates the establishment of temporary reception structures, as identified and authorized by the Regions, in cooperation with the Prefectures and local Authorities. To this end, the Ministry issued two public notices for the presentation of projects to be financed under the FAMI emergency measures, "Improvement of the Italian territory capacity to accommodate unaccompanied minors." Fifteen projects have been approved for funding. Accordingly, they have started activities as of 20 March 2015, for a total of 737 daily places, in the Regions of Basilicata, Calabria, Campania, Emilia Romagna, Lazio, Liguria, Puglia, Sicily, and Tuscany.

(2) The European Union approved the extension of the project-activities for six more months, which will allow to keep places in the first reception - pending activation of the governmental Centers of first reception under Article 19, paragraph 1, of Legislative Decree No. 142/15;

(3) Increases the capacity of places within the SPRAR network.

56. With reference to the second reception level, it is expected that unaccompanied minors not seeking international protection have access to the SPRAR system, within the limits of the places and resources available. In this regard, the expansion of the system has begun in the second semester of 2014.

57. Finally, following the publication of a new SPRAR-related call for tender, dedicated to minors, the SPRAR network for minors has been further enhanced with the creation of 1,010 new more jobs, activated from December 2015 onwards.<sup>4</sup>

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<sup>4</sup> In order to face the increasing flow of UAMs in Italy, a new reception system dedicated to minors has been implemented from January 1, 2015 onwards, with the aim of setting up first-assistance reception Centers dedicated to UAMs in addition to those created by Municipalities and financed by Italian funds. This system envisages a two-level reception: 1) the first level is immediately activated, after the landing of minors who are mainly transferred to dedicated centers financed from within Italian funds. In order to support the above-mentioned system, the above-mentioned Department for Civil Liberties and Immigration at the Ministry of the Interior signed with the European Commission, the Grant Agreement for the Emergency Measure, entitled "Improving territorial capacities to receive UAMs", under the AMIF – EMERGENCY ASSISTANCE. This addresses UAMs landed in Italy or identified and traced in Italy after landing, in the lapse time between March 20, 2015 - December 17, 2015. This Measure aims at strengthening the first reception phase, with reference to early identification and assessment of the minor age, transfer from landing and tracing sites to the reception centers, also in order to facilitate family reunification and identification of specific vulnerabilities. In this context, the Ministry of Interior issued two calls for tender concerning dedicated temporary reception projects for UAMs at highly specialized structures, in collaboration with project partners such as IOM, Italian Red Cross, Save the Children, ANCI (National Association of Italian Municipalities) and UNHCR and an adequate transition to the second level of reception under the

58. Procedurally, the Juvenile Court appoints an ad hoc guardian for UAMs. Legislative Decree No.142/2015 envisages, inter alia, the child's right to be heard and the adoption of measures, in accordance with the principle of the best interests of the child (Article 18). Thus, his/her views are always taken into account in order to carry out the relevant measures - in his/her best interest.

59. To coordinate the establishment of first-assistance reception Centers, dedicated to UAMs (financed with European funding), a Special Unit (*Struttura di missione per l'accoglienza dei MSNA*) has been established in July 2014, within the Department for Civil Liberties and Immigration at the Ministry of the Interior.

60. Along these lines, the above Special Unit coordinates the transfer of UAMs to relevant Centers, with the involvement of local Administrations, the Juvenile Courts, guardianship Judges, Prefectures (UTG), and Police Headquarters (*Questure*). As per standardised procedure, all Authorities concerned are informed about the transfer, also to keep track of the UAMs reception process. Moreover, this Special Unit coordinates all transfer-related operations of UAMs from the first-level Centers to the second-level of reception within the SPRAR System.

61. The above-mentioned Centers, financed by European funds, provide overall assistance to unaccompanied minors and carry out, inter alia, the following tasks: collection of UAMs' requests to contact their families; cooperation, as appropriate, with consular Authorities from the country of origin so as to gather relevant documentation; reporting to the juvenile court so as to initiate the appointment procedure of a guardian; legal support and assistance, aimed at the regularization of UAMs on Italian territory; individualised information and legal support to prepare the necessary documentation to apply for international protection and the following procedural steps; information and support for family reunification with relatives in Italy or in other EU countries, in accordance with the Dublin III Regulation; first health-care aid for the identification of potential physical and / or psycho-social problems; psycho-social aid and identification of further potential psychological vulnerabilities through specific examinations/psychological tests or consultations; definition of a personal file, by operators specialized in first reception, to be focused on a socio-educational pathway aimed at UAMs' empowerment including within the second level of reception.

62. Key partners involved in this process are IOM, Italian Red Cross, Save the Children, ANCI (National Association of Italian Municipalities), and UNHCR.

63. Following the first level of reception, minors are transferred and housed in reception Centers within the SPRAR system (*Sistema Protezione Richiedenti Asilo e Rifugiati*), so as to facilitate their inclusion in local communities.

64. As earlier reported, Italy is implementing interventions, aimed at increasing the whole UAMs reception system (first and second level of reception), with the aim to a well-defined system based upon highly specialized structures in addition to the SPRAR facilities

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Protection System for Asylum-Seekers and Refugees (SPRAR). As a result, ten selected projects have been launched on March, 20, 2015 while five more selected projects have been implemented since June, 3, 2015, so as to ensure 737 daily places for UAMs; 2) Second level: Minors are transferred and housed in reception centers within the SPRAR system (*Sistema Protezione Richiedenti Asilo e Rifugiati*), so as to facilitate their inclusion in local communities (1.951 places dedicated to UAMs have been made available within the SPRAR). As mentioned, given the fast-changing reality, Italy is working to increase the whole UAMs reception system (first and second level reception). On April 22, 2016, two public calls for reception projects were issued to enlarge: (i) the SPRAR capacity for UAMs, including places for vulnerable UAMs, of 2.000 places; (ii) the first reception system's capacity in highly specialized centers of 1.000 places.

(second level of reception), in accordance with Legislative Decree No. 142/2015 and Article 1-ter, entitled “*Extraordinary reception measures for unaccompanied minors under Article 1-ter of the Bill, converting into law, Decree-Law No. 113/2016, concerning urgent financial measures for the local Authorities and the territory*”, approved by the Chamber of Deputies on July 21, 2016, which complements Article 19 of Legislative Decree No. 142/2015, as follows:

*“3-bis. In the presence of large and frequent arrivals of unaccompanied minors, over a short period of time, in the event that the reception cannot be ensured by the Municipalities in accordance with paragraph 3, it is the Prefect who activates temporary accommodation being exclusively dedicated to unaccompanied minors, with a maximum capacity of 50 places for each structure, in accordance with Article 11. The services mentioned in the decree referred to in paragraph 1 of this Article are secured under any circumstances. **The reception in temporary accommodation cannot be arranged for the child under the age of fourteen and is limited to the time strictly necessary to the transfer towards the facilities referred to in paragraphs 2 and 3 of this Article. For coordination with local services, information about the reception of unaccompanied minors in the facilities referred to in this paragraph and paragraph 1 of this Article shall be provided by the managers of the facility concerned to its Municipality**”.*

65. The second level of reception of unaccompanied minors is arranged within SPRAR. Should places be lacking, reception is provided by local Authorities.

66. At the age of eighteen, UAMs can apply for a permit, to remain in Italy.

67. In order to support UAMs’ integration once they come of age, the Italian Ministry of Labour and Social Policies launched a project in 2015, aimed at promoting 1,000 individual grants in order to enable children to attend vocational and educational courses. This project is also in line with relevant actions under the new EU Funding Operational Programme, 2014-2020 (*Support to social and labour market integration of unaccompanied minors in transition to adulthood*).

68. According to domestic legislation in force (Legislative Decree No. 24 of 4 March 2014, transposing EU Directive 2011/36/EU) and in view of the adoption of a Decree of the Presidency of the Council of Ministers concerning age identification of UAMs as victims of trafficking, a new holistic multidisciplinary Protocol to identify the UAMs’ age has been drafted by the Conference of Regions under the coordination of its Health Commission and with the contribution by regional Authorities, scientific experts, and representatives of International Organizations. It has been approved by the National Health Council in July 2015 and is going to be implemented homogeneously throughout the national territory.

- Given the traumas suffered by UAMs, this issue has been put to the attention of a Technical Committee at the Ministry of Health in charge of drafting new Guidelines on assistance, rehabilitation and support to refugees and persons, who have been victims of torture, psychological and physical violence or sexual abuse. The Guidelines specifically focuses on women and children.

69. During 2015, the number of unaccompanied minors hosted in the SPRAR system has increased significantly, compared to the previous year: from 1,142 in 2014 to 1,640 minors, in 2015.

70. The findings of the Annual SPRAR Report 2015, recently presented, consider some qualitative aspects of the System, including services and reception arrangements, teams’ organization, and training. According to the report, Gambians remain at the top, compared to the previous year, with 35.5%, to be followed by: Senegal (11.3%); Mali (10%); Nigeria (8.4%); Egypt (5.5%); Bangladesh (4.5%); Afghanistan (4,1%); Côte d’Ivoire (3.4%); Ghana (3.3%); and Pakistan (2.7%). Nevertheless, according to the data issued in June

2016, a change in the trend must be noted, with an increase of children on the run from other countries, as follows: Egypt (21%); Gambia (12.3%); and Albania (11.4%), to be followed by Eritrea (7.1%); Nigeria (6.2%); and Somalia (5.2%).

71. With regard to gender, the presence of males (99.8%) remains nearly constant and prevailing.

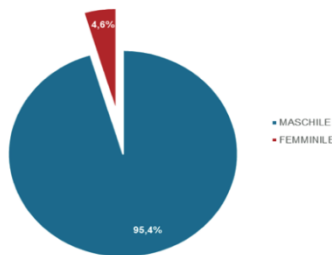
72. Data on age reveal that more than half (52.7%) of unaccompanied minors received into the SPRAR system are newly come of age (at the time of the survey). 45.8% are included in the age group between 15-17; 1.3% in the group 12-14; and 0.2% between 6 and 11.

73. "The stay permit remains prevailing among children," the report says, "and it is in line with the overall figure of the category of hosted adults, with: 59% requesting for international protection and promptly inserted within SPRAR; 34% humanitarian protection; 4% subsidiary protection; refugees are 3% (<http://www.minori.it/it/node/5707>)".

(As of 31 December 2015)

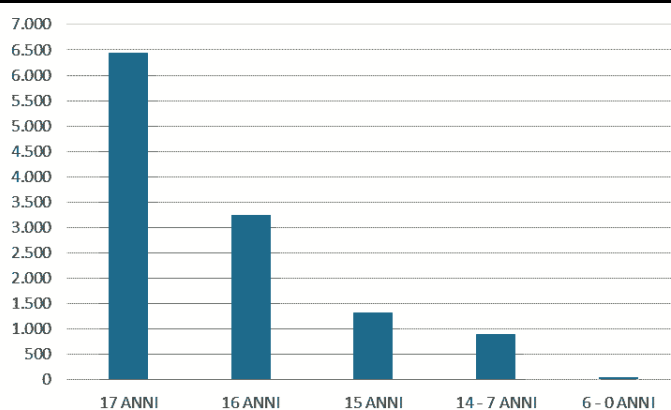
**UAMs' distribution per gender and age**

MINORS			11.921
GENERE	PRESENTI		%
BOYS	11.371		95,4
GIRLS	550		4,6
TOTALE	11.921		100,0



FASCE D'ETA'	PRESENTI		%
17 YEARS	6.432		54,0
16 YEARS			

<i>FASCE D'ETA'</i>	<i>PRESENTI</i>	<i>%</i>
	3.238	27,2
15 YEARS	1.312	11,0
14 - 7 YEARS	896	7,5
6 - 0 YEARS	43	0,4
<b>TOTALE</b>	<b>11.921</b>	<b>100,0</b>



## II. Health-care relevant action

74. Our health-care system, based on the principles of universality and solidarity, provides assistance to everyone (Article 32 of the Italian Constitution). On 20 December 2012, it was approved a State-Regions Agreement, which provides guidelines for the proper implementation by the Regions and Autonomous Provinces, of the specific regulations on health-care, to be applied to foreign population, namely regular migrants, those who temporarily stay for various reasons in Italy, as well as irregular migrants. The above Document, as a result of the two-fold need to both ensure that the immigrant population can have equal access to care and facilitate the work of health-care workers, provides an overview of existing national and regional standards.

- One of the most relevant highlights is the compulsory enrolment in the National Health-Care Service (NHS), with the attribution of a paediatrician of one's choice or the general medicine physician's to all foreign minors being on the national territory, regardless of their legal status.

75. On a more specific note, Italy guarantees all citizens from Non-EU countries who legally reside in Italy, to be enrolled in the National Health-care Service along the lines of the Italians. Therefore, equal treatment and full equality of rights and duties is secured with regard to health-care assistance. This is also extended to family members who depend on those who regularly reside in Italy. Furthermore, the National Health-care Service guarantees foreign nationals in the national territory, who are not compliant with the rules

on entry and residence, both outpatient care and urgent or essential hospital care measures, including “continuing medical care (*medicina continuativa*)” and preventive medicine - to safeguard both the individual and collective/public health. Furthermore, mention has to be made of the specific guarantees concerning: the social protection of pregnancy and motherhood, on par with Italian women; and the health-care protection of foreign minors in Italy, regardless of their legal status, on an equal footing with Italian citizens.

76. More generally, the Ministry of Health performs its international preventive function by making use of its Office of Maritime, Air and Border Health (acronym in Italian, USMAF). This Office (recently renamed, USMAF-SASN) includes an outpatient network for health-care to those travelling by sea and air with a presence at the main harbours and airports of the country and the specific task of implementing all those oversight-related measures, aimed at cross-border prophylaxis, in accordance with the International Health-Care Regulation (The latter, according to WHO, is the instrument to ensure the greatest possible security against the international spread of infectious diseases and the minimal interference over travel, movement and international trade).

- The medical staff of USMAF-SASN at the Ministry of Health carry out health-care controls to detect signs and symptoms of transmittable infectious diseases, which require health-care measures, ranging from the mere health-care surveillance and the hospitalization in those medical Units on infectious diseases, up to the transfer to those national reference Centers with high bio-containment systems.

- Operationally, as for the health-care management of migration flows, USMAF-SASN performs health-care controls, upon arrival at the harbour where vessels involved in SAR operations disembark.

- With regard to the vessels, the health-care control operations can begin aboard or are carried at the docks. They consist in a general *triage*, including body temperature detection and verification of clinical conditions of each migrant.

77. This working modality helps prioritise measures according to the needs of each and every migrant. In general, in the harbors where USMAF-SASN Offices are based, they have put in place with relevant local Authorities and other Organizations, such as the Italian Red Cross, an health-care platform with removable tents, mainly of the Italian Red Cross<sup>5</sup>. As a way of example, mention has to be made of the health-care platform at Catania harbour, divided into the following areas: Medical Area; Surgical Area; Area for pregnant women and children; Isolation Area (for the initial interventions on persons suffering, for example, by cutaneous diseases, such as scabies, or other parasitosis or with suspicious signs of infectious diseases); Morgue; Area for the reception of children with dedicated staff of the Italian Red Cross (A similar organization by "area" is being followed in other ports, particularly in Sicily and Calabria, and, with some variations, also in Apulia and Campania Regions – though to a different extent).

- At the port in Catania, there are, when needed, a high isolation tent (Isoark) and high bio-containment N36 stretchers, which can be used by normal ambulances, for safe transportation purposes, towards appropriate hospitals' infectious diseases wards (e.g. in case of people with suspected symptoms of high transmittable diseases, such as viral haemorrhagic fever). These special stretchers are already available at other ports (e.g. Taranto), as well as in Rome and Milan. Meanwhile, the Ministry of Health has carried out activities aimed at acquiring additional stretchers to be placed in other entry points managed by USMAF.

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<sup>5</sup> With regard to the latter, the Ministry of Health signed in 2007 the first relevant MoU focussing on the organization of Public Health Wards and collaboration in the management of migration flows.

78. In July 2016, additional material useful for the management of suspected cases of highly transmissible diseases, including products for decontamination, has been made available in the eastern and western Sicily (Catania, Trapani).

79. As regards the prevention of Tuberculosis (TB), the project, called "Diagnosis at the docks" developed by USMAF of Catania, in collaboration with Garibaldi Hospital in Catania, is particularly noteworthy. It is well known that many migrants are from highly endemic areas affected by TB. Plus, we carefully consider the very poor conditions of their journeys, which often last many weeks or months and set the conditions for the spread of latent infections.

- Since late summer 2015, the project "Diagnosis at the docks", through a molecular biology technique called "GeneXpert", allows to make the diagnosis of TB in two hours (when the migrant shows suspicious signs and symptoms, such as fever, general *malaise*, persistent coughing, significant weight loss, and is still at the docks for identification procedures).

80. Thanks to the above Project, by screening and rapid diagnosis we have identified and initiated the pharmacological treatment in about 20 cases of active TB<sup>6</sup>.

81. There are other aspects worthy of consideration, with regard to health conditions of migrants, as identified in the course of controls put in place both on board of ships and upon arrival, which are not so much related to infectious diseases but are the result of poor conditions, which these people have been exposed to before and during the journey: in addition to dehydration, fever syndromes not coupled with other symptoms, and conjunctivitis, we frequently detect trauma, burns, injuries from firearms and poisoning by exposure to toxic fumes in the cargo hold.

82. On a more general note, the geographical origin and the demographic profile of migrants is changing. In 2014 and 2015, the average age has risen; and women and children (including unaccompanied) migrants have become more frequent than in the past. Overall, in the period 2013-2015, the distribution by gender and age was, as follows: men 74.54%; 14,28 women; minors 10.39%; and the proportion was, as follows: men 75.56% in 2015 only; women, 17.73%; minors, 7.66%. The health-care controls upon arrival show serious health conditions, including heart disease, diabetes, poliomyelitis (in the form of **paralysis of limbs**) or **other neurological disorders, traumatic and psychiatric outcomes related to torture and violence** suffered either in the country of origin or in the migration route, as well as precarious psychological conditions, and other medical situations, such as pregnancy.

83. Guidelines on "Assistance to refugees, victims of torture, rape and/or other serious forms of psychological, physical or sexual violence". In recent years, Italy has been characterized by an increasing number of forced migrants, so as to become the third European Union country, after Germany and Sweden, for number of asylum applications (as of 31 December 2015, there were 103.792). Forced migrants, asylum-seekers and those entitled to international and humanitarian protection, are - in the context of the migrant population -, a group at high risk of developing psychopathological syndromes due to the frequent incidence of stressful or traumatic experiences, which can seriously impact on their physical and mental health, as well as on their family members' and the society at

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<sup>6</sup> The Ministry of Health actively participated, including with its medical staff, in the Mare Nostrum Operation. This action started in June 2014, following an MoU with the Ministry of Defense allowing the anticipation of medical checks during the transfer to the port. About 20 physicians from the Ministry of Health have been deployed to the Navy vessels up to December 2014. Triton operation replaced Mare Nostrum's. Needless this support keeps going.

large. Therefore, to provide an adequate response to this situation, urgent action in the **field** of the health-care system (that gives greater emphasis to emerging needs, such as proximity to the groups at risk of marginalization) is a priority.

- Needless to say, the adequacy of the reception system cannot be separated by the reorganization of the health-care services, including procedures and the training of personnel.

84. In this context, we are about to launch the "Guidelines on assistance, rehabilitation and treatment of mental disorders of refugees and persons who have been victims of torture, rape or other serious forms of psychological, physical or sexual violence, including specific training programs and refresher courses for health-care personnel", in accordance with Article 27 of Legislative Decree No. 251/2007, as amended by Article 1 of Legislative Decree No. 18/2014. The above document is intended to provide a useful tool by which to ensure appropriate and uniform interventions throughout the national territory besides stressing the importance of a multidisciplinary approach (providing a care related pathway for victims, from identification of symptoms to rehabilitation). In this context, specific attention is paid to both certification, being an essential requirement within the asylum procedure, and mediation.

85. The Ministry of Health also addresses the issue of health protection of care providers taking care of the victims, and pays specific attention to women and children: both are two particularly vulnerable groups.

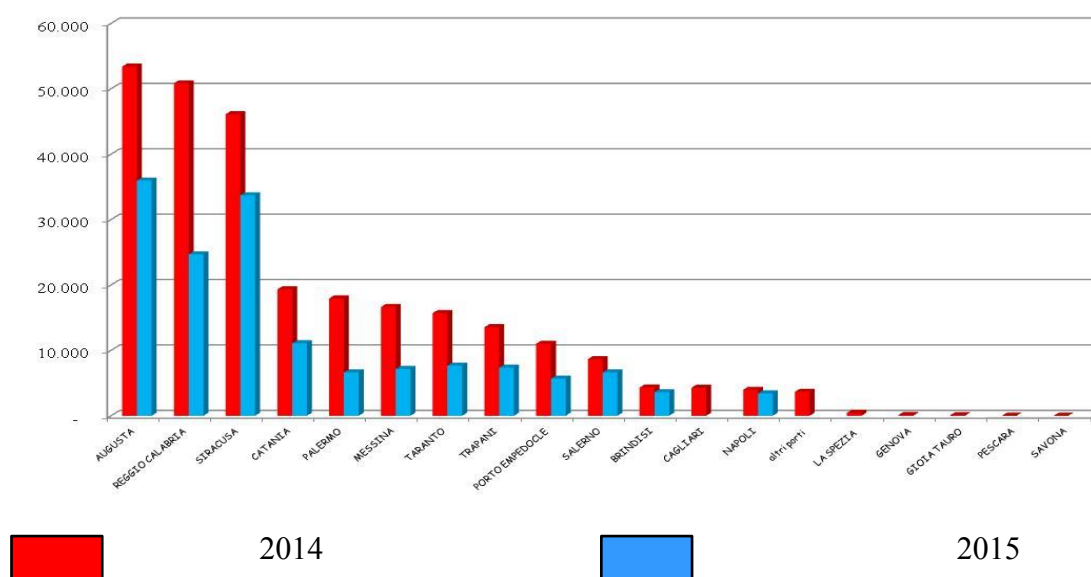
86. In order to ensure early psychological health-care, including health *triage* and identification of vulnerabilities to be detected in complementarity with Search and Rescue at sea, the year 2016 saw the launch of the project, called PASSIM (*Primiissima Assistenza Sanitaria nel Soccorso in Mare* – Very first health-care during rescue at sea operations), with resources from within the Fund on Asylum, Migration, and Integration, 2014-2020. In this context, the Ministry of Health, upon delegation by the Ministry of Interior, is the recipient of European resources, and ensures the technical coordination and the health related education of staff working on board of naval units of the Navy, Coast Guards, and Revenue Guards Corps (*Guardia di Finanza*). Project partners are the General Staff of the Navy and IOM. The Organizations involved that make available their own health-care staff are as follows: CISOM; the Military Corps; and the Corps of Nurses volunteering within the Italian Red Cross, and the RAVA Foundation (Health-related data resulting from *triage* will be gathered through a computerized system to be made available in the following stages of the health-care pathway).

87. We intend to improve access to health-care of: migrants who are under vulnerable conditions at the arrival, thanks to real-time triangulation among physician/nurse, immigrant, language mediator, and other actors engaged in rescue at sea; and of all those waiting at the landing sites and within the reception network - also thanks to training activities.

88. Finally, the Ministry of Health will test a migrant's medical record model, intended to be an innovative intervention to facilitate timely health-care responses by matching relevant migrant's needs, including of a cultural and language nature. The expected result for the latter is the tracking and collection of health-care data, in compliance with the confidentiality required by the legislation.

89. The graphs below show the commitment of each Office of Maritime Health in the management of migration flows; and the monthly distribution of newly arrived migrants in the period 2014-2015:





**Graph No. 1 Irregular migrants arrived in 2014 - 2015 – Distribution by territorial area involved in the healthcare surveillance. Source: General Directorate for health-care prevention-Ministry of Health, on the basis of USMAF reporting.**

90. On surveillance and health-care prevention, the incidence of common infectious diseases recorded among immigrants is not higher than the one referring to the native population, particularly in Sicily – although this Region is at the forefront in the arrival management. In particular, diseases, such as scabies or lice (related to poor living conditions before boarding), although frequently observed in immigrants, do not pose a real risk of infection since they are easily and readily controllable with simple preventive measures and adequate therapy. Further conditions such as Tuberculosis can be effectively addressed with appropriate and timely measures, such as those implemented through the aforementioned project "TB Diagnosis at the docks".

91. The surveillance of infectious diseases (and with it the relating health-care assistance) does not end with the arrival, but obviously continues under the responsibility of the National Health-care Service, for the entire duration of the stay of migrants in the national territory; that is why we make use of specific tools, such as syndromic surveillance in accordance with Circular No. 8636 of 7 April 2011, issued on the occasion of the Arab Spring – supplementing the ordinary system of surveillance of infectious diseases.

### Monitoring

92. Article 20 of Legislative Decree No. 142/2015 provides for monitoring and oversight on the management of the reception facilities. This activity concerns the verification of the quality of services supplied and the respect for the reception levels and the procedures set for the management of relevant services. Specific attention is paid to services for vulnerable groups, including minors. To this end, the Department for Civil Liberties and Immigration of the Ministry of the Interior may employ qualified professionals, selected among retired officials of the Public Administration, or relevant International and Intergovernmental Organizations.

93. In parallel, mention has to be made of the monitoring activity, including of SPRAR (managed by the National Association of Italian Municipalities), carried out by the Central Service of the Ministry of Interior, in accordance with Article 1-sexies of Decree-Law No. 416/1989, as converted with amendments in Law No. 39/1990.

## **Part II – Specific issues (as considered in the SPT report under reference)**

### Para.7

94. As per consolidated practice, Italian Authorities have lent their support, prior, during, and after the country mission under reference.

95. In particular the Department of Public Security (DPS) of the Ministry of Interior has provided the SPT with comprehensive information (prior to the mission) through CIDU. The Department specifically provided the SPT with: the list of all Police forces' security rooms; relevant legislation, including regulations and internal memos concerning immigration and borders management, which have been also translated into English.

96. More importantly, the DPS stresses that there was no information gap nor impediments in the access to information.

### Para. 9

97. In line with the mission's agenda, the SPT met with a variety of representatives of the Administrations concerned, including of a political nature. More specifically, the SPT met with all DPS representatives concerned, during both the missions held in September 2015 and in February 2016. The SPT held political level meetings with H.E. Domenico Manzione, Under-Secretary of State for Interior Affairs (assisted by DPS representatives), on 16 September 2015 and 4 February 2016.

### Para.10

98. There was no initial "misapprehension" on the SPT mandate, as proven in particular by the organization of the visit to the various sites and facilities by the DPS (September 2015). There have been, however, some operational *defaillances* in the course of the first day (of the mission), which have been immediately considered by DPS, and explanation in this regard has been promptly provided through CIDU, in addition to the indication of the measures apt to solve the possible operational problems, which could emerge in the course of the mission under reference.

### Paras. 12-13

99. Presidential Decree of February 1, 2016, on the appointment of President Mauro Palma and member of the Collegiate Panel Emilia Rossi, was followed by Presidential Decree of March 3, 2016, on the appointment of the third member of the collegiate Panel, Ms. Daniela de Robert. So, at present, the collegiate formation of the monitoring body is complete. The law setting up the said Authority clearly establishes the independence of the collegiate Panel, which is appointed by the President of the Republic; it reports to the Presidents of the Chamber of Deputies and Senate of the Republic; cannot be renewed after its five-year term, neither is it removable except for criminal responsibility. Even the initial lack of an emolument for the activity carried out was corrected by an amendment to the law setting up the body, providing for the granting of an allowance for the President and members of the collegiate Panel (Article 1, paragraph 317, of Law No. 208 of 28 December 2015). The independence of the collegiate Panel has been thus strengthened.

100. The Office of the National Authority has been operational since March 25 of this year and has already recruited eight staff members by selecting them independently from the permanent staff of the Justice and Interior Ministries. In fact, by an order dated March 24, 2016, four other persons have been assigned to the Office of the National Authority for the rights of persons detained or deprived of their liberty, who added up to those initially assigned. This staff quota allows the Office to be operational. The staff have been identified by the Authority in the different areas of professional expertise (legal and pedagogical,

administrative, IT and security expertise) of the prison, judicial, juvenile and public security administrations. Such staff are exclusively at the service to the Authority and cannot be sent to other offices without its favorable opinion (Article 4, para. 2, of Decree of the Minister of Justice No. 36 of 11 March 2015); this allows for the functional independence of the Office's staff.

101. The collegiate members of the body and its staff work in Rome; its headquarters are located in Via San Francesco di Sales 34 (Article 6 of the Code of self-regulation of the activities of the Office), where on 27 April 2016 the first press conference to launch the new body was held.

102. Decree of the Minister of Justice No. 36 of 11 March 2015, in defining the independent functional operation of the new body, makes explicit reference in the introduction to the law on the "Ratification and implementation of the Optional Protocol to the UN Convention against Torture and other cruel, inhuman or degrading treatment, done at New York on December 18, 2002" (Law No. 195 of 9 November 2012) and, in particular, to Articles 17 et seq. of the Protocol. In addition, in its Article 2(b), it provides that the Authority shall adopt a Code of self-regulation of the Office's activities - thus the rules governing the operation of the body, the guiding principles of its conduct, of the conduct of the members of the Office and of all those who, for whatever reason, cooperate with the Authority -, are in accordance with the OPCAT principles.

103. Consistently, the Authority promptly adopted by Decision of May 31, 2016, the aforementioned self-regulatory code. Article 2 of this Code underlines that the Authority functions shall be carried out in accordance with the powers conferred by the 2014 law setting up the body, by the regulation in the already mentioned Ministerial Decree and, therefore, in particular, in accordance with the principles set out in Part IV, Articles 17 to 23, of the UN Protocol. In listing the functions of the Authority, the Code specifies, *inter alia*, that it shall examine – on a regular basis - the situation of persons deprived of their liberty who are in places, including mobile places, under OPCAT Article 4 (i.e. in all places of deprivation of liberty, however described and whatever the responsible authorities); shall actively work to improve the treatment and the situation of persons deprived of their liberty and prevent torture and other inhuman or degrading treatment, proposing, if necessary, the strengthening of safeguards which it shall identify also through the exchange of information and mutual cooperation with the Subcommittee on prevention of torture and other national protection mechanisms established by other States which ratified the UN Protocol; shall draw up the annual report on its activities which shall include the necessary recommendations and forward it to the President of the Republic, the President of the Constitutional Court, the President of the Senate of the Republic, the President of the Chamber of Deputies, the Prime Minister, the Defense, Justice, Interior and Health Ministers, also publishing the report both on its website and on that of the Justice Ministry. Therefore, the Authority is clearly outlined as a preventive instrument in relation to inhuman and degrading treatment and torture. Through the annual report, the Authority provides observations which can directly give guidelines on the legislative activity under discussion and in the process of being adopted. This practice is in fact already in place, since the National Authority has already been involved by the Justice parliamentary committees in order to have opinions about the legislation in the process of being adopted. Article 3 of the Code explicitly states that the Authority freely exercises its mandate carrying out totally independently and without any interference its institutional duties to protect the rights of those detained or deprived of their liberty.

104. In particular, the Authority makes use of facilities and resources made available not only by the Ministry of Justice, but also by other State administrations and EU and international organizations operating in line with the objectives of the law establishing the Authority and in full compliance with the principles of the UN Protocol. Therefore, the

National Authority is established within the Ministry of Justice, uses the Ministry's resources but it is not included in its hierarchical structure and cannot be considered as one of its branches, thus taking the form of a fully independent body. Similar independence is established in relation to other authorities concerned by its action.

105. In line with OPCAT Article 17 *et seq.* and, in particular with its Article 20, the Code (Article 3) highlights the possibility of access to places and documentation without restrictions (except for the need to obtain the consent of the person deprived of his/her liberty, in order to examine documents contained in his/her personal file, in particular health documents). Moreover, the Code (Article 4) lays down the guiding principles of the Authority and, first of all, the complete independence of conduct in compliance with OPCAT principles, with particular reference to Article 18, which establishes the independence of its personnel, both at functional and financial levels (in the sense that States must make available to the Authority the "necessary resources for their operation").

106. Article 4 of the Code also establishes the need to protect the confidential information obtained, the obligation of secrecy about what has been acquired during the institutional visits and, in general, in the performance of the other tasks of the Authority, the obligation of confidentiality about the outcome of the visits, until it is published and the obligation to timely transmit any *notitia criminis* committed against persons deprived of their liberty to the judicial authorities.

107. Article 4, para.2, provides for protection from possible reprisals: in fact, the Authority is actively committed to ensuring that no one (public authorities or public officials) orders, applies, permits or tolerates any sanction against any person or organization for having communicated any true or false information to the Authority and, more generally, that no kind of prejudice is suffered (to be considered also with regard to Para. 115 of the CPT report under reference).

108. In conclusion, the different types of legislation adopted over the last year and subsequent to the visit of the Subcommittee delegation, are considered to have remedied the unclear aspects of the original law and thus overcoming the reservations that had been expressed in relation to the initial text. In addition, the National Authority has already started a large scale activity in the various fields of deprivation of liberty, in a totally independent and remarkably effective way considering its recent launch (Please find below the list of the monitoring activities already carried out; and the publication of the first reports can be found on the National Authority website at: [www.garantenpl.it](http://www.garantenpl.it)).

109. Moreover, the logistical, financial and functional structures, currently available, make the action taken efficient (and effective). Finally, it should be noted that by a public call for applications [*interpello pubblico*], the National Authority is selecting staff to complete the organizational chart set by legislation and by September the Office will have the number of staff members tripled compared to the number currently available.

### **III. List of visits conducted by the National Preventive Mechanism (as of July 31, 2016)**

(a) Reception facilities and monitoring of repatriations-related operations: 7 March 2016: *Hotspot* in Milo-Trapani; 13 April 2016: monitoring of disembarkation and pre-identification at Reggio Calabria harbour; 19 May 2016: monitoring a Ministry of Interior charter flight repatriating Tunisian citizens on the route Lampedusa Island – Palermo – Hammamet; 26 May 2016: monitoring at Fiumicino airport (Rome) repatriation procedures concerning a Peruvian citizen expelled by the Prefet in Milan, in accordance with Art.13, para.2, lett. a-b, Legislative Decree No. 286/98; 26 May 2016: visit to the temporary security rooms of the State Police at Fiumicino airport (Rome) for those irregular

foreign citizens either put under arrest or to be extradited; 20-21 June 2016: visit to CIE in Brindisi and at the *Hotspot* in Taranto; 14 July 2016: monitoring a Frontex flight for the repatriation of Nigerians to their country of origin; 21 July 2016: monitoring a Ministry of Interior charter flight, in collaboration with Frontex for the repatriation of Tunisians on the route Rome – Palermo – Hammamet.

(b) Visits and monitoring of penitentiary facilities and Police security rooms: 2 April 2016: visit to the prison in Oristano-Massama, “Salvatore Soro”; 4 April 2016: meeting with prisoners at high security wing No. 1, of the prison in Padua; 5 April 2016: visit to the prison in Venice – Santa Maria Maggiore; 11-14 April 2016: regional visit to the facilities in Calabria region. The NPM visited three prisons (Catanzaro-Siano, Reggio Calabria-Arghillà, Reggio Calabria-Panzera); the security rooms at Police station in Catanzaro Lido, as well as those ones at the Police HQs. in Reggio Calabria; 2 May 2016: visit to the to-be-established foster home for female detainees with children up to the age of six (in Rome); 6 May 2016: visit to the prison in Trento; 7 May 2016: visit to the wing of the prison in Gorizia, to be intended for LGBTI detainees; 17 May 2016: visit the psychiatric wing of the penitentiary facility in Lecce; 23 May 2016: visit to the penitentiary institute in Bollate (Milan), for an individual interview with a detainee, only; 26 May 2016: visit to the penitentiary facility in Paliano; 9-10 June 2016: visit to the 41 bis wing of the prison in Viterbo; 28 June - 5 July 2016: inter-regional visit to the facilities of the following Regions: Veneto; Trentino Alto Adige; Friuli Venezia Giulia (detention facilities at the following Municipalities: Belluno; Bolzano; Gorizia; Tolmezzo; Trento; Vicenza). The NPM also visited the Juvenile Detention Facility in Treviso; the security rooms at both the Vicenza Police HQs. and the provincial Command of the Carabinieri Corps. Moreover, it has been visited the foster home for juvenile offenders “Giuseppe Olivotti” at Riese Pio X (Tv); 28 July 2016: visit to the “Regina Coeli” prison in Rome.

#### Para.17

110. The Italian legal system envisages “detention” under the forms and circumstances prescribed by the penal law.

111. On the other hand, when the need emerges to restrain personal liberty in order to remove impediments to the execution of the expulsion order, the Italian legislator envisages the institute of “holding” the person to be expelled at Identification and Expulsion Centres, in accordance with Article 14, para.1, of the Unified Text on Immigration. In this case, the above normative framework concerning “detention” does not apply. We take this opportunity to reiterate that migrants staying at CIEs are not confined in a security room nor undergo the penitentiary regime, though living in an enclosed space. Within these Centres, no contact whatsoever is envisaged with Police forces (that are entrusted to surveil the facility and to deal with the status/situation of each migrant, only) but all the activities are managed by an Authority or by a private body following a contract signed with the relevant Prefecture, which, needless to say, do not exert any coercive power in relations to those staying in the Centre.

112. However, Police can enter the areas where the persons concerned stay only for order and public security purposes (riot, disorder, etc) or for the execution of judicial police-related activities, such as the arrest when an individual may have hit another one during a fight.

#### Para.18

113. The institute of holding an individual has no repressive purposes. It is applied only to remove obstacles to the execution of an expulsion order within strict deadlines, not exceeding 90 days, in accordance with the amended Article 14, para.5 of the Unified Text on Immigration, «*The stay in the CIE cannot exceed a 90-day term under whatsoever*

*circumstances (in ogni caso, il periodo massimo di trattenimento dello straniero all'interno del Centro di Identificazione e di Espulsione non può essere superiore a novanta giorni)».*

Para. 19

114. Italy does not pursue any policy focused on mandatory “*trattenimento*”, including groups of people. More importantly, the “*trattenimento*” is based upon the examination of each and every person, taking into consideration the requirements of necessity and proportionality – for each and every individual situation. A similar approach applies when examining the related expulsion order, which is always based upon a case-by-case rule<sup>7</sup>.

Para. 25

115. Italy pays the utmost attention to the various forms of vulnerabilities. Pregnant women and UAMs do not stay in these Centres. Furthermore, the stay at CIE is possible only after a medical examination by a physician from the local hospital, who must certify that the person concerned is not affected by: any transmittable or contagious disease; psychiatric problems; and acute or chronic pathologies which cannot be adequately treated. In addition to that, once entering the Centre, the person concerned undergoes a medical examination by a physician of the Centre who must ascertain the lack of factors making the stay incompatible with community life. The latter can be also reiterated over time (Article 3 of the Unified CIE Regulation).

Para. 26

116. The purpose of the staying at a CIE (Identification and Expulsion Centre) is to avoid that the escape of the migrant from the expulsion procedure, pending the removal of obstacles to its execution. The stay, unlike detention, does not have any repressive punishing character. The national legislation envisages the maximum stay of 90 days while EU Directive 115/2008<sup>8</sup> allows for a period stretching to 18 months.

Para. 27

117. Article 14, para.1 bis, of the Unified Text on Immigration, in some cases envisages alternative measures to the stay at CIEs, such as: a) retaining the passport or corresponding ID cards, to be given back when the migrant must leave; b) mandatory residence; c) the obligation to go, at fixed times, to the Police station.

Para. 28

118. Re-admission agreements are intended to introduce simplified procedures to identify the nationality of foreigners and to get the travel documents: These agreements are thus a valid tool to reduce the stay duration at CIEs.

119. In this regard, as for the alleged risk of “collective expulsions”, the proportion between migrants arrived in Italy from countries with which these agreements are in force and the number of those ones staying at CIEs should be considered. Figures show that there is no automatic stay practice.

120. The data below refer to adults only and do not represent the total of those migrants of a given nationality (which falls within the above re-admission agreements) disembarked in Italy: in 2015, 2.086 Tunisians arrived in Italy, of whom 1.262 people stayed at CIEs; in 2016 (January – April), 147 Tunisians, of whom 73 at CIEs. As for Egyptians, in 2015 1.630 irregularly entered Italy, of whom 760 stayed at CIEs; in 2016 (January – April 2016), Egyptians were 279, of whom 73 at CIEs. As for Nigerians irregularly entering Italy,

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<sup>7</sup> Art. 13, comma 2, del novellato D. Lgs. 286/98.

<sup>8</sup> Article 15, paras. 5, 6.

in 2015, they were 22.128, of whom 691 at CIEs; in 2016 (January – April), they were 3.945, of whom 229 at CIEs.

Para. 29

121. We reiterate, once again, that expulsion procedures are based upon a case-by-case approach. No mass expulsion takes place at all.

Para. 30

122. Like other disembarking places, at *Hotspots* the first activity is to rescue people, check their health situation and supply them with primary services. Only at the end of these operations - the duration of which is not fixed and depends on the search of the most vulnerable and in specific need of help - following the pre-identification, we carry out police-related activities, in accordance with the legislation in force.

123. With regard to independent monitoring at *Hotspots*, on March 31, 2016, on the occasion of the “*Roadmap’s update*”, we have included in it the so-called SOPs (*Standard Operating Procedures*), as jointly drafted by the Department of Civil Liberties and Immigration and the Department of Public Security, with the contribution from Frontex, EASO and Europol, as well as NGOs, UNHCR, and IOM. SOPs result in a detailed operational guidance, describing the above activities at Italian *Hotspots*, including each and every role and responsibility. SOPs have been transmitted to all Prefectures and Police HQs., on May 17, 2016.

Para. 31

124. As for the role of the NPM, please refer to information above provided under Paras.12,13.

First reception – (Hotspot)

As already pointed out, SOPs allow to strike an effective balance between the need for a correct identification of migrants and the protection of their rights. In this regard, we stress the following:

- Information provided to migrants with regard to the right to apply for international protection is ensured through modalities apt to guarantee full understanding in a language understood by migrants and by a overall multi-staged process;

- As for the safeguards envisaged by SOPs, a coordination and monitoring WG has been set up (*SOPs Table*). It consists of International Organizations’ representatives, including UNHCR and IOM, with the ability to work in an effective and impartial fashion, including by providing operational information, aimed at overcoming management-related criticalities, as identified during the first reception of migrants (meaning, from the disembarkation to the transfer to reception facilities);

- The *Hotspot* approach, to be considered as a team-work modality, allows for internal *monitoring*, as long as all care providers involved, has the capacity to detect whatsoever criticality, to be indicated to the above SOPs Table, based in Rome;

- As for security-related checks, health-care providers of both sexes are always available during the health-care screening;

- The identification of vulnerabilities is one of the priorities. In this regard, at *Hotspots*, there is a specific oversight system focussed on: women, victims of THB; persons with psychological disease, and so forth;

- The identification of the nationality is a stage during which migrants' rights are guaranteed in an effective fashion, meaning that under whatsoever circumstances, the possibility to apply for international protection is secured regardless of the nationality declared or the one which is ascertained;

- From the very disembarkation, drinkable water and other primary services are immediately supplied. Moreover, providers at both the docks and within the relevant facilities can timely respond to specific needs that might arise;

- The *Hotspots* managing staff include linguistic and cultural mediators, as well as legal counselling providers. They can also resort to psychologists. This multi-faceted approach allows to promptly intervene, assist, and protect disembarking UAMs;

- As for medical treatment, medical examinations are usually carried out with a cultural mediator with the ability to communicate with migrants;

- More importantly, the staffs of the Managing Authority, IOs and NGOs' are professionally skilled and adequately trained. In this regard, the Ministry of Interior has organized specific training sessions for the *Hotspots* staff;

125. Against this background, it should be recalled that the Bill on the introduction of the crime of torture was approved by the Chamber of Deputies, on April 9, 2015. This (AS 10-362-388-395-849-874 –B) is now pending before the Senate, for examination (as from July 14, 2016).

Paras. 42 - 43

126. As for the alleged prohibition for CIEs staff to inform migrants about expulsion, we are not in a position to accept such a statement. The Managing Authority staff, entitled to keep contacts with migrants staying at CIEs, must inform them about the *Regolamento unico CIE*. Police forces intervene during pre-repatriation stage and for order and public security purposes, only.

Para. 45

127. Article 13, para.7, of the Unified Text on Immigration expressly envisages that every measure regarding expulsion, staying at CIEs, as well as any other measure concerning the entry and stay are communicated to the foreigner, jointly with his/her right to challenge the relevant measure, in a language understood by the person concerned. If this is not possible information is provided in French, English or Spanish. In this regard, during the consideration of Italy under Schengen with regard to returns (held on March 14 through 18), the evaluators' Team of the European Commission deemed of relevance the practice introduced by the Immigration Offices namely translation of relevant measures in one of the languages indicated by the legislation in force.

Para. 55

128. As reported above at disembarkation Municipalities there are always representatives from relevant International Organizations and NGOs (UNHCR, IOM, and Save the Children) that promptly provide migrants with information about their legal status and what to expect during the following phases. Each and every measure concerning the situation of the foreigners always indicates the rationale, working modality, and the competent judicial Authority.

Paras. 59 - 60

129. As for the allegations made and concerns raised by the CPT, they appear to be groundless because there is no reference to either concrete episodes, or criminal proceedings. The narrative indicated in the SPT report concerning alleged generalised



practices of abuse against innocent people, even under criminal investigation, seems to be the result of allegations/interviews the accuracy of which should be substantiated.

130. More importantly, the background under reference is detrimental vis-à-vis both the judicial Authorities (especially the Attorneys' Offices at disembarkation Municipalities) and the Police forces engaged in the fight against THB. Needless to say, this fight requires the prompt acquisition of relevant information and every useful evidence, to be eventually used in a possible judicial proceeding. Therefore, Para.60 recommendation cannot be accepted at all. We take this opportunity to recall our rigid Constitution, envisaging specific principles, inter alia: (Arts. 22 – 28 Cost.) due process of law; fair trial; presumption of innocence; right of defence and legal counselling/aid; the possibility to apply for protection; the double adjudication that in Italy includes three instances; the ECHR, and so forth.

#### Para. 61

#### **Pozzallo (UAMs)**

131. With regard to minors at Pozzallo *Hotspot*, it has to be recalled that in this Province there has been a significant number of landings that have also seen a massive presence of unaccompanied minors.

132. Regarding UAMs, the Municipalities concerned hold the competence to placement in suitable facilities and, in particular, in those ones that are accredited and registered in the Regional Register.

133. Furthermore, even though it is not within its strict competence, the Prefecture together with the Police HQs contributes to the search for facilities, so that the stay at the Hotspot is limited to the minimum time, necessary for pre-identification and assistance. In this context, support is provided by the ad hoc UAMs Unit of the Ministry of Interior, indicating the availability of places in FAMI (standing for Asylum, Migration, and Integration Fund)-related governmental structures as located throughout the country.

134. In particular, as per rule, in the immediacy of a landing of unaccompanied minors, the personnel of the Immigration Police Headquarters, once the relevant procedures are completed, immediately informs the Juvenile Court, entrusting children to the City of Pozzallo – this City is to be intended as the one in charge of tracking and temporarily placing the children concerned at the CPSA (where to wait for available places in the aforementioned accredited facilities). In this respect - and also with reference to Paragraph 84 - minors are regularly and systematically identified as a top priority.

135. Moreover, at the Center there are on regular basis representatives of Save the Children and Terre Des Hommes, collaborating with Police officers pursuant to MoUs and agreements with the Ministry of Interior and the Prefecture in Ragusa. Also with the help of those NGOs - that give legal counselling - the statements on the age are collected and duly considered.

- The accommodation of minors in accredited facilities, thanks to the cooperation of Save The Children – that is always properly involved – has been generally achieved in the shortest possible time. Permanence, even at critical periods, is generally contained in a reasonable time.

136. Following the high number of unaccompanied minors' arrival – coupled with the overcrowding at both FAMI and Sicily Region authorized structures - the City of Pozzallo has been unable to find the places required for the proper arrangement of all arrived minors. Therefore, their stay at the *Hotspot* has been exceptionally extended.

137. The City of Pozzallo, although actively engaged in the search of places at accredited facilities, has indeed encountered difficulties to manage an objectively complex situation for the extraordinarily high number of minors.

Paras. 61 - 65

138. The health-care staff of the Offices of Maritime, Air, and Border Health-Care (USMAF) consists of both women and men. Depending on the availability, personnel of both sexes, is employed in health-care control activities, which have nothing to do with identification and border control-related activities: the latter falls within the competence of other administrations and authorities.

139. The USMAF does not include cultural and linguistic mediators. However, these professionals work in the Centers for migrants.

140. As for health-care assistance to be provided to migrants, it is worthy of mention that the Interior Ministry, with the technical contribution of the Ministry of Health, issued a Regulation on the criteria for the management of the Centers for Immigration (CIE). The latter also contains sections devoted to the establishment of health-care conditions and medical care of those migrants housed in the Immigration Centers (Decree of the Ministry of Interior, dated October 20, 2014).

141. When, during USMAF assessments, health-care problems and specific vulnerabilities emerge, migrants, upon agreement with the local health-care services (ASL), will be sent to appropriate health-care facilities.

142. With regard to the identification of vulnerable groups, mention has to be made of the technical WG at Directorate General of Prevention at the Ministry of Health that is tasked with preparing the above-mentioned "Guidelines" on the assistance to migrants, victims of torture - to be implemented within the financial resources available under the legislation in force (based on Article 27, paragraph 1 bis of Legislative Decree No.251/2007, as amended by Article 1 of Legislative Decree No.18/2014). This Technical WG involves other Directorates-General of the Ministry of Health, the National Institute for the Promotion of the Health of Migrant Populations (NIHMP), the Interior Ministry, the regional representatives with expertise in the field of socio-health-care programming attributed to the Regions by Article 117 of the Constitution, the United Nations High Commissioner for Refugees, representatives of NGOs with qualified experience in the subject areas concerned (including on the reception of refugees and the rehabilitation of torture victims), as well as NGOs accredited to take care of the promotion of children's rights and their health-care (including the creation of special reception pathways for women and minors).

Para.71

143. It should be noted that children have not been held at the *Hotspot* but regularly entrusted to the City of Pozzallo, that has temporarily hosted them pending detection of a suitable accommodation.

144. In the current year, given the extension of their stay in the local *Hotspot*, minors are provided with a regular pass and can freely move outside.

145. Against this background, in order to limit, even on a provisional basis, the children's presence at the *Hotspot*, the Prefecture concerned has identified and indicated to the City of Pozzallo (as a safe place for temporary accommodation of minors) a structure of 40 places, within a project, called "Mediterranean Hope" of the Italian Federation of Evangelical Churches (financed with resources from 8 per thousand taxes devolution to the Waldensian Church), and sought other solutions by identifying another structure (48 more places) of the Roman Catholic Church, to be made available soon.

146. Above all, the Catholic Church has identified a structure owned by the Region of Sicily, granted for use to the Prefecture of Ragusa for the construction of a first reception center supporting the *Hotspot* in Pozzallo, with a capacity of 150 places and green areas suitable for recreational activities, to be destined to temporarily accommodate

unaccompanied minors and other vulnerable persons - pending an appropriate and final placement solution. Renovation works are likely to be completed within two months.

147. Finally, to further deal with such circumstances, upon positive opinion by the Interior Ministry, the Juvenile Courts, the Police HQs in Ragusa, and the City of Pozzallo, the Prefecture has decided to adopt a temporary and necessary solution, by hosting (for the time strictly necessary to provide new places) minors entrusted to the City of Pozzallo, at some CASs of that Province (consisting of five facilities for a total of 167 accommodations/places, which are not used by any asylum-seeker and can be considered as "safe places", at which minors: are welcomed; do not share these areas with adults; receive a more holistic assistance; and are engaged in recreational activities and training besides taking advantage of adequate and differentiated spaces).

Paras. 75-76

148. In order to improve living conditions of the migrants at CARA in Bari-Palese, the complete reconstruction of sanitary facilities in the various areas of the Center is ongoing. To date, the toilets in a specific area have been already completely renovated; in a second one, relevant works are nearing completion, while the start of operations has already been authorized in a third sector. The Prefecture in Bari has entrusted the execution of such works to the inter-regional superintendency of public works with funding from the Directorate on Civil Liberties and Immigration. The Prefect in Bari was allocated the sum of € 250,000.00 for the realization of a new road to access this CARA, and € 720,000.00 more, for the realization of a further housing module to expand the receptivity of this Center.

#### **IV. Center for Identification and Expulsion (CIE) in Ponte Galeria - Rome**

- Assistance and information to foreigners. For this activity, already carried out by the Managing Authority of the Centre, the Prefecture in Rome deems it necessary to improve the system. To this end, a draft Protocol has been prepared to be signed with qualified private social entities, aimed to: orientation of foreigners, bureaucratic assistance, legal counselling, psychological and religious support. Given the positive opinion by the Interior Ministry issued in June 2016, the Prefecture concerned is accordingly preparing the above Protocol.

- Refurbishment of the Center. There are ongoing renovation works, aimed not only to restore the full functionality of the male sector, which is currently unusable, but, also, to improve the quality of life within the Center, also by providing autonomous spaces within each sector and ensuring to each sector common spaces for conducting community activities.

- Procedures for repatriation. According to the procedures adopted by the Police HQs., on the basis of assessments concerning public order management, returns may not be announced, in order to prevent obstructive behavior, which could otherwise cause protests or riots. On the other hand, the Police HQs, in the organization of returns, are careful not to involve foreigners who have filed a complaint. In this regard, it should be pointed out that it is in the interest of the applicant, even though his/her legal representative, to promptly notify Authorities in case they have filed a complaint, as well as any request for interim suspension of the challenged measure. The failure of this communication sets foreigners at risk of repatriation, pending the notification by the competent Tribunal's Registry Office.

Para. 81

149. With regard to the alleged unnecessary presence of security systems at CIEs, it seems appropriate to point out that during 2015, there were as many as 128 escapes; and during 2016, (as of April 30), there were 14 more escapes. In addition, the Bari CIE has been closed for maintenance work, needed to restore it after the damage of an arson caused by the occupants. A similar fate has to be reported with regard to the structure in Crotona. Similarly, the entire male sector of the CIE in Rome has been more recently closed down due to the fire caused by the occupants; and the Turin Centre has, since last April, only 41 available places left, following the partial closure due to maintenance work to repair the damage by an arson.

Para. 84

150. In the event of doubts on the age of the child, which cannot be established through the identification documents, a multidisciplinary process is in place - always to be followed in full respect of the children's rights – in order to determine their age. This is achieved by specialized personnel and with procedures which take due account of the cultural and ethnic origin of the child (including possibly through diplomatic channels). When the above-mentioned steps do not result suitable to determine exactly the age of the child, s/he is presumed and considered as a minor. In this regard, the full text of the "Protocol for identification and multidisciplinary holistic assessment of unaccompanied minors' age" drafted by the inter-regional WG on "Immigrants and Health-care Services" at the Health Commission of the State-Regions Conference, has been transmitted to the Superior Council for Health-Care that has already given to it its positive opinion.

151. At present, this "Protocol" is before the so-called Unified State-Regions Conference in view of a State Regions Agreement, to be shared and enforceable in a uniform manner throughout the national territory.

Paras. 88-90

152. With regard to the issue of the certain identification of the foreign prisoners' nationality, on the 9<sup>th</sup> June 2015 a Protocol for the activities of identification of foreign inmates' identity and nationality was signed by the Directorate General for Prisoners and Treatment of the Penitentiary Administration – Ministry of Justice, and the Central Directorate for Immigration and Border Police of the Department of Public Security – Ministry of Internal Affairs.

153. As for said procedure of identification of foreign inmates' nationality, the objective to be achieved is to establish an effective collaboration<sup>9</sup> between the administrative bodies which have the competence on the foreign subject, for whom a procedure of identification of identity and nationality is activated.

154. Such inter-institutional collaboration was developed through effective modalities of exchange of data and information (relevant to ID documents, to travel documents, etc.) concerning the foreign subject and was carried out by implementing IT and telecom instruments for gathering the above-mentioned data (database Siap-Afis, software SidetWeb 2, etc.). Between June and September 2015, the Directorate General for Prisoners and Treatment of the Penitentiary Administration carried out a monitoring in the prisons in order to assess the procedures adopted in that field.

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<sup>9</sup> Article 3 of the Law No. 161 of 30 October 2014, which amended the Consolidated Text on Immigration, provides for that: "... for the foreign subject who is imprisoned for any reason, the prison governor requires the Questore [Local Head of Police] information about the identity and nationality of the prisoner. In the same cases, the Questore starts the procedures of identification by involving the competent Diplomatic Authorities ... To that purpose, the Ministry of Internal Affairs and the Ministry of Justice shall adopt the necessary instruments of coordination."

155. On the 2<sup>nd</sup> December 2015, the Penitentiary Administration issued the circular letter nr. 3665/6115, addressed to the Regional Directorates and to the prisons, providing directions for the start and the carrying out of the procedures. Said circular letter brought a specific IT instrument named “Certificate for the Identification of the Migrant Prisoner (C.I.D.I.)”

156. Since December 2015, the above-mentioned software was put at the disposal of the Immigration Offices of the Questure [Local Police Headquarters] which are competent to start the identification procedures for foreign inmates, allowing the visualization of all data and information provided for by the above-mentioned Protocol.

157. In order to make the cooperation with the Immigration Offices of the Questure more and more precise and effective as well as to ascertain, more and more quickly, the identity of foreign prisoners, the Department of Penitentiary Administration prepared a new version of the software for the Questure, which is now called Certificate of Identification of the Foreign Prisoner – C.I.De.S. Such modification came into effect on 10<sup>th</sup> May 2016.

158. As of 20<sup>th</sup> July 2016, foreign prisoners were 18,092, out of a total number of 53,961 prisoners; the following breakdown concerns foreign inmates’ legal status:

Pre-trial:	3,566
Sentenced but not with a final sentence:	3,796
Finally sentenced:	10,657
Internees:	44
Still to be determined	29

159. As for their distribution throughout our Country, 51.35 % of them are held in Northern Italy prisons, 26.92 % in central Italy and 27.73 % are held in Southern Italy prisons.

160. As for foreigners’ nationality, most of them come from Albania, Morocco, Romania and Tunisia.

161. During 2015, 725 foreign prisoners were subject to an exclusion order as sanction alternative to detention: 38.2 % of them were Albanians, 15.7 were Moroccans and 12.3 Tunisians.

162. Against this background, besides recalling Article 13, para.13, and Article 14-ter of Legislative Decree No. 286/1998, the legislation punishes abetment of illegal migration and all those organized crime forms to be associated with THB.

#### Para. 91

163. The possibility that foreigners are moved to CIEs directly from the landing place does not constitute collective detention. Even in these cases, in fact, we do apply a case-by-case approach, besides considering and relying on: the existence of conditions for expulsion; elements indicating the will of seeking international protection; and vulnerability indicators, thus preventing the issuance of an expulsion order - which is a pre-requisite for the transfer to CIE.

#### Paras. 102-104

164. Regarding the early identification of victims of torture, abuse or any other trauma, we recall the above-mentioned Guidelines, to be soon issued by the Ministry of Health.

165. As for reception of persons with special needs (Article 17 of Legislative Decree No. 142/ 2015), it is expected that reception measures take into account the situation of specific vulnerability of the individuals, including persons who have been subjected to torture, by

guaranteeing initial assessment and periodic controls by qualified personnel. It is also established that migrants can have access to appropriate medical and psychological care services. Finally, Centers for First Reception provide special services for specific vulnerable individuals, also in collaboration with the local health-care authority concerned. The relevant Ministry of Health Guidelines will therefore provide guidance on how to operate the transition of responsibilities between the SPRAR or other programs and the general social and health-care system, in particular in situations where it is necessary to ensure therapeutic continuity of care.

Para. 104

166. Police staff that operate at landing sites have precise information on situations of "vulnerability" of migrants as contained in the "Standard Operating Procedures (SOPs), applicable to Italian *Hotspots*".

167. As part of its institutional functions, the Police intervenes to protect the victims of serious violence and exploitation, making use of protection means required by Italian legislation. In this regard, we recall that it provides specific programs for the victims of THB (See Annex No.1 below), a special residence permit for victims of domestic violence, the protection of unaccompanied foreign minors, as well as differentiated and specialized investigative pathways for alleged victims of sexual violence – that all in all are even more targeted in the event of minors, who have been victims of violence.

Paras 105, 106, 108, 110

168. All joint return operations, organized in cooperation with FRONTEX, are made in accordance with the instructions contained in the Guidelines annexed to Decision 2004/573/EC transposed in a national handbook. All repatriated migrants under those operational contexts have been subject to a measure of repatriation by the Administrative Authority, in accordance with EU Directive 115/2008.

169. All Police officers involved in return operations have attended and passed, a specific course focused on the management of these operations.

Paras. 111 to 114

170. The Italian legal system envisages specific safeguards and corresponding adequate judicial means to enable migrants to challenge an expulsion order, including the suspension effect stemming from the appeal. In this regard, mention should be made of the following provisions: Article 10-bis of Legislative Decree No. 286/1998; Articles 11, para.6, and Article 14 of the above Decree; Article 19 of Legislative Decree No. 150/2011; Article 35 of Legislative Decree No. 25/2008 (in addition to Legislative Decree No. 142/2015 as extensively reported under Part I).

171. More specifically, when an expulsion order is challenged, this complaint is considered by judicial Authorities as a matter of urgency. The complaint suspends the execution of the expulsion order up to the definition of the judicial proceeding. Within Tribunals, there are specialized Sections with judges specifically trained on migration legislation, including migrants' rights. It is not unusual that an application rejected by the Territorial Commission is later reformed by the judicial Authority.

172. On a more general note, in terms of training, at both the central and local levels, the Superior School of Magistracy holds training courses on international protection, migration laws and migrants' rights.

173. Along these lines, the inappropriate use of force by Police is punished in accordance with the penal code, which envisages, among others, under Article 608, the crime of "Abuse of authority against persons put under arrest or apprehended". Similarly, Article 609 punishes the crime of "Arbitrary perquisition and personal inspection".

174. In this context, as for the use of medications, in accordance with Article 32 of the Constitution and Act No. 833/1978, no medical examination or treatment can be made/done against the patient's will. Therefore, the recommendations contained in Paras. 111 and 114 are groundless.

Annex I

We wish to point out to a typo since you met Ms. Roberta Palmisano (and not Parmisano).

Conclusion

175. We agree upon the publication of the SPT country mission report (CAT/OP/ITA/R.1), jointly with the present national Remarks (Para.116), on the UNSPT website. We will also ensure their further dissemination through CIDU website. Finally Italy takes this opportunity to reiterate its firm commitment to fully cooperating with the UN SPT and all other relevant mechanisms, including within the framework of upcoming tenth anniversary of the OPCAT entry into force (November 17, 2016) and beyond.

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