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Consideration of reports of States parties to the Convention

List of issues in relation to the report submitted by Italy under article 29 (1) of the Convention

Addendum

Replies of Italy to the list of issues*

[Date received: 29 March 2019]

* The present document is being issued without formal editing.

List of Abbreviations

AGIA	*Autorità Garante per l'Infanzia e l'Adolescenza* – Italian Authority for Children and Adolescents
CAS	Extraordinary Reception Centers
CED	UN Committee on Enforced Disapperances
CIDU	Inter-ministerial Committee for Human Rights
COM	Code of military order
Cost.	Constitution
C.p.	Penal code
C.p.m.g.	Military penal code of war
C.p.m.p.	Military penal code of peace
C.p.p.	Penal procedural code
CSOs	Civil Society Organizations
DPR	Decree of the President of the Republic
GDF	Guardia di Finanza
ISTAT	National Office of Statistics
J.A.	Judicial Authorities
NMRF	National Mechanism for Reporting and Follow-up
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the UN Convention Against Torture
OSCAD	Observatory for Security Against Acts of Discrimination
REMs	Residences for the Execution of Measures of Security
SIPROIMI	System for the protection of beneficiaries of international protection and unaccompanied minors
SPDC	Psychiatric Service for Diagnosis and Care
SPRAR	System of Protection for Asylum-Seekers and Refugees
TAR	Regional Administrative Tribunal
TSO	Compulsory Health-Care Treatment
TUI	Unified Text on Immigration
UAMs	Unaccompanied foreign minors

I. General Information

Question 1

1. The Inter-ministerial Committee for Human Rights-CIDU (NMRF) shared the draft initial report with the NPM. In view of consideration of initial report before UN CED, we also shared it with relevant CSOs and involved AGIA. Furthermore, we held a specific inclusive participatory meeting, to be followed up, once Concluding Observations will be published and CIDU will translate them into Italian.

Question 2

2. In the new formulation of Article 117 of the Italian (rigid) Constitution, paragraph 1, as introduced by Constitutional Act No.3/2001, the legislative power of the State and Regions is conditioned by the respect of international obligations.

3. With regard to international obligations, the Constitutional Court intervened by two important verdicts (Judgments No.348 and No.349, dated October 24, 2007): In the event of conflict between the provisions of the international treaties and domestic legislative norms, when this contrast cannot be resolved by judicial interpretation, this incompatibility between the internal provision and the treaty violates the above paragraph 1 of Article 117 of the Constitution. Furthermore, this Court considers that the Art.117, para.1, refers to international obligations rather than to the relating domestic executing provisions:

- It is, thus, the treaty – and not the internal norm transposing it – to become parameter of constitutional legitimacy.

4. Therefore, in general terms, in light of the above verdicts, when international treaties ratified by Italy contain sufficiently precise provisions, which do not require further executing measures, they can be applied by the judicial authorities (J.A.).

5. In the event of a breach of domestic legislation or of a conflict between the provisions of the treaty and the internal rules – when it cannot be overcome by interpretation – the judge, before whom the treaty provision is invoked, also upon request by the parties, may and must lodge a complaint before the Constitutional Court, on the ground of the contrast between the internal system and the Treaty, for violation of Article 117 of the Constitution.

6. On the basis of the principles elaborated in the aforementioned judgments (and also lastly, by verdict No.120, dated 11 April 2018), the Court declared the constitutional illegitimacy of some domestic legislative provisions as in contrast with the norms of the European Convention on Human Rights and the European Social Charter. Similar status is also recognized to the International Convention for the Protection of All Persons from Enforced Disappearance.

Question 3

7. As for the establishment of an Independent National Human Rights Institution, an important debate is currently taking place in Italy, at all levels of the system.

8. Parliamentarians are constantly being made aware of the need for such a body; and within the Senate (Constitutional Affairs Commission), a relevant Text was debated immediately prior to the end of the XVII parliamentary term.

9. An additional Bill has been submitted in July 2018, at the outset of the current (XVIII) parliamentary term (in Italian, *Legislatura*).

- Since last November 2018, this is under examination before the Italian Senate First Standing Committee on Constitutional Affairs.

10. On November 5–6, 2018, an important event took place in Trento on A National Human Rights Institution for Italy: Challenges And The Way Forward, as jointly staged by the Inter-ministerial Committee for Human Rights (CIDU – Italian Ministry of Foreign Affairs and International Cooperation) and the University of Trento. Moreover, an important follow-up seminar, organized by the Centre for Studies in International Politics (CeSPI), took place in Rome last January 2019, at the Italian Chamber of Deputies.

Question 4

11. Italy has not yet made the declaration under reference.

II. Definition and criminalization of enforced disappearance (Arts. 1–7)

Question 5

12. Our country was affected, during the 1970s, by internal terrorism with a very significant level of danger, as defeated by judicial instruments within the framework of the rule of law. In particular, the fight against it was made possible thanks to: the high specialization of magistrates and Police; team-working; the ability to coordinate; the adoption of effective investigative tools; the ability to dialogue with the defendants and the convicted; and reward-type legislation for those who would make useful statements, up to the legislation on the so-called collaborators of justice.

13. Likewise, the most recent domestic legislative framework (Law Decree No.374/2001 as converted into law by Act No.438/2001; Law Decree No.7/2015 as converted into law by Act No.153/2016), as adopted following serious facts of international terrorism, recall the above key principles. In the aftermath of the 9/11 attacks, Italy promptly adapted its own legislation on terrorism by ensuring the highest level of cooperation and coordination, both nationally and internationally.

14. In 2015, the National Antimafia Directorate also became competent on terrorism-related crimes, with greater possibility of coordination between the District Public Attorneys' Offices. In light of the above, the Italian legal system does not provide for /allow whatsoever derogations vis-à-vis rights, guarantees and safeguards under the national or supranational legislation of protection of human rights.

15. As for terrorism-related crimes (Art.270 bis et ff. of the penal code) – and like other crimes of serious social alarm – specific procedural rules are provided: For example, Art.407 c.p.p. establishes also for terrorism-related crimes, a term of maximum duration of investigations higher than the ordinary one (two years instead of one year and six months); Article 303 c.p.p. envisages for terrorism-related crimes that the maximum duration of pre-trial detention be higher than the one for other crimes.

16. In accordance with Article 24 (Institutional duties of the State Police) of Act No.121/1981 on New Regulation of the Public Security Administration, "The State Police performs its functions to serve democratic Institutions and citizens, by requesting their collaboration. It protects the exercise of citizens' freedoms and rights; monitors compliance of the public authority with the laws, regulations and measures; safeguards order and public safety; provides for the prevention and repression of crimes; provides relief in the event of natural disasters and accidents."

17. It is not permitted any exceptions to compliance with legal and procedural guarantees and safeguards. Likewise, Article 289-ter c.p., on "Kidnapping for coercion purposes", introduced by Legislative Decree No.21/2018, does not provide for any exceptions, either.

18. Pursuant to Art.185 bis of the *c.p.m.g.*, if the victim loses his/her life within the framework of a case of torture, another more serious crime emerges: This is not an exception; on the contrary, it introduces the possibility of applying a more severe penalty.

In any case, military personnel, like any other individual under Italian jurisdiction, is punished by the provisions of the Penal Code (in particular Article 613 bis – Torture) when the criminal conduct described in Art.185 bis of *c.p.m.g.* is committed.

Question 6

19. In our legal system, there is a broad array of provisions punishing the criminal conducts falling within the criminal offence under reference, such as Articles 605 c.p. (Kidnapping), 606 c.p. (Illegal arrest), 607 c.p. (Undue limitation of personal liberty), 608 c.p. (Abuse of authority against the persons put under arrest or detained), 289 bis c.p. (Kidnapping for the purposes of terrorism or subversion). Needless to say, other conducts can be added to the above crimes.

20. Against this background, we recall the joint reading of Articles 605, paragraphs 1 and 2, No.2 of the penal code, which contain all the constituent elements of the crime of enforced disappearance: It is in fact a perpetual infringement (*reato permanente*) and a free-form crime, for which the general intent (*dolo generico*) is sufficient. This type of conduct can be further aggravated by the aggravating circumstance referring to the number of perpetrators, as per Art.112 No.1 of the penal code.

Question 7

21. In accordance with Article 40 first indent c.p., "Not preventing an event, which one has the legal obligation to prevent, is tantamount to causing it": This conduct acquires causal relevance only with regard to those individuals who have the obligation to avoid the occurrence of this fact, by virtue of the particular relationship, which links them to the legal asset (in Latin, res; in Italian, *bene giuridico*). Therefore, the "superior" who fails to prevent an enforced disappearance committed within the framework of an activity, which s/he has the obligation to monitor and, when necessary, to repress illegal acts committed by a subordinate, of which s/he could be aware of, can be charged with the crime of "aggravated kidnapping" (Please refer to Q. 6 above) pursuant to Art.40 first indent c.p. as a co-perpertrator along with the subordinate.

22. In accordance with Article 361 c.p., also the conduct of the public official who fails to report a crime, which s/he was aware of during the exercise of his/her duty or because of his/her duties, is liable for an autonomous crime punished with a fine or imprisonment for up to one year, even if he does not hold the qualification of "superior".

23. In accordance with Article 66 (Hierarchical order and functional relations) of Act No.121/1981:

> "The serviceman belonging to the roles of the Public Security Administration is required to execute the orders given by the hierarchical or operational superior. Orders must be relevant to the service or the discipline, while not exceeding the institutional duties and not being detrimental to the personal dignity of those who they are directed to. The serviceman belonging to the roles of the Public Security Administration, to which an order is addressed that s/he deems clearly illegitimate, must disclose it to the superior who gave it, by indicating his/her own motive; if the order is renewed in writing, s/he is obliged to execute it and the superior who gave it is fully responsible for it. When the person belonging to the roles of the State Police is on duty or when there is a situation of danger and urgency, the order held to be manifestly illegitimate must be carried out upon renewed request, also orally, by the superior, who at the end of the service has the obligation to confirm it in writing. The serviceman belonging to the roles of the Public Security Administration, who is given an order, the execution of which is a crime, does not execute it and immediately informs his/her superiors. The provisions contained in the preceding paragraphs apply, insofar as they are compatible to the relations of functional dependence deriving from the new order of public security. Those staff belonging to the roles of the State Police, of the Civil Administration of the Interior and other Police forces and other State administrations are required to comply with the

instructions given to them in light of the function they perform within the central and peripheral organization of the Public Security Administration … Failure to comply with the provisions of this Article entails disciplinary responsibilities, other than the possible criminal liability". There are no cases in which the responsibility of hierarchical superiors of State Police officers for cases of enforced disappearance has emerged."

24. In the military order, the Commanders are subjected to a more severe penal regime than the military men. The military penal code of peace (acronym in Italian, c.p.m.p) considers as an aggravating circumstance, "when the military staff held guilty is covered with a rank or has assumed a role of command (Art.47, c.p.m.p.)". There are also cases of crimes related to violations of the general duties inherent to the command (Arts.103–110 c.p.m.p.p.). Furthermore, each military contingent Commander abroad holds, normally, the status of corps Commander and is therefore directly responsible for the discipline, organization, deployment and training of the staff. As a corps Commander, s/he is also a military judicial police officer, pursuant to Art.301 c.p.m.p., who has the duty to report to the competent military J.A., the crimes of which s/he became aware and carries out all those activities provided for by Article 55 c.p.p., with the consequent responsibilities in the event of omission.

Question 8

25. In accordance with Article 51, paragraph 2, of the penal code, if a crime is committed by order of the Authority, the official who gave that order will be always held liable. Likewise the person who carried out that order will be also considered responsible, unless s/he deemed to have obeyed to a legitimate order due to a *de facto* error (Please refer to Court of Cassation Penal Section V, Verdict No.39788, dated March 11, 2014).

III. Judicial procedure and cooperation in criminal matters (Arts. 8–15)

Question 9

26. The crime of kidnapping provided for by Art.605 c.p., within which the enforced disappearance envisaged by Article 2 of the Convention under reference falls, is considered a perpetual infringement (*reato permanente*). It follows that the statute of limitation of this offence, pursuant to Art.158, paragraph 1, of the penal code, runs from the day when the perpetual character ceases. Therefore, in the event of kidnapping, the statute of limitation of the crime starts from the day in which the victim has regained his/her liberty.

27. With regard to paragraphs 58 and 59 of the initial report of Italy, it is important to point out that the recent Act No. 3/2019, by amending paragraph 2 of Art.159 of the penal code, provides that the statute of limitation following the first instance trial remains suspended for the entire duration of the proceedings. This provision will come into effect, on January 1, 2020.

Question 10

28. Article 386 c.p.p. guarantees the person put under arrest or detained, a whole array of rights and safeguards, including the right to inform the consular authorities and to give notice to family members. In addition, pursuant to Art.387 c.p.p., upon consent by the person put under arrest or apprehended, the judicial Police must notify the arrest or apprehension, to family members of the person concerned, without any delay.

Question 11

29. Investigations coordinated by the ordinary J.A. on enforced disappearance-related cases cannot be conducted by military forces but by judicial Police authorities only, which depend on the Public Prosecutor's Office.

30. The military authorities have the obligation to report to the Judicial Authority (both ordinary and military ones) any facts that could constitute an *ex officio* prosecutable crime (Article 331 c.p.p.). Article 361 c.p. also punishes the failure of reporting.

Question 12

31. It stems from Article 347 c.p.p. the obligation of the judicial Police to report, in writing, without any delay, the *notitia criminis* to the Public Prosecutor's Office, or the essential elements of the fact and the other documents collected, besides indicating the sources of evidence and the activities performed, of which the Police transmits the relevant documentation.

32. In accordance with Article 335 c.p.p, the Public Prosecutor immediately enrols the *notitia criminis* in the special register kept at his/her Office. The impartial Public Prosecutor must, together with the judicial Police, carry out both those investigations, which are necessary for the prosecution and the checks of facts and circumstances, including the favourable ones to the person under investigation, in accordance with Articles 326 and 358 c.p.p.

33. Furthermore, the constitutional principle (Article 112) of the mandatory prosecution constitutes a guarantee: on the one hand, of the independence of the Public Prosecutor from the other State powers; on the other hand, of equality before the law, for all citizens.

34. The crime of kidnapping is prosecutable on an *ex officio* basis.

Question 13

35. There are relevant established practices in the judicial offices of the territorial Public Prosecutors' offices.

36. In general terms, investigations carried out against persons belonging to a Police force are entrusted to other Police bodies than the former ones, in order to guarantee the utmost impartiality and secrecy of the investigations.

37. With regard to military personnel, including Carabinieri Corps, based on the military code (COM – Legislative Decree No. 66/2010), if a military man, including of the Carabinieri Corps, is suspected of having committed one of the crimes provided for by the penal code (therefore also those ones falling within enforced disappearance), s/he is suspended from service.

38. Thus, during investigations relating to a criminal proceeding, the mandatory suspension from service occurs only in the event of apprehension, arrest, or disqualifying or coercive precautionary measures (Art.915 COM). Otherwise, the optional suspension from service may apply, with a preventive precautionary function, in order to protect the public interest in the irreproachable conduct of the institutional activities of the Public Administration – which would be threatened (also in terms of credibility) by the stay on duty of the employee, who has been challenged (at a criminal or disciplinary level) for conducts of a particular gravity.

39. "Staff of the Public Security Administration subjected to an arrest warrant or who is, however, under preventive detention, must be suspended from service, by a measure of the head of the office, who s/he hierarchically depends on. The head of office must also report it immediately to the Central Personnel Directorate at the Public Security Department. Aside from the cases provided for in the previous paragraph, the staff belonging to Public Security Administration subjected to criminal proceeding, when the crime is particularly serious, can be suspended from service by a Minister measure, upon motivated report by

the head of office (…)", in accordance with Article 9 (Precautionary suspension pending criminal proceedings) of DPR No.737/1981 containing, "Disciplinary sanctions for the personnel of the Public Security Administration; and regulation of the relating proceedings".

40. As regards the possibility of excluding a Police force from the investigations linked to a complaint of enforced disappearance in the event that its representative is involved, it is to be recalled that, in accordance with Art.56 c.p.p., the functions of the judicial Police are carried out under the responsibility and direction of the J.A., by:

(a) Judicial Police services required by law;

(b) Judicial Police sections set up at each Public Prosecutor's office, composed of personnel of judicial Police services;

(c) Officers and judicial Police staff belonging to bodies other than the former that must carry out by law, relevant investigation following a crime report (*notitia criminis*).

41. In accordance with Article 12 of the Implementation, Coordination and Transitional Rules of the Criminal Proceedings Code, moreover, judicial Police services are intended to be all those offices and units that have been mandated by either their respective administration or those bodies envisaged by law, to carry out the tasks envisaged in Article 55 of the above code, on a priority and continuous basis.

Question 14

42. In accordance with Art.723 c.p.p., the Minister of Justice takes care of the requests for judicial assistance put forward by foreign Authorities, by transmitting them to the competent J.A. for execution within thirty days.

43. The nature of the facts falling within the criminal conduct of enforced disappearance does not constitute an obstacle to the utmost cooperation and assistance that Italy will grant to foreign Authorities in criminal proceedings for the crime of enforced disappearance.

44. Even in the absence of bilateral agreements, Italy usually offers the widest cooperation in the field of judicial assistance based on the principle of international courtesy, especially for particularly serious crimes such as enforced disappearance.

45. Moreover, with regard to States Parties to the Convention under reference, this constitutes itself the legal basis of cooperation, which goes beyond the principle of international courtesy.

46. The Minister does not proceed with the request for judicial assistance in very limited cases only, such as when the execution of the request for judicial assistance can endanger the sovereignty, security or other essential interests of the State, in accordance with Art.723 c.p.p.

47. In the absence of bilateral or multilateral agreements which may provide otherwise, the execution of the request for assistance is denied if the fact for which the foreign authority proceeds is not provided for by law as a crime (requirement of dual criminality): it is sufficient that the facts as described in the request for assistance qualify as a crime in the requested State. Thus, the crime of enforced disappearance would meet the requirement of dual criminality, as the relevant facts constitute a crime in Italy pursuant to Articles 605, paragraphs 1 and 2, No. 2 c.p.

48. If bilateral or multilateral agreements are not applicable, the Minister has the right, but not the obligation, to deny assistance should the requesting State not offer the guarantees of reciprocity.

IV. Measures to prevent enforced disappearances (Arts. 16–23)

Question 15

49. Outside the scope of the specific protections provided for by the international protection provisions,[1] which can be activated upon request by the person concerned, the provisions contained in Article 10, paragraph 4,[2] Article 19, paragraphs 1 and 1.1[3] of the revised Legislative Decree No.286/98 (TUI) are designed to provide the tools to protect the foreigner, who, once repatriated, could run serious risks for his/her own safety.

50. Recently, in lieu of the abolished residence permit for "humanitarian purposes", the Italian Legislator introduced residence permits,[4] which ensure, in any case, particular forms of protection against expulsion from the national territory, for all those foreigners who find themselves in the situations above described.

51. Therefore, some types of residence permits, which directly referred to humanitarian purposes, now fall within the new residence permits for *special cases*; and with the amendment to Article 32, paragraph 3, of Legislative Decree No.25/2008, it remains the power-duty of the Territorial Commissions for the recognition of international protection to evaluate the possible existence of the requirements of the principle of non-refoulement. This is consistent with the current normative framework, which mandates the aforementioned Commissions, to examine g the individual situations of asylum-seekers. They have to take into consideration every aspect of the applicant's identified position, besides identifying the risk-related profiles, which the person concerned would be exposed in the event of execution of the expulsion order.

52. Under the above events, the Territorial Commission must transmit relevant documentation to the Quaestor for the issuance of a one year-term residence permit, for "special protection purposes". This permit allows to work, but cannot be converted into a residence permit for work purposes.

53. In the event of unaccompanied foreign minors (UAMs), Article 19, paragraph 1bis, TUI, as recently introduced,[5] stipulates the prohibition of refoulement, in addition to expulsion, as already envisaged by Art. 19, paragraph 2.

54. A further guarantee of protection of the migrant from the risk indicated by the Convention under reference refers to the fact that his/her position is always assessed, on a case by case basis, by many skilled administrative and judicial Authorities, with the ability to guarantee adequate and timely examination of the personal situation. In no cases, collective refoulement can take place in accordance with law.

55. Extradition procedures are regulated by the criminal proceedings code.

56. The judicial Police can proceed, in urgent cases, pursuant to Art.716 c.p.p., to the arrest of the person against whom a temporary arrest measure has been made for extradition purposes, if the requirements set forth in Article 715 paragraph 2 c.p.p. are met, namely: the foreign State has declared that a measure restricting the personal liberty of the person concerned or a conviction verdict entailing a detention penalty to be served has been issued and that it intends to present an extradition request; the foreign State provided the description of the facts, the type of the crime and the penalties provided for, as well as the elements for the exact identification of the person concerned; and there is the risk of absconding.

57. Moreover, in accordance with Article 700 c.p.p. (Documents supporting the request), extradition is allowed only on the basis of a request to which a copy of the measure

[1] Of which competent is the Department on Civil Liberties and Immigration.

[2] Please refer to Article 10, para. 4.

[3] Please refer to Article 19, para.1.

[4] As introduced by the recent Act No.132/2018 (entered into force last December 4, 2018), converting into law by Act No.113/2018, the so-called Salvini Decree, as entered into force last October 5, 2018.

[5] Paragraph 1 bis has been introduced by Act No.47/2017.

restricting personal liberty or conviction verdict (which gave rise to the request itself) is attached. This request must also be supplemented by search data and any other possible information determining the identity and nationality of the person whose extradition is requested.

58. As for the countries belonging to the Schengen area, the second-generation European database – called SIS II – was activated, on 9 April 2013. By this, mention has to be made of the activation of some functionalities aimed at making Police controls more effective, such as the possibility of insertion of photos, fingerprints and documents of the individual to be searched, as well as the possibility of creating links between reports.

59. The reports envisaged by SIS II relating to persons concerned contain personal data, including biometric data, if available. They allow to trace an individual in the Schengen area that the State inserting this data intends to search, even if it is the recipient of a European arrest warrant or if the person concerned has gone into hiding is missing, be it a minor or an adult.

60. In accordance with Art.698 c.p.p., extradition may not be granted when there is a risk that the defendant or convicted person will be subjected to acts of persecution or discrimination or cruel, inhuman or degrading treatment or punishment or in any case, acts that violate fundamental rights. The risk that the requested person may be a victim of the crime of enforced disappearance in the requesting State constitutes an obligatory motive for refusal.

61. The Court of Appeal, being competent to decide on the existence of the conditions for extradition, ascertains the risk of violations of human rights for the person to be extradited (including the hypothesis of enforced disappearance), on a case by case basis, by relying on the allegations made by the person to be extradited and "after having collected information and carried out the ascertainments deemed necessary (Article 704, paragraph 2, c.p.)".

62. The aforementioned provision allows the Court of Appeal to assess the risk of human rights violations on the basis of a (not predetermined) plurality of sources, such as reports of international organizations (United Nations, Council of Europe); supranational courts' verdicts (European Court of Human Rights), etc.

63. The orientation followed by Italian jurisprudence is fully in line with the provisions of Art.16, paragraph 2, of the CED Convention.

64. The verdict by which the Court of Appeal declares the existence of the conditions for extradition can be challenged with an appeal before the Supreme Court of Cassation, within fifteen days of notification.

65. In the event of extradition, to ensure greater protection to the person to be extradited, the Court of Cassation can also decide on the merits. This Court can re-assess also the risk of enforced disappearance to which the person to be extradited could be exposed; and whenever deemed necessary, it declares void the extradition with transmittal of the proceeding to a different section of the Court of Appeal.

66. By decision of the Supreme Court, the jurisdictional phase of the extradition procedure is definitively closed, and the so-called administrative phase starts.

67. In accordance with Art.708 c.p., it is the Minister of Justice, who makes the final decision on extradition, and adopts the relating decree.

68. Therefore, this Minister has the power to deny extradition even in the event in which s/he believes that there is a serious risk that the person to be extradited could be subjected, in the requesting State, to acts that constitute a violation of fundamental rights.

69. The decree by which the Minister grants extradition may be challenged before the Regional Administrative Court (in Italian, TAR), which, at the request of the complainant, may suspend the execution of the extradition decree. This decision can be challenged before the Council of State, the decision of which is though final.

Question 16

70. In the extradition sector, there are no lists of countries which may be considered undangerous to extradite the requested persons: the assessment of the risk of inhuman treatment or of violations of fundamental rights is done on a case by case basis and is up to the judicial Authority and the Minister of Justice.

71. As a rule, the diplomatic assurances provided for to the Italian authorities under extradition proceedings concern the sanctioning or penitentiary treatment to which the requested person will be subjected. The assessment of the reliability and sufficiency of these assurances lay with the Minister of Justice. If there is a risk that the person to be extradited may be subjected to violations of fundamental rights, any assurances by the requesting State will be subjected to a particularly rigorous and careful examination.

72. There is a list of bilateral technical agreements and agreements for Police cooperation, carried out by the Office for Coordination and Planning of Police Forces.

Question 17

73. As a general rule, the defendant in custody, the person put under arrest in flagrante delicto or apprehended has the right to confer with his/her own defence counsel immediately after arrest, detention or the execution of the relevant measure, in accordance with Art.104 c.p.p. (Interviews with lawyer of one's own choosing when in custody).

74. In the course of preliminary investigations for the crimes referred to in Article 51, paragraphs 3-bis and 3-quater, when there are specific and exceptional reasons for precaution, the judge, at the request of the public prosecutor, may, by motivated decree, postpone, for a time not exceeding five days, the right to confer with the lawyer (e.g. terrorism-related crimes).

75. Those ones who do not speak Italian are entitled to free assistance from an interpreter, to allow them to confer with their own defence counsel, in accordance with the preceding paragraphs.

76. The Italian legislation provides for the mandatory presence of the defence counsel in all cases in which the person under investigation is deprived of his/her personal liberty, both by order of the J.A. and in the event of apprehension or arrest by the judicial Police (Please refer to Arts.293 and 386 c.p.p.) and with whom s/he has the right to confer promptly (Art.104, para.1 c.p.p.)

77. Bar Councils arrange on-call time shifts for lawyers registered in the register of court-appointed attorneys, in order to always guarantee their support.

78. The persons under investigations may also file an application for free legal aid. Furthermore, even with reference to any investigative act and/or collection of evidence in relation to which the presence of the defence counsel is envisaged (Art.369 bis c.p.p.), admission to legal aid scheme may be requested (Art. 24 Cost.).

79. Our system of admission to legal aid scheme is based upon the assessment of the income of the applicant only, which cannot exceed the threshold established by law and is updated every two years, on the basis of the ISTAT indexes: There are exceptions to the income limit, such as the one envisaged in Article 10 of Act No. 206/2004, which guarantees the victims of terrorism, free legal aid in all the trials in which they are parties (civil, criminal, administrative and accounting ones) beyond the thresholds imposed by DPR No.115/2002.

80. In Italy, free legal aid scheme is granted without any delay – within 10 days of the request (Art. 96 DPR) – and in any case the effects of the admission are retroactive to the moment in which the same request is filed or to that one in which the lawyer intervenes if the party concerned reserves the right to submit it, with the consequence that no act (questioning and/or investigation) risks being deprived of the legal defence counsel (Art.109 DPR).

81. The right of defence is an inalienable right in every stage and instance of the penal proceeding; consequently, each prisoner has the right to appoint the lawyer of his/her own choosing (up to two); and, if he/she cannot afford such an appointment, the Italian State mandatorily assigns him/her a court-appointed defence counsel. To that purpose, in every Registration Office (*Matricola*) of prisons as well as in the detention wings, the inmates can freely access the local list of defence counsels.

82. The penitentiary workers are prohibited to interfere in any way with the choosing of the inmates' defence counsel. The law also provides for the access to free legal aid for prisoners in need.

83. Where necessary, pending free legal aid admission, thanks to the cooperation with local lawyers associations (*Camere Penali*), prisoners – especially foreign prisoners – are ensured legal counsel. It is thus worth-mentioning the good practice carried out in many prisons where many volunteers associations of lawyers offer their support to inmates, even beyond free legal aid scheme. This shows the high level of awareness about the right of defence.

84. Prisoners can meet in person their defence counsels since the very beginning of their detention, without restrictions in terms of number and duration of the interviews. Furthermore, inmates can write letters and make telephone calls to their defence counsel:

- The interviews and the correspondence with the legal counsel are protected by the right to secrecy.

Question 18

85. As underlined in para.135 (CED/C/ITA/1), the National Guarantor, since March 2016, is fully functional as NPM under OPCAT, by carrying out several visits at regional and local level to places of deprivation of liberty of different type: prisons, police stations, facilities for administrative detention under aliens' legislation and social care homes.

86. Such an intensive activity has been performed through the coexistence of two factors: the professional availability of those who were appointed as staff members and the adequacy of the financial resources allocated in the national budget for this purpose. At present, the National Guarantor possesses sufficient financial, human and technical resources to effectively and independently carry out its functions as NPM.

87. Indeed, as specified in the footnote at para.135, the National Guarantor has immediate, unannounced and unrestricted access to all places of deprivation of liberty de jure and de facto.

88. As for the designation of the local Guarantors as a "NPM network", to be coordinated by the National Guarantor, such a net consists of bodies either already in place or to be set up at the regional and city levels. This is the system that will be implemented in the hopefully near future and the National Guarantor is deeply committed to such a process. Indeed, the present weak spot of this system is the lack of homogeneity of the local Guarantors' mandates, as some of them are limited to prisons on the basis of the specific regional or local act appointing them. Furthermore, in some cases they were not elected but only appointed under a decision by the Mayor or by the Head of the executive power of the Region. In addition to these shortcomings regarding the "normative" conformity to the OPCAT standards, an "operational" conformity to OPCAT is also required. This means that the local Guarantors have to operate as a preventive mechanism in every aspect of their work. Therefore, the National Guarantor is keeping on working to build up an effective and homogenous network of local Guarantors fully complying with the OPCAT provisions through a number of meetings that it is taking with them and some training visits carried out together.

Question 19

89. By consecutive circulars of the Central Directorate for General Affairs of the State Police to the local Police Headquarters (*Questure*), the provisions concerning the correct use of the "Register of restricted persons in the security chambers" and the delivery of the "Sheet of rights for the persons apprehended or put under arrest (written in multiple languages)" have been recalled,[6] besides the recommendation to ensure the most rigorous compliance with the current legislation on retention or temporary detention of persons in the security chambers and in any room of the structures of the State Police.

90. As regards the keeping of the registers within the framework of "The registers of the persons put under arrest or apprehended", the following information is to be noted:

- The progressive number of the registration, which cannot have any interruptions. In the event of incorrect registration, the line concerned must be strikenthrough and the new name must be reported in the line immediately below the incorrect one;
- The date of registration;
- The time of the intervention carried out by the operator, jointly with the team's data and the time of entry of the person apprehended or put under arrest;
- Details of the person concerned, as identified on the basis of his/her name and surname, date of birth;
- The time and day of exit, including indication if the person has been left free, brought to jail or transferred to another place;
- The signature of the operator.

91. Furthermore, the Central Directorate for General Affairs of the State Police circulated in 2014, the forms (translated into several languages) to all *Questure* concerning the communications provided for by Legislative Decree No.101/2014, transposing EU Directive 2012/13/EU on the right to information in criminal proceedings, which establishes minimum standards on information to be provided to the persons put under investigation or to the defendants.

92. Legislative Decree No.101/2014 amended Art.386 c.p.p. (Duties of the judicial Police in the event of arrest or apprehension), by introducing the obligation for the judicial Police officer, to deliver to the person put under arrest or apprehended, a "clear and precise" communication in writing, translated into a language known by the person concerned, indicating his/her own rights, including: the right to appoint a lawyer of one's choosing and the possibility to be admitted to free legal aid scheme in the cases provided for by law; the right to get information regarding the charge; the right to an interpreter and to the translation of fundamental acts; the right to remain silent; the right to get access to the documents on which the apprehension or the arrest is based; the right to inform consular authorities and to give notice to family members; the right to get access to emergency medical care; the right to challenge the order validating the arrest or the apprehension before the Court of Cassation.

93. If the written communication is not readily available in a language that can be understood by the person put under arrest or apprehended, the information is provided orally, except for the obligation to give written communication without any delay.

94. Upon their entry into prison, inmates are registered in an IT national system named SIAP-AFIS. That system allows to immediately share the updated personal data of the inmate among all the prisons of our Country and with the Headquarters of the Penitentiary Administration, for institutional needs. The same data, concerning personal information and judicial provisions, are shared also with other Law Enforcement Agencies. All the information concerning inmates, as well as the relevant judicial information about them are included and constantly updated in that system:

- Personal data;

[6] Lastly, in 2016.

- Fingerprints and photograph;
- Date, place and time where the person was deprived of personal liberty;
- The details of the judicial provisions which ordered the status of detention and the information relevant to the crime perpetrated;
- The name of the defence counsel;
- The category (*circuito*) to which the prisoners are assigned (regime provided for by article 41-b of the Penitentiary Act; High Security 1, High Security 2, High security 3, Medium Security, Low Security);
- The orders and provisions of the relevant supervisory judges, who are the authority in charge of supervising the execution of the provisions of liberty deprivation;
- The inmates' allocation in the penal establishment and the names of their co-inmates;
- The contact persons' details to whom emergency news are to be communicated;
- the identity of cohabitant family members or possible third persons authorized to visit inmates and the number of visits received;
- The individualized treatment plan;
- The local probation Office in charge of following the inmates as for their relations with the community;
- Possible disciplinary sanctions or rewards received;
- The transfers, if any, and the relevant reason (healthcare, judicial, penitentiary reason);
- The end of detention foreseen;
- The day and time of release.

95. The above information follows the inmates during the whole detention period.

96. In case of inmate's death, J.A. and family members are immediately noticed. The judicial authority, where it is not necessary to make checks on the corpse, orders its restitution to the family. The mortuary Police is entrusted with the corpse's registration to be reported in a dedicated register and hands it over to the family, upon judge's authorization.

97. In juveniles penal institutions hosting minors and young adults up to 25, provided that they have committed the crime as minors, subject to final or precautionary detention and in the first reception centres – hosting minors arrested until the validation hearing taking place within 96 hours of arrest – official registers and/or records of persons deprived of liberty are kept as per Art.45 of the Regulation of the Prison Police approved by DPR No.82/1999, which states that "Penitentiary Police staff assigned to the Registry Office carries out the registration of the inmates" and "takes care, with regard to what falls within its competence, the maintenance of the personal file of the inmates and internees".

98. The registers, from which data can be accessed and collected by J.A., include:

(a) The details of the inmate;

(b) The date and time of entry into prison;

(c) The details of the identification of the documentary evidence supporting detention, with the indication of the judicial body that issued it;

(d) The notice of the delivery of the inmate, drafted by the Police authority that has carried out the restrictive measure, in which the provision that has ordered the imprisonment is referred to, and the date, the time and place where the arrest was made are reported;

(e) The day and time of release or transfer to another specifically identified prison.

99. The entry into prison and the return from permits or any admissions are communicated to the family members of the inmate if he/she allows it.

100. The responsibility for supervising the deprivation of liberty, the detention centre and the transfers lies with the Penitentiary Police Corps, which "aims at ensuring the enforcement of provisions restricting personal freedom; guarantees the order within prisons and protects their security; participates in the observation activities and treatment of inmates; carries out the transfer and escort of inmates hospitalized in external places of care" (Art. 5 paragraph 2 Act No. 395/1990).

101. In particular, the prison Governors have the task of "ensuring security and compliance with the rules, with the assistance of the prison staff" (Art.2 DPR No. 230/2000). The management shall provide the Chief Escort with the inmate's personal file and the health-care certificate drawn up at the eve of release showing his/her physical and psychic conditions (Art. 83 DPR No. 230/2000).

102. The details about the health status of the inmate are checked immediately after the entry, when he/she undergoes a medical examination in order to verify possible physical or psychological diseases and to avoid suicidal and self-injuring risks (Article 11 Act No. 354/1975). The prisons are equipped with a health-care or nursing centre and a pharmaceutical dispensary, with the support of at least one psychiatrist.

103. The results of the initial monitoring are recorded in an individual health record, included in the personal file of the inmate, where the outcome of the subsequent visits and all the events affecting health occurred to the inmate while staying in prison (injuries and illnesses, therapies needed, diagnostic and medical tests carried out in prison or at civil hospitals and other external care centres, evolution of diagnosed diseases) are also annotated. Such visits are carried out on a frequent basis, regardless of any requests.

104. The health certificate, which can be consulted at any time by the inmate and also acquired in copy by his/her family members, is prepared and updated by the penitentiary health office staff, which takes care of its custody. In case of transfer of the inmate, this is transmitted to the destination prison.

105. Inmates may be allowed to be visited even by physicians of their own choosing.

106. In the event of death of the inmate, the circumstances and causes of it are indicated in a report drawn up by a physician who is required to carry out the examination required by law. The prison's management shall report the death to: the Registry Office (Art.92 DPR No. 230/2000); local J.A.; the Court on which the inmate depended; and the Ministry of Justice.

107. The corpse of the deceased person is immediately placed at the disposal of his/her relatives (Art.44 Act No. 354/1975), who take care of the burial; should it fail, the administration will be responsible for it.

108. As for the conditions under which inmates may receive visits, the finally sentenced inmates, or those who are sentenced by a decision which has not become final, serving a sentence in prison, are entitled to benefit, as a rule, of six interviews a month, lasting one hour each, with their relatives, defence counsels or other persons to whom they are linked by significant relationships, also in order to be able to undertake legal actions. As for minors, they are entitled to eight interviews a month, from 60 to 90 minutes, with their relatives, defence counsels or other persons to whom they are linked by significant relationships, also in order to be able to undertake legal actions. In order to foster affective relationships, the detainee may take advantage of 4 prolonged visits a month, from 4 to 6 hours (art.19 Act 121/2018).

109. They are also allowed correspondence, under the control of the Judicial Authority, and carry out phone conversations upon authorization of the prison governor. As to the visits with accused persons before the 1st degree sentence, applicants shall have to submit the authorization issued by the proceeding judicial authority (Arts. 18 Act No. 354/1975 and 37 DPR No.230/2000).

110. As for health-care related registers kept by health-care sector operators, the following two situations are to be reported:

- TSO treatment at SPDC (Psychiatric Services of Diagnosis and Care at general hospitals) where all the guarantees are ensured to the person concerned, in accordance with Acts No.180/1978 and No. 833/1978;
- Admission to REMS, where it applies a solely health-care treatment (medical files), but each entry and exit is decided by the competent judge – and not by the health-care personnel.

111. The above activities do not fall within the responsibility of the Ministry of Health but of the regional health-care systems that carry them out through local healthcare units.

112. Last, by recalling para.140 (CED/C/ITA/1), within psychiatric facilities there is no restrictions.

Question 20

113. The Superior School of the Magistracy is responsible for the training of magistrates (judges and public prosecutors) by organizing annual courses on multiple subjects. If there are no specific courses on enforced disappearances, however, training courses on inter alia the European Convention on Human Rights and international criminal cooperation are organized every year. Usually, a magistrate must attend at least one permanent training course per year. Also at a decentralized level, the training offer is very broad and touches inter alia violations of fundamental human rights.

114. The penitentiary Administration puts particular care on initial and continuous training of staff, of any rank and position, both for adults and juveniles, as for the protection of rights of persons deprived of their liberty. Due to the impossibility to be detained without a valid order issued by the judicial authority, it was not deemed necessary – so far – to include the CED Convention among the topics of our training course. Penitentiary Administration intends, from now on, to consider the CED Convention in its future staff training courses as one of the main international instruments to protect fundamental human rights of inmates.

115. The strengthening of the multidisciplinary training of the operators is a sector specifically cared for by the Central Anti-Crime Department that has also activated an Investigation School in Nettuno municipality.

116. Since January 2017, specialization and refresher courses in investigative techniques, judicial police and forensic police have been scheduled (and are still in progress) for the Police investigation officers (*Squadre Mobili*, *Digos*, Cabinets of Scientific Police) and some Specialties (Judicial Police Teams of the traffic Police and of the railway Police), as well as of the related central offices of the Department of Public Security.

117. For years, the above Department has been paying the utmost attention to training on the protection of human rights, providing specific training modules in the study plan of both basic training courses for cadets and vice-inspector students and professional updating (conducted weekly in each general and sectoral Office) for all personnel of the State Police.

118. The educational objective pursued with the basic training courses, in fact, is to provide the users with the knowledge necessary for the optimal performance of the functions and tasks of the staff belonging to the different Police forces, through interdisciplinary teachings characterised by a cross-cutting “value pathway”, which is developed during courses and entails continuous references to the values expressed by the Constitution, the European Code of Ethics for Police, recommendations and international standards, as well as current relevant legislation.

119. In particular, in addition to the constitutional law, with specific focus on principles relevant to Police activity, mention has to be made of the following: 1) criminal law, with particular reference to crimes against the person, abuse of authority against persons put under arrest and detained, crimes against vulnerable groups, torture, legitimate use of weapons and other means of physical coercion; 2) criminal proceedings, with specific regard to apprehension and arrest by judicial Police and relevant duties of the latter; 3) the Administration of Public Security, with constant attention to the delicate balance between

individual rights and security in its various forms; 4) operational techniques, with specific focus on respect for the individual.

- More specifically, attention is paid to topics, such as the centrality and sacredness of human life, respect for human dignity, ethics in Police service, the right to equality, protection against discrimination, the principles of responsibility, correctness, impartiality, professionalism, authority and balance in the performance of the service, the culture of the service, the quality of services, the value of the image and communication.

120. Finally, with regard to professional updating of the personnel already in service, the objective constantly pursued is to achieve an effective awareness-raising action by the State Police operators, including on human rights – thus contributing to increasing professionalism in the various operational contexts.

121. With regard to general refresher courses for the whole staff of the State Police, in 2018 it was envisaged a training day on Ethics and Values of the State Police, with specific modules uploaded on the on line platforms devoted to permanent refresher courses.

122. The International Convention for the Protection of All Persons from Enforced Disappearance (as set forth in Article 23) is the subject of specific educational programs of all initial training courses for personnel of the various roles of the Carabinieri Corps.

123. In each course, this topic is included in the module on "Human Rights", aimed at making each military man aware of the ethical and legal criteria to be implemented during the performance of duties, also by dealing with aspects related to the topic under reference, such as, for example: the "consequences of the violation of human rights by the Police", the "responsibility in the correct use of means of coercion and weapons", the "procedures for the arrest", the "prohibition of arbitrary arrest" and "treatment of prisoners". This module has different levels of in-depth analysis depending on the type of students and the duration of the respective training courses.

124. In the training plan of GDF, under the phase of preparation, specific modules have been provided in the field of human rights and the protection of the rights of migrants and minorities, European and international legislation on the right to asylum, law of the sea, and fundamental rights.

125. OSCAD has always paid the utmost attention to training in order to increase awareness and to enhance competence of the Police officers about Hate crime, Hate Speech and Human Rights. Considering the intersectionality of these issues, since 2012 public institutions and CSOs have been involved in its training modules[7] (amongst others, Amnesty International-Italy). Overall, more than 11.000 officers/cadets have been trained (in-presence training). In addition, many on line modules have been realised for in-service training.

126. Training is at the core of the National Guarantor's activity because no strategy can reasonably be developed without investing in the possibility to build upon the attentions and the working methods of those who are in direct contact with the materiality of the deprivation of liberty.

127. Firstly the National Guarantor' training provided for law enforcement and civil staff operating in these institutions aims at wide spreading the knowledge of itself. It is crucial that those who work in this field know and trust an independent authority that should be seen not only as a monitor, but as a supporter and a provider of good practices and relative results. Second, training activity offers the opportunity to know programs at national and international level, so concretely involving the personnel in the network of opinions, doubts,

[7] (Source: HRI/CORE/ITA/2016) The Observatory for Security Against Acts of Discrimination (OSCAD) was established in 2010, at the Ministry of the Interior, to prevent and repress "hate crimes", OSCAD is entrusted with: overcoming under-reporting and encouraging the emergence of discriminatory offences; activating Police and Carabinieri operations in the field; intensifying exchanges of investigative information; training and exchanging of best practices, also through INTERPOL.

partial solutions, projects that constitute the building process of the real growing of professionalism.

128. Apart from the internal training and its continuity, the National Guarantor offers training under specific protocols or memoranda of understanding to a variety of Institutions and Organizations: personnel of Ministry of Justice – in particular the Prison Administration and the Department for Juvenile Justice – newly selected magistrates, State Police and Carabinieri (a specific Protocol between the National Guarantor and the General Commander of Carabinieri was signed in December 2018), lawyers and journalists. Obviously the partnership with Universities is well established and concerns both normal courses and high level masters.

V. Measures to provide reparation and to protect children against enforced disappearance (Arts. 24–25)

Question 21

129. Within the Italian legal system, the concept of victim refers to the individual whose legal asset (*res, bene giuridico*) has been harmed/affected, that is the person offended by the crime (the victim). While the one who suffered damage from the crime (patrimonial and/or moral) is defined as a person damaged by the crime.

130. With specific regard to the crime of enforced disappearance, the victim of the crime is the person who suffered deprivation of liberty; however, his/her family members can be considered as people damaged by the crime and will be able to participate actively in trial as the victim/offended person, thus becoming a civil party/the plaintiff applying for restitution and compensation for damage.

131. Pursuant to Article 90 paragraph 3 c.p.p., if the person offended (the victim) has died as a result of the crime, the rights provided for by law are exercised by his/her more direct family members or by the person bound by an affective and permanently cohabitation-related relationship.

Question 22

132. The victim of the crime of enforced disappearance and the persons damaged by the crime have *locus standi* in civil and criminal proceedings against the perpetrators of the crime, for compensation for moral and material damage.

133. It is also possible, based on Articles 83 et ff. c.p.p., that the so-called civilly liable party for damage caused by the defendant be sued directly in court, upon request by the victim or his/her family members.

134. In the event of enforced disappearance committed by persons belonging to the State administration, the civil responsibility falls within the relevant administration.

135. The civilly liable party is jointly and severally responsible with the offender, for damages suffered by the victim and by those ones damaged by the crime.

Question 23

136. The Italian civil code contains provisions referring to missing persons, absence and declaration of presumed death (Articles 48, 68 of the civil code), which allow considering the family members of missing persons and the assets of the latter to be fully protected, under the civil law profile.

Question 24

137. In light of Article 25, mention has to be made of Article 71 of Act No.184/83, which provides for a relevant criminal offense, as follows: “Anyone who, in violation of the law on adoption, allocated a child in custody to a third party permanently, or sends him/her abroad in order to be definitively allocated in custody, is punished with imprisonment from one to three years”.

138. With regard to the crime of forgery/falsification of documents concerning the identity of the child or of the missing person, reference should be made to all the crimes provided for in Chapter III of Title VII, Book II of the penal code, which punish forgery, concealment or destruction of documents attesting the true identity of the children.

139. The right of minors to re-establish their modified identity can be exercised in civil proceedings – directly by themselves, represented by the parents or a guardian, or by the Public Prosecutor’s Office – by an action aimed to ascertain the original civil status. The application may be proposed even if the data entered in the public registers of the population, being freely consultable by the party concerned and transcribed in the certificates retrieved have been unlawfully modified or deleted.

140. Moreover, Article 537 c.p.p. states that, even in the event of acquittal of the defendant, the judge orders the cancellation and, if necessary, the restoration, renewal or reform of the document. In this case, the person’s identity can be restored.

141. Finally, Article 28 of Act No.184/1983 guarantees the right of access for a legitimately adopted person to obtain information on his/her origins (right to be enjoyed from the coming of age onwards).

142. As for UAMs, they remain a key focus of the reception system despite the decrease of arrivals: from 12.360 in 2015 and 25.846 in 2016 to 17.337 in 2017 (-39%) and 4.278 in 2018 (-75%). In accordance with domestic legislation, including Act No. 47/2017 of April 2017, an unaccompanied minor is a foreigner under the age of 18 who is for whatsoever reason within the territory of the State without assistance or legal representation. Often, these children, who have undergone a perilous journey, have experienced threats and violence. UAMs benefit from a number of special safeguards. In particular, they cannot be refouled at the national border or be forcibly returned. Only when the UAM poses a risk to public order or State security s/he could be returned, following a decision by the Juvenile Court and provided that there is no risk of serious harm.

143. Article 18 Legislative Decree No.142/2015 provides for the best interests of the child to be the guiding criterion when applying reception conditions to UAMs, while article 19 establishes a two-level system for their reception, which applies regardless of whether or not they are asylum applicants. Throughout their stay, they are enrolled in individualized integration projects that take into account their experiences and attitudes.

144. As of 4 December 2018, Act No. 132/2018 transposing Law Decree No.113/2018 has transformed the SPRAR into the SIPROIMI “System for the protection of beneficiaries of international protection and unaccompanied minors”. However, this has not entailed changes in the reception of UAMs. Even asylum-seeking UAMs who turn eighteen before a decision on their application is made are still allowed to remain in the SIPROIMI.

145. Most UAMs are still hosted in local care facilities authorised by municipalities, under their responsibility. Paragraph 3-bis of Article 19, Legislative Decree No. 142/2015, allows Prefects to activate first reception emergency shelters, so-called CAS for minors, where up to 50 UAMs above 14 years of age can be hosted when arrivals are massive and municipalities cannot provide for their accommodation.

146. In the last months of 2018 and in the beginning of 2019, the decline of arrivals has entailed a progressive closure of the CAS for minors.

147. The Authority-Guarantor for Childhood and Adolescence (acronym in Italian, AGIA), established by Act No.112/2011, is an independent body overseeing the implementation of children’s rights.

148. This Authority moves “on the tracks” of international conventions that protect and promote the rights of children and adolescents and in line with EU and Italian law, primarily the Italian Constitution.

149. The AGIA has competence in the field of protection and promotion of the rights of all persons of minor age present in any capacity on the national territory and pays specific attention to, in particular, the vulnerable among the vulnerable, including unaccompanied foreign minors and minors in the penal circuit.

150. Finally, it should be noted that a study and proposal document, entitled “The movements of unaccompanied foreign minors at the Italian northern borders” has just been published, in Italian, on the AGIA website and is available at the following link:

https://www.garanteinfanzia.org/sites/default/files/movimenti-minori-stranieri-frontiere-settentrionali.pdf

The volume gathers the outcome of three-day interviews that AGIA carried out with more than 20 experts involved in the northern borders, highlights criticalities and proposals for solutions, and contains recommendations addressed to the competent authorities.