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**RESPONSE OF THE GOVERNMENT OF
THE REPUBLIC OF ITALY¹
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¹ This document was received in the Spanish language and has been officially translated.

DEPARTMENT OF PENITENTIARY ADMINISTRATION

**STRATEGIES AND BEST PRACTICES AGAINST OVERCROWDING IN ITALIAN
CORRECTIONAL FACILITIES**

Prison overcrowding is the most worrying emergency that the Italian penitentiary system has to deal with, and the situation is therefore constantly monitored by the Department of Penitentiary Admission, which intervenes, where necessary, by providing measures aimed, on the one hand, at reducing the number of prisoners by ensuring fair distribution of prison population all over the country and, on the other hand, at establishing, even temporarily, in the most overcrowded prisons, better living conditions for the prisoners as well as for prison staff, who are severely tried by the situation.

Moreover, in order to limit the high turnover of detainees which, mostly in large cities, gives rise to a very high number of entries into prison (in the majority of cases destined to short or even very short stays), the Department of Penitentiary Administration has already asked for the cooperation of the other law enforcement agencies, in order to ensure the correct application of the law currently in force, which provides for the containment of individuals arrested for committing a crime, in the event of a summary judgement, in the detention cells of those law enforcement agencies.

Finally, some appropriate directives and guidelines were issued to the Regional Governors and Managers of the prisons, aimed at identifying adequate solutions for better use of existing detention spaces, in order to ensure order and security within the prisons and guarantee the prisoners have adequate health care and their lives are protected, and to perform correct and adequate rehabilitation activities.

The Italian Government, on its part, has decided to deal with this problem in a systematic way, implementing an important initiative aiming at tackling the numerous and complicated causes of overcrowding.

In January 2010, the Italian Government declared a state of emergency, as a consequence of the high level of overcrowding in the Italian prisons, and in March granted the Head of the Department of Penitentiary Administration powers as delegated Commissioner for carrying out the so-called “prisons plan”, which provides, inter alia, for the implementation of penitentiary construction programmes aimed at combating overcrowding in prisons.

The “prisons plan” is structured into three “pillars”:

- a. The first pillar concerns the addition of 20 wings to the existing penitentiary structures, along with more structural interventions of the prison building, that is, the construction of 11 new structures, for a total cost of more than 650 million euros. In connection with this, agreements have already been signed with the Sicily Region, (for the construction of 4 new prisons and 3 additional wings), with the Marche Region, for the construction of one new prison in Camerino, and with the Autonomous Province of Bolzano, for the construction of one new prison.
- b. The second pillar relates to deflationary measures of prison population. A new legislative measure was established, in December 2010, providing for the possibility of home detention for those serving a sentence up to one year — even as remaining part of a longer sentence. The perpetrators of very serious crimes, in particular those who are connected with the activities of the mafia organizations, shall be excluded from that measure. As of 31 May 2011, 2,404 prisoners have benefited from that measure.
- c. The third pillar concerns the increase in the number of Penitentiary Police personnel, with the recruitment of 1,859 units by 2011. The duration of the initial training for new recruits will be

reduced from 12 months to 6 months, in order to allow them to start working as soon as possible.

It is crucial that these actions are carried out in a synergy manner, in order to progressively stabilize the Italian penitentiary system.

I wish to highlight, in order to combat overcrowding, an increase, in Italy, in the recourse to alternative measures to detention, which, in Italy, are granted only to finally sentenced offenders, as an alternative to execution of a sentence in prison. While in 2007 there were 10,398 cases of sentences executed in the community, in 2009, individuals serving a sentence under an alternative measure doubled. This included persons assigned to the probation service, and persons subject to home detention and semi-liberty. In 2010, the cases followed by the social services of the Ministry of Justice increased to 31,422. It is important to stress that the granting of these measures, in Italy, does not depend on the Penitentiary Administration, but falls within the competence of a collective judicial body, the Supervisory Court, which is an independent body of the Judiciary.

DEPARTMENT OF PENITENTIARY ADMINISTRATION

THE TREATMENT OF PRISONERS IN THE ITALIAN CRIMINAL JUSTICE SYSTEM

In compliance with the general principles solemnly affirmed by the Italian Constitution, and acknowledged by the Penitentiary Act and by its Rules of Enforcement, the fundamental rights of all prisoners deprived of personal liberty are protected and ensured, without any distinction.

Within the “prison system”, it is necessary to keep account of some needs, which are seemingly irreconcilable: security, prevention and rehabilitation. The main instruments of prevention provided for by the Italian Penitentiary Act are the penitentiary circuits.

a. **Women’s prison circuit**

Article 14, paragraph 5, of the Italian Penitentiary Act, establishes that women are “*accommodated in separate institutions or in special wings of penal institutions*” (gender criterion).

b. **Prison circuit for young adults**

Article 14, paragraph 3, of the Penitentiary Act provides for the separation of adults from young adults, that is those prisoners aged from 18 to 25 (age criterion).

c. **Prison circuit for semi-free offenders**

Article 48, paragraph 2, of the Penitentiary Act provides for “*sentenced prisoners and internees benefiting from the semi-liberty regime are assigned to special establishments or to separate units in ordinary prisons*”.

d. **Prison circuits for internees suffering from special illnesses (Judicial Psychiatric Hospitals)**

Additionally, the Italian penitentiary system includes the following special and normal circuits, classified according to different levels of security:

- Prisoners subject to article 41 bis of the Penitentiary Act (which is also a regime, besides the regime provided for by article 14 bis on special surveillance);
- High security (HS);
- Medium security;
- Justice cooperators;
- Low-security prisons (low-security prison for drug-addicts/low-security prison for mothers).

The detention regime provided for by article 41 bis of the Italian Penitentiary Act is a legislative system of control and inhibition of illegal communication between the prison and outside, in order to ensure the rescission of any link between mafia organizations and members still at liberty outside and the offenders who, although imprisoned, may still be capable of instigating, leading and managing criminal activities. This differentiated regime is a measure of prevention intended to impede the above-mentioned prejudices and is not to be intended as, nor confused with, aggravating the punishment.

Within the scope of low-security prisons, I wish to mention the Italian experience. In the Laureana di Borrello prison, in Calabria, opened in May 2004, the “**Youth project**” has been successfully implemented, offering a penitentiary plan to young offenders aged from 18 to 34 as an alternative to the

ordinary circuit, aiming at their rehabilitation and reintegration into the community. That prison has a maximum capacity for 68 places and all the prisoners who are held there perform working or training activities.

Voluntary participation is one of the characteristic features of this project. Young prisoners who ask to be transferred to Laureana di Borrello have to sign an “Agreement” by which they state that they are willing to commit themselves to the proposed treatment activities, and to observe and respect the prison’s rules. The purpose is to form the basis of a relationship with the young prisoners — who are experiencing their first imprisonment and do not represent an extreme danger to society — the responsibilities they have to take upon themselves as well as their determination in undertaking a treatment path aiming at considering and reviewing their lives, in order to modify the attitudes and behaviours which lead them to offend.

As for mothers in prison who cannot benefit from measures that are alternative to detention, the law enables them to keep their babies with them until the age of three, during their imprisonment.

According to many experts in this field, this can lead children to have negative life experiences. Indeed, the prison regulations and living conditions can negatively affect the harmonious physical and mental development of a child.

Therefore, the idea arose of setting up a place where a maternal affective bond is ensured for children, in an environment similar to a normal house. This idea was put into practice by establishing a community in a prison owned by the Provincial Administration of Milan, which was entrusted, by an agreement, to the Regional Directorate of the Penitentiary Administration, for renewable a period of four years.

Twelve mothers and their babies can be accommodated in this community; the management of that house includes the attendance of specialist teachers who can build an affective relationship with the children, giving them the opportunity to be educated. Monitoring is ensured by special trained penitentiary police staff, working in plain clothes.

The environment where mothers and children live is welcoming and does not in any way resemble a prison, although there are some restrictions in the mothers’ freedom of movement outside the structure.

This is the first experience of this kind in Italy and is propaedeutic to others which are to be put into practice in four other regions of Italy.

The new law No. 62 of 21 April 2011 is specifically dedicated to the relationship between imprisoned mothers and their minor children and provides for, inter alia:

- The increasing from 3 years up to 6 years of the maximum age of the child for the purpose of prohibiting the consent to the mother (or the father) of pretrial or remand detention in prison and, where the precautionary requirements permit so, the substitution of the detention in prison with the detention in the so-called ICAM (low-security establishments for mothers). Imprisonment is not possible only in the remaining, more dangerous cases.
- Authorization for the child to visit the imprisoned parent in the case of the latter’s imminent risk of dying, serious illness and hospitalization.

As of 31 December 2010, in Italian prisons there were 43 children held with their mothers. The living conditions provided to those children are such as to ensure them adequate care for their physical and mental development.

In general, the concept to **treatment** has led to the idea of rehabilitation as one of the pillars of the penal execution; rehabilitation must be achieved by the concurrence of several elements such as education, cultural and vocational training, work, religion and recreational, sporting and cultural activities.

From that point of view, **education** and **training** opportunities are a great occasion for relationships and communication with the outside community, with the objective of showing an alternative model of values and culture, widening knowledge and skills, supporting the reconstruction of offenders' roles in their families and in their jobs, offering a possibility of social mobility, of promoting an opportunity to consider the rehabilitation treatment as right to training as an experience for orientating and rebuilding a personal path of autonomy and independence.

As for the recreational, cultural and sports activities, the Penitentiary Administration started to promote and exploit the prisoners' creative skills, with initiatives aimed at integrating the prison libraries with the MEDIFILM Festival, by showing short films shot within prisons, the awarding from 2006 to 2008 of the "Annalisa Scaffi" award for writing and dramaturgy in prisons; the promotion of sports activities, based on protocols of agreement signed with the National Olympics Committee and with the other national associations promoting sport.

Within the scope of activities performed for the development and qualification of **penitentiary work**, the Directorate General of Prisoners of this Department strove in 2009 to increase and rationalize the work structures existing in the prison industries, workshops, farms, paying particular attention to those structures having special links with the economic and productive structures of the local community area.

The Penitentiary Administration has also taken initiatives in the field of land reclamation, in order to establish specific farming activities in some prisons, from organic horticulture to fruit growing in greenhouses, rabbit breeding, floriculture, fish farming and apiculture.

Particular attention is paid to foreign prisoners; indeed, for that type of offender, the training courses for obtaining a first level education diploma and, above all, for learning Italian, appear to be very useful.

As for prison treatment in general, Italians and non-nationals are equal; the latter, besides being offered the same opportunities, can profess their religion and can be assisted by the ministers of their faith.

Therefore, the ministers of various faiths can access the prisons and meet the prisoners who voluntarily wish to enjoy that right. Additionally, the ministers of religion and prisoners can celebrate together their ceremonies, in the time and according to the ways prescribed by their faith.

Even as regards meals, the prohibitions provided for by religions are observed, in order to avoid any kind of discrimination. Prisoners are also given the option to prepare and eat meals according to the methods and rules established by the religion that they belong to. To this end, every year, at the time of the Muslim Ramadan feast, the Penitentiary Administration gives appropriate instructions in order to allow prisoners, where they require to, to enjoy hot meals at different times to the usual ones, so they can observe the rules of the day fast.

As far as work is concerned, the working activities inside prisons are equally subdivided among Italian and foreign prisoners; moreover, immigrant prisoners, even without a residence permit, are given a fiscal code, for job placement outside prison and for access to so-called alternative measures, due to an agreement between the Ministries concerned.

Access to the benefits provided for by the law, as already mentioned, is possible also for non-Italians; in fact, few of them manage to enjoy those benefits, because of a lack of social relations in the country and due to language and cultural barriers.

With regard to health-care services for foreign prisoners, article 1 of Legislative Decree 230/99 expressly ensures them treatment equal to that for Italian prisoners. The law in fact establishes that all prisoners, including irregular non-nationals, within the limits of the period of their detention, shall be registered in the National Health-care System, and also that they are exempted from the system of co-participation in health services expenses.