

# **“*BUCHI NERI* *(BLACK HOLES)*”**

**DETENTION WITHOUT CHARGE IN  
REPATRIATION CENTRES FOR MIGRANTS –  
*CENTRI DI PERMANENZA PER I RIMPATRI (CPR)***

**Summary**

**Rome, 15th October 2021**

## **CPR: STRUCTURES, MANAGING BODIES AND COSTS**

### **THERE ARE TEN CPRS IN OPERATION IN ITALY**

The system of administrative detention of migrants in the Centri di Permanenza per i Rimpatri (Permanent Repatriation Centres - “CPRs”) was reinvigorated following the introduction of law decree n.13/2017, which provided for the opening of such facilities in every region.

Currently, 10 CPRs are active (Milan, Turin, Gradisca d'Isonzo, Rome-Ponte Galeria, Palazzo San Gervasio, Macomer, Brindisi-Restinco, Bari-Palese, Trapani-Milo, Caltanissetta-Pian del Lago), with a capacity of about 1100 places.

**A COST OF OVER 40,000 EUROS PER DAY FOR LESS THAN 400 PEOPLE PER DAY. A GOLD MINE FOR THE PRIVATE INDIVIDUALS WHO MANAGE THEM**

In the 2018-2021 period, as much as 44 million euros (specifically, 43,964,512.00 euros, excluding VAT) was paid for the management of these 10 facilities by private entities, to which the costs related to their maintenance and police personnel must be added. This reflects an average daily expenditure of 40,150 euros to detain less than 400 people per day who, in 50% of cases, will be deprived of their freedom without any possibility of being actually repatriated to their country of origin.

In short, administrative detention has become a "very profitable industry", whose costs are borne by society as a whole through taxation.

Within this system of detention there is, on the one hand, a continuous push to minimise costs by the State and, on the other hand, the quest for profit maximisation by the companies and cooperatives that are awarded these contracts. In the middle of this are hundreds of people detained in facilities that, in many cases, do not meet the standards set by the European Committee for the Prevention of Torture.

**LACK OF STAFF FOR PERSONAL SERVICES: CULTURAL MEDIATORS, DOCTORS AND PSYCHOLOGISTS**

The tendency to minimise the costs of managing the CPRs in favour of profit maximisation is evident in the outline of the tender specifications prepared by the Ministry of the Interior in 2018 and partially confirmed in the new outline of the same description in 2021. In fact, there has been a drastic decrease in all services for people within CPRs, a reduction in the hours of staff employed by the Centres' managing bodies (from day and night operators, through regulatory information and mediation services, to the same health personnel).

This has led to a structural lack of sufficient staff in the various CPRs, with pathological drifts recorded in some facilities.

By way of example, in looking closer at the lack of sufficient cultural mediation services, we can see that: (i) in Milan's CPR, some daytime operators also double as cultural mediators and cleaners; (ii) in Turin's CPR, there are a lack of cultural mediators and those present do not cover all languages spoken by detainees; (iii) in Gradisca's CPR, the lack of linguistic mediation service has led to the practice - condemned by the CPT - of using other detainees as ad hoc "translators".

On the other hand, as far as the information service within CPRs is concerned, in the transition from the 2017 to the 2018/2021 specifications, there was: (i) in centres with up to 50 places, a 66% drop in the number of hours required; (ii) in centres with up to 150 places, a 70% drop in the number of hours required; (ii) in centres with up to 300 places, a 78% drop in the number of hours required.

Finally, the cuts did not spare the health sector either, notwithstanding the fixed need for a nurse to be present 24 hours a day. For CPRs with a capacity of up to 50 places: in the transition from 2017 to 2018/2021 requirements, the number of hours required to be worked by doctors was reduced by 41.7% and those required by psychologists was reduced by 55.6%;

For CPRs with a capacity of 51 to 150 places: in the transition from 2017 to 2018/2021 there was a reduction in the number of hours required to be worked by doctors of 27.1%. For psychologists, there was a 33.3% reduction in the number of hours worked from 2017 to 2018/2021.

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

The drastic decrease of all personal services aimed has led to serious and critical service provision issues which threatened the effective protection of the basic rights of detainees.

**SEPARATE FACILITIES FOR ASYLUM SEEKERS ARE LACKING IN SLEEPING QUARTERS, SQUARE METERAGE SEEMINGLY DOES NOT MEET STANDARDS AND OTHER EQUIPMENT THAT WOULD BE EXPECTED IS MISSING**

In almost all of the 10 CPRs operating in Italy, there is no apparent provision for differentiated overnight rooms for asylum seekers, as expressly required by Legislative Decree no.142/2015 and by the European Committee for the Prevention of Torture (CPT).

In some cases, the square metre size of single rooms do not, by all appearances, comply with the minimum living space standard required by the European Court of Human Rights (for example, in Turin's CPR, each overnight room of 20/24 sqm houses as many as 7 people).

Further critical issues found in the CPRs with regard to the rooms for sleeping were: (i) the lack of natural light, deriving from the presence of screened windows (as evident in the CPRs in Turin and Rome); (ii) the lack of alarms (as evident in CPRs in Milan, Turin, Gradisca and Rome); (iii) the lack of possibility for detainees to directly turn lights on or off (as evident in CPRs in Turin, Milan, Gradisca, Rome and Palazzo San Gervasio); (iv) the presence of cockroaches and non-insulated rooms (as evident in the CPR of Palazzo San Gervasio before renovations took place); (v) the presence of mattresses without a visible expiry date and often without bed sheets (Bari); (vi) the absence of glass in the windows and worn-out, mouldy mattresses (Caltanissetta, before renovations).

#### **IN SOME FACILITIES, SERVICE ROOMS OFTEN HAVE VERY POOR HYGIENIC CONDITIONS**

The most critical issue found in some CPRs (namely Milan, Turin, Gradisca and Palazzo San Gervasio) is the lack of doors in the service rooms (Turkish toilets and showers), constituting a violation of the privacy of the detainees. This problem becomes even more relevant in cases where sanitary facilities are present inside sleeping quarters (Turin), where an "exposed bathroom" arguably presents as an indicator of degrading treatment (Court of Cassation, judgment no.15306/2019).

In addition, in some cases, service spaces are in poor hygienic condition (for example in Milan; Bari; Brindisi) and there are further issues present within the same spaces (e.g. the lack of ability to regulate water temperature in showers in the Gradisca and Brindisi CPRs).

#### **CANTEEN PREMISES ARE NOT USED AND MENUS DO NOT ALWAYS TAKE INTO ACCOUNT RELIGIOUS DIETARY OR MEDICAL NEEDS**

The lack of use of canteen facilities, although they formally exist, was found in at least 5 CPRs (Turin; Gradisca; Rome; Palazzo San Gervasio; Trapani). Moreover, in some Centres, there was a lack of differentiated menus based on religion-related dietary needs (e.g. Gradisca) or medical needs (e.g. Turin) of the detainees, which prima facie violates obligations imposed on the managing bodies in the respective tender specifications.

With regard to the CPR in Milan, complaints made by the detainees themselves about the poor quality of food were confirmed by the health

authority, which, following an inspection in July 2021 at this facility, ascertained that the managing agency did not comply with food safety rules, resulting in the imposition of an administrative fine. During the same inspection, the health authority also found irregularities in the management of the internal food facility by the managing body of Milan's CPR, which was being run without having a S.C.I.A. (Certificate of Incorporation).

### **THERE IS A LACK OF COMMON LIVING SPACES, ENSURING THAT PEOPLE BECOME MERELY BODIES TO BE HELD AND CONFINED**

In most CPRs, apart from unequipped outdoor concrete courtyards, there are no: (i) football fields or libraries; (ii) places of worship; (iii) recreational and cultural activities; (iv) agreements with civil society associations that can provide additional services and activities. All this appears to be in violation of provisions of the CIE Single Regulation and the provisions of the European Committee for the Prevention of Torture (CPT). Above all, as pointed out by the National Guarantor of the Rights of Persons Deprived of their Liberty, these violations ensure that these facilities are essentially "empty shells", where people lose their identity and are reduced to bodies to be held and confined.

### **PRIVATE MANAGEMENT OF PRISONS: A VERY LUCRATIVE SECTOR THAT REWARDS THE MOST ADVANTAGEOUS OFFERS (TO THE DETRIMENT OF SERVICES AND RIGHTS)**

The privatised management of CPRs (even for health-related services) is one of the most controversial issues in administrative detention.

In recent years, the social cooperatives that manage these facilities have been gradually joined by multinational corporations, which manage detention centres or services in prisons all over Europe. In this respect, it should be mentioned that:

The parent company of Gepsa Italia, which has been managing Turin's CPR since 2015, is Engie Italia, which in turn is part of Engie France. Engie France is a French multinational, operating in various sectors, with a turnover of almost 60 billion euros in 2020, which manages auxiliary services in 22 French prisons. In Italy, Engie deals with energy and sustainable mobility (collaborating with FCA and Amazon), while Gepsa has specialised in migrant reception and the management of detention centres, winning numerous contracts in the last 10 years (from the CARA in Castelnuovo di Porto; to the former CIEs in Ponte Galeria and Milan; to the

award of 51 million euros in 2019 for the management of collective reception centres in the Milan area);

ORS Italia, which from 2020 has managed the CPR in Macomer, is a company headquartered in Zurich which manages reception and detention Centres for migrants in 4 European countries: Switzerland, Germany, Austria and Italy. In 2015, ORS was the subject of an Amnesty International Report denouncing inhumane reception conditions for migrants in the Austrian Centre of Traiskirchen. Although ORS has only been active in Italy since 2018, the following year it managed to win several contracts for the management of reception centres in Friuli Venezia Giulia while in 2020 it obtained the management of both the CPR in Macomer and, again in Sardinia, the CAS in Monastir.

These cases seem to highlight how administrative detention has in Italy become a very profitable and attractive sector for multinationals.

In addition, it must be underscored that some social cooperatives involved in the management of CPRs have been or are currently the subject of important judicial investigations concerning the mismanagement of these facilities and/or reception centres (e.g. the cooperative Edeco - which became Ekene in 2021 - which manages the CPR of Gradisca and the cooperative Badia Grande which manages the CPR of Bari and, until recently, also that of Trapani).

Finally, it should be noted that management of CPRs is entrusted through tenders that make selections based on what is, economically, the most cost-effective offer.

However, there are cases in which, pending the awarding of the tenders, the extraordinary management of the Centres is entrusted through a negotiated procedure. A case in point is the facility in Palazzo San Gervasio, which was managed at the beginning of 2018 through a negotiated procedure and, despite the fact that renovation work had not been completed, was urgently opened noting the need to house and repatriate Tunisian citizens who were arriving on our shores at the time.

## **CPR AND DETAINED PERSONS**

**DURING THE PANDEMIC THERE WERE MANY PEOPLE HELD IN CPRS, EVEN IF THE IMPOSSIBILITY OF REPATRIATION DURING THIS PERIOD MADE DETENTION ILLEGAL**

If we look at the data of the last 6 years with respect to the number of people who transited through detention centres, we can see that flows were greater during: 2019 (6,172); 2015 (5,242) and 2020 (4,387). It is surprising that even during the pandemic flows were amplified, given the impossibility of carrying out repatriations during the pandemic. This, consequently, made - in the vast majority of cases - detention of these individuals unjustified and illegitimate.

In 2020, although the number of transited immigrants during the whole year remained rather constant compared to previous years (4,387), there was a substantial emptying of the CPRs during the first months of the pandemic (which officially started with the declaration of the state of emergency on 8 March 2020) and, from June onwards, a renewed increase in the number of CPRs. This is evident in that on 12 March 2020 there were 425 detained persons; which on 28 April reduced to 280 persons, then to 204 detainees as of 15 May and 195 on 22 May. This number then rose by 25 June to 282, and then to 332 by 2 July. By 22 October, 344 people were detained, rising to 455 on 12 November.

Therefore, despite the drop in the number of detainees between March and May 2020, the overall number of transits over the whole year remained constant compared to other years, despite two waves of a pandemic that affected 2020 and the consequent freeze on returns (in 2020, 3351 people were returned, compared to 6,531 in 2019). If the functionality of administrative detention for return purposes is questionable in "normal" circumstances, doubts about the utility of this measure deepen in moments where international mobility is interrupted. It is worth remembering, once again, that the purpose of detention in CPRs is supposed to be in preparation of return and, if this is not possible, any detention must be considered illegitimate.

### **TUNISIANS MAKE UP MOST OF THOSE WHO PASSED THROUGH CPRS IN THE LAST 18 MONTHS**

From 1 January 2020 to 15 September 2021, more than 50% of returns involved Tunisian nationals, while in 2019 they represented 21% of foreigners subject to forced return.

Demographics of detainees in CPRs follow this trend, with Tunisian nationals accounting for 59.8% in 2020. Specifically, 4,387 persons (223 of whom were women) passed through the Italian CPRs, of which 2623 were



Tunisian nationals. The second most present nationality is Moroccans, with 490 transiting through in the same period, followed by Nigerians (204), Egyptians (125), Albanians (110), Gambians (101) and Algerians (97). The limited number of women detained in 2020 (223) is due to the temporary closure of the only female section present in Italy at the CPR in Rome Ponte Galeria. The most present female nationality is Chinese (47) followed by Nigerian (33), Moroccan (14) Tunisian (13) Georgian (12) Ukrainian (12) and Albanian (10).

The significant representation Tunisian citizens in CPRs, which continues in the current year, seems to be confirmed by data on transits from 1st January to 30th June 2021, where at the Centre of Rome-Ponte Galeria: out of 363 people transited, 297 were Tunisian citizens, i.e. 81.82% of the total. They are followed by Egyptian citizens at a very distant second (8.26% of those transited). These two nationalities represent, therefore, 90% of the transits that occurred in the CPR of Ponte Galeria in the first 6 months of this year.

### **DETENTION OF TUNISIAN CITIZENS**

Tunisian citizens represent, respectively, 61.9% and 59.8% of those who transited via CPRs in the first months of 2021 and in all of 2020.

The speed with which these returns are carried out has led to serious violations of the rights of Tunisian nationals transiting through CPRs, from the violation of the right to be informed about the possibility of applying for asylum, to the practice of not formalising applications for international protection, to, in rare moments where an application for international protection is finalised, subjecting Tunisian asylum seekers to a rushed procedure, ensuring a significant violation of the right to defence.

CILD documented the experience of lawyer Eva Vigato who, until November 2020, carried out the service of providing information to detainees, for the managing body of the CPR of Gradisca: "when even 20 people from Tunisia arrived in one day, we tried to make appointments [to provide them all information] very quickly to talk to the highest number of people possible, but often we could not make it and the next day we could not find those people anymore inside the CPR".

### **AGAINST THE DIRECTION OF MANY LAWS, IN 2020 ALONE, 19 MINORS PASSED THROUGH THE CPR OF PONTE GALERIA IN ROME.**

There are no official statistics on the number of detainees in CPRs who claim to be minors and who are actually recognised as such after age verification procedures. The only certain data concerns the CPR of Rome Ponte Galeria, where 19 minors were discharged from the CPR in 2020. This means that for a considerable number of days (e.g. 27 in a case monitored by the Regional Guarantor of Lazio and CILD in December 2020) a presumed minor continues to be detained with adults in a place, such as the CPR, intended for detention and not for the reception of minors.

This trend, however, is present throughout Italy. The National Guarantor, in fact, denounced the systematic violation of the rules for the protection of presumed minors, who are not to be placed in dedicated facilities during identification and age verification but who continue to be detained in the CPR for the completion of these procedures.

By way of example, the National Guarantor in his last report stated that due to an illegitimate practice at the Lampedusa hotspot, where the declarations of minor age of the presumed minors are never recorded as required, the latter are taken to the CPR of Trapani as if they were of age. Only once they arrived in that detention centre, dozens of people, coming from Lampedusa and registered there as adults, were recognised as minors at the end of the age verification procedure and, consequently, released after several weeks of undue detention in the CPR.

### **FOR FOREIGNERS COMING FROM PRISON, THE CPR OFTEN REPRESENTS AN ADDITIONAL SENTENCE**

Besides the overwhelming detention of Tunisian citizens, another fact seems to characterise detention in CPRs - the detention of foreigners coming from prisons. Despite the questionable absence of statistics on this point, and despite the fact that the law requires that the identification of irregular foreigners must take place in prison, there are many former detainees who end up in CPRs (e.g. in 2019, about 80% of those detained in the CPR of Rome Ponte Galeria came from prison).

### **THE RIGHT TO HEALTH**

**IN CPRS, THE PROVISION OF HEALTH CARE IS ENTRUSTED TO THE PRIVATE SECTOR. THE FEW REGULATIONS THAT DELEGATE CERTAIN TASKS EXCLUSIVELY TO THE NATIONAL HEALTH SERVICE ARE NOT RESPECTED**

In CPRs health care is managed by private parties, being entrusted to the managing body of the CPRs and not to the National Health Service (SSN). The SSN is assigned, at a regulatory level, the task of carrying out medical examinations to verify the suitability of the detainee for life in a restricted community. However, this provision is, in most cases, disregarded in practice. In fact, it has been found that the certificate for this purpose is actually issued: (i) by a doctor of the managing institution in the CPRs of Turin; Milan and Palazzo San Gervasio; (ii) by the health staff of hotspots or quarantine ships in the case of Brindisi; Bari; Caltanissetta; Trapani and Gradisca d'Isonzo.

As pointed out by the National Guarantor: "the lack of a prescribed control by a public health authority, besides being *contra legem* and not ensuring the guarantees of independence and third party scrutiny of the National Health Service, also makes it difficult for the services of the territory where the CPR is located, to take charge of the issue".

Finally, medical examinations to verify the suitability for detention are not, in most cases, carried out in an adequate manner, being carried out quickly and objectively, without seeing or noting the medical records of the person concerned and without investigating possible mental disorders of the detainees.

This leads to detention within CPRs of people who should be considered incompatible with handling the conditions of administrative detention, including: (i) those undergoing methadone treatment on a sliding scale; (ii) those suffering from serious diseases (e.g. Hodgkin's lymphoma), and (iii) those who suffer from conditions of serious psychiatric vulnerability. In the latter case, detention may lead to episodes of self-harm and attempts at suicide.

### **PRIVATE HEALTH CARE IN PRISONS: A STRUCTURAL LACK OF PERSONNEL**

According to the National Guarantor himself, the organisation of health services within CPRs appears to be "particularly critical", due to: (i) the lack of staff adequately trained in medicine related to migration; (ii) the total absence of risk prevention protocols, despite the numerous episodes of self-harm occurring in the Centres. In addition to this, there are critical

issues arising from the new scheme of contract specifications, approved by the DM in November 2018 and only partly revised in 2021, which has led to a drastic decrease in the number of hours per week dedicated to personal services, starting with health services. As a result, if we look at the regulatory capacity of the CPRs, medical and psychological assistance is guaranteed to each detainee for only a few minutes per week. Just as an example, we note that:

- In Milan's CPR (140 places), for each detainee: (i) medical assistance is guaranteed for 15 minutes per week and (ii) psychological assistance for 6 minutes per week. Moreover, it was noted that, in this facility, there is a long list of detainees waiting for a visit with the psychologists of the facility, one of whom - moreover - is also the Director of the Centre (Federico Bodo);
- In Turin's CPR (180 places), for each detainee: (i) medical assistance is guaranteed for 14 minutes per week and (ii) psychological assistance for 8 minutes per week. The inadequacy of the service offered by the managing body was such that, in February 2021, the latter signed a memorandum of understanding with the order of doctors of the province of Turin. According to the National Guarantor, this protocol could not overcome the criticalities observed in this centre, with particular reference to the provision of specialist services within the competence of the territorial services;
- In Macomer's CPR (50 places), medical assistance was provided for only 3 hours a day and psychological assistance for 8 hours a week. However, after only three weeks of opening the Centre (February 2020), the internal health staff threatened to strike and resign, claiming the absence of conditions in which to work safely. The National Guarantor himself, in March 2020, found that there were an inadequate number of health workers there. This led the Prefecture of Nuoro to increase the medical assistance service to 5 hours a day while the psychological assistance, according to the lawyers assisting detainees in the Centre, continues to be "non-existent".

**ALTHOUGH SOLITARY CONFINEMENT IS ILLEGITIMATE, IT IS PRACTISED**

Provisions regulating CPRs do not foresee, unlike the Penitentiary Ordinance, recourse in the form of solitary confinement (for justice, health, disciplinary or security reasons), but only the possibility to place detainees

in sanitary "observation" rooms, in case of the presence of elements that may reflect incompatibility with the restricted community life, which didn't emerge during the initial certification of suitability.

In addition to the critical issues clearly present and pointed out by the National Guarantor concerning the setting up of adequate health observation rooms, in some CPRs illegitimate isolation practices are present.

The most striking example, in this regard, is one present on the premises of the Ospedaletto (small hospital) within Turin's CPR, which, according to the National Guarantor, looks like "old sections of a zoo". In these premises, detainees were put in isolation for a wide range of reasons (from disciplinary reasons to claimed reasons of "protection"), without a maximum time limit being fixed, which in some cases reached 5 months.

Two detainees have died within the Ospedaletto in the last few years: a 32-year-old Bengali national, Hossain Faisal, who died on 8 July 2019, and Moussa Balde, a 23-year-old Guinean national who committed suicide there on 22 May 2021. In both cases, isolation was justified by their psychological state.

Over the years, numerous criticisms with respect to solitary confinement within the Ospedaletto have been raised by both the European Committee for the Prevention of Torture (CPT) and the National Guarantor himself, who, on his last visit in June 2021, called for the immediate and definitive closure of the hospital. Following this recommendation, the Prefecture of Turin, on 10 August 2021, informed the National Guarantor about the closure of the Ospedaletto.

However, the presence of security cells in Turin's CPR, for which there is no clarity or transparency about their use, continues to create concern around the risk that they are used as improper detention facilities.

Finally, another CPR where illegal isolation practices seem to be present is in Brindisi-Restinco's CPR, and the practice of placing detainees with "special needs" in the "medical isolation ward" of the CPR at Macomer raises concerns. The latter, made known by the Prefecture of Nuoro, seems to contradict the provisions of the CIE Single Regulation and raises many perplexities in consideration of the risks of improper use of these rooms.

## **ABUSE IN THE ADMINISTRATION OF PSYCHOTROPIC DRUGS AND THE RISK OF THEIR USE FOR "DISCIPLINARY" PURPOSES**

Although psychiatric care in the CPRs should be paid for by the national health system, the monitoring of psychiatric cases and the administration of psychotropic drugs is often managed by psychologists and nurses appointed by the managing body. In this regard, the percentage of detainees subjected to the administration of psychotropic drugs and anxiolytics appears very high. By way of example:

- In Milan's CPR, this percentage reaches - according to the managing body itself - 80%. This situation is made even more concerning by the lack of connection with the local ASL and, therefore, the total absence of adequate psychiatric assistance;
- In Turin's CPR, according to the medical director at that facility, "psychotropic drugs are used by the litre", but without adequate monitoring, considering that throughout 2020 no psychiatrist has ever visited the facility;
- In Rome's CPR, according to the competent health authority, the percentage of detainees who are given psychotropic drugs and anxiolytics is 65-70%;
- In Gradisca's CPR, according to data provided by the regional Guarantor, 70% of the detained population is subjected to therapies requiring the administration of psychotropic drugs and tranquillizers. According to a former worker of the facility, there is no adequate monitoring in the administration of these drugs: "maybe an extra tranquillizer was useful to keep everybody calm".

The abuse in the administration of psychotropic drugs, which is apparent in most CPRs, can be traced back to the absence of a connection with the national health system and to the management of health services entrusted to private bodies, with the risk of bending medical and pharmacological intervention to the needs of discipline and security of the facilities.

### **MEDICAL RECORDS DO NOT FOLLOW THEIR OWNERS. THIS MAKES IT COMPLICATED TO GUARANTEE THERAPEUTIC CONTINUITY**

Despite the fact that the legislation provides for the right of the detainee to see and obtain a copy of his/her medical file, different practices were observed in the CPRs of Milan and Turin. Moreover, in the Turin centre, not even lawyers, delegated by the detainees, are allowed to have a copy of the medical documentation, while in Gradisca, lawyers obtain, at most, the certification of suitability for detention, without any additional documents

provided. Far from having a merely formal value, the release of a copy of the medical file to the detainee and his lawyer is essential to guarantee (i) continuity of treatment; (ii) detection of possible pathologies that could allow the detainee to enter the institutional circuit, after being released from a CPR.

Moreover, with regard to the content of the medical records, the CPT had found, in 2017, that in the CPR of Turin, the medical staff of the managing institution were filling in medical files of each detainee in a very general, broad way, with a noticeable absence of detail, especially in registration of possible injuries (necessary to verify possible ill-treatment). In June 2021, the National Guarantor recommended that the medical records of each detainee should be properly filled in, including the records of possible complaints of ill-treatment and beatings suffered by the detainee.

Finally, in almost all 10 CPRs operating in Italy, there were problems concerning both the receipt of the medical records from the facility of origin of the detainee and the sending of the same to the destination centre. This practice, besides being against the law, entails serious problems in the evaluation of the suitability of the detention of the person, with the risk of detention of persons suffering from diseases not compatible with life in a restricted community. The case of E.H., who committed suicide inside a CPR in June 2021, is emblematic in this regard. The boy had been previously treated by a mental health centre in Bolzano, which had produced medical documentation proving the presence of serious psychiatric conditions. This documentation was taken into consideration by the medical staff of the CPR only after the suicide.

#### **MEDICAL EXAMINATIONS ARE CARRIED OUT IN THE PRESENCE OF LAW ENFORCEMENT OFFICERS, ALTHOUGH THIS SHOULD NOT HAPPEN**

The presence of law enforcement personnel during medical examinations appears to be very frequent in CPRs, despite this practice contradicting what is required by the CIE Single Regulation and what is prescribed by the CPT, which considers the absence of "medical confidentiality" as one of the factors preventing the detection of possible ill-treatment. Although the Ministry of the Interior stated that the presence of the police during medical examinations is an isolated episode, this practice was found in the CPRs of Gradisca, Milan and Turin.

## **MEMORANDA OF UNDERSTANDING BETWEEN PREFECTURES AND ASL: THE GAP BETWEEN FORMAL EXISTENCE OF MOUS AND ACTUAL OPERATION**

Health care inside CPRs should be considered "complementary" (not substitutive) to services provided by the national health service, implying a necessary link with the latter. This connection should be guaranteed by MOUs between the relevant Prefecture and the local ASL, expressly provided for by the CIE Single Regulation and essential to guarantee (i) a timely access of the detainees to ASL health facilities; (ii) periodical inspections of the health authority inside the centres. However, as pointed out by the Guarantor, apart from a few exceptions (e.g. Rome), the signing of these MOUs has not been implemented.

In fact: (i) in some cases, although there was, formally, a platform for cooperation, it was not operational in practice; (ii) in others, there was a complete absence of such instruments for cooperation.

By way of example, it should be noted that:

- in Caltanissetta's CPR, despite the formal presence of a MOU between the ASL and Prefecture dated in 2015, the National Guarantor - in November 2019 - found a complete absence of a connection with the national health service, with a critical situation of degradation and insalubrity of the facilities not monitored by the Local Health Authority. Only after a reminder from the Guarantor did the health authority carry out inspections in that centre, concluding that it was necessary to proceed with its closure, given existent risk factors around the health of the detainees;
- in Turin's CPR, despite the formal presence of such a protocol: (i) no inspections have ever been carried out by the ASL in the Centre to verify the state of hygienic and sanitary conditions, the quality of sanitary services and of the food administered; (ii) as of July 2021, there is no signed MOU between the Prefecture and SERD;
- in Brindisi's CPR, the prefecture affirms that as of July 2021: (i) the MOU with the local ASL is being updated; (ii) there is no MOU with the SERD, with which there is alleged to be a "fruitful cooperation"; (iii) no inspection activities by the health authority have ever been carried out within the centre;
- in the CPR in Milan, until July 2021, there was a complete absence of an MOU with the ASL and SERD. This determined, according to the CPR itself, the impossibility for the detainees to have access to



medical examinations through the SSN. Only in July 2021, after countless interventions by the National Guarantor; civil society associations and some parliamentarians, the Prefecture of Milan signed two memoranda of understanding with the ASL of Milan: one being aimed at the detainees' access to the SSN and inspection activities by health authorities. This MOU runs from 1 July 2021 to 31 December 2021. The other is aimed at issuing a STP code to detainees who do not have it and runs from 1 July 2021 to 30 June 2022. However, it is not clear why such strict time limits have been set for their validity. It seems unreasonable to have waited so long for the finalisation of a MOU between the health authorities and the Prefecture of Milan and then to only provide for a period of operation of six months and one year respectively, of those instruments.

## **THE RIGHT TO INFORMATION AND DEFENCE**

### **MISINFORMATION: HOW DETAINEES ARE NOT INFORMED OF THEIR RIGHTS, ALSO BECAUSE OF THE MINISTRY'S CUTS**

The right of detainees to be adequately informed of their rights and of the possibility to apply for asylum, besides being stated by the CPT, is expressly provided for by the CIE Single Regulation.

It is not by chance that the CPR managing body is in charge of organising a "normative information" service, funds for which - however - have been drastically cut via the draft tender specifications prepared by the Ministry of Interior in 2018 and confirmed in 2021.

There was, in fact, a decrease in the number of hours dedicated to this activity: (i) by 66% (for Centres with up to 50 places); (ii) by 70% (for Centres with up to 150 places); (iii) by 78% (for Centres with up to 300 places). This had inevitable repercussions on the effective protection of the right to information of detainees. By way of example only, it is worth mentioning that:

- In Milan's CPR, it was found that the normative information service was totally inconsistent and that many detainees were not aware of the reason and the duration of their detention;
- In the CPR in Turin, the National Guarantor ascertained the absence of internal regulations explaining the rules of the facility (e.g. provision of services);

- In the CPR in Gradisca, the unlawful presence of disciplinary sanctions in cases of violations of the structure's rules was found. In addition, a former operator of the normative information service reported: (i) a violation of the rights of Tunisian detainees who were deported even before having had an interview with the operators informing them of the possibility to apply for asylum; (ii) obstacles in the remote carrying out of the normative information activity during COVID-19.

### **THE RIGHT TO DEFENCE CHALLENGED BY PRACTICES IN CENTRES FOR INTERVIEWS BETWEEN LAWYERS AND CLIENTS**

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

The European Committee for the Prevention of Torture (CPT) affirms that migrants in irregular situations detained in the Centres, from the first stages of deprivation of liberty, must enjoy the fundamental right to have access to a lawyer, including "the right to have an unwitnessed conversation with the lawyer and to have access to legal advice on issues related to residence, detention and expulsion".

With respect to this, it is notable that:

- 45.5% of the lawyers who filled in the above-mentioned questionnaire pointed out how the administration had placed limitations on access to the Centres for the conduct of defence interviews with their clients. In some cases these limitations were justified because of the effects of COVID-19 (Rome) or for public order-related problems (Turin and Bari). In the Palazzo San Gervasio and Macomer centres, lawyers are prevented from using their mobile phones inside the facility. Initially, in the Sardinian CPR, lawyers were even forbidden access to their own computers and even a pen, which made it impossible for them to collect their client's history;
- 45.5% of the lawyers who filled in the questionnaire pointed out that confidentiality is not always guaranteed during defence interviews with their clients. This practice was found, in particular, in the CPRs of Rome; Brindisi and Milan;

- Finally, 90% of the lawyers interviewed stated that there was no assistance of an interpreter during the defence interviews, in clear violation of the provisions of the CIE Single Regulation.

### **90% OF INTERVIEWED LAWYERS AFFIRMED THE ABSENCE OF THE CERTIFICATE OF SUITABILITY FOR DETENTION IN THE FILE OF THE JUDICIAL AUTHORITY**

During the validation and extension hearing, the judicial authority must verify the existence of the foreigner's certificate of suitability for life in a restricted community, since this medical certificate - as specified by the case-law - is an "unavoidable condition of validity of the detention" (among others: Court of Cassation, ordinance no. 15106/2017). In light of this, it is particularly serious that 90% of interviewed lawyers stated that, in the file of the validation and extension of the judicial authority, the certificate of fitness to detain their client was not always present. This practice was found, in particular, in Rome, Turin, Brindisi, Bari, Trapani, Caltanissetta, Potenza and Melfi. Moreover, with reference to the CPR of Gradisca d'Isonzo, it was found that it was difficult for the lawyers to find the certificate of suitability and that there was uncertainty about its presence in the file of the judicial authority. Finally, also for the detainees within the CPR of Macomer, some lawyers stated that they never found the presence of a certificate of suitability for detention in the files of the judicial authority.

### **HEARINGS ARE MAINLY HELD ON CPR PREMISES: DESPITE CSM AND CPT RECOMMENDATIONS**

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

In this regard, it should be noted that the Superior Council of the Magistracy (CSM) in 2010 pointed out that such extension and validation hearings should take place within judicial offices, "ensuring an exercise of the judicial function that also appears externally impartial and endowed with all the prerogatives that characterise it". Moreover, the European Committee for the Prevention of Torture (CPT), in 2017, had recommended that the

Italian authorities put in place additional safeguards to ensure that hearings with detainees were conducted in conditions that allow confidentiality, i.e. the absence of police officers or security personnel. Thus, both the indications of the SCM and the CPT seem to have remained completely unheeded. In fact, the practice of holding validation and extension hearings in the premises of the CPR continues to be a constant.

### **THE FOREIGNER CONCERNED IS NOT ALWAYS PRESENT AT VALIDATION AND EXTENSION OF DETENTION HEARINGS**

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

With regard to the absence of the foreigner in such hearings, the Court of Cassation: (i) in a recent judgment, no. 5520/2021, underlined that it does not give rise to a relative nullity; (ii) in order no. 25767/2016, underlined that if the judge considers that the health reasons of the person concerned are so serious as not to allow him/her to appear in court, he/she cannot validate the detention in order to allow the foreigner to be treated in a suitable place.

In light of this, the practice observed in the CPR of Gradisca, where there were episodes of non-transfer of the detainees for the external validation and extension hearings (at the Justice of the Peace of Padua and the Court of Trieste), due to the absence of staff to accompany them, this a matter of concern.

### **CRITICAL ISSUES IN THE APPOINTMENT OF LAWYERS AND THE NOTIFICATION OF HEARINGS**

Several critical points were found concerning the appointment of lawyers by the detainees and the timing of communications to the lawyers of the validation and extension hearings. For instance, in the CPR at Palazzo San Gervasio, dangerous mechanisms have been found, which imply a violation of the right of defence of the detainees. They are prevented from communicating with their lawyers until the day after the validation of the detention. According to some lawyers interviewed by CILD, this illegitimate

practice is implemented to facilitate the validation procedures; "not having a trusted lawyer who knows the history of the individual detainee and who also has the possibility to produce a series of defensive documents, makes the whole validation process of the Justice of the Peace much faster, much more streamlined and much more effective".

As regards detainees in the CPR of Macomer, lawyers are notified very little in advance (even only 30 minutes before) of the validation and extension hearings of their clients and, in the Rome office, it was found by the lawyers that: (i) a few days before the validation hearing of the extension, a pre-printed sheet is issued in which if the detained foreign citizen does not indicate again the name of his/her trusted lawyer appointed for the previous validation of the detention, it is considered that for the next extension a public defender should be appointed; (ii) it often happens that, even when the existence of a public defender is expressly mentioned, different are appointed.

#### **THE DURATION OF HEARINGS VARIES BETWEEN 5 AND 10 MINUTES - TOO BRIEF TO GUARANTEE THE RIGHT OF DEFENCE**

Other extremely critical aspects of the validation and extension hearings at the CPR are: (i) the duration of the hearings themselves; (ii) the motivations of the orders.

As to the first aspect, the interviewed lawyers pointed out the very short duration of such hearings: between 5 and 10 minutes in 63.6% of cases and between 10 and 20 minutes for the remaining 36.4%.

In this regard, some lawyers assisting detainees in the CPR of Macomer defined the validation hearing as "a farce", a "mortification of the right of defence", where opportunities for genuine defence are very slim, also considering the fact that the file is made available to the lawyers just before the hearing. This latter practice was noted by the CPT itself in 2017, along with a request to Italian authorities to take appropriate measures to allow lawyers to have access to the files well before hearings.

Even in Rome, since the beginning of the pandemic and until the end of this past July (per the most recent available data), the absence of the hearing file in proceedings under the jurisdiction of the Justice of the Peace was observed.

## **REASONS FOR THE VALIDATION/EXTENSION OF DETENTION ARE INDIVIDUAL AND ARBITRARY**

100% of interviewed lawyers stated that the motivation of the validation and extension decree is not well argued, being reduced to mere formulas related to individual style.

It is precisely with regard to the presence of "standardised" grounds for validation and extension that the most recent case law of legitimacy has expressed itself. In particular, the Court of Cassation, with ordinance no. 9440/2021, annulled the extension decree issued by the Justice of the Peace of Melfi to a Moroccan citizen detained in the CPR of Palazzo San Gervasio, pointing out that the judicial authority had not adequately explained the motivation behind its decision. In another ruling (ordinance no. 13172/2021), the Supreme Court dismissed the decree of a Justice of the Peace who prolonged for the fourth time the detention of a foreigner in a CPR, pointing out the total absence of adequate reasons. In fact, the judicial authority had limited itself to "explaining" their decision by marking two crosses on a pre-printed form.

The practice of adequately explained decisions for the validation and extension of detention must therefore be considered totally unlawful.

## **FREEDOM OF COMMUNICATION. PROVIDED FOR IN THEORY, BUT HINDERED IN PRACTICE**

Detention in CPRs must be accompanied by appropriate guarantees also with regard to freedom of communication with the outside world, a right closely related and preliminary to the exercise and guarantee of other rights, such as the right to defence.

However, in individual CPRs, there are different practices that, in many cases, affect the freedom of communication of the detainees. In particular:

- In most CPRs, an insufficient number of landline telephones was found, which according to the legislation should be present in a number not lower than 1 for every 15 persons (e.g. Gradisca, there are 8 telephones for potentially 150 detainees). Moreover, the access to these fixed telephones is subordinated to the economic resources of detainees;
- In many CPRs, the possibility to make video calls with family members during COVID-19 was not given (Milan; Brindisi; Rome; Palazzo San Gervasio; Turin);

- The illegitimate practice of seizing mobile phones of detainees upon entering centres was found in the CPRs of Turin; Palazzo San Gervasio; Rome (male section); Macomer; Trapani. In other Centres (Brindisi and Bari, Caltanissetta), detainees are allowed to keep their mobile phones without the use of a camera or access to the internet.

Despite the fact that both the National Guarantor and the CPT affirm the necessity to guarantee to the detainees the possibility to use their mobile phones, in the CPRs there are - as we have seen - illegal practices in this regard.

In this regard, it is important to highlight that the Court of Milan, by order of 15 March 2021, accepted the appeal presented by an asylum seeker detained at the CPR at via Corelli, aimed at achieving restitution of his mobile phone. In fact, the court pointed out that, in order to guarantee the freedom of correspondence, it is necessary to take into account the need to ensure the contact of the detainee with different people, including family members, their lawyer and UNHCR and consular authorities. It follows that this cannot be adequately guaranteed by the availability of fixed or portable devices, indiscriminately present in the Centre, which, moreover, do not allow access to the address book of one's contacts and the possibility of obtaining updated information on one's country of origin. However, this order of the Court of Milan, although affirming the right to keep one's own mobile phone while in detention, established a series of strong limitations that greatly diminished the progressive value of the decision. These limits have been implemented by the Prefecture of Milan, which modified the internal regulation of the CPR in via Corelli, providing that the detainees: (i) can keep their mobile phone (with an obscured camera) for the time strictly necessary to make a phone call; (ii) that calls can be made only at fixed hours and in a dedicated space in the centre, under the "discreet surveillance" and in the presence of the staff of the managing agency. These provisions have been criticised by many civil society associations, which have pointed out that the above-mentioned limitations are totally unreasonable and do not guarantee the effective protection of the detainees' freedom of communication.

## **CRITICAL EVENTS**

## **BEING THAT THERE IS NO REGISTER OF CRITICAL EVENTS. TRANSPARENCY IS AT RISK**

There is no reliable, effective and complete system in place within the CPR network to record critical events (e.g. suicides or attempted suicides; episodes of self-harm; hunger strikes; deaths). This deficiency was noted with disapproval back in 2017 by the European Committee for the Prevention of Torture. In addition, the National Guarantor has been recommending, for several years, that a standardised and centralised system of recording critical events be introduced, which would allow overseeing bodies to have rapid knowledge of the most relevant events occurring in the Centres and ensure greater transparency of what happens in these relatively opaque places of detention.

## **6 DEATHS IN 2 YEARS: THE NUMBER OF DEATHS IN CPRS HAS NEVER BEEN SO HIGH**

The number of deaths in CPRs has never been as high as in recent years. **Between June 2019 and May 2021, six foreign nationals lost their lives whilst held in administrative detention.** The specific instances differ in terms of causes and circumstances but what is common between them is a lack of clarity about what happened, doubts about the suitability of these persons to have lived in this restricted community setting in the first place, and the risks arising from inadequate protection of the health of detainees. In particular:

- **E.H., a 20-year-old Nigerian boy, committed suicide in Brindisi's CPR, on 2 June 2019.** In spite of the fact that the Mental Health Centre of Bolzano had certified his strong psychiatric vulnerability (having had previous episodes of self-harm and suicide attempts), he was considered fit for detention. His medical documentation was taken into consideration by the health staff of the CPR only after his suicide.
- **Hossain Faisal, a 32-year-old Bengali citizen, died on the premises of the CPR Hospital in Turin, on 8 July 2019.** He died in the same cell where he had been initially detained 5 months earlier. The cause of death was said to be a sudden heart attack. Faisal was deemed fit for detention, although during visits he appeared "confused and disoriented" and refused to take part in any kind of dialogue.
- **Aymen Mekni, a 34-year-old Tunisian citizen died, due to an illness, in Caltanissetta's CPR, on 12 January 2020.** With regard to this death, the National Guarantor pointed out that, although he did not intend to draw conclusions that are the exclusive responsibility of the judicial



authority, one cannot "not notice how more effective surveillance and a more timely intervention on the facility, at least following the visit of the National Guarantor, would certainly have helped to dispel, at least in part, doubts about the responsibilities of the institutions". In November 2019, the Guarantor had, in fact, requested an intervention of the ATS in Caltanissetta's CPR, given the situation of degradation and unsanitary nature of the environments in question. The intervention of the health authority, however, took place only in February 2020 and led to the closure of the facility, noting risks to the health of the detainees.

- **Vakhtang Enukidze, a Georgian citizen, died in Gradisca d'Isonzo's CPR, on 18 January 2020.** Although he had shown signs of illness and severe pain the day before his death, he was retained in detention, separated from the infirmary and without adequate supervision and health care.
- **Orgest Turia, a 28-year-old Albanian man, died in the Gradisca d'Isonzo's CPR on 14 July 2020** from a methadone overdose, raising doubts as to how he had come into possession of the substance. According to the National Guarantor, people undergoing scalar therapy with methadone should not be considered suitable for life in a restricted community.
- **Moussa Balde, a 23-year-old Guinean boy, committed suicide within the premises of the CPR Hospital in Turin, 22 May 2021.** In the days preceding his entry to the Centre, Balde had been the victim of violence in Ventimiglia and was detained in the CPR without any preliminary assessment on his psychological suitability for detention.

## CPRS DURING COVID

### DETENTION IN CPRS DURING A PANDEMIC: AN ILLEGITIMATE MEASURE

In 2020, although the number of transited persons during the whole year remained rather constant compared to the previous years (4,387), there was a **substantial emptying of the CPRs during the first months of the pandemic** (which officially started with the declaration of a state of emergency on 8 March 2020) and, **from June onwards, a renewed increase in the number of persons held in CPRs commenced.** Notably, while 425 people were detained in the Centres as of 12 March 2020, this number fell to

195 by 22 May, and rose again in June and July, returning to 455 people detained as of November 2020.

Given the two waves of pandemic that affected the last year and the consequent severe restrictions on international mobility, the maintenance of administrative detention in the CPRs was clearly illegitimate. It is no coincidence that courts in Rome and Trieste refused to validate detention, due to the impossible prospects of carrying out repatriations.

### **GRADISCA'S CPR: THE FIRST CASE OF INFECTION ALSO EXPOSED THE ABSENCE OF PREVENTION AND PROPHYLAXIS PROCEDURES**

In the CPRs, measured response to this epidemiological emergency was delayed: it was 26 March before a circular of the Ministry of Justice containing measures to contain the virus was disseminated. At the end of March 2020, the first case of Covid-19 was detected in Gradisca d'Isonzo's CPR. Lack of communication of this occurrence to detainees led to numerous tensions within the Centre. On 25 March 2020, detainees initiated a hunger strike in protest of the high risk of contagion inside the facility, also due to the lack of distribution of personal protection equipment. Between March and April 2020, two parliamentary questions were presented, asking for explanations on the state of contagion inside the CPR in Gradisca.

In April 2020, a detainee was released from the centre without receipt of results of a Covid-19 swab test. After having tested positive, he was tracked down in Pistoia, where he was served a quarantine order. These events only served to confirm detainees' fears regarding the absence of effective prevention and prophylaxis procedures in Centres. This reality was also confirmed by lawyers of the detainees in the CPR of Gradisca, who reported instances of their clients being placed in overnight rooms with other detainees who had tested positive for Covid-19.

According to data provided by the health authority, from March 2020 to June 2021, about 10 cases of infection occurred among detainees. As of June 2021, the vaccination plan for the detainee population has been initiated.

### **NON-VACCINATION OF DETAINEES IN CPRS**

Following questionnaires and requests for civic access submitted by CILD to the health authorities of the territories where the CPRs are located, it became clear that:

- in the CPR of Milan, from March 2020 to September 2021, there were 4 cases of Covid-19 confirmed amongst detainees. No update was offered, in spite of a specific request for such, regarding the state of vaccinations therein;
- in the CPR of Rome, from March 2020 to June 2021, there were 4 cases of Covid-19 confirmed amongst detainees. As of 25 July 2021, vaccinations of detainees has not started;
- in the CPR of Bari, the local health district (ASL) was not able to provide information on the number of detainees who had tested positive to Covid-19 but specified that, as of 27 September 2021, vaccinations of detainees had not yet commenced;
- in the CPR of Trapani (which was closed from April 2020 to August 2021), as of 22 September 2021, there was 1 positive Covid-19 case, and vaccinations of the detainee population had not started yet;
- in the CPR of Caltanissetta (which was closed from April 2020 to May 2021), as of 14 September 2021 there were 4 detainees who had tested positive to Covid-19. No update was offered, in spite of a specific request for such, regarding the state of vaccinations therein.