



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Follow-up responses of Italy to the concluding observations of the Committee against Torture (CAT/C/ITA/CO/4)*

[9 May 2008]

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I. Introduction

A. General framework

1. In para 29 of its Concluding Observations on Italy (CAT/C/ITA/CO/4), the Committee requested Italy “to provide, within one year, information on its response to the Committee’s recommendations contained in paragraphs 7, 12, 16 and 20 above”. Under the reporting exercise to international organisations, Italy deems that it is always necessary to recall its domestic constitutional framework: the Italian Constitution of 1948 envisages the protection of all rights and fundamental freedoms as included in the relevant international standards, such as the European Convention on Human Rights and Fundamental Freedoms, the Universal Declaration of Human Rights or the International Covenant on Civil and Political Rights.

2. The Basic Law determines the political framework for action and the organization of the State. The structural principles of the constitutional system governing the organization of the State are as follows: democracy (as laid down in Article 1); the so-called personalistic principle (as laid down in Article 2), which guarantees the full and effective respect for human rights; the pluralistic principle, within the framework of the value of democracy (Arts. 2 and 5); the importance of labour, as a central value of the Italian community (Arts. 1 and 4); the principle of solidarity (Article 2); the principle of equality and non discrimination (as laid down in Article 3). The latter is also the basic criterion applied in the judiciary system when bringing in a verdict; the principles of unity and territorial integrity (Article 5); and above all the principles of the welfare state and of the state based on the rule of law.

3. Italy recognizes and guarantees the inviolability of human rights - be it individual or referred to social groups expressing their personality – by ensuring the performance of the unalterable duty to political, economic, and social solidarity (Art.2 of the Italian Constitution). The protection and promotion of rights – be it civil and political, economic, social and cultural, be it referred to freedom of expression or to the fight against racism or to the human rights of the child and of women – is one of the fundamental pillars of both domestic and foreign Italian policies.

4. In our view, the basic rule, if any, which should guide modern democracies in the protection of rights is the effective implementation of the principle of non-discrimination. The latter is indeed one of the main pillars of our constitutional code, upon which the domestic legislative system is based when referring to different categories of people, such as women, minorities and other vulnerable groups: “All citizens have equal social status and are equal before the law, regardless of sex, race, language, religion, political opinions, and personal or social conditions. It is the duty of the Republic to remove all economic and social obstacles that, by limiting the freedom and equality of citizens, prevent full individual development and the participation of all workers in the political, economic, and social organization of the country (Art.3 of the Italian Constitution)”.

5. Within the constitutional framework, the Constitutional Court exercises its duty as one of the highest guardian of the Constitution in various ways. The constitutional jurisdiction is exercised by the Italian Constitutional Court, which plays a vital role throughout the life of our State. The Constitutional Court is outside the instances of the specialist courts and deals only with infringements of specific constitutional law (from Art.134 through Art.137-Art.127 of the Italian Constitution).

6. Within this framework, it is worth recalling the constitutional reform concerning the principle of “due process of law”. This has been implemented, at the constitutional level,

by Act No. 2/1999 which entered into force on 7 January, 2000, integrating Art.111 of the Constitution with five new sections. Such amendments, inspired by the principle of “the due process of law”, stem from the common law system and aim at enhancing the accusatory model within our legislative system, including by strengthening the specific provisions on interpretation, cultural mediation and legal aid

7. To date, the observations of international organizations and mechanisms, including the UN Committee against Torture, on the measures to be adopted, at the domestic level, have been subject to an in-depth examination by the Italian Government. Along these lines, we take this opportunity to reiterate that, indeed, access to information is one of the basic components of international obligations. Thus we emphasize that the Italian Government is used to keep NGOs, the Parliament, the relevant Authorities, and the public opinion at large informed about the state of implementation of human rights standards.

8. Within this framework, it is worth recalling that over the last years, relevant steps have been taken and a wide range of measures have been adopted, from the introduction of the crime of torture in the Military Penal Code of War to the signature of the Optional Protocol to International Convention Against Torture. Moreover, it is also worth recalling that the work carried out, to date, by the Inter-ministerial Committee on Human Rights (CIDU). Established on 15 February 1978, within the Ministry of the Foreign Affairs (MFA), by Ministerial Decree, CIDU is composed of representatives from the main Italian Ministries, responsible in human rights field.

9. CIDU monitors the compliance of international standards nation-wide and is also tasked with the drafting of Italy’s reports relating to international human rights standards adopted under the umbrella of the United Nations and the Council of Europe’s.

10. Lastly, we would like to reiterate that the protection of human rights is the guiding criterion for both the European Union and our internal policy. Accordingly, the basic vision of Italy as member of the European Union in a changing world is focussed on European fundamental values and principles, namely freedom, rule of law, democracy, common welfare, human rights.

B. Current political situation

11. In order to provide a clear picture of the political and institutional situation, it seems necessary to recall that last January 2008 (on January 25, 2008), the Government led by Mr. Romano Prodi lost the support of the Parliament, under Art. 94 of the Italian Constitution. Thus Pres. Prodi resigned.

12. The President of the Republic therefore started consultations to find a possible consensus to form a new Government. Since the consensus was not reached, the Head of State declared the early dissolution of the Parliament. Accordingly the XV Legislature was concluded.

13. On April 13-14, 2008, the coalition led by Mr. Silvio Berlusconi won the Parliamentary elections¹. While the new Council of Ministers is expected to start its term of office from the second week of May onwards², the Prodi-led Government remains in charge

¹ In April 2008, new Parliamentary elections took place under Article 61 [Re-elections] of the Italian Constitution: “(1) The re-election of new chambers must take place within seventy days from the dissolution of the previous ones. The first session has to be take place no later than twenty days after elections. (2) The previous chambers retain their powers until the new chambers meet”.

² Article 93 [Oath] of the Italian Constitution: “The prime minister and the ministers, prior to taking office, are sworn in by the Head of State”.

for the ordinary activities. In the meantime the new Legislature, the Sixteenth, has been initiated on April 29, 2008.

14. Within this transitional framework, the current Government is just concluding its activities and the new one will be, very soon, in charge with its own political strategies and programmes of action, being referred to Acts, Bills, or draft legislation, including the draft measures which were under examination before the previous Parliament.

15. The current political situation does not change or vary the commitments and pledges of the Italian Authorities within the EU, the Council of Europe and, more specifically, within the UN.

16. Given this recent development in the political framework, it is worth considering that new guidelines and strategies will be soon developed and legislative and administrative initiatives from the past Legislature will be resumed, as well. It is then necessary to consider that while in the long term the overall effects will be visible, on the other hand, in the shorter one, we are now in a position to provide - further to and with specific regard to para. 29 of the last relevant UN CAT Concluding Observations (CAT/C/ITA/CO/4) -, the following remarks:

II. Fundamental safeguards

Response to the issues raised in paragraph 7 of the concluding observations of the Committee against Torture (CAT/C/ITA/CO/4)

17. It should be underlined the whole content of the provision introduced by the *Pisanu* Decree, in order to clarify it. By the so-called Pisanu Decree, the maximum period during which a person may be held in police custody has been extended from 12 to 24 hours for the identification of suspects who refuse to be identified or provide allegedly false personal data or identity documents. The provision envisages that the suspect can be detained for the time strictly necessary for identification, and in any case, not exceeding 12 hours or, after having informed, also orally, the Public Prosecutor, not exceeding 24 hours, where the identification is particularly complex, or the assistance of the consular authority or of an interpreter is necessary, and in this case the suspect may ask to inform a member of his family or a live-in person (Article 349, paragraph 4, of the Code of Criminal Procedure). Detention exceeding 12 hours and not exceeding 24 hours is therefore exceptional and subject to a strict control of the judicial authorities (the Public Prosecutor³), who must be immediately informed of the arrest and the time at which it has taken place. The judicial authority can order the release of the person held in custody, where it holds that the requirements to detain him/her are not met (Article 349, paragraph 5, of the Code of Criminal Procedure). Moreover, according to the case-law of the Court of Cassation (*Corte di Cassazione*), Article 349 of the Code of Criminal Procedure does not envisage that arrest is mandatory, as it should be carried out only where there are elements to hold that the personal data provided are false (judgment No. 8105 of 26/4/2000, 2nd Criminal Division, and judgment No. 37103 of 13/6/2003, 2nd Criminal Division).

³ In the Italian legal system, the Public Prosecutor is a member of the Judiciary. Article 107 of the Constitution envisages that judges may only be distinguished by function and that the Public Prosecutor enjoys the guarantees defined by the organizational law. The Public Prosecutor has the duty to initiate criminal proceedings. S/He performs her/his duty objectively and loyally in respect of the suspect, having also the obligation of establishing facts and circumstances that might be favourable to the person under investigation (Article 358 of the Code of Criminal Procedure).

18. Under Article 104 of the Code of Criminal Procedure, the person who has been arrested while in the act of committing an offence or subject to provisional arrest (according to Article 384 of the Code of Criminal Procedure) and the accused under precautionary custody, have the right to talk to the defence counsel respectively immediately after their arrest, or provisional arrest or starting of the precautionary custody in prison. Article 104, paragraph 3, of the Code of Criminal Procedure provides for an exception to said general rule: the possibility that the judicial authorities, by means of a motivated decree, defer the exercise to confer with the defence counsel for a period of time not exceeding five days. Said postponement is allowed, as specified under the same article, only in the presence of precise assumptions on which the measure is grounded and namely “the existence of specific and exceptional reasons for precaution”. In case of arrest or provisional arrest, the same power is exercised by the Public Prosecutor until the arrested person or the person subject to provisional arrest is put at the disposal of the judge for the validation hearing (Article 104, paragraph 4). The Court of Cassation has constantly given a very strict interpretation of this provision, defining the power of delaying the talk with the defence counsel an exceptional and a temporary power, on which ground it has considered it exempt from remarks of constitutionality and compatible with the principles governing the fair trial, because of the purpose of protecting evidence in the best interest of justice that the power of delaying aims at safeguarding (compare judgment No.15113/2006, 4th Division, No. 4479/1994, 1st Division, No. 3651/1995, 6th Division). The order of the judicial authorities must contain the specific and exceptional reasons for precaution that justify it, lacking which the postponement is invalid and gives rise also to the nullity of the further questioning of the person under precautionary custody, before the Judge, according to Article 294 of the Code of Criminal Procedure, in case the arrested person was not in the position to talk to his/her defence counsel before said questioning (judgment No.1806/1992, 1st Division; No. 1809/1992, 1st Division; judgment No.3025/1992, 6th Division; No. 29564/2003, 6th Division). According to the Supreme Court “the illegitimate postponement of the talk with the defence counsel and hence the infringement of the right provided for under Article 104, paragraphs 1 and 2, of the Code of Criminal Code, entails the infringement of the right to defence, to be considered within the framework of general nullity provided for under Article 178, subparagraph c, of the Code of Criminal Procedure (judgment No. 16815/2004 1st Division; judgment No. 23681/2004, 1st Division; No 39827/2007 4th Division); nullity which, according to Article 185, paragraph 1, of the Code of Criminal Procedure, makes invalid the questioning rendered by the arrested person, who has been illegally denied the right to talk with his/her defence counsel, with the consequences provided for by Article 302 of the Code of Criminal Procedure, and namely the loss of effectiveness of precautionary custody (judgment No. 3025/1992, 6th Division; judgment No. 1758/1995, 6th Division; affirmed by the judgment of the 6th Division of 20.4.2000, MEMUSHI REFAT). There is no doubt that the exceptional provision contained in Article 104, paragraphs 3 and 4, does not affect the right of the arrested person to be questioned in the presence of his/her defence counsel: it should be stressed that the above-mentioned Articles 391 and 294 of the Code of Criminal Procedure expressly provide for the obligatory participation of the defence counsel in the validation hearing and the questioning before the judge.

19. As already highlighted in the reply to the List of Issues, the maximum period during which a person may be held in custody without being conducted before a judicial authority is 96 hours (namely four days). Actually, within 48 hours from the arrest or the police custody, the Public Prosecutor requests the validation to the competent Judge for Preliminary Investigations, who fixes the validation hearing as soon as possible and in any case within 48 hours, informing, without delay, the Public Prosecutor and the defence counsel (Article 390, paragraphs 1 and 2, of the Code of Criminal Procedure).

III. Non-refoulement

Response to the issues raised in paragraph 12 of the concluding observations of the Committee against Torture

20. As to Law Decree No. 144/2005, entitled “Urgent Measures to Contrast International Terrorism”, as converted into Law, by Act No. 155/2005, its Art.3 has integrated the legal framework of the expulsions-related issue, by including a specific circumstance under which to apply the so-called administrative expulsions measure. This case has been grounded on the need of preventing domestic and international terrorism, along the lines of the Minister of Interior’s action under Art.13, para. 1, of the Unified Text on Immigration (namely Legislative Decree No.286/98). Specifically, the expulsion measure is issued only when the individual concerned has not been restricted and brought to jail due to verdict or as a result of a pre-trial detention measure. The expulsion measure enters into force, without any delay, also in the event that relevant information has not yet been provided. In the latter case, this procedure envisages and allows a suspension measure, upon request by the individual concerned. The suspension has been included along the lines of the suspension to be adopted in the event of the judicial expulsion (under Criminal Proceeding Code).

21. On this issue, there have been various interventions by the Constitutional Court, to emphasize primarily that the Italian legal system aims at ensuring an effective framework of guarantees, so as to fully and extensively protect the fundamental rights of the individual (When an Italian legal provision apparently seems to affect the basic individual needs expectations, in reality we are facing a "*modus operandi*", aimed at protecting fundamental rights, such as the right to life, safety, personal freedom and security, as well as national security and public order. This is somehow a method of "damage containing": by which a higher requirement is protected while other legitimate requirements of the individual may be temporarily compressed). More importantly, as to the constitutionality of the above measures, the Constitutional Court has emphasized, with regard to the terrorism threat, as follows: 1. the admissibility of provisions with a broad content vis-à-vis cases conducive to offences of terrorism and subversion ; 2. the superiority "of the careful and indefectible duty" of the legal system vis-à-vis the democratic order and the public security against terrorism and subversion (also vis-à-vis other constitutional principles; 3. the admissibility of "peculiar measures", though with specific deadlines.

22. As to the concerns by the Committee about the procedure of expulsion and the possible lack of effective protection vis-à-vis the *refoulement*, the Ministry of Interior recalls that in conformity with the conclusions of the European Council in Tampere (dated October 1999), the European Union has introduced *ad hoc* EU measures. More specifically, by recalling Article 32, para 1, and Article 33, para.1, of the relevant Geneva Convention, as ratified by Italy, by Act No. 722/54, the above EU measures aim both at guaranteeing common criteria and minimum standards of protection at the EU level, and at providing a common position on the *non refoulement* principle - which is already binding for the EU States on the basis of international agreements. At the domestic level, said principle has been translated by Article 19, para. 1, of the Unified Text on Immigration: therefore, no individual may be expelled, despite the lack of requirements for the recognition of the status of refugee, if facing the effective risk of being subject to serious damage, once back to his/her country of origin. In doing so, new subsidiary protection measures have been envisaged. By Legislative Decree No.251, dated November 19, 2007, it was translated into the Italian legislative system, EU Directive 2004/83/CE (the so-called "Qualifications Directive on international protection measures"), concerning "Minimum standards for the qualification and status of third country nationals or stateless

persons as refugees or as persons who otherwise need international protection and the content of the protection granted". This Decree was issued on the Italian Official Bulletin, on January 4, 2008, and entered into force on January 19, 2008. In addition, Legislative Decree No.25 was adopted on January 28, 2008, and issued on February 16, 2008 (Italian Official Bulletin No. 40). This translated into the Italian system EU Directive 2005/85/CE, on "Minimum standards concerning procedures in Member States for granting and withdrawing refugee status". Those Decrees effectively amend the previous legislation concerning the asylum-seekers and more generally the status of refugees. It must be noted the enhancement of the guarantees for the applicants, for those who apply for asylum, as well as for those who have been granted the status of refugee. Of this new legislation, strengthening the protection system for asylum-seekers and more generally the international protection system, it is worth mentioning all the relevant elements:

- (a) It has been introduced a new system of international protection, the so-called "complementary protection system";
- (b) Each application for the international protection will be considered on an individual basis, through an in-depth examination, and with the full participation of the applicant;
- (c) The list of acts and grounds for the persecution or the serious damage, on which to base the release of the international protection measure, has been drawn up with clear definitions, besides being elaborated through an extensive interpretation of the relevant Geneva Convention (i.e. the inclusion of the sexual orientation among the elements has to be considered);
- (d) As to the applicant, it has been simplified the shifting of the *onus probandi*/burden of proof;
- (e) The application for international protection may be based on events occurred after the flee from the country of origin, too;
- (f) The rejection of the application has to be motivated de jure and de facto, by making specific reference to the situation in the country of origin of the applicant;
- (g) The applicant may lodge a judicial complaint against the decision of the competent Territorial Committee. Subsequently, against any relating judicial decision, there is the possibility to appeal and then to appeal to the Court of Cassation;
- (h) The applicant may resort to legal defence in every stage of the proceeding, including the hearing with the Territorial Committee;
- (i) Ad hoc reception Centres for asylum-seekers have been established (acronym in Italian, "CARA"), while the role of the CPTs and CPTAs is extremely reduced;
- (j) Those who are granted international protection measures are equalized to Italian citizens in a wider range of areas, such as work and education, while being equalized to EU citizens, as to the access to the public employment.
- (k) In doing so, Italian Authorities have been committed towards further specific obligations in order to effectively promote and protect human rights.

23. Lastly, to December 31, 2007, under Act No. 155/2005 – entered into force on July 31, 2005 - there were only 39 foreigners expelled, upon proposal by the responsible offices of the Ministry of Interior.

IV. Conditions of detention

Response to the issues raised in paragraph 16 of the concluding observations of the Committee against Torture

24. In order to better set out the issues related to the immigration Centres management, it is deemed appropriate to highlight the following:

(a) As regards the national budget and to the solely aim of managing the immigration Centres, Italy allocated, in the year 2007, a total amount of €. 67.528.314,97, while, till the month of April 2008, it was foreseen to the same aim an expense of €. 47.291.519,67;

(b) Italy presently faces an increasing number of landings and, as a consequence, of the international protection applications;

(c) People remain in the immigration Centres, longer than before.

25. As regards point (a), and in addition to the national budget commitments, it is worth underlining that Italy is also willing to devote a share of the funds that the European Union places through the so-called “PON - Security” (“National Operating Program” - Security), for the immigration Centres improvement policy. (PON Security – Objective 2.1 – Migration Impact Management, funded for a total amount of € 150.782.130,00).

26. Objective 2.1 is considered to be particularly significant as for the general strategy in the field of security. It aims to keep down the consequences of migration impact and deals with this issue, by taking into account projects to create a favorable environment for carrying out welcome and integration paths.

27. With the aim at implementing this strategy, it is presently under negotiation with the European Union a draft “Action Plan”, whose general lines are hereinafter summarized:

28. *Immigration Centres.* Italy aims at improving the existing structures, through the development and the restoration of centres for asylum-seekers, refugees and humanitarian protégés. In this perspective, migrant facilities could also be destined to play a role as civic and professional education, first aid, cultural, social and psychological assistance centres, etc.

29. As regards points (b) and (c), the growth of the number of landings and a longer than before stay in migrant facilities are closely linked: when the number of people to be hosted and protected increases, then the bureaucratic activities to be fulfilled for hosting and protecting them equally increase.

30. As regards the growth of disembarkations, it has to be noted that:

(a) From January 1st to April 20th, 2008, around 3,450 people landed in the South of Italy, and in particular:

(i) In Sicily, roughly 3,249 people in 59 landings, of which 50 landings for a total amount of 3,126 immigrants in Lampedusa Island only;

(ii) In Sardinia, 207 people in 19 landings.

31. In the same period of the year 2007, 2,038 people landed in total.

32. The exponential growth of the immigrants landed in the South of Italy clearly appears from the above mentioned data. Moreover, a flow of immigrants requesting international protection has been filed, most of them coming from Afghanistan and Iraq.

This situation involves about one thousand people, who reached the Crotone Centre, probably arriving from various Adriatic harbours or Northern Europe.

33. When dealing with the issue of a longer stay of international protection seekers within the dedicated centres during the last few months, it has to be noted that this phenomenon could be referred to the entrance into force of Legislative Decree No. 25/2008, which implements the EU Directive 2005/85/CE on minimum standards on procedures to be followed by member States to recognize and revoke a refugee status.

34. According to Legislative Decree No. 25, the Police authorities (*Questori*) cannot refuse to accept an application for international protection, given the fact that the solely cognizant board in this matter is now the territorial committee. As a consequence, asylum-seekers who have already received a deportation measure or that have been hosted in the so called “Temporary Stay Centres” (acronym in Italian, “CPT”), from now on, have to be sent to the so called Asylum Seekers Assistance Centres (acronym in Italian, “CARA”). All the immigrants are free to exit the Centres and in fact some of them have already left.

35. Furthermore, the appeal against a rejection measure of the international protection application normally stays the efficacy of the contested rejection measure, so that the person concerned is entitled to remain in Italy until his/her appeal is ruled. However, this stay cannot exceed the maximum period of six months, starting from the application date. In any case, a number of people left after they received the rejection notice of their application.

36. These new legislative developments determined an incremental growth of both the international protection applications and of people within the migrant Centres where, against a total availability of 2,800 places, starting from March 2, 2008 (when Legislative Decree No. 25 entered into force) people increased from around 2,000 (end of February, 2008) to around 2,700 (end of April, 2008). This is why, thanks to a recent issue by the Minister of the Interior, the Bari and Siracusa Centres have been destined to host also asylum-seekers (acronym in Italian, “CARA”).

37. In Bari, a new facility has just entered into force, capable of 700 places. Soon, new facilities will be operational in:

- (a) Brindisi (180 places);
- (b) Crotone (250 places);
- (c) Gorizia (250 places).

38. Furthermore, within the Asylum-Seekers and Refugees Protection System (acronym in Italian, “SPRAR”), the Ministry of the Interior is working, in tandem with the Central Service and the Italian Municipalities Association (acronym in Italian, “ANCI”), to enhance the hosting system in the Municipalities that take part to the above-mentioned programme (SPRAR). To date, roughly 700 more places have been announced, to be added to the already existing 2,500 places.

39. Beside the above interventions of a structural nature, there is a clear need to reduce the duration of the procedures falling within the responsibilities of both the Immigration offices at the Police stations (*Questure*), including (pictures, registration of the applications, notification of measures adopted by the Territorial Committees), and of the Territorial Committees (*Commissioni Territoriali*).

40. Last but not least, we do want to emphasize, within the framework of the activities relating to CE Regulation No. 343/2003 (Dublin II) concerning the definition of the EU State being responsible for the examination of the asylum applications, some difficulties have emerged to date, either due to the rise in the number – very high – of applications

from Afghan and Iraqi asylum-seekers to be sent back to Greece and the UK or due to the applications by other member States.

41. As for the penitentiary structures, please find below the tables concerning the interventions carried out since 2007 (Table A), the interventions given out by contract since 2007 (Table B), and the interventions to be given out by contract in 2008 (Table C), as well as the information concerning the building of new prisons, by the Ministry of Infrastructures, with the indication of the date of end of works, respectively:

Table A – Interventions carried out since 2007

<i>Prison</i>	<i>Works</i>
BERGAMO C.C.	Renovation of the former bunker room in a detention wing (100 beds) – Works have been financed and carried out by the Ministry of Infrastructures
BRINDISI C.C.	General Renovation of the prison – 1st lot – (93 places)
CATANZARO C.C.	Renovation and functional reallocation of the premises of the Therapeutic Diagnostic Centre (67 places)
CIVITAVECCHIA C.R.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the building “Cattaneo” (48 places)
FOSSANO C.R.	General renovation of the prison (141 beds) – Works have been financed and carried out by the Ministry of Infrastructures
IS ARENAS ARBUS C.R.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 of the detention wings of the Branch “Conca d’Oro” (50 places)
ISILI C.R.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the detention wings of the Branch “Fontana” (50 places)
L’AQUILA C.C.	Compliance with current legislation and widening of the existing wing 41b (12 places)
LOCRI C.C.	General renovation of the prison complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – (102 places)
MILANO OPERA C.R.	Compliance with current legislation and transformation of the former female wing in 41b wing (92 places)
NOTO C.R.	General renovation of the prison (180

<i>Prison</i>	<i>Works</i>
	places)
ROMA REBIBBIA C.C. N.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the G7 block (22 places)
SPOLETO C.R.	Compliance with current legislation and transformation of the building E5 in the wing for 41b prisoners (88 places)
TEMPIO PAUSANIA C.C.	Recovery of the fitness for habitation of the prison (29 places), waiting for the building of the new prison – Works have been financed and carried out by the local Municipal Administration

Table B – Interventions given out by contract since 2007

<i>Prison</i>	<i>Works</i>	<i>Expected completion date</i>
BARCELLONA O.P.G.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the former workshop and of the third ward (130 places)	By the end of 2008
MASSA C.R.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the B wing (104 places) – Works have been financed and carried out by the Ministry of Infrastructures	By the end of 2008
MILANO BOLLATE C.C.	Building of two detention wings widening the prison (344 places)	By the end of 2008
MILANO OPERA C.R.	Renovation of the Therapeutic Diagnostic Centre with annexed kitchen and laundry (48 places)	By the end of 2008
NAPOLI POGGIOREALE C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the building “Firenze” (221 places)	By the end of 2008
PERUGIA C.C.	Renovation of the premises for transformation in Therapeutic Diagnostic	By the end of 2008

<i>Prison</i>	<i>Works</i>	<i>Expected completion date</i>
	Centre (30 places)	
RIMINI C.C.	Compliance with current legislation of the former barracks for agents for transformation in detention wing (22 places)	By the end of 2008
TRANI C.R.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 of a part of the prison (75 places)	By the end of 2008
AVELLINO C.C.	Building of a new block widening the prison (150 places)	By the end of 2009
AVEZZANO C.C.	General renovation of the prison complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – (70 places)	By the end of 2009
COSENZA C.C.	General renovation of the former female wing complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 (20 places)	By the end of 2009
CUNEO C.C.	Building of a new block widening the prison (200 places)	By the end of 2009
ENNA C.C.	Widening of an existing block (50 places)	By the end of 2009
FAVIGNANA C.R.	General renovation of the prison complying with the new Regulation of enforcement of the Penitentiary Act - DPR 230/2000 – (120 places)	By the end of 2009
LA SPEZIA C.C.	Completion of the general renovation of the prison – Works are carried out by the Ministry of Infrastructures with financing granted by the Penitentiary Administration	By the end of 2009
LODI C.C.	Renovation and compliance with current legislation of a part of the prison (30 places)	By the end of 2009
PALERMO UCCIARDONE	Renovation complying with	By the end of 2009

<i>Prison</i>	<i>Works</i>	<i>Expected completion date</i>
C.C.	the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of VIII wing (120 places)	
VELLETRI C.C.	Building of a new block widening the prison (200 places)	By the end of 2009
CATANZARO C.C.	Building of a new block widening the prison (300 places)	By the end of 2010
PALERMO PAGLIARELLI C.C.	Building of a new block widening the prison (300 places)	By the end of 2010
PISA C.C.	Renovation of GS1 block which is part of the Therapeutic Diagnostic Centre (21 places)	By the end of 2010
S. MARIA CAPUA VETERE C.C.	Building of a new block widening the prison (300 places)	By the end of 2010

Table C – Interventions to be given out by contract in 2008

<i>Prison</i>	<i>Works</i>
AGRIGENTO C.C.	Building of a new block widening the prison (200 places)
ARIANO IRPINO C.C.	Building of a new block widening the prison (200 places)
BARI C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – D.P.R. 230/2000 – of II wing (100 places)
CAMPOBASSO C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of an unemployed prison wing (70 places)
CARINOLA C.C.	Building of a new block widening the prison (200 places)
CREMONA C.C.	Building of a new block widening the prison (200 places)
CROTONE C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of detention wings (120 places)

<i>Prison</i>	<i>Works</i>
FROSINONE C.C.	Building of a new block widening the prison (200 places)
GENOVA PONTEDECIMO C.C.F.	General renovation of the prison complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the former High Security wing (20 places)
LIVORNO C.C.	Building of a new block widening the prison (80 places)
MILANO OPERA C.R.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – D.P.R. 230/2000 – of a detention wing (200 places)
MODENA C.C.	Building of a new block widening the prison (200 places)
MODENA C.C.	Rebuilding of a health thermic and water installation of prison wings complying with the new penitentiary Regulation – D.P.R. 230/2000 - (220 places)
MONTELUPPO O.P.G.	Ending of the renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of III wing (60 places)
NAPOLI O.P.G.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of some unemployed wings (70 places)
NUORO C.C.	Building of a new block widening the prison (90 places)
NUORO C.C.	General renovation of the prison complying with the new Regulation of enforcement of the Penitentiary Act – D.P.R. 230/2000 – 1st lot (130 places)
PADOVA C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act - DPR 230/2000 – of some unemployed wings (150 places)
PAOLA C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the former female wing to be assigned to the internee wing (40 places)
PARMA I.P.	General renovation of the prison complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of a prison male wing (18 places)

<i>Prison</i>	<i>Works</i>
PAVIA C.C.	Building of a new block widening the prison (300 places)
PESCARA C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the penal wing (150 places)
ROMA REBIBBIA C.R.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of II wing (84 places)
ROMA REGINA COELI C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of V wing (36 places)
ROMA REGINA COELI C.C.	Ending of the renovation of the IV wing – Works will be carried out by the Ministry of Infrastructures with financing granted by the Penitentiary Administration
SALERNO C.C.	General renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the male prison wing (20 places)
SPOLETO C.R.	Renovation complying the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the building E6 - former female wing (20 places)
TERNI C.C.	Building of a new block widening the prison (200 places)
VERCELLI C.C.	Renovation complying with the new Regulation of enforcement of the Penitentiary Act – DPR 230/2000 – of the infirmary located at the 5th floor (20 places).

42. Besides the activity carried out by the Penitentiary Administration, in order to give a more detailed framework of the programmed interventions, the situation of the building of new prisons by the Ministry of Infrastructures is as follows:

- (a) New Remand Prison of CAGLIARI (550 beds) – currently the building of a first lot of works to be finished by the end of 2009, is ongoing;
- (b) New Remand Prison of SASSARI (430 beds) – currently the building of a first lot of works to be finished by the first three months of 2010, is ongoing;
- (c) New Remand Prison of TEMPIO PAUSANIA (150 beds) – currently the carrying out of a first lot of works to be finished by the end of 2009, is ongoing;
- (d) New Remand Prison of ORISTANO (250 beds) – currently the carrying out of a first lot of works to be finished by the end of 2009, is ongoing;

(e) New Remand Prison of ROVIGO (200 beds) – currently the carrying out of a first lot of works to be finished by the end of 2011, is ongoing;

(f) New Remand Prison of FORLI (225 beds) – works have been recently awarded and have to be finished by 2012;

(g) New Remand Prison of MARSALA (175 beds) – the work has never started because of a controversy between the contracting administration (Ministry of Infrastructures) and the temporary association of enterprises carrying out the work;

(h) New Remand Prison of REGGIO CALABRIA (150 beds) – the work is currently suspended as the financing of the last lot of works has not been given as provided for by the contracting administration (Ministry of Infrastructures);

(i) New Remand Prison of SAVONA (265 beds) – the work has never started because of a controversy between the contracting administration (Ministry of Infrastructures) and some enterprises which have participated in the bid for tenders by stopping the award thereof;

(j) New Remand Prison of TRENTO (220 beds) – currently the carrying out of the work to be finished by the end of 2010 is ongoing. It has to be pointed out that works are financed and carried out by the Autonomous Province of Trento.

43. As for the specific recommendation of the UN Committee for the quick recruitment of penitentiary staff, including staff for healthcare and pedagogic areas, it must be said that, in 2007, the reduced financial resources allowed the recruitment of 5 new staff members. However, the Penitentiary Administration has carried out the whole procedure of the public competition for the recruitment of about 180 members of administrative staff and of psychologists (39 units).

44. As for the pedagogic staff, two public competitions for educators are currently being carried out, one for 400 units and one for 50 units. Finally, the competition for the recruitment of 90 nurses has been completed. Therefore, in the next months, the recruitment of about 100 new units of civil staff is foreseen, within the limits of the financial resources allocated to the Penitentiary Administration Department within the Ministry of Justice.

45. As for the Penitentiary Police, the authorization was asked to the recruitment, for the year 2008, of 1,769 staff members. The long procedure is ending for the shifting of the Healthcare penitentiary system from the Department of Penitentiary Administration to the National Healthcare Service, started by Act No. 419 of 1998 and the following Legislative Decree No. 230 of 1999.

46. Indeed, the Financial Act of 2008 has completed the legislator's project, since it provides for the issuing of a Decree of the President of the Council of Ministers which defines the modalities and the criteria for shifting from the Ministry of Justice to the National Healthcare Service all the healthcare functions, including the employer-employee relations, the financial resources, the equipments and goods relevant to the penitentiary healthcare service.

47. The above-mentioned Decree was signed by the President of the Council of Ministers and by the Ministers of Justice and of Healthcare on 1st April 2008. This provides that the healthcare service is assured, in Italy, to all citizens, both free and prisoners, by the same bodies, by the same structures and by the same staff, according to the following criteria: entirety of the intervention, unity of services, integration of social and health assistance and the guarantee of therapeutic continuity.

48. The healthcare services will be provided by the Regions through the Local Health Agencies, which are competent for the areas where the prisons and the penitentiary services are located.

49. The premises of the penitentiary structures dedicated to the healthcare service will be put at the disposal of the Local Health Agencies for free, on the basis of specific agreements.

50. One article of the above-mentioned Decree is dedicated to the Judicial Psychiatric Hospitals: as for healthcare, their functions will be shifted to the Regions, while the equipments, furniture and instruments will be shifted to the Local Health Agencies. The Regions will have to regulate their interventions in the Judicial Psychiatric Hospitals, in accordance with the principles set forth in the specific guidelines included in the above-mentioned Decree.

51. Waiting for the practical enforcement of the said reform, the Penitentiary Administration keeps orienting its activity, in the healthcare field, so as to give suitable replies to the requirements of the prison population, that suffers, in a meaningful percentage, from chronic pathologies (drug-addiction, psychiatric diseases, infectious diseases), that is socially weak and that keeps changing.

52. In 2007, the “Document for healthcare guidelines and planning 2007” was drafted, with the purpose of reforming the previous criterion of organization of healthcare services, thus starting an integrated network of assistance, in order to provide healthcare services inspired by principles of cheapness and efficacy, also involving the Regional Health Services.

53. New managerial and organizational models have been identified, classifying prisons according to health levels, on the basis not only of the number of prisoners present, but also of the health needs identified and of the functions they carry out.

54. Moreover, the number of the wards for psychiatric observation was increased, as well as the number of wards for prisoners suffering from HIV, of wards for disabled prisoners, of detention wards based in civilian hospitals and of wards for drug-addicts.

55. It must also be underlined that, by a circular letter dated 6th June 2007, new guidelines were established for an organizational model concerning the procedures of reception of persons entering in prison from liberty.

56. As for the planning of staff training for the three-year period 2007-2009, the strategic priorities set in the relevant guidelines pursue the promotion of a “professional culture” based upon:

- (a) The centrality of the human being, with reference both to the users of the penitentiary system (in prison and in the community), as beneficiaries of the penitentiary service, and to the penitentiary workers, as indispensable human resources for the implementation of a change within those services;
- (b) The strengthening of ethics in working action;
- (c) The centrality of operational structures and improvement of the quality of the service provided;
- (d) The links with the local community

57. With reference to the CAT recommendation in order for the whole staff to receive a specific training about how to identify the marks of torture and mistreatment, the Office for Studies of the Penitentiary Administration Department translated into Italian and printed the 1999 Istanbul Protocol, which is currently being disseminated to the Prisons and the Penitentiary Services all over the Country, as well as to all the Agencies concerned, so that it may be included in the training for the healthcare staff.

58. As for the enforcement of the measures alternative to detention, please find below the relevant Tables:

Table A. Cases followed in 2007 - Total

<i>TYPE OF MEASURE</i>	<i>Nr. of cases followed</i>
Assignment of the offender to the Probation Service	3,391
Assignment of the offender to the Probation Service in particular cases: drug-addicts and alcohol-addicts	1,735
Home detention	3,865
Semi-liberty	1,398

Table B: Cases followed on 31st March 2008

<i>TYPE OF MEASURE – TYPE OF OFFENDER</i>	<i>Nr. of cases followed</i>
ASSIGNMENT OF THE OFFENDER TO THE PROBATION SERVICE	
Drug-addicted assigned from liberty	411
Drug-addicted assigned from detention	441
Drug-addicted assigned from home detention or house arrest	21
Offenders assigned from detention	821
Offenders assigned from liberty	1,297
Offenders assigned from home detention or house arrest	56
TOTAL	3,047
SEMI-LIBERTY	
Semi-liberty from detention	685
Semi-liberty from liberty	47
TOTAL	732
HOME DETENTION	
Home detention from prison	692
Home detention from liberty	753
Provisional home detention	180
TOTAL	1,625

V. Compensation and rehabilitation

Response to the issues raised in paragraph 20 of the concluding observations of the Committee against Torture

59. Draft Law No S. 1216 was transmitted to the II Permanent Commission (Justice) of the Senate, on 19 December 2007, for its examination. At present all the draft laws under

examination by the Parliament are to be considered ceased, as on 25 January 2008 the Prodi-led Government resigned and contextually the XV Legislature lapsed.

60. As already recalled in the Introduction to the present Follow up, the current Government has been authorized to perform exclusively caretaking acts and fulfilments, whereas the future Government will have to take any decision (both technical and political) regarding the acts, drafts laws and proposals discussed so far but still unaccomplished.

61. Within this framework, while being confident that the legislative process will be soon resumed, we would like to reiterate that the Italian Constitution protects in a rigorous and strict way the same rights guaranteed by international instruments. Within this framework, the new Legislator will promptly follow such lines.
