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Prison, recidivism, and alternative measures to detention in Italy over the past ten years¹

Prison, récidive et mesures alternatives à la détention en Italie au cours des dix dernières années

Raffaella Sette^{*}

Riassunto

L'articolo analizza la realtà penitenziaria italiana dell'ultimo decennio con un particolare riferimento ai fenomeni del sovraffollamento, della recidiva e dell'efficacia delle misure alternative alla detenzione. Infatti, partendo dalla constatazione che il conseguimento dell'effettiva rieducazione deve comportare un deciso spostamento del baricentro della risposta sanzionatoria dalla pena detentiva alle sanzioni di comunità, vengono analizzate alcune statistiche dalle quali emerge che le misure alternative alla detenzione sono assolutamente efficaci per prevenire la ricaduta del condannato nelle attività criminali durante l'esecuzione della misura stessa e, di conseguenza, adatte ad assicurare un'adeguata difesa sociale.

In tal senso, l'articolo si sofferma sull'esame di un progetto educativo rivolto a detenuti e realizzato in strutture detentive non carcerarie. Le riflessioni che emergono sono frutto di una ricerca qualitativa svolta dall'autrice tramite lo strumento dell'intervista semi-strutturata presso una di queste strutture. E' apparsa evidente la necessità di promuovere maggiormente il ricorso alle misure alternative alla detenzione (o sanzioni in comunità) identificando buone prassi utili a ridurre sempre più il rischio che tali diritti diventino dei "privilegi" solo per una popolazione selezionata.

Résumé

Cet article vise à analyser la situation pénitentiaire italienne au cours des dix dernières années, en faisant particulièrement référence aux phénomènes de la surpopulation, de la récidive et de l'efficacité des mesures alternatives à la détention. Les données statistiques analysées ici montrent que les mesures alternatives à la détention sont totalement efficaces pour empêcher les condamnés de récidiver au cours de la mesure-même tout en garantissant une défense sociale adéquate.

À cet égard, cet article donne l'exemple d'un projet éducatif s'adressant aux personnes détenues, mis en œuvre par des centres de détention communautaires. Les réflexions exposées ici sont issues d'une recherche qualitative menée par l'auteur de l'article au moyen d'entretiens accordés par certaines personnes hébergées dans l'un de ces centres. Cette recherche a mis en évidence la nécessité de promouvoir le recours aux mesures socio-éducatives alternatives à la détention à travers l'identification des bonnes pratiques afin de réduire progressivement le risque que ces droits ne deviennent que des « privilèges » pour une population ciblée.

Abstract

This article aims to analyse the reality in the Italian prison system over the last decade, with particular reference to the phenomena of overcrowding, recidivism, and the effectiveness of alternative measures to detention. The analysed statistical data show that implementation of such alternative measures to detention is completely effective in preventing convicted criminals from re-offending during the period of execution and is suitable for ensuring adequate social protection.

Then, this article focused on examining a rehabilitation project aimed at prisoners conducted in non-prison detention centres. It has become apparent that there is a need to further promote the use of alternative measures to detention through the identification of good practices to progressively reduce the risk of these rights becoming "privileges" for a selected population.

¹ This article raises once again actual issues regarding prisons, recidivism, and alternative measures to detention. Indeed, prison unfortunately is still an institution reserved, in the great majority of cases, for the weak and marginalised population, with uncertain future prospects regarding social reinsertion.

Therefore, the author presents again this contribution, using updated data, to help keep the debate going on these issues. It should be noted that this topic also came up during a conference held in Montreal on 26th September 2017 at the International Centre for Comparative Criminology of Montreal University (video available at: <https://www.youtube.com/watch?v=AFIv4qOaX1U>). On that occasion, the author presented much of the data discussed here.

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1. The reality of the Italian prison system.

For many years, the Italian prison system has had to tackle the extremely delicate and urgent issue of chronic overcrowding in prisons. This, in turn, results in violations of prisoners' rights, difficulties with social re-integration, and tense situations that can lead to assaults on prison staff, suicide, self-destructive behaviours, riots, and demonstrations by prisoners.

Following a peak of 59,523 prisoners in institutions as recorded on 31 December 2005, the Italian legislator granted a pardon for all offences committed up to 2 May 2006, as pursuant to Law No. 241 on 31 July 2006, thereby reducing custodial sentences by up to three years and fines imposed separately or in conjunction with custodial sentences by up to €10,000, which are subject to certain exceptions related to particular types of crimes such as, kidnapping for the purpose of subversion or terrorism, Mafia-type association, reduction into slavery, and people trafficking. The aim of this measure was most certainly achieved months immediately after it was issued, as confirmed by the prisoner population on 31 December 2006, which shows a remaining population of 39,005 inmates. However, this was only a temporary result, because within a few years, the prisoner population levels in the 206 Italian prison institutions dangerously exceeded the population recorded prior to implementation of the clemency measure; and on 31 December 2011, as compared with the regulatory capacity of 45,817¹,

¹ Places are calculated on the basis of a criterion of 9 square metres for a single prisoner + 5 square metres for additional prisoners, which is the same as the housing space standard in Italy and better than the 6 square metres + 4 established by the CPT (European Committee for The Prevention of Torture

there were 66,897 prisoners detained in the said institutions. However, the prisoner density only equates to an overcrowding index of 146: this means that there are 146 inmates for every 100 places available on the basis of regulatory capacity.

In view of this situation, the Department of Prison Administration (DAP) of the Ministry of Justice found it necessary to act on a case-by-case basis, thus resorting to deflationary measures wherein inmates were transferred from one prison to another. However, these were just initiatives aimed at trying to provisionally quell difficult or emergency situations. Such interventions, by their very nature, did not tackle the causes of the phenomenon, which, on the other hand, were attributable, *inter alia*, to detention, including preventive detention for minor offences, and to the substantial increase in the average length of imprisonment of foreigners, even when issued with short sentences, on the basis of a number of regulations that restricted access to alternative measures for that category of prisoners.

Thus, 8 January 2013 marked the beginning of a historic period that witnessed, at various levels, an increase in activities, debates, and projects, all with the common aim of attempting to reduce, from qualitative and quantitative point of views, the space allocated to prison in our society. In fact, on this date, the Torreggiani judgment, which is named after one of the applicants, was handed down by the European Court of Human Rights, whereby Italy was condemned for breaching Article 3 of the European Convention on Human Rights for the

and Inhuman or Degrading Treatment or Punishment) + health services. The space data does not take into account transitory situations that involved temporary deviations from the indicated value.

inhumane and degrading treatment inflicted on seven prisoners in two district prisons in northern Italy as a result of overcrowding. It came to be a "pilot judgment", because the Court perceived prison overcrowding not only as a problem affecting the applicants, but also as a structural and systematic problem due to the hundreds of applications pending before the Strasbourg Court. It ruled that, within one year prior to the finalization of the judgment, Italy had to adopt all necessary measures to ensure that prisoners were detained in conditions compliant with Article 3 of the Convention, by reducing the number of people remanded in custody, imposing noncustodial punitive sanctions, and minimising the use of preventive detention. Within that deadline, Italy was ordered to adopt into its own law an effective and efficient means of petition allowing detainees, in the event of a violation of Article 3, to rapidly bring such violation to an end and obtain a redress for the abuse suffered.

The deadline for complying with the ruling of the European Court of Human Rights expired on 24 May 2014, and, to that end, Italy undertook a series of regulatory actions in 2013 and 2014 to reduce overcrowding in prisons, to provide prisoners with judicial remedies to end violations on Article 3 of the Convention, and to finally set up a remedial system for the breaches committed.

However, the problem is far from being solved, especially in view of the following:

- Prisoner numbers have not drastically decreased as envisioned by the regulatory changes introduced between 2013 and 2014;
- Specific monitoring and follow-up studies by the Italian prison administration have not yet been duly published with reference to the

recidivism of former offenders. Such analysis of the extent of the phenomenon of recidivism would be indeed extremely useful to the justice and prison system, and it would allow the development of more scientifically based tools to identify potential risk factors that can contribute to the recurrence of crime and thus enable the creation of truly individualised social reintegration pathways that are effective in reducing risk *per se* and prison overcrowding.

2. A look at the statistics.

With reference, first and foremost, to prisoner numbers, the statistics published by the Ministry of Justice - DAP (available at www.giustizia.it) showed a 20.6% drop, from 65,701 to 52,164, in the prisoner population between 31 December 2012 and 31 December 2015. Unfortunately, the trend is now upward, which increased by 10.2%, with 58,115 prisoners as of 30 November 2017. This data should be compared with the regulatory capacity of Italian prisons, which as of 30 November 2017, was 50,511 places with a density rate of 115.

When analysing the phenomenon of recidivism, the first challenge is to define the term, and the second challenge is to quantify its extent.

From a legal point of view, it should be noted that no regulatory system fails to sanction and punish recidivism, and with reference to Italy, Article 99 of the Criminal Code defines three types of recidivism:

- simple recidivism that occurs when an individual, after having been convicted of a crime committed with intent, goes on to commit another crime, again with intent;
- aggravated recidivism, which occurs when the new crime committed with intent is: a) of the

same kind² as the previous one or so-called specific recidivism; (b) was committed five years following the previous conviction or the so-called 5-year recidivism; and (c) was committed during or after execution of the sentence, or during the time when the convicted person voluntarily absconded;

- repeated recidivism, when a person, who has already been classified as a recidivist, commits another crime with intent.

The reason why recidivism is correlated by the Italian Criminal Code only with the commission of crimes with intent, such as intentional wrongdoings and crimes in excess of intention, is due to the fact that it is considered as an indicator of the increased propensity of the offender to commit a crime. It is an expression of ethical insensitivity to the obligation not to break the law demonstrated by the offender after conviction, which, therefore, lead to an increase in punishment and further consequences such as restriction on the granting of benefits provided by the prison system. In this sense, recidivism is a parameter for measuring the success or failure, rather, of the rehabilitation process implemented after a previously committed offence.

In spite of the scarcity and fragmented nature of published data on recidivism of former convicted persons, it is still possible to measure the extent of this phenomenon by looking at the statistics of defendants convicted by the final court judgment published by ISTAT (National Institute of Statistics) (available at <http://dati.istat.it>).

² Pursuant to Article 101 of the Italian Criminal Code, crimes of the same kind are not only those that violate the same legal provision, but also those that, although being governed by different provisions of this code or different laws, share, by virtue of the underlying facts or reasons, in individual cases, essential common characteristics.

An analysis of the frequency distribution from 2007 to 2012 showed that sentenced persons previously convicted by the final judgment in Italy and abroad, if such sentences were recognised by the Italian State, made up, on average, 44.3% of the total convicted population. Note that at the time of the final draft of that work in December 2017, no more recent data had been published. By taking into consideration the average of six years, this number further increased by 12.1%, which have been labelled as recidivists. This means that more than half of those convicted between 2007 and 2012 (56.4%) had prior criminal convictions recorded in their criminal records. However, the number of these criminal activities cannot be deduced from these statistics.

The frequency distribution of the sex of the convicted person also brings to light a reality that, although not interpreted in a wholly satisfactory manner by a series of theories, is nonetheless easy to ascertain, and that is the emancipation of women in contemporary western societies, which has not led to an increase in the recorded crimes committed by women, albeit the percentage increase in female delinquency rates exceeds that of men, and that women continue to be portrayed as victims rather than the perpetrator.

In fact, in the years examined, on average, 14.8% of all convicted persons were women. This percentage further decreases when we take only the convicted persons with criminal records (11%) into consideration, and it falls even further when we restrict it to recidivists (8.5%).

The recidivism phenomenon scenario radically changes when we analyse data published by the DAP on the revocation of alternative measures to

detention³, which ultimately shows that such measures are wholly effective in preventing convicted persons from re-offending during implementation of the measure and, accordingly, are suitable for ensuring adequate social protection. Unfortunately, no further official follow-up statistics, ensuing implementation of the measure, are available; therefore, it is impossible to make an accurate assessment of the long-term effectiveness of the alternatives to detention. However, one should be aware that, from a socio-criminological point of view, correlating statistical data on persons who have benefited from alternatives to detention on the progress of the measure and on offences committed after the conclusion of the alternative to detention, presents a serious drawback as such correlation does not provide useful information on the actual pathways that did or did not lead to the commission of a new offence, as "the reasons for committing the new offence may have absolutely nothing to do with the way the punishment was enforced"⁴.

In view of this situation, however, it is interesting to analyse the official data presented by the prison administration regarding the progress of the implemented alternative measures to detention.

With reference, first and foremost, to probation⁵, which is the broadest alternative among those provided for the Italian prison law, revocations from 2007 to 2012 represented an average of 4.7%

of the cases followed⁶; and it decreased to 3.5% in 2013-2016.

Revocations of home detention cases follow a similar pattern as to that of probation, which has even more positive implications in my opinion as home detention in Italy, and unlike the probation system, is characterised by the absence of any aim to rehabilitate; instead, it constitutes an alternative way of executing a sentence and a measure of prison deflation, although forecasts specifically targeted at convicted persons who are mothers constitute an exception⁷. In general, revocations of home detentions from 2007 to 2012 amounted an average of 5.2% of the studied cases, and the value decreased (3.7%) during 2013-2016.

Finally, with reference to the partial alternative measures to detention, namely semi-liberty or 'open prison', the higher percentages of revocations recorded (6.5% in 2007-2012 and 5% in 2013-2016) as compared with the percentage of probation is not unexpected; and it may be related to the actual nature of the measure, which, unlike probation, can

⁶ The cases followed comprised of cases received in the year of reference and of cases already handled in that year.

⁷ Sette R., "Le cure materne e il reinserimento sociale della condannata: attualità di un vecchio problema", *Rivista di Criminologia, Vittimologia e Sicurezza*, vol. VIII, n. 3, 2014, pp. 56-73, doi: 10.14664/rcvs/143.

The alternative measure of special home detention was introduced in the Italian prison law (Article 47-*quinquies* of Law No. 354 of 26 July 1975 and subsequent amendments) following a particularly difficult parliamentary debate lasting several years, which concluded with the promulgation of Law No. 40 of 8 March 2001 on "Alternative measures to detention to safeguard the relationship between detainees and minor children". The law represents an important element in the context of measures to resolve some of the problems of the prison system and, in particular, the relationship between detained mothers and their children, by specifically safeguarding two basic rights such as motherhood and the interest of minors. In fact, the special home detention scheme allows women prisoners, mothers of children up to ten years of age, to serve part of the sentence at home and look after their offspring in a family environment. Previously, home detention, as an alternative measure for sentenced-mothers, was of limited scope, because it only applied to mothers who had to serve a term of imprisonment (including a remaining term) of not more than three years and only until the child was five years of age.

³ It should be noted, however, that data on convicted persons and data on revocations of alternative measures to detention are not directly comparable, even if they relate to the same time period.

⁴ Santoro E., Tucci R., "L'incidenza dell'affidamento sulla recidiva: prime indicazioni e problemi per una ricerca sistematica", *Rassegna Penitenziaria e Criminologica*, 2006, pag. 86.

⁵ The regulatory framework for the Italian probation system is the "affidamento in prova al servizio sociale" (probation to social work).

even be granted when there is a greater degree of “uncertainty about the reliability in terms of the daily return of the convicted person to the prison to maintain continuous control over him/her”⁸.

Based on this scenario, a few months before the fortieth anniversary of the announcement of the “new prison system” on 26 July 1975, the Italian Minister of Justice instituted the General Assembly on the Execution of Punishment (SGEP) through a decree on 8 May 2015. This was an innovative approach designed to discuss and to give substance to the proxy law on the reform of the penitentiary system by recognising the need for a committee of experts to establish the lines of action for public consultation on the enforcement of sentences and whose work concluded with an event organised at the Rebibbia Prison in Rome on 18 April 2016. The key objectives of this consultation were to provide a platform for legislative reform of the prison system, develop ways to lower the costs incurred in the system that was estimated at €3 billion per annum, identify appropriate mechanisms to reduce the rate of recidivism, and raise public awareness in terms of an alternative punishment to imprisonment.

The Committee’s proceedings, in which the participants are of various professions, such as lawyers, magistrates, and DAP officials, and the representatives of the voluntary sector, comprised a number of thematic round tables that analysed the most important issues encountered when enforcing sentences.

These authoritative experts pointed out that effective rehabilitation requires a decisive shift of focus in the sanctioning response from imprisonment to community sanctions as keeping the convict closer to his/her area is less costly for

the State, less inconvenient for those who are related to them, and therefore, more effective in terms of his/her future social reintegration. The term “community sanctions” refer to all measures with implementation that does not involve imprisonment.

As it is true that such tools have long been envisaged and adopted into the Italian law, it is nevertheless necessary to rethink these tools and come up with new ideas compliant with the long-standing European recommendations in this area, particularly the Recommendation No. R (92) 16 on the European Rules on Community Sanctions and Measures and Recommendation CM/Rec (2010) 1 on Europe Probation Rules.

In fact, it was the SGEP experts’ intention that prison should be restricted to the confinement of members of organised crimes, who needed to be separated from the rest of the society, or those individuals who, although on the fringes of criminal organisations, proved over time to be incapable of social inclusion as their criminal conducts are relentless and re-offending for various reasons.

To achieve this objective, it is further necessary to raise public awareness about the benefits that community sanctions can provide to the offenders, community, and victims, along with the view to reduce recidivism rates and prevent crimes. The SGEP’s final report highlights the fact that citizens must be informed, aware, and familiar with the various punishments available, and they should also be able to gauge the effectiveness of these punishments that are traditionally perceived as ineffective and as a danger to the public. In this regard, efforts must be made to ensure that the punishment can be perceived by the public as a way to transform a negative situation, such as conflicts and crimes, into something positive like social

⁸ Pavarini M., Guazzaloca B., *Corso di diritto penitenziario*, Edizioni Martina, Bologna, 2004, pag. 133.

reintegration of the offender and the recognition of the victim's suffering.

3. Towards social reintegration by non-prison pathways.

Regarding debates on different ways to serve a sentence in establishments other than prisons and focusing on the development of human capabilities geared towards community sanctions or a new life as a free person, I conducted my research at an Italian community detention centre called "Casa Madre del Perdono", which belongs to The Pope John XXIII Community Association⁹. I had access to this community, as I had previously met the manager in the course of conducting a European research entitled "Reducing Prison Population: Advanced Tools of Justice in Europe", in which I participated both as a member of the steering committee and as a researcher at the Centre for Interdisciplinary Research on Victimology and Security (C.I.R.Vi.S.) – Department of Sociology and Economic Law at the University of Bologna.

To propose solutions on reducing overcrowding in prisons, this research aims to improve the knowledge and exchange of innovative measures on alternative practices to detention at the pre- and post-trial stages¹⁰. In relation thereto, the final work produced by the European research group consisted of a document containing guidelines regarding the implementation of alternatives to detention and a

⁹ The Pope John XXIII Community Association is an international association of the faithful of pontifical right. Since its foundation in 1968, it has embraced a practical and continuous commitment to combat marginalisation and poverty. It has had a seat at the United Nations since 2006, with special consultative status at the United Nations Economic and Social Committee, acting as a mouthpiece for the world's most disadvantaged where international leaders make decisions about the fate of humanity. More information is available at www.apg23.org

¹⁰ Project design, partnership, product documents, and organised events can be found at www.reducingprison.eu

training package to train the staff involved in managing the alternative measures to imprisonment. A part of this document was devoted to the analysis of the promising optimum alternatives to detention that were based on a multi-agency holistic approach, which implied the involvement of family members and relatives to foster the social reintegration of the convicted persons with the aim of assessing them as nonsocially dangerous persons.

These examples included the Italian CEC (Comunita Educante con i Carcerati) project, which was developed and managed by organisations belonging to The Pope John XXIII Community Association, particularly the "Casa Madre del Perdono" located in the province of Rimini in Northern Italy.

At the end of this European research, I continued my studies by interviewing 14 people from May to November of 2016, wherein four participants were enrolled in the CEC project or had already successfully completed the project, eight were family members, and two were volunteers.

For many years, the "Casa Madre del Perdono" has taken in prisoners who are not drug addicts. Fifteen years ago, they developed a specific method called CEC, which is a rehabilitation pathway in a home and family setting. It is organised just like a usual home, and a part of the building is used as a workshop where electromechanical assembly works are done.

The CEC project provides a variable, individualised, and customised path for each detainee, which begins with a two-month trial period. In fact, the path is divided into three phases, and the duration of each phase depends on the type of offence committed and the characteristics of the person involved.

During the first phase, prior to admission, the detainee must know the rules and be familiar with the proposal and must subsequently express his/her commitment to the educational pact. This phase mainly consists of work-therapy ranging from training to moments of reflection on existentially important values, and during this phase, contact with the outside environment is reduced to a minimum so as to encourage reflection to strengthen the decision to change.

From this first phase onward, volunteers are key participants as they establish a dialogue with those in rehabilitation or detainees participating in the rehabilitation project and organise educational and recreational activities for the detainees. These relationships represent the "anthropological locus", which is a space where people who live within acquire own identities and connect with each other and with the place itself, with the goal of working on their self-esteem, to feel more secure, and to give new meaning to their lives¹¹.

During the second phase of the CEC programme, the rehabilitee's participation in activities no longer has a solely creative and therapeutic dimension, rather it becomes a means of learning new professions in small workshops where he/she learns a trade and is offered apprenticeships in cooperatives and outside companies. The time spent on family visits increases, and steps can be taken to approach the victims of the crime for a possible redress.

Finally, the third and final phase of the CEC project provides for the re-entry into the workforce, in which rehabilitees continue to maintain contact with their family members and the amount of education and training they receive decreases. As per

¹¹ Augé M., *Non-Places: Introduction to an Anthropology of Supermodernity*, Verso, London-New York, 1995.

magistrate's discretion, the final part of the sentence may be served in "home/family communities" or in other host facilities belonging to The Pope John XXIII Community Association. From a legal point of view, active involvement in the pathway ensures the possibility of early release; accordingly, active involvement in the pathway within the facility ensures progress within each phase. In the event of noncompliance with the rules, rehabilitees revert to a phase and, in serious cases, are sent back to prison.

During the interviews, I was able to collect many appreciative remarks on the work done by the operators involved in the programme; however, I still have doubts as to the future of rehabilitees although most of the detainees who followed this pathway successfully achieved social re-integration. In fact, some family members perceived the "detention" of their loved ones in the said community as a refuge, as the detainees were supported by educators who helped them to successfully complete a project. However, problems could arise once more once a detainee is released, as he/she will have to put into practice what he/she has learned in a different and complex setting and confront reality in a different way.

The former and present detainees interviewed highlighted the difficulties of adapting to the pace and lifestyle of this community in the early days due to the strict rules they had to comply with and the responsibilities they had to with towards themselves and other "guests". During the interviews, people who succeeded on this pathway and their family members expressed great satisfaction on the time they spent in this facility and a desire to work and help future community "guests". They hope that the administration of educational programmes like this will become more widespread in Italy.

The volunteers interviewed proved to be very determined and motivated to work with the rehabilitees, mainly because they know that they are doing something useful. They feel appreciated and fulfilled working for the programme. Moreover, they feel that they are receiving far more than what they give, and after putting their initial worries aside, they felt comfortable with the detainees they were assigned to. Their meetings with the detainees are perceived, in fact, as experiences that stimulate their spiritual growth, as a time for learning, and as opportunities for self-improvement in terms of empathy, awareness, and tolerance.

Certain issues reported by volunteers during the meetings relate, eventually, to people's negative perception of community sanctions, to the difficulties of financially supporting such a facility, and to the need of the proper training of the to provide them with adequate tools to adequately handle their relationship with the detainees.

4. Conclusion.

The summary of the analysis of the statistical data and the results of this research presents that in spite of the efforts made to comply with the provisions of the Torreggiani judgement, Italy, nevertheless, was able to adopt measures that are inadequate of emergency actions and only highlight its limited capability to reduce overcrowding in prisons¹². Therefore, Italy still has myriad tasks to accomplish so as to:

- protect the fundamental rights of prisoners and the dignity of those deprived of liberty;
- thoroughly analyse the phenomenon of recidivism and its possible causes;

¹² Ciccolo P., *Intervento del Procuratore Generale della Corte Suprema di Cassazione nell'Assemblea generale della Corte sull'amministrazione della giustizia nell'anno 2016*, Roma, 2017, from www.giustizia.it, pag. 12.

- ensure the certainty of the educational purpose of the punishment as required by Article 27 of the Italian Constitution and to ensure the effectiveness of the pathway to social reintegration as well;
- promote wider use of alternative measures to detention or community sanctions by identifying the good practices to continually reduce the risk of these rights to become "privileges" for a selected population and to pay particular attention to people with special needs, to the adoption of multidisciplinary pathways for social inclusion, to ensure education, vocational training, and inclusion in the workforce of the prisoners, and to practice the involvement of families and of civil society;
- ensure the financial sustainability of total or partial, residential, non-prison rehabilitation facilities.

As I was finalising this article, I learned that, during the last Council of Ministers of December 2017, the Government approved, in a preliminary phase, the Legislative Decree to introduce provisions necessary to reform the penitentiary system. This Decree will come into force within 45 days, on the condition that the justice committees of the Chamber of Deputies and the Senate share the same positive opinion.

This Decree was inspired by the results of work done by the General Assembly on the Execution of Punishment (SGEP). Its main objective was to modernise the penitentiary system, so that it would meet the requirements of the Constitutional Court, the Court of Cassation, and the European Courts.

This Decree is specifically aimed at:

- reducing the use of detention sanctions by promoting solutions, without weakening the

social defence, putting the main emphasis on the re-educative function of punishment, as stated by the article n°27 of the Italian Constitution;

- streamlining the penitentiary system staff organisational structures in terms of efficiency, by reducing case-handling duration, and by cutting costs;
- reducing prison overcrowdedness, both by formally setting priority to alternative measures to detention, and by facilitating the social rehabilitation programs with the aim of reducing recidivism;
- enhancing the role of Penitentiary Police, widening the spectrum of their competences.

The hope is that "prison reform", a topic almost as old as the concept of prison¹³, will not become a pretext to forget that beyond modernisation, humanisation, and effectiveness, action must be taken to tackle the mentality, prejudices, stereotypes, and the organisational situation of prison establishments by integrating these actions in the context of a comprehensive reform of criminal policies and, consequently, of the law.

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¹³ Foucault M., *Surveiller et punir*, Gallimard, Paris, 1975, pag. 271.

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