



# Congress of State

Sitting of: 26 May 1997

Decision no. 42

File no. 2294

**Subject: Penitentiary Regulation**

THE CONGRESS OF STATE

having heard the Minister of Justice,  
having seen art. 12 of Law no. 44 of 29 April 1997,

approves

the attached Penitentiary Regulation.

THE SECRETARY OF STATE

**Abstract from the minutes for use by:** the Captains Regent, the Ministers, the Ministry of Justice

## **PENITENTIARY REGULATION**

### Art. 1

#### **ORDER AND DISCIPLINE IN THE PRISON**

Security, order and discipline are preconditions to the treatment of persons deprived of their liberty.

The security and custody service in the prison is entrusted to the agents of the Gendarmerie Corps, who accomplish their attributions in conformity with the laws and regulations in force.

The Commander of the Corps designates an under-officer acting as director of the establishment following the directives of the Judge competent for the execution of sentences<sup>1</sup>.

### Art. 2

#### **SUPERVISION OF THE JUDGE COMPETENT FOR THE EXECUTION OF SENTENCES ON THE ORGANISATION OF DETENTION ESTABLISHMENTS**

In the exercise of his supervision functions, the Judge competent for the execution of sentences obtains direct information on the performance of detention services by means of visits and interviews and, when necessary, by reading documents.

### Art. 3

#### **ROOM CLEANING**

Detainees, whose physical and psychical conditions allow it, are directly in charge of cleaning their rooms and toilet facilities.

To this end the appropriate means are made available to them.

In any case the cleaning of premises in common is assured by the prison management.

### Art. 4

#### **PERSONAL HYGIENE**

Detainees have to take a warm bath or shower at least once a week and whenever necessary for hygiene or health reasons.

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<sup>1</sup> In Italian: *Giudice dell'esecuzione*.

Art. 5

### **RECEPTION, ACQUISITION AND POSSESSION OF OBJECTS AND FOODSTUFFS**

Daily consumption either of wine not exceeding half litre and 12°, or of beer not exceeding one litre is allowed.

In any case the possession of money is prohibited.

Unauthorised objects are retained by the prison management and given back to detainees when they are released, except if these items constitute real evidence.

Merchandises and stuffs coming from outside must be contained in parcels and are always subject to controls before being delivered to detainees.

Items for personal use can be received within the limits of normal, individual needs.

Foodstuffs received from outside must not exceed in quantity the needs of a person and must not require cooking.

The detainee or interned person cannot accumulate foodstuffs in quantities exceeding his normal needs.

Art. 6

### **CESSIONS BETWEEN DETAINEES OR INTERNED PEOPLE**

The cession and reception of money and objects between detainees are prohibited.

Art. 7

### **OPEN-AIR EXERCISE**

Within the establishment, the time for open-air exercise can be spent to carry out sports, cultural or recreational activities as well as to spend part of one's leisure time.

The spaces destined to open-air exercise are also used for the installation of sports equipment compatible with the conditions of the premises.

Art. 8

### **SPECIAL ASSISTANCE TO PREGNANT WOMEN AND PUERPERAE. NURSERIES**

Pregnant women and *puerperae* are assisted by specialists in obstetrics and gynaecology of the Institute of Social Security (I.S.S.) or by reliable professionals.

Assistance is also provided by obstetric paramedical staff.

Art. 9

### **LIBRARY**

The prison management must assure that detainees and interned people have easy access to the publications of the library of the prison.

In selecting books and magazines, an equal representation of the cultural pluralism existing in the outside world must be assured.

Art. 10

**MODALITIES OF ACCESS TO THE ESTABLISHMENT**

When a detainee enters the establishment, the prison management must proceed with the personal searching and fingerprinting of the detainee and allow him to exercise his right to inform his relatives, according to the modalities envisaged.

A medical examination is performed on the detainee the day he enters the establishment and in any case within the following day.

The officer responsible, or a penitentiary agent, interviews the detainee in order to obtain all the necessary information to be registered in the detainee's personal file.

The detainee is given an abstract of the main rules contained in the law and regulation, also indicating where he can read the integral texts.

An abstract of the law and regulation translated into various languages is made available to aliens.

(An abstract of the law and regulation is translated into the language spoken or understood by the detainee and is made available to aliens).

During the interview the detainee is invited to indicate any personal or family problems requiring immediate intervention.

The items handed over by the detainee, as well as those found on him which cannot be left in his possession are retained and deposited with the prison management, and reported in writing in the detainee's personal file.

The competent judicial authority is informed of the items handed over by or found on the defendant.

The items handed over by or found on the defendant which cannot be preserved are either sold or sent by the judicial authority to the person chosen by the defendant.

Art. 11

**LAW LIST**

An updated list of lawyers in the Republic is kept in the establishment and must be displayed in such a way that all detainees can read it.

Penitentiary agents are forbidden to influence, either directly or indirectly, the choice of a defending lawyer.

Art. 12

**PERSONAL FILE**

For each detainee or interned person a personal file is opened and compiled since the entry in the establishment.

The file is personal and contains the detainee's vital records, fingerprints, photograph and any other data necessary to the correct identification of the person.

The personal file also includes general and specific data and information on penitentiary treatment, as well as any other significant element related to the detainee's life.

Art. 13

**MONITORING OF DETAINEES' PERSONALITY**

The scientific monitoring of the detainee's personality, carried out by I.S.S. personnel, is aimed at verifying the needs of each detainee that may be linked to physical, psychical, emotional, educational and social deficiencies which have been detrimental to the development of normal interpersonal relations.

For the purpose of this examination, biological, psychological and social data are collected and assessed in relation both to type of the detainee's experiences and his readiness to benefit from the interventions envisaged by the treatment.

At the beginning of the sentence execution, the examination is specifically aimed at obtaining, with the co-operation of the detainee or interned person, the data necessary to elaborate a personal treatment programme, to be drawn up within three months.

During treatment, the examination is aimed at verifying, by observing the detainee's behaviour and changes in his interpersonal relations, any new needs which may require a different treatment programme.

Art. 14

**ALIENS**

With regard to the detention of aliens or stateless people, linguistic difficulties and cultural differences must be taken into consideration.

Contacts with the consular authorities of the country of origin must be favoured.

Art. 15

**VISITS**

Detainees are authorised by the director of the establishment to be visited by their spouses or common-law spouses.

Visits by other persons are authorised by the judicial authority.

For personal conversations with defendants, applicants must submit the authorisation issued by the competent judicial authority or by the Judge competent for the execution of sentences.

Authorised visitors are identified and controlled in order to make sure that no dangerous instruments or other unauthorised items are introduced in the establishment.

During the visit, a correct, non-troublesome behaviour must be observed.

The officers responsible for controls suspend the visit in case of incorrect or troublesome behaviour.

Detainees are entitled to at least one visit a week.

The visit can last for an hour at the maximum.

Under exceptional circumstances may the duration of the visit made by spouses or common-law spouses be extended.

No more than three people can take part in each visit to a detainee.

Waivers to this rules may be accorded in the case of visits by spouses or common-law spouses.

Art. 16

**TELEGRAPHIC AND MAIL CORRESPONDENCE**

Detainees have the right to send and receive telegraphic and mail correspondence.

To allow correspondence, once a week and free of charge, the prison administration provides detainees who cannot afford it with what is necessary to write and send a letter with ordinary postage stamp.

On the envelope of an outgoing letter the detainee must write his first name and family name.

All mail in closed envelope, being either sent or received, is inspected in order to verify that no values or other unauthorised items are contained.

Inspections must be carried out in such a way so as to avoid any controls on the written text.

When in- and outgoing mail is suspected to contain offending items or items that could jeopardise order and security, the prison management retains the letter and immediately requests the Judge competent for the execution of sentences to take appropriate measures, or, if the defendant still awaits judgement in the first instance, informs the competent Law Commissioner.

Mail correspondence subject to formal approval upon request or *ex officio* is retained if the Judge competent for the execution of sentences or the competent Law Commissioner so decide.

The above-indicated provisions also apply to telegrams being received.

Should the sending of a telegram be considered inappropriate for the reasons referred to in the sixth paragraph, the prison management informs the Judge competent for the execution of sentences or the competent Law Commissioner, who decide whether the telegram can be sent or not.

The detainee is immediately notified that his mail has been retained. Within two days, the detainee can address a motivated complaint to the Judge of Appeals, who has to make a final decision within ten days from the day of the complaint.

Art. 17

**TELEPHONE CONTACTS**

Telephone contacts between detainees and their relatives and common-law spouses are authorised by the judicial authority.

Detainees are allowed to telephone their relatives once a day if the latter have not visited them.

An authorisation exceeding the limits indicated in the preceding paragraph may be granted for particular and serious reasons.

Telephone contacts with other persons are authorised for special emergency reasons.

For the same reasons imposing a formal approval on mail correspondence, the competent authorities may decide that an authorised conversation be heard and recorded by means of appropriate devices.

Before the conversation takes place, the interlocutors are informed that their conversation will be heard and recorded.

One or more telephone posts are installed in the establishment.

Any detainee who wants to make a telephone call must address a written request to the judicial authority, indicating the persons whom he wants to call and, in the cases referred to in paragraphs 3-4 of this article, the reasons for his request.

Telephone conversations can take place for a maximum of 10 minutes.  
Telephone contacts are charged to the person concerned.  
Telephone costs are charged during and for each call and recorded on a personal account.

Art. 18

### **UTILISATION OF RADIO DEVICES**

Detainees and interned people are allowed to use a personal mobile radio device with batteries.

Art. 19

### **UNIVERSITY STUDIES**

Detainees enrolled or eligible for enrolment in universities are supported to complete their academic studies.

To this end, appropriate arrangements are agreed upon with the academic authorities to enable students to benefit from any possible facility and pass their exams.

Art. 20

### **WORK IN THE PENITENTIARY ESTABLISHMENT**

The work of detainees in the penitentiary establishment must be promoted.

Work in the establishment has no afflicting character and is compensated in an amount of 60% of the minimum contractual wage applying to manufacturing.

This compensation is accredited to the detainee's personal account and is administered by the prison management.

Detainees under psychiatric monitoring by I.S.S. personnel can also be assigned to work when appropriate for therapeutic purposes.

The organisation and methods of work in the establishment must be similar to those applying in the outside world with the aim of possibly enabling detainees to acquire normal vocational training and favour their social reintegration.

Detainees showing handicraft, cultural or artistic skills can be exempted from performing ordinary work and allowed to carry out, on their own, handicraft, intellectual or artistic activities.

Art. 21

### **WORK IN SEMICUSTODY**

Convicts allowed to work in semicustody exercise the rights recognised to free workers, the only limitations being those deriving from the execution of the sentence to imprisonment.

Art. 22

### **CONFESSIONAL PROFESSION**

Detainees and interned people are free to profess their own confession.

Detainees and interned people wishing to do it are allowed to display images and symbols of their religious confession in their own single room or in their own personal space in a shared room.

Each detainee is allowed to profess his own religion during the leisure time, provided that the general principles of the regulation are respected.

Art. 23

### **NOTIFICATION OF INFIRMITY AND DEATH**

In case of serious physical or psychological infirmity or death of a detainee or interned person, the prison management immediately informs the spouse and any other person indicated. The notification, either by telephone or telegram, is at the expenses of the penitentiary administration.

As soon as the prison management is informed that a detainee's or interned person's spouse is affected by serious infirmity or has died, immediate notification, in the most appropriate forms, must be given to the person concerned.

The death of a detainee or interned person is immediately notified also to the Judge competent for the execution of sentences.

Art. 24

### **LICENSES**

Licenses are granted upon request and cannot exceed five days.

In the case of a defendant, the Judge competent for the execution of sentences or the competent judicial authority, besides indicating the provisions considered most appropriate, also specifies in the authorisation document whether the detainee is to be escorted during the whole or part of the license period, having duly considered the detainee's personality and the nature of the crime for which he has been charged or found guilty.

The detainee can appeal against the rejection of a license pursuant to articles 203 bis-ter-quarter of the Code of Criminal Procedure.

Art. 25

### **PARTICIPATION OF THE EXTERNAL COMMUNITY IN THE RE-EDUCATION PROCESS**

The prison management promotes the participation of the external community in the re-education process, taking advantage of the contributions made by single individuals and public or private institutions or associations in conformity with the law.

Single individuals and representatives of institutions or associations are entrusted with the carrying out of separate initiatives especially related to contacts with the free community.

The prison management examines, together with single individuals and members of institutions or associations, the initiatives to be carried out within the establishment and forwards proposals to the Judge competent for the execution of sentences describing the tasks to be fulfilled and the modalities in which they are to be accomplished.

In authorising access to the establishment the Judge competent for the execution of sentences sets down the conditions for the accomplishment of tasks.



In case of non compliance or behaviour detrimental to order and security in the establishment, the director may prohibit access to the people referred to above, informing the Judge competent for the execution of sentences who takes action accordingly.

Art. 26

### **INFORMATION ON THE RULES AND PROVISIONS GOVERNING LIFE IN THE ESTABLISHMENT**

The texts of the penitentiary law and of this regulation must be kept in the library or another room of the establishment and made available to detainees.

Art. 27

### **RULES OF BEHAVIOUR**

Detainees and interned people must respect the rules governing life in the establishment, as well as the provisions enforced by the staff.

Their behaviour must be respectful towards both penitentiary agents and visitors.

Both detainees and interned people must mutually observe a correct behaviour.

In addressing each other, penitentiary agents, detainees and interned people must use the courtesy pronoun<sup>2</sup>.

Art. 28

### **COMPENSATION FOR DAMAGES CAUSED TO PROPERTIES OF THE PENITENTIARY ADMINISTRATION OR THIRD PARTIES**

In case of damage caused to movable or immovable goods of the penitentiary administration, the management carries out a survey, also with the assistance of experts, aimed at assessing the entity of damage and identifying the responsible.

Once the survey has been completed and after having heard the person concerned, the prison management notifies in writing to the person responsible the amount to be disbursed, inviting him to compensate for damages and indicating the terms of payment, which may also include payment by instalments.

Art. 29

### **SOLITARY CONFINEMENT**

Continued solitary confinement for health reasons is prescribed by the physician in case of contagious disease.

According to circumstances, solitary confinement takes place in special premises, even outside the penitentiary structure, and under surveillance should the judicial authority consider it necessary.

During solitary confinement, special care, including moral support, is provided by the staff to the sick.

Solitary confinement must cease as soon as the disease is no longer contagious.

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<sup>2</sup> In Italian: *Lei*.

During their period of exclusion from common activities, detainees are not allowed to communicate with their mates, make phone calls and meet visitors; they are only allowed to keep newspapers, magazines and books.

Visits by relatives or common-law spouses are allowed only under exceptional circumstances.

Ordinary food and normal water supply are assured.

Art. 30

### **BODY AND ROOM SEARCH**

Body and room search envisaged by the law is carried out by the guardian agents of the establishment.

The staff responsible for and assisting to the searching must be of the same sex of the individual to be frisked.

Body search may be avoided if detectors can be used.

Room search must be carried out in respect for the personal belongings of detainees.

Exceptional searching must be authorised by the judicial authority.

Art. 31

### **CLAIMS AND COMPLAINTS**

The Judge competent for the execution of sentences and the officer responsible for the establishment must offer all detainees the possibility of contacting them directly.

When this is not possible by means of periodical individual meetings, the Judge competent for the execution of sentences and the officer responsible for the establishment have to visit the penitentiary premises frequently, thus enabling detainees to address them directly and submit any claim or complaint orally.

Detainees and interned people who have requested it are supplied with what is needed to address claims and complaints in writing to the authorities indicated by the law.

If a detainee wants to use the system of the sealed envelope, he himself has to seal the envelope and write on it “confidential” with his signature.

If the sender cannot afford the mailing costs, these are covered by the prison management.

The Judge competent for the execution of sentences and the staff of the penitentiary administration inform as soon as possible the detainee who submitted an oral or written claim or complaint of the measures adopted and the reasons for rejection.

Art. 32

### **MEANS OF PHYSICAL COERCION**

Physical coercion, allowed for the purposes established by the law and under health control, is exerted by means of constriction bands around the wrists and ankles.

The shape and terms of use of these bands must be in compliance with those used in public psychiatric institutions for the same purposes.

Art. 33

### **TREATMENT PRIOR TO RELEASE**

In the period prior to release, possibly three months earlier, the convict benefits from a special treatment programme specifically aimed at solving concrete problems linked to his family conditions, job and environment, that he will have to cope with.

To this end, special attention is paid to discuss various issues that may arise and examine possible solutions.

In order to define and implement the above-mentioned programme, the prison management requests the collaboration of the Board for Social Assistance<sup>3</sup>.

Art. 34

### **INTERVENTION OF LAW ENFORCEMENT AGENTS**

Should collective disorders take place with violent or potentially violent demonstrations, the director of the establishment, if unable to intervene effectively with the penitentiary staff, calls for the intervention of law enforcement agents and immediately informs the Judge competent for the execution of sentences.

Art. 35

### **ASSISTANCE TO FAMILIES**

In providing assistance to the families of both detainees and interned people, as envisaged by the law, special care is offered during the period of crisis immediately resulting from the separation from the spouse.

In such situations, relatives, and in particular minors, are given moral support and counselling by I.S.S. or private institutions specialised in social assistance in order to help them cope with the emotional trauma caused by the separation, without neglecting any practical and material problem that may also arise.

Moreover, special assistance is provided to the families of detainees and interned people during the period preceding their release.

Art. 36

### **ACCESS TO THE ESTABLISHMENT BY MINISTERS OF RELIGION**

Ministers of the Roman Catholic faith other than prison chaplains, as well as ministers of religions other than the Roman Catholic one, are authorised to enter the establishment and fulfil their functions by the competent officer upon request of single detainees and after due verification of their mandates.

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<sup>3</sup> In Italian: *Consiglio di Aiuto Sociale*.

## **VOLUNTEERS**

The authorisation provided by the law is granted to those showing interest and sensitivity towards detainees and interned people, and having demonstrated practical skills in assisting people in difficulty.

The authorisation specifically indicates the type of activity that volunteers are allowed to perform, and in particular whether they are allowed to enter the establishment or collaborate with the social service.

The authorisation has one-year validity and is renewable.

Should volunteers prove not to be up to the fulfilment of their tasks, the director of the establishment or the social service suspends the authorisation and requests its revocation, duly informing the Judge competent for the execution of sentences.