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Introduction

“The Inmate’s Guide to Piedmont Prisons” was written by students of the “Prisons and Rights” legal clinics held by the Department of Law at the University of Turin, coordinated and supervised by professors and tutors, and part of a project financed by Fondazione CRT to promote inmates’ access to rights.

Groups of inmates from a few Piedmont prisons participated in the drafting of this text, talking with the students, helping to define the most important topics to be addressed, and then checking that the guide’s contents were clear and complete. The guide was edited, printed and bound by Stampatingalera, a printing press run by a group of inmates at Saluzzo prison.

The Guide seeks to provide clear and simple information on inmates’ rights and how they can be exercised, clarify related legislation, and provide some advice on day-to-day life inside prison walls.

In writing this text, we wondered which language would be most appropriate and decided to use terminology that is not excessively technical, but without adopting an overly condescending style seeking to imitate prison jargon. This jargon often reflects traces of infantilisation processes that, while inherent to such facilities, we want to help overcome.

This Guide does not and cannot seek to replace reading of the

legislation, because in some cases, we simplified the provisions a great deal in order to ensure they are comprehensible to everyone. Nor should this Guide be used to replace the support of a lawyer, who must remain a fundamental and often indispensable reference in order to fully protect personal rights.

Claudio Sarzotti and Laura Scomparin

Intake

INTAKE OFFICE

The Intake Office is your first stop.

Upon entering the prison, you will be **searched**, measured and photographed, your fingerprints will be taken, and you will be asked for your personal information. If you have no ID, procedures to verify your identity will begin.

A **personal file** will be created, containing all of your information.

When you are searched, you must hand over everything in your possession (cash, rings, necklaces, belt, etc.). You can then ask that any personal possessions of modest economic value (e.g. wedding ring, watch, belt, etc.) be returned to you.

RECORDS OFFICE

Anything that you are not permitted to keep with you is stored at the prison Records Office and will be returned to you when you are released or given to one of your family members.

Every inmate has a **trust account** to which any money in your possession at your time of intake is deposited, and to which you make deposits and withdrawals during your stay.

The Records Office is also responsible for receiving and sending **packages** to and from inmates.

In many facilities, this office also handles requests for visits, to purchase permitted items, etc.

INTAKE SERVICES FOR NEW INMATES

Intake services include various procedures:

- You have the right to be **examined by a doctor** as soon as your intake procedures have been completed, and at the latest on **the following day**, (see the chapter on “*Health*”).
- After that, during the first days of detention, the “intake staff” will meet you to help you deal with initial difficulties related to your arrival in prison. You have the right to see the **psychologist** within 36 hours of your arrival at the facility.

Intake staff include various professionals: the Warden who coordinates intakes, your assigned physician, a nurse, a psychologist, a psychiatrist, an education manager and the commander of the Prison Police. There may also be substance abuse counsellors, social workers and cultural mediators.

You may express any needs and concerns you may have during this initial phase to ensure that any therapies or support programmes you need can be begun immediately.

If you think you may have problems living with the other inmates, you must say so immediately so that your concern can be taken into consideration when you are assigned to a unit and a cell.

At intake, every inmate has the right to consult written information on how the facility operates, on its rules and on inmates’ rights.



ATTENTION

You have the right to **inform a family member** or another person immediately of your admission to a correctional facility via a letter or a telegram. Under the law, you are not permitted to make a phone call. For foreign inmates, the Consulate is also informed. If you do not have sufficient funds, the cost of this contact will be covered by the prison.

Who does what?

WARDEN

Who is this? The Warden oversees the operation of the facility: he coordinates, administers and directs all of facility activities.

What does he do? The Warden has many duties related to both **security** and **rehabilitation**. As concerns treatment, he oversees and coordinates the activities of the Observation and Treatment Group (GOT: see below).

This Guide mentions many of his duties: for example, the Warden authorises prisoner interviews and telephone calls, authorises work on the outside, is a member of the Disciplinary Board, issues a preliminary assessment for temporary releases, etc.



ATTENTION

You need to submit in a form called a “*domandina*” to make requests of the Administration and to ask to meet with the Warden.

If you need to tell the Warden something important, you may send him a letter in a sealed envelope (no stamp required). No one else will read this letter.

PRISON POLICE

Who are they? The Prison Police are a police corps that applies lawful custody measures and **maintains order** inside the facility.

What do they do? They guarantee security and respect of the rules inside correctional facilities. They do not use physical force, **unless necessary**.



ATTENTION

The Warden must be informed immediately when physical force is used on an inmate to order a medical examination, and if necessary, an internal inquiry to determine what happened and why. You should inform your lawyer if you suspect abuse. You can also request a meeting with the Warden, file a complaint with the Surveillance Judge or contact the Inmates' Rights Advocate (see the chapter on "*Who protects inmates' rights?*").

The Prison Police also **participate in inmate rehabilitation** as members of the GOT.



ATTENTION

Do not address the Corrections Officers by name, but only by their rank ("Assistente", "Comandante", etc.). The officer's rank is indicated by the insignia on his epaulette:

- Agente (officer) -> epaulette with no rank or with a single red arrow
- Assistente (Assistant) -> epaulette with two or three red arrows
- Sovrintendente (Superintendent) -> epaulette with one or more silver bars
- Ispettore (Inspector) -> epaulette with one or more silver pentagons
- Comandante (Commander) -> epaulette with two or three silver stars

EDUCATORS

Who are they and what do they do? They participate in GOT activities and are generally the **secretary**. They are responsible for getting to know all inmates individually in order to determine the most appropriate rehabilitation programme for each person. They also facilitate communication among the inmates, the Warden and other professional operators. They write up the minutes of the GOT meetings (see below) and updates.

PSYCHOLOGISTS

Who are they and what do they do? They participate in GOT activities and conduct interviews with the inmates to understand their personality and help them overcome personal problems or problems with others (inmates, professional operators, family members).

SOCIAL WORKERS

Who are they and what do they do? They belong to the external enforcement office called the *Ufficio di Esecuzione Penale Esterna* (UEPE). They participate in GOT activities and work with the other professional operators, in particular with educators and psychologists.

They play a very important role outside the facility because they are responsible for checking up on the inmates' families and social status (social and environmental study), issuing opinions that are fundamental for authorising alternative measures.

They also help facilitate relations between inmates and family members, when necessary.

EXPERT PROFESSIONAL OPERATORS

Who are they and what do they do? They are experts in social services, education and clinical criminology who can be called on by the Warden to contribute to observation and treatment activities.

SUBSTANCE ABUSE COUNSELLORS

Who are they and what do they do? They are employees of A.S.LEGGE

and work with inmates who are struggling with **substance abuse** and **alcoholism**, providing assistance defined in cooperation with the substance abuse centre (Ser.T) serving the inmate's last address.



ATTENTION

To request an interview with an educator, social worker or other professional operator, you need to fill in form 393, which is also used to make requests of prison staff. Because of understaffing, waiting times can be quite long; if you do not receive a response within a reasonable time, you should resubmit your request.

OBSERVATION AND TREATMENT GROUP (GOT)

What is it and what does it do? The Observation and Treatment Group (GOT) is a group of people who interact with inmates as part of their treatment programme.

This group discusses each case in order to determine the most suitable treatment. The educator plays a key role as technical secretary, and coordinates the work between the GOT and the team.

The **team** is a small group chaired by the Warden and is composed of the educator, social worker, expert professional operators and the Commander of the Prison Police. Every one of these people is responsible for supporting and assisting inmates during their detention, and gathering information on their experience, needs and personal resources, on their relationships with others and on their behaviour in prison.

The team prepares a report (**Summary Report**) containing their assessments and observations on:

- inmates' ability to respect the facility's rules
- relationships with the Prison Police, professional operators and other inmates
- behaviour during treatment activities
- relationships with family members and loved ones
- ability to acknowledge their errors and take responsibility for the offense that resulted in incarceration
- ability, resources, difficulties, plans for the future

The Summary Report is shared with all GOT professional operators working on the case, and is used by the GOT to create the most suitable treatment options.



ATTENTION

- All of the GOT's observations are included in the Summary Report, which may be used to decide whether to grant privileges and access to alternative measures.
- The treatment options identified during observations must be shared with the inmate to ensure he or she agrees with them and is willing to comply with them.

CULTURAL MEDIATORS

Who are they and what do they do? Cultural mediators facilitate communication and relationships between professional operators and non-Italian inmates from different cultures and who speak different languages, in order to help them understand each other better.

VOLUNTEERS

Who are they and what do they do? These are ordinary citizens who have been authorised by the Surveillance Judge to enter the facility so that they can organise support activities for the prisoners (e.g. distributing clothing and basic necessities, etc.) or group cultural, recreational or sporting activities.

THE CHAPLAIN

Who is he and what does he do? The chaplain is a **Catholic priest**, although all inmates of all faiths may consult him, even simply to talk. However, you are not required to meet with him, and you may request a visit from a minister of your own religion (see the chapter on "*Religion*").

Surveillance

Judges: roles and responsibilities

Surveillance Judges are **specialised judges** who rule on issues regarding inmates and oversee how sentences are executed.

The **Surveillance Judge** is a single person, while the **Supervisory Court** is composed of four judges: two professional judges and two other people with expertise in psychology, pedagogy, psychiatry, social work or clinical criminology.

The two bodies have different duties, many of which are described in this Guide.

For example, for alternative measures to detention, the Judge can order provisional release until the Supervisory Court decides to grant parole, probation, house arrest, etc.

The Surveillance Judge can also grant a temporary release (see the chapter on *"Temporary release"*) after receiving an opinion from the Warden. In order to be able to work outside the prison, you must receive permission from the Surveillance Judge, Warden, etc.

You can appeal some of the Judge's decisions to the Supervisory Court: for example, if the Judge denies a temporary release or early release, you can ask the Court to review the decision and if it is incorrect, modify it.

The Surveillance Judge is also responsible for overseeing correctional facilities and ensuring that the law is correctly applied

in them. Therefore, you can report incidents or violations at your facility to him.

You can send the Judge **petitions or complaints** in writing (in a sealed envelope) and orally (Article 35 of the of Law 354/1975).

You can also lodge a legal complaint to the Surveillance Judge (Article 35-*bis* of Law 354/1975) if you believe one of your rights has been violated by the penitentiary administration.



ATTENTION

You may ask to speak with the Surveillance Judge in person only on **reasonable grounds** that must be specified in the request.

Your right of defence

Your relationship with your lawyer

Do you have to be assisted by a lawyer? How is a lawyer appointed?

Defendants may not refuse to be represented by a lawyer: in criminal proceedings, legal representation is **mandatory** and no one is permitted to defend him/herself.

Prisoners with a final sentence must be assisted by a lawyer only in certain cases provided for by law, particularly in hearings before the Supervisory Court.

When a lawyer's assistance is mandatory, a lawyer will be assigned to you if you do not already have one.



DEFENCE COUNSEL

- This is the lawyer **hired by the concerned party** or, for inmates, by an immediate family member (parent, child, spouse or partner, brother, sister, parent-in-law, son-in-law and daughter-in-law, brother or sister-in-law, aunt or uncle, niece or nephew).
- You can appoint up to **two** defence lawyers per criminal proceedings. However, you will have only one lawyer if you receive free legal aid.
- The statement of counsel appointment is signed by the inmate and authenticated by the Warden, and then sent by the facility to the Court. You can appoint a defence lawyer at any time from prison by completing form 13 available at the Intake Office.
- In prison, you can ask to consult **the registry of lawyers** of the

prison's district. Be aware that prison staff is not permitted to give advice on whom to appoint.



THE PUBLIC DEFENDER

- This lawyer is **appointed by the State** for people not having counsel.
- The public defender is appointed by the Judge or Prosecutor from a list of lawyers drawn up by the National Lawyers' Council, which ensures they are prepared and perform their duties correctly.
- If you have been assigned a public defender and appoint your own lawyer, the public defender is automatically replaced by the lawyer you hire.



ATTENTION

- If you have private counsel for your hearing and want to continue to be assisted by this counsel while you are in prison, you must appoint him/her as counsel **every time** you appear before the Supervisory Judge or Court, or a public defender will be assigned to you.
- When you appoint private counsel, you should **write him/her a letter** to ensure he/she is informed quickly and can visit you in prison if he/she agrees to represent you.

How do you pay for a lawyer when in prison? What if you don't earn enough money?

To pay your lawyer, you need to submit a written request to the administration to have the amount deducted from your trust account.



ATTENTION

- Public defendants also need to be paid: representation by a public defendant doesn't mean you are automatically entitled to free legal aid, which is a different facility (see below).
- Everyone has the right to receive an estimate of legal expenses from their lawyer

Free legal aid

In order to guarantee the right of defence, the law (Presidential Decree 115/2002) provides for **free legal aid**, which ensures you are assisted by a **lawyer** and a **technical advisor** free of charge, because the State will pay for defence expenses.

You may choose the lawyer **from a list** of defence lawyers willing to work with free legal aid.

Who is eligible for free legal aid?

The following people are eligible for free legal aid:

- People with **no or very low income**

At the time of application and throughout the entire proceedings, your annual taxable income **must not exceed €11 528.41** as shown by your most recent income tax statement. If you reside with other people, your personal income is added to that of **everyone in the family** and the limit is increased by €1 032.91 per person (e.g. if your family is composed of two people, total income must not exceed €11 528.41 + €1 032.19; if there are three family members, income must not exceed €11 528.41 + €1 032.19 + €1 032.19, etc.).



ATTENTION

- Your income includes **all resources of any kind**: including financial assistance (except for low amounts and occasional assistance) from family members not living with you and from third parties, as well as untaxed income, such as money earned “under the table” or from **illegal activities**. Reporting false income is an **OFFENSE**.
- Prisoners with a final judgement for certain serious crimes, including membership in a Mafia organisation (Article 416-bis of the Criminal Code) and drug trafficking (Article 73—only if aggravated pursuant to Article 80—and 74 paragraph 1 of Presidential Decree 309/1990) **are always PRESUMED to have an income greater than** that required by law. In these cases, to be granted free legal aid, you must prove to the Judge that you are indeed underprivileged.

- Italian citizens and foreign citizens even without a resident's permit or stateless persons residing in Italy
- People NOT charged or imprisoned for tax evasion
- People NOT assisted by more than one lawyer (Attention! If you appoint a second defence attorney after being granted free legal aid, you will lose free legal aid!)

Who do I ask?

You must submit a request ("free legal aid application") via the prison Warden, who will send your application to the competent Judge.

You must sign the application or it will be denied. The Warden forwarding the application must authenticate your signature. Oral requests are not permitted, not even during hearings.

You may submit an application at any time, but free legal aid is not retroactive so you will have to pay any legal expenses you incurred before you were granted free legal aid.

What must the application include?

- the free legal aid application
- identification of the proceedings in question (criminal record register (RGNR)/ Supervisory office information system (SIUS)/ Enforcement Information System (SIUS), etc.)
- your personal information (first and last name, date and place of birth, place of residence), your taxation code and that of everyone in your family unit
- a copy of your identification card, or self-certification
- a copy of your family status certificate, or self-certification
- a declaration stating your income is below the limits provided for by the law for free legal aid, indicating your total income (self-certification)

You will also need to attach all documents proving the amount and sources of income of all members of your family unit (CUD form, 730 form, INPS slips, pay slips, etc.)

- a declaration that you will report any changes in income that may affect access to free legal aid
- Foreigners must provide certification from their consulate on their

income earned abroad. If the consular authority fails to respond within 30 days, self-certification is sufficient.

Who protects inmates' rights?

What does the Advocate do?

You may contact the Advocate if you believe your rights have been violated. He/she is responsible for **protecting people who have been deprived of their personal freedom**.

The Advocate has the right to **visit correctional facilities** without authorisation and to **interview** inmates.

The Advocate can take action in two ways: on his/her own initiative or in response to a request by a private person.

What can the Advocate do?

The Advocate's role is different from that of the Surveillance Judge: he/she cannot directly grant benefits, has no power of enforcement or disciplinary power, and cannot cancel or modify any proceedings. However, if he/she discovers irregularities in the behaviour of authorities, he/she can **notify the immediate supervisor** of the responsible official in order to begin disciplinary proceedings, and if he/she considers that an offense has been committed, he/she can **bring a complaint before the courts**.

The Advocate can also **request information** from the Penitentiary administration or other subjects, and when necessary **request steps and actions necessary** to protect inmates' rights, even proposing political or administrative interventions.

Who can you contact?



I – THE NATIONAL ADVOCATE

The National Advocate's office is composed of Mauro Palma (President), Emilia Rossi and Daniela De Robert (components).

The National Advocate has various powers:

- visit correctional facilities
- ask to view inmates' files, with their consent
- request information and documents from the Penitentiary administration
- coordinate the regional Advocates
- receive complaints from inmates pursuant to Article 35 of Law 354/1975 and based on them, send specific recommendations to the Administration



II – THE REGIONAL ADVOCATE

Currently, Bruno Mellano is the Regional Advocate for the Piedmont region.

The Regional Advocate has the following duties:

- ensure inmates' rights are respected and that they are provided services guaranteeing their right to health, improved quality of life, education and professional training and anything else aiming to facilitate recovery and return to society and insertion in the workforce
- visit correctional facilities
- promote information and cultural activities on inmates' rights
- request legislative or administrative interventions on detention issues
- verify and monitor omissions or non-compliance that might compromise inmates' rights



I II – MUNICIPAL ADVOCATES

Each municipality appoints a Municipal Advocate for inmates' rights. Currently, the following act in Piedmont:

- Alba: Alessandro Prandi
- Alessandria: Davide Petrini
- Asti: Anna Cellamaro
- Biella: Sonia Caronni
- Cuneo: Mario Tretola
- Fossano: Rosanna Degiovanni
- Ivrea: Armando Michelizza
- Saluzzo: Bruna Chiotti
- Verbania: Silvia Magistrini
- Vercelli: Roswitha Flaibani
- Torino: Monica Cristina Gallo



IV - THE ANTIGONE OMBUDSMAN

Since 2011, Antigone (an association “for the rights and guarantees in the penal system”) has an **Ombudsman for persons deprived of their personal freedom** who is Simona Filippi. Anyone who is deprived of his or her personal freedom for reasons of justice, as well as their relatives, friends and defence lawyers may contact the Ombudsman informally.

The Ombudsman is responsible for:

- answering anyone contacting the office, addressing problems related to the concerned party's state of detention and any violations of his or her rights as an inmate
- urging the Penitentiary administration, the Supervisory Courts and other authorities to recognise and respect inmates' rights
- cooperating with the Advocates for inmates' rights



ATTENTION

The Ombudsman may only address detention conditions and not the reasons for which the person has been imprisoned, which are the sole jurisdiction of the Judges



V – THE TRIBUNAL FOR PATIENTS' RIGHTS

- Though not specifically created to offers services to inmates, you can contact the Tribunal for Patients' Rights to obtain access to health services to ensure your right to health is respected.



WHERE ARE THEY? HOW TO CONTACT THEM?

Garante nazionale dei diritti dei detenuti (National inmates' rights advocate)

Address: Via San Francesco di Sales 34, 00165 Rome
segreteria@garantenpl.it

Garante regionale dei diritti dei detenuti della Regione Piemonte (Piedmont regional inmates' rights advocate)

Address: Via Alfieri 15, 10121 Turin
Telephone: 011 575 7901
garante.detenuti@cr.piemonte.it

Garante comunale dei diritti dei detenuti di Torino (Turin municipal inmates' rights advocate)

Address: Piazza Palazzo di Città 1, Turin
Telephone: 011 0112 3771 - Fax: 011 0112 2711
monicacristina.gallo@collaboratori.comune.torino.it - ufficio.
garante@comune.torino.it

Difensore civico di Antigone (Antigone Ombudsman)

Address: Via Monti di Pietralata, 00157 Rome
Telephone: 064 511 300
difensorecivico@associationantigone.it

Tribunale per i diritti del malato (Tribunal for Patients' Rights)

Address: Via Cavour 31, 10121 Turin
Telephone: 011 817 7075/011 812 2381
citpiemonte@gmail.com - tdm@cittadinanzattivapiemonte.org



ATTENTION

You can contact the national, regional and municipal Advocate by telephone or in writing in a sealed envelope. If you write the Advocate's address on the envelope, the letter may not be opened before posting, and no one in the prison is permitted to read its contents.

Health

Article 32 of the Italian Constitution defines health as a **fundamental individual right**, which means that it must be guaranteed to everyone, including people in prison.

Since **2008**, all prison health structures, services and personnel are covered by local health units called "**Aziende sanitarie locali**" and are no longer managed by the Penitentiary administration.

Treatment must be the same for both free and incarcerated persons.

What is the initial medical examination?

When arriving at the prison, after you have been registered and before being assigned your unit, you must be examined by a doctor and, if you give your consent, undergo blood and urine testing for drugs. During the examination, you will be asked some questions about your state of health (if you have any infectious diseases, if you have had health problems in the past, if you have had any surgery, if you take medication, etc.).



ATTENTION

All of your health information is confidential; the doctor and healthcare workers are bound to professional secrecy and therefore cannot disclose it to anyone. So, **if you have any illness, health problem or addiction**, it is advisable that **you speak openly** with the doctor about it at the initial medical examination to ensure you receive adequate care.

What kinds of doctors practice in prison?

Every prison has at least one **general practitioner** and **nurses** during the day (in larger facilities, they are also present at night).

This doctor is usually a “**primary care practitioner**” able to conduct an initial examination and provide initial care for any pathology.

If your health problem is serious or complex, the doctor will refer



ATTENTION

Under the law, the facility’s doctor must examine ALL prisoners on a regular basis, although this may not be very frequent.

To see the doctor, you usually need to make an appointment **at least one day ahead of time**, leaving your last name with the officer on duty in your unit. For emergencies, there is an emergency medical service (24/7 including holidays) or an ambulance can be called.

More than a few days cannot elapse between your request for an appointment and the appointment itself. If there is an unjustified and unexplained delay, you may request an explanation and contact the people who defend your rights (lawyer, Advocate, Tribunal for Patients’ Rights, Surveillance Judge, etc.).

Excessively long wait times can endanger your health and violate your rights.

you to a **specialist** (possibly outside the prison) (see below).

Every prison must have suitable premises for doctor’s appointments and health services (**examining rooms and infirmary**). The doctor and



ATTENTION

Every inmate has the right to be examined by a doctor from outside the prison (i.e. a health professional working outside the prison and who has treated the inmate in the past) at the inmate’s expense. However, the physician will have to receive a specific authorisation from the Warden to enter the facility. Therefore, you must complete a form justifying your request. Wait times for the authorisation may be long, so you should check up on it.

nurses are also authorised to enter the units and examine inmates in their cells.

What do I do if I have a specific health concern? How do I get an appointment with a specialist?

In addition to the general practitioner, the facility must also provide specialist services either through specialists practicing in the facility or on the outside (at a local hospital or clinic).

The number, hours, frequency and means of access to specialist appointments differ from prison to prison. Psychiatrists, infectious diseases specialists, cardiologists and orthodontists are generally the most commonly present, though incarcerated persons have the



ATTENTION

It is important that you ask which specialists are regularly present at the prison. To make an appointment with a specialist, you need to submit a request or be referred by the general practitioner. It is important that the specialist be able to consult all of your health documentation. If the **computerised medical files service** is not available, you will need to have your file sent during the appointments or by post.

right to receive specialist examinations and services for any health problem, just like any private citizen.

How are medications administered?

With some exceptions, you cannot keep medications in your cell.



ATTENTION

Abuse or improper use of medications can cause serious health problems. It is important **that you always ask what medications you are taking and their possible side effects**. You are entitled to this information and it is the doctor's and the nurses' duty to provide correct and complete information.

As a general rule, you are also entitled to refuse therapy and to not take the medications prescribed for you. You cannot be disciplined or punished for refusing therapy.

Giving medications to other inmates is forbidden. All therapies are administered by the nurses at pre-set times as prescribed by the doctor.

If you require them, you should ask the doctor and nurses how to obtain the medications you need (including those not reimbursed by the National Health Service).

Can I be transferred for health reasons?

Article 11 of Law 354/1975 provides that if care and testing are required and cannot be provided inside the facility, the person must be **transferred to a hospital or other external place of treatment**.

During hospitalisation, you may or may not be guarded by Corrections Officers. In any case, anyone leaving the place of care will be reported for **escape**.

The **Warden** is responsible for ordering hospitalisation for emergencies. In other cases, it is the **Surveillance Judge** for “final” prisoners or the **Judge** for “non-final” prisoners (prisoners awaiting sentencing or whose sentence is under appeal).

Can the sentence be suspended or deferred for health reasons?

Yes. The law provides for this possibility, called “sentence suspension or deferral” and which is governed by Articles 146 and 147 of the Criminal Code. During the deferment period, the sentence is not served, but is “suspended”.

Deferral may be mandatory or optional:

“**MANDATORY sentence deferral**” (Article 146 of the Criminal Code) is for:

- pregnant women and mothers with children aged less than one year
- people suffering from AIDS or other serious immune deficiencies or other particularly serious and advanced pathologies that no longer respond to treatment
- “**OPTIONAL sentence deferral**” (Article 147 of the Criminal Code) is for:
 - mothers with children between the ages of one and three years
 - people with a “**grave physical infirmity**”

However, the law does not stipulate what or how to determine

what a “grave physical infirmity” is: it is up to the Supervisory Court to decide whether to defer the sentence. In any case, it must be a



ATTENTION

Psychiatric illnesses are not considered “grave infirmities”. This means that there can be no deferral in these cases, although the inmate may be transferred to a “psychiatric observation ward”.



ATTENTION

Prisoners serving a sentence (including residual sentences) **of no more than four years** and having serious illnesses that cannot be treated in the facility may request **house arrest** (see the chapter on “*House arrest*”), which does not have to be served in a residence but can also be served in a health facility (public or private clinic, therapeutic communities, etc.).

Prisoners with a residual sentence longer than four years may also obtain house arrest if they meet the criteria for mandatory or optional deferral.

disease that puts the inmate’s life at risk or that cannot be adequately treated in prison.

So, what is the difference between a “deferred sentence” and “house arrest”? During house arrest, the person **isn’t “free”** unlike deferral, but is subject to forms of surveillance and limitations of freedom decided by the Supervisory Court.

What happens to drug addicted or alcoholic inmates?

Care for drug addicts falls under the specific remit of the National Health Service and, in most correctional facilities, is assigned to substance abuse services called **Ser.T – Servizi Tossicodipendenze** (which are organised and operated independently of the facility’s healthcare service).

During your first medical examination upon arriving at the prison,

you are asked if you take drugs or alcohol and if you are being treated at a substance abuse treatment centre. If you report substance abuse, your name will be sent to the substance abuse treatment centre for necessary treatment.

In any case, you may ask the Warden to authorise a visit from **community professional operators** with whom you are in contact.

Ser.T substance abuse counsellors inside the facility are responsible for:

- providing necessary medical, psychological and social services during incarceration
- providing continuity of care for inmates who were already in treatment with a substance abuse treatment centre prior to imprisonment
- assisting inmates in obtaining alternative measures to detention designed specifically for substance abuse problems (see the chapter on *"Therapeutic custody"*)
- certifying substance abuse

How is mental health protected in prison?

Every facility must have a mental health service with specialised professional operators available to inmates.

A **psychiatrist** is a doctor skilled in the field of mental illness who can prescribe psychotropic drugs.

A **psychologist** is a mental health professional who studies thoughts, behaviour and relational mechanisms. Psychologists address distress through therapies that involve regular meetings and interviews, but they may not prescribe medications.

Attention: Both psychiatrists and psychologists are bound to **professional secrecy**: nothing you say to them can be used against you or disclosed without your consent.

Psychiatrists are considered specialist doctors, so you will need to follow the procedures described above to make an appointment.

When should I consult a psychiatrist?

Whenever I experience mental or emotional distress: for example...

... I can't sleep

... I am disturbed by recurring thoughts

... I often feel anxious or afraid and don't understand why

... I feel a strong need to talk to someone

... I often feel tired even though I sleep long enough

... I'm not hungry, I don't feel like doing anything and I don't care about anything

... I'm always angry and I don't know how to let off steam, I feel like nothing is important

... I feel worthless and/or things would be better if I didn't exist

... I don't feel like myself and I overreact or react in ways that aren't like me

... I have recurring nightmares and sudden attacks when I can't breathe, when my heart races, when I feel dizzy, like I might pass out, or when I cry uncontrollably

... I feel like everyone is angry with me or out to get me

... My mind is racing and/or I think someone is trying to control my thoughts

... I sometimes hear sounds, voices or smell odours that no one else does

Work

All inmates have the **duty** and the **right** to work during their imprisonment; work is part of penitentiary treatment.

You can participate in “domestic work” necessary for life in the facility (cooking, shopping, meal distribution, laundry, letter writing, painting, gardening, etc.) or be assigned to “manufacturing” activities organised in the facility.

You can work for the **Penitentiary administration** or **third parties**, inside or outside the prison (see below).

Inmates must be paid for the work they do, and have all the **rights of free workers** (holidays, weekly breaks, insurance and social security and pension, etc.). You can contact the **Labour Judge** (a chamber of the Ordinary Court) if your worker rights are violated.

Your wages are paid to your “trust account” at the Intake Office and constitute your earnings. Part of your earnings will be withheld for costs related to your keep in prison, trial expenses, payment of financial penalties, etc.

How do I get a job?

Every inmate has the right to work, whether he is a prisoner or a detainee, regardless of the offense.

You first need to speak to the professional operators. Since there are many requests and few positions available, inmates are **ranked** to determine who has the right to work before others, because they have been unemployed in prison for a longer period.

Can I work outside the prison?

Both prisoners and detainees can be permitted to work on the outside (Article 21 of Law 354/1975), although there are **limitations**:

- prisoners serving a life sentence must have served at least 10 years of their sentence
- prisoners incarcerated for a crime under Article 4-*bis* (see the chapter) must have already served 1/3 of their sentence (in any case no more than five years)

In any case, work on the outside is authorised only if there is no risk of the prisoner trying to escape or commit another crime outside the prison. Also, it will be difficult to be get permission to work on the outside if the offense for which you are imprisoned is particularly serious or the end of the sentence is a long way off.

How can I apply to work on the outside?

First of all, for prisoners, the activity must be a part of the GOT's treatment programme.

You must also be authorised to work on the outside:

- for detainees, by the Judge hearing your case (different judges hear different phases in criminal proceedings: investigation, first instance, appeal, etc.)
- for prisoners, by the facility's Warden, with the approval of the Surveillance Judge

What are the rules for working on the outside?

A provision will indicate the times you are to arrive and leave work, as well as the rules you need to follow.



ATTENTION

If you are late, you may be barred from work on the outside and even reported for **failure to return**.

You will probably be required to take a certain route to and from your workplace (the shortest). If there are no special security reasons, you will be permitted to travel unescorted.

The administration will **check** up on the activity you do through

the Prison Police or Social Services.

Work done at the correctional facility's offices and premises outside the internal perimeter are also considered work on the outside.

You can do freelance work or be hired as an employee. If you agree, you can also do **unpaid community service** for the State, Region, Municipality, social service agencies or organisations, or volunteer associations, including to support the victims of the crime you committed.

Can I be barred from work?

If you **refuse** to do the work you are assigned, do not work diligently and well, or do not respect the facility's rules, the **Warden** may withdraw your access to work after hearing the opinion of the GOT, with a provision that must be approved by the Surveillance Judge.

Religion

How do I practice freedom of religion in prison?

In prison, every person is free to continue to practice his/her creed, abandon it, choose another or practice no religion at all.

You have the right to consult books and publications about religion and spirituality in the facility library and to keep them in your cell.

You have the right to **express your religion or creed** alone or in a group, in public and in private and to **celebrate its rites**, provided it does not disturb others.

You may pray privately in your cell during the night (no request is required) or request permission to go to the chapel or rooms set aside for group prayers.

As for **food**, the menu for Muslim inmates contains no pork. You will have to ask if your prison serves halal meat. You can purchase foods permitted by your religion at the canteen.

Muslims are guaranteed the right to observe **Ramadan**.

Are religious ministers permitted to come to the prison?

Every correctional facility has a Catholic **chaplain**.

Inmates belonging to other faiths may ask to have a **minister of his religion** (who must be **authorised by the Warden**) come to provide spiritual assistance and to celebrate rites.



You should check:

- the chaplain's visiting hours
 - visiting hours of other religious ministers (if available)
 - mass times
 - times of other celebrations
-

Visits

What are visits?

Visits are times when you meet with people who come to see you in prison.

As a general rule, you are entitled to **six visits per month** (four visits for inmates sentenced for offenses in the first group of Article 4-*bis* of Law 354/1975 – see the chapter), but you may also be granted more visits if you have children under the age of 10, if you have a serious illness, or in other special circumstances (for example a death in the family).



ATTENTION

If you are subject to a strict regime, like the “hard prison regime” (Article 41-*bis* of Law 354/1975) or special surveillance, you will be allowed fewer visits and may only see family members and your partner.

Visits are permitted with:

- your spouse, partner, and relatives and affines to the fourth degree (parents, children, brothers and sisters, aunts or uncles, nieces or nephews, parents-in-law, sons and daughters-in-law, first cousins, etc.)
- other people, if there are “reasonable grounds” which must be stated in the request



ATTENTION

Visits with your defence lawyer are not deducted from other visits. They cannot be limited because they are essential for exercising your right of defence.

How do I request a visit?

Fill out a request form to:

- the facility **Warden**, if you have been sentenced in the first instance
- the **court**, if your sentence in the first instance has not yet been issued

The authorisation must be made by the inmate; a lawyer's assistance is not required. Family members can also request a visit, but the inmate can refuse.



ATTENTION

To be authorised to visit, people other than family members and partners have to present their certificate of pending proceedings and their criminal records certificate or self-certify that there are no pending criminal proceedings or sentences against them.

What happens during visits?

Visits generally last **one hour**.

They may be extended to **two hours** in exceptional circumstances, and when all of the following conditions are met:

- the family members or the partners visiting live in a different city than that of the facility
- there were no visits the previous week
- the visit causes no organisation problems for the facility

Visits are held in internal rooms **with no glass or other dividers** preventing physical contact between inmates and their visitors, unless health or security needs require them. Visits can also be held

outdoors if the facility has an equipped area. Visits are supervised by officers of the Prison Police, who **may not listen to** the conversations of common inmates except for investigation reasons and with the authorisation of the judge.

You must behave properly and not disturb others during visits. If you fail to obey this rule, your visitors will be required to leave and may be barred from visiting again in the future.

Up to three people may visit at a time, although this number may be increased for relatives or partners and children.

People arriving from the outside must be **identified and are searched** to ensure they do not bring any dangerous or banned items into the facility.

At arrival, visitors must show:

- **everyone:** valid ID (identity card, passport)
- **Italian or EU family members:** family status certificate or self-certification of relationship
- **partners:** family status certificate or another document proving cohabitation, or self-certification, for cohabitation in Italy
- **foreign, non-EU family members and partners living in a foreign country:** family status certificate issued by the Italian Consulate in their country of residence, or a translated and certified document certifying the family relationship or cohabitation. Important: foreigners may contact the Consulate, including with the assistance of the Professional operators, for more information on the documents they need to present and on having their original documents recognised in Italy.



ATTENTION

Every facility has its own rules, so you should check with the Professional operators to find out exactly what items may be brought to visits, which document are required for admission, the days and times of visits and if reservations are required.

Telephone calls

Can I make phone calls from prison?

As a general rule, **all prisoners** have the right to make **one phone call of up to 10 minutes per week** (two per month, for inmates sentenced for crimes in the first group of Article 4-*bis* of Law 354/1975 (see the chapter) and just one per month for those sentenced to “hard prison”).

You may be granted additional phone calls for **emergencies** or **events of particular importance**, if you need to talk with your children under the age of ten years, or if you are being transferred.

Like visits, phone calls can be made to:

- Your spouse, partner and family members to the fourth degree
- Other people, on reasonable grounds

What do I need to do to make a phone call?

Fill out a request form to:

- the facility Warden, if you have been sentenced in the first instance
- Surveillance Judge, if your sentence in the first instance has been issued but the case is still pending, under appeal or cassation
- the court, if your sentence in the first instance has not yet been issued

In the request, you need to specify:

- The name of the person you want to call
- The telephone number you want to call

In some facilities, you will need to submit a copy of the phone contract or of the most recent phone bill of the number you want to call.



ATTENTION

As a general rule, you can only call **landline numbers**, because it's easier for the penitentiary administration to check who the phone number belongs to. However, if you haven't had any kind of visit in at least 15 days (by phone or in person) and have no other way of contacting your loved ones, you will be permitted to call a cell **phone number** on request.

Calls to cell phones are never permitted to prisoners in high security or under the "hard prison regime".

You generally need to submit a self-certification of the relationship with the person you want to call, stating that he or she is a relative or partner.

Self-certifications are checked if the administration believes they may be false. You will still be permitted to call until they do. Only if there are serious and justified suspicions will the right to make phone calls be suspended until they can be checked.

How do I make phone calls?

The facility's switchboard dials the number indicated in the request.

The cost of the call is **charged to the inmate**, who will be informed of the amount at the end of the call. Payment can be made using a prepaid phone card.

As a general rule, you cannot receive telephone calls from the outside unless the caller is a family member that you are authorised to speak to. In other cases, you are only informed of the name of the person having called you.

Phone calls **cannot be listened to or recorded**, except for special security requirements or for investigations underway and with a judge's authorisation.

Furlough

Furlough on compassionate grounds

What is it?

A furlough (Article 30 of Law 354/1975) allows inmates to spend a brief period of time outside the prison—from a few hours to up to five days—to **visit a gravely ill family member or partner who has been given a short time to live**, or to attend **other serious family events** like funerals.

The Judge may require the inmate be accompanied by an officer or spend the night in a correctional facility near the place of the furlough.

How do I get a furlough?

A furlough may be granted to prisoners and detainees and there are no sentence restrictions.

However, the Judge will deny a furlough if he considers there to be a flight risk or that the inmate will commit other crimes.

Who do I ask?

- prisoners contact the **Surveillance Judge**
- detainees contact the **Judge in the proceedings against them** (different judges hear different phases in criminal proceedings: investigation, first instance, appeal, etc.)

You may make a **written appeal** against their decision within 24 hours, stating your reasons:

- to the Surveillance Court, for prisoners
- to the Court of Appeal, for detainees



ATTENTION

If you return late to prison from your furlough, you may be **punished** and, if you are more than 12 hours late, you will be reported for **failure to return**.

Temporary release

What is it?

A temporary release (Article 30-ter of Law 354/1975) authorises inmates to leave the prison for one or more days (up to **45 days per year**, for up to **15 consecutive days** each time) to **stay with family** or to **cultivate cultural or work interests**, for example to sit an exam or attend a job interview.

The furlough is an integral part of the rehabilitation programme. You must speak with the professional operators before requesting one.

How do I get one?

The first condition is that you are a prisoner with a final judgement.

Your behaviour must be **good**, you must have no disciplinary measures and the GOT's Summary Report must stipulate the possibility of benefiting from a temporary release.

As well, the Judge must not consider there to be a flight risk or commission of new crimes.



ATTENTION

If you ask to spend your furlough at home, the social worker will visit your home first to ensure there are no problems and that your family members are willing to host you.

There are also **sentence limits**:

- prisoners having to serve **less than four years** of their sentence may request a temporary release right from their first day of detention
- prisoners having to serve **more than four years** of their sentence must have served at least one-quarter of their sentence (one-third for repeat re-offenders)
- prisoners serving a life sentence must have served at least ten years of their sentence (15 years for repeat re-offenders)
- prisoners serving time for **crimes under Article 4-bis** (see the chapter) must have served at least half of their sentence (two-thirds for repeat re-offenders)
- prisoners having committed a **malicious crime during detention** will not be granted a temporary release until two years after the event

Who do I ask?

You must make a written request to the **Surveillance Judge** who will make his decision without speaking to you, after consulting the **prison Warden**. The Warden's opinion is not binding on the Judge, but it is very difficult to get a furlough if his opinion is negative.

You may **appeal** the Judge's decision in writing within 24 hours to the **Supervisory Court**, stating your reasons.

Disciplinary measures

What are they?

Rules must be followed in prison. If you disobey the rules, you may be punished.

Forbidden behaviours are listed in Article 77 of Presidential Decree 230/2000. For example, you may be punished for:

- refusing to keep your cell or yourself clean and tidy
- taking or damaging penitentiary administration property
- not working hard at the duties assigned to you (work, school classes, etc.)
- disturbing others' activities or rest for no reason
- behaving in an offensive manner to professional operators
- refusing or delaying compliance with a request for a certain behaviour for no reason
- faking illness
- seeking to communicate with people on the outside, at times other than during permitted visits and telephone calls
- keeping contraband in your cell, or exceeding the permitted amount of items in your cell
- not returning on time when permitted to leave the Facility

N.B. All prison staff have the power and duty to report inmates who do not respect the rules to the administration.

How can I be punished?

If you break the rules, you may be punished in **one of the following ways** (Article 39 of Law 354/1975)

- note from the Warden
- reprimand by the Warden
- exclusion from recreational and sporting activities for up to 10 days
- segregation during yard time for up to 10 days
- exclusion from group activities for up to 15 days ("*disciplinary solitary confinement*": see the chapter on "*Solitary confinement*")



ATTENTION

If you are punished, it will be very difficult to **obtain an early release** during the following half year and you may not be granted any temporary releases for a certain period. Also, you will be required to **pay for any injury or damage** you cause to people or things.

What happens in disciplinary proceedings?

You are required to defend yourself in disciplinary proceedings: you are not permitted assistance from a lawyer and you may not call witnesses to explain your actions to the Warden.

The proceedings may be held with the Warden or Disciplinary Board, depending on the gravity of your actions.

The Disciplinary Board is composed of the Warden or Vice Warden, an educator and a healthcare professional (doctor).

⚙️ **statement:** the agent having observed the infraction directly or learned of it from others submits a written report to the Warden.

⚙️ **response:** the Warden calls the inmate within 10 days, in the presence of the Commander of the Prison Police, to explain what he or she is accused of and inform him/her of his right to justify his/her actions.

⚙️ **investigation:** if the Warden considers it necessary, he may conduct investigations to determine what happened.

⚙️ **judgement:** within 10 days of the response, the Warden will decide whether to apply a disciplinary measure, and which one from those listed in the regulations.

The inmate is called before the Warden if the punishment that can be applied is a note or a reprimand, or before the Disciplinary Board if the action is more serious. During the hearing, the inmate has the right to explain his/her reasons for his/her actions.

Then, the Warden or the Disciplinary Board decides **whether and how to discipline** the inmate, indicating the punishment chosen and the reasons in their report. The report is sent to the Surveillance Judge and added to the inmate's personal file.

What can I do in the event of disciplinary measures?

You may **complain to the Surveillance Judge**, alone or with the assistance of a lawyer. For example, you may complain if:

- the punished behaviour is not listed in Article 77 of Presidential Decree 230/2000
- the punishment is not listed
- all members of the Disciplinary Board were not present
- the Warden alone chose a punishment other than a note or a reprimand
- response was not given within 10 days of the infraction
- you were not called before the Warden or Disciplinary Board
- you were not permitted to explain your actions
- the punishment is excessive with respect to the infraction



ATTENTION

You must lodge your complaint in writing **within 10 days** of receipt of notice of the disciplinary measure.

If your complaint is admissible, the Surveillance Judge will schedule a hearing which you and your lawyer may attend. If you do not have a lawyer, you will be assisted by a public defender. At the conclusion of the hearing, the Judge will decide whether to uphold or dismiss the disciplinary measure.

Solitary confinement

What is it?

Solitary confinement is the separation of a person from the other inmates. There are two types of solitary confinement:

- **in day-time**, only during the day
- **continuous**, both during the day and at night.

If you are in solitary confinement, you can usually still work inside the prison, attend vocational education and training courses and religious services, but cannot have any contacts with other inmates. Additionally, you can keep in contact with prison staff.

What are the reasons for solitary confinement?

Solitary confinement is inflicted:

- if you have been sentenced to multiple life sentences, or one life sentence and at least 5 years of imprisonment or detention, as a consequence, since it is impossible to serve more than one life sentence, you serve day-time solitary confinement for a period that the Judge establishes in the criminal sentence (***solitary confinement as a criminal punishment***)
- if you have a contagious disease (***solitary confinement for health reasons***)
- if you are detained pending trial, during preliminary investigations, when the Court has grounds to fear that you may tamper with evidence (***court-imposed solitary confinement***)
- if you have committed a disciplinary violation the punishment for which is your exclusion from common activities (***disciplinary solitary confinement***)

In any case, you are not allowed to request solitary confinement.

How does disciplinary solitary confinement work?

It is a punishment which may last up to **15 days**.

It may be inflicted at the end of disciplinary proceedings (see the relevant chapter), or earlier, by the Warden under temporary provision, if there are grounds of urgency.

ATTENTION

Solitary confinement may only be authorised by consent of the doctor, who should make sure that the inmate can withstand it. If the doctor thinks that the inmate has physical or psychical problems which do not make him/her fit for solitary confinement, the measure will be delayed; the same thing happens if the punishment is inflicted to a pregnant woman, or to a woman who has delivered a child less than six months or one year prior, if she is still breast-feeding.

The Prison rules provide that you spend your period of solitary confinement alone, **in an ordinary custody room** and not in a special branch of the prison ("solitary confinement branch"), unless your behaviour is so serious that it endangers order and discipline.

In any case the room should be sufficiently lit, heated, provided with toilet facilities.

In solitary confinement you can:

- receive visits from your lawyer and family
- practice the rituals of your religious belief and meet your minister of worship
- have contacts with prison staff
- spend some time outside, alone

However, you cannot **meet the other inmates**; if you break this rule you will receive an additional disciplinary punishment.

Daily check-ups will be performed by the doctor and professional operators; if the doctor certifies that the inmate is not psychically and physically fit to remain in solitary confinement, the period is immediately suspended and delayed to when the inmate feels better, if that happens.

Transfers

Transfer to a different prison may always be requested:

by the inmate, on the grounds of:

- being closer to the family
- work
- study

Everyone is entitled to being imprisoned **close to where your family lives** ("territorial principle of the punishment") so the applications for transfer to be closer to the family, if possible, should be accepted, unless there are specific reasons for impediment.

Who can I ask?

You can submit your application to the Intake Office; if you want a lawyer to submit your application you have to appoint one.

If the prison you wish to be transferred to is located in a different Superintendence (usually, another Region), you should address your application to the Department of the Prison administration; if it is located in the same Superintendence, you should address it to the regional Superintendent.

You are only authorised to transfer to another prison when you receive the authorisation of the Judge in charge of the investigation.

You should **attach some documents** to the application for transfer, some of these documents should be supplied by the Prison administration:

- GOT's report
- Health report with indication of health condition, fitness to work etc.
- Motivated opinion that the inmate is fit to attend the courses, if you transfer for study reasons

An inmate applying for transfer shall attach:

if you apply to be closer to your family:

- Civil status certificate and certificate of residence of the family or self-certification of the degree of kinship and place of residence
- Summary sheet listing the visits and phone calls made to your family at the prison you are serving your sentence in
- Other certificates on the health condition of your family members
- If you apply for work-related reasons:
- A declaration of your job before imprisonment or your employment attitudes
- If you apply for study reasons:
- Your education qualification or self-certification

You have **the right to receive an answer** to your transfer application within **60 days**, which may protract up to 180 days, counting from the time when the Administration has received all the documents.



ATTENTION

If your wait is too long it is advisable that you urge the intake office, maybe with the help of the educator.

Can the transfer be rejected?

Your application for transfer can be rejected for many reasons:

- If it is too generic
- If it is not submitted in the prescribed manners
- If the warden of the prison to which you would like to be transferred to does not accept it
- For safety reasons
- If the prison you wish to be transferred to is overcrowded

ATTENTION

Even if you have received a disciplinary punishment, this cannot be the only reason to deny your transfer.

The decision of the Administration shall indicate the reasons why your transfer is denied.

You can file a complaint against such decision with the Surveillance judge.

Could I get transferred against my will?

The prison Administration may decide to transfer you:

- for **the prison's needs**, for example if it is overcrowded
- for serious and proven **safety reasons**
- for **court-related reasons**, for example to be at criminal proceedings

ATTENTION

If you attend a vocational education and training course in prison you can only be transferred if it is really necessary and the prison Administration, if possible, shall send you to a prison where you can continue your course.

If you are transferred for the prison's needs, the administration shall do as much as possible to **consider your requirements** about the destination.

Before being transferred you shall be **examined by a doctor**, to make sure that you don't have health problems which won't allow you to undertake the journey.

The transfer, once it's final, is notified to the Surveillance Judge, to whom you are allowed to lodge a complaint.

Serving your sentence abroad

What is it?

This is not an alternative measure to prison, but it is the possibility to **serve your sentence of imprisonment** enforced by an Italian Judge **in another Country**, usually your home country or the country you lived in with your family before being sentenced to jail.

The assumptions and the proceedings for serving your sentence abroad differ depending on whether you are a European national or not.



ATTENTION

There are other provisions, such as extradition or European arrest warrant, based on which you can be transferred to a foreign Country without your consent.

Transfer to a European Union member state

Service of the sentence abroad is governed by Legislative Decree no. 161/2010 and provides for a **streamlined procedure**. You can be transferred to:

- a State of which you are a national
- a State in which you have ties and roots, provided that such State agrees and you give your consent to being transferred

When does it apply?

You can be transferred to a **State of the European Union** to serve your sentence if:

- you are detained to serve a **final conviction sentence**
- **you are not subject to other criminal proceedings** and you're not serving another sentence (if you are, you need the authorisation of the Judge of the proceedings or of the execution to be transferred)
- you were sentenced for a crime punished with a maximum conviction of **no less than 3 years**
- you have yet to serve a sentence of **at least 6 months**
- The Judge shall still consider that the service of the sentence abroad **favours social re-inclusion**, because in the State of destination you have family, social, work-related ties etc.

How does it work?

The service of the sentence is provided for by the **public prosecutor to the Judge of the execution** (that has issued the sentence of conviction) further to a request by the inmate or an official request; transfer to your home country can also occur **without your consent**.

Transfer to a non-EU State

When can it be issued?

You can be transferred to a **non-EU State** to serve your sentence if:

- there is an **international agreement** between Italy and the State of execution; the most important to date is the Strasbourg Convention dated 21.3.1983
- you are detained in execution of a **final judgment**
- the Judge thinks that serving abroad **favours social re-inclusion**, because in the State of destination you have family, social, work-related etc. ties
- you **have freely given your consent** to being transferred and there is no reason to believe that in the State of service you could be the victim of **acts of persecution or discrimination** on the grounds of race, religion, sex, nationality, political beliefs
- **further requirements** requested by the agreement between Italy

and the foreign State occur; in the case of States which have signed the Strasbourg Convention, the sentence left to serve is of at least six months, both States agree on the transfer and the crime is also provided as such in the Country of destination.

How does it work?

Service of the sentence abroad can be requested by the prisoner or by the foreign State (with the consent of the Italian Minister of Justice) or directly by the Ministry of Justice.

The measure is taken by the **General Attorney at the Court of Appeal** of the district in which the sentence to be served was filed.

The **Court of Appeal** passes a judgment against which you can lodge **appeal in cassation**.

Alternative measures to imprisonment

What are they?

The alternative measures to imprisonment are privileges which allow you to serve your sentence, wholly or partly, outside the prison.

When can I get them?

- Alternative measures can only be granted to **prisoners with final judgment** and not to detainees
- For many of these, **sentence limits** are provided for: they cannot be granted if the years you have to serve exceed a certain number, or if a certain part of the sentence has not yet been served (for example half of it, 1/3 etc.)
- For each measure the law indicates some specific **conditions** to be met (e.g. if you are a mother, a foreigner, you have a home or a job etc.)

The sentence limits and the conditions required for each privilege are outlined in the chapters covering each measure. **In any case it is important to know that:**

- No prisoner is allowed to leave the prison if there are grounds to believe that, free, he/she could fail to return or commit new crimes
- To obtain all the alternative measures you need to receive **the GOT's favourable opinion**

During your imprisonment the Warden, the professional operators and the Prison Police observe and assess your behaviour, which should be correct and respect the rules, your engagement and collaboration in rehabilitation activities, your relationships with the other prisoners, with the prison staff and with family.

If you receive a disciplinary punishment, it will be much more difficult to obtain an alternative measure.

- The Judge also assesses the **severity of the crime** for which you are in prison, the number of convictions, your availability to **pay** or to apologise **to the victim** of the crime you committed. If during the interviews with the professional operators you deny your responsibility for the crime you committed and don't admit that you have made mistakes, this could be seen as unfavourable.
- A **house** to live in and an **employment opportunity** outside the prison are also important elements to be granted the measures. Before deciding, the Judge will ask the competent U.E.P.E. Office and law enforcement to make **checks** with the family/the facility where the prisoner will move in and the employer he/she has written down, to make sure they are fit and willing to host him/her.

As soon as possible, it is advisable to **request temporary releases** (see the chapter on "*Furloughs*"), because it is easier to obtain an alternative measure if you have already received furloughs and handled them correctly

Who do I ask?

To obtain almost all alternative measures you have to submit a written request (**petition**) to the Warden who will send it to the competent Judge (Surveillance Judge or Supervisory Court). Some measures can also be enforced **ex officio**, without your request.

The petition may be written without the aid of a lawyer, even if a lawyer can help explain the reasons for your request.

If you have **documents** which can help the Judge decide in your favour, it is important to attach them to your petition; some documents are compulsory, without them the request is not taken into consideration.

In any case before deciding the Judge **will gather information** from the prison, from U.E.P.E., from law enforcement, from Ser.T and other parties who can supply important information.

Sometimes the Judge decides on the measures without calling the prisoner, other times he **fixes a hearing** which the prisoner, if you are in a prison under the jurisdiction of the Supervisory Court, is entitled to attend. At the hearing you have to be aided by a public defender and, if you have not hired a private counsel, one will be appointed by the court.

Important: the Supervisory Court usually does not make quick decisions but, if you **urgently** need to obtain an alternative measure, you can ask the **Surveillance Judge** for provisional enforcement. The Judge can only do it if he believes that:

- you will not commit new crimes or fail to return
- it is very likely that the Supervisory Court decides to grant the measure
- the fact of remaining in prison waiting for the decision of the Court may cause you serious damage

If you can prove that all the previous conditions exist, the Judge may release you provisionally until the final decision of the Supervisory Court.



ATTENTION

- If you requested an alternative measure and the Judge decided NOT to grant it, you cannot re-submit the same petition after some time, because it would be declared **inadmissible**; it is necessary to wait for new elements in your favour
- If you have been **sentenced for failure** to return or a **measure was revoked** because of your bad behaviour, you cannot obtain other alternative measures, temporary releases or outside work for **at least three years**
- If you are in prison for a crime under art. **4-bis** law 354/1975, there are **special limits** to the granting of alternative measures (see the chapter)

Art. 4-*bis* of law 354/1975

What is it?

Art. 4-*bis* is a rule of the prison system which contains a **list of crimes** that are considered especially serious.

If the crime you are sentenced for is one of those contained in art. 4-*bis*, **you will NOT be granted most privileges**, or in any case **it will be more difficult to obtain them**.

Some privileges, on the other hand, may be granted even if you are serving time for a crime under art. 4-*bis*, if all other legal requirements withstand: for example, release for humanitarian reasons, ordinary early release, alternative measures in case of especially serious health problems (see the dedicated chapters).

Art. 4-*bis* **divides crimes into three categories** and for each category there are different rules for admission to prison privileges: they are outlined below.

BOX_EN_37



ATTENTION

The provisions of art. 4-*bis* are very complex: it is advisable that if you are in prison for a listed crime you are **aided by a lawyer** who can help you understand which privileges you can receive at which conditions.

Crimes of the first category (art. 4-bis paragraph 1 law 354/1975)

This group lists serious crimes that according to the legislator **indicate that you are part of organized crime**, such as aiding and abetting a mafia-type organization (art. 416-bis of the criminal code), crimes committed for terrorist purposes, kidnapping (art. 630 of the criminal code), drug dealing (art. 74 of presidential decree 309/1990) and more (read the article of the law).

Detainees or prisoners sentenced for one of these crimes cannot be admitted to outside work, temporary releases and most alternative measures, unless they are **State witnesses in an anti-mafia trial**. Being a State witness means giving the legal authority such useful information as to reduce the severity of the consequences of the crime you committed, or help law enforcement or the Judge to collect evidence to reconstruct the criminal facts, identify or catch criminals.

In some cases, even if it was not possible to actually help, you can still obtain alternative measures, **if you prove that you have no connection with organized crime**, but only after serving a longer part of the sentence than “ordinary” prisoners (see the individual chapter).

To be recognized as a State witness (art. 58-ter law 354/1975) you need to submit a written request to the Supervisory Court, preferably with the help of a lawyer. If you are granted the *status* of State witness, you can obtain some privileges (temporary releases, parole and house arrest) without any sentence limit.

Crimes of the second category (art. 4-bis paragraph 1-ter law 354/1975)

This group lists serious crimes which can be an **indicative evidence of connections with organized crime**, such as murder (art. 575 of the criminal code), aggravated robbery (art. 628 3rd paragraph of the criminal procedure), aggravated drug dealing (art. 73 and 80 2nd paragraph of the presidential decree 309/1990) and more (read the article of the law).

Detainees or prisoners sentenced for one of these crimes can be admitted to outside work, temporary releases and most alternative measures, only if **there are no elements which can raise suspicions that they have connections with a criminal organization**, and in any

case after serving a longer part of their sentence than “ordinary” prisoners (see the individual chapter).

Crimes of the third category (art. 4-*bis* paragraph 1-*quater* law 354/1975)

This group lists crimes like sexual violence (art. 609-*bis* of the criminal code), sexual assault on a minor (art. 609-*quater* of the criminal code), prostitution and child pornography (art. 600-*bis* and *ter* of the criminal code) and other sexual abuse-related crimes (read the article of the code).

Detainees or prisoners sentenced for one of these crimes are admitted to outside work, temporary releases and most alternative measures, **only if they have been subject to scientific observation of the personality in the correctional facility for at least one year** with results that the professional operators consider successful. Additionally, you shall have served a longer part of your sentence than “ordinary” prisoners (see the individual chapter).



ATTENTION

- In case of **aggravated crimes**, like robbery (art. 628 paragraph 3 of the criminal code), the limits established by art. 4-*bis* apply even if the Judge has granted prevailing or equivalent extenuating circumstances even if the aggravating circumstances did not result in more years of imprisonment.
- The crimes listed under art. 4-*bis* must have been actually committed: the limits do not apply if you were only sentenced for **attempted crime**, unless the offences were made in order to facilitate a mafia-type organization or taking advantage of member encumbrance.
- If you request a privilege or an alternative measure when in prison due to an **accumulation of sentences**, some of which enforced for crimes under 4-*bis* and other sentences for ordinary crimes, the Judge shall “break down the sentences” to see if the part of the sentence referred to the crimes under 4-*bis* has already been served and, if so, the limits of 4-*bis* will not apply anymore.

Probation

What is it?

It is an alternative measure which allows you to **serve your sentence outside the prison**, abiding by obligations and prohibitions (**prescriptions**) established by the Supervisory Court. For example:

- You shall regularly meet the UEPE social worker whose job is to help and support you, but also report to the Surveillance Judge how the measure is going, informing him of any violation
- You shall not leave home at night
- You shall not leave the Municipality you live in
- If you have a job, you shall do it diligently and well
- You shall not perform activities or have relationships which may lead you to commit new crimes (taking drugs, carrying guns with you, meeting people with a criminal record ...)
- You shall not go to certain public places
- You shall pay the damage you caused to the victim of the crime or in any case you shall repay the victim in some way, or do voluntary work.

When can I get it?

You can be granted probation:

- If the Court believes that the measure is fit to help you reintegrate into society and that, once released, you will not commit new crimes.
- If the years left to serve are not more than four



ATTENTION

If the years left to serve are more than three, probation may only be granted after at least one year of observation in prison, after which you receive a positive evaluation.

- To obtain the measure you have to indicate in your request a **home** where you will move in (also with family or friends) and you may not change without informing the Court first. Before the hearing, the U.E.P.E. social worker will come to your home to make sure the place is fit and that the people who live there are willing to host you.
- It is not important to have a **job**, but if you are unemployed you will have to prove to the Court:
- That you have the financial means to support yourself, for example because you are aided by your family;
- That you are doing as much as possible to find a job and that in any case during probation you will be engaged in useful activities (for example doing voluntary work).
- It is very important that you have **paid** at least partly **the victim of the crime** or prove that it was absolutely impossible to do it.



ATTENTION

If the sentence left to serve is very short (few months), the Court could decide not to grant probation, because there is not enough time to complete a rehabilitation process with the U.E.P.E. office

Who do I ask?

You must make a written request to the **Supervisory Court**, which will fix a hearing, appointing a public defendant, if you have not hired a private counsel.

If probation is granted, before being released you will be called by the Warden to sign the **report of prescriptions** to be met, which you will always have to carry with you.

Against the Court's decision you can lodge **appeal to cassation**, preferably with the help of a lawyer.

All these peculiarities aside, granting and revocation of the therapeutic custody follow the same rules as ordinary probation (see the chapter on “Probation”)



ATTENTION

The measure **can be revoked**:

- If during probation **another judgment becomes final** for a sentence that, added to the one you are serving, exceeds 4 years
- If you **break the prescriptions** of probation or behave against the law (for example committing new crimes). In this case, the Court will evaluate the severity of your behaviour and will decide to revoke the privilege, it will also establish if the period already spent in probation can be counted wholly or partly as having served you sentence.

The Supervisory Court provisionally suspends the measure; the **Supervisory Court** has to fix a hearing in which you will be called together with your defence counsel and the Court will decide

Important: if the Court does not decide **within 30 days**, the suspension **loses effect** and you will have to be **released**.

The examination is **successful** if probation is not revoked and if, eventually, the U.E.P.E. office writes a report declaring that the rehabilitation objectives have been achieved; in this case the Supervisory Court declares the imprisonment and any other consequence extinguished.

If you prove that you have financial problems, the Court may also declare the pecuniary punishment as extinguished.

“Therapeutic” custody

What is it?

“Therapeutic” custody (“Probation in special cases” – art. 94 of presidential decree 309/1990) is a type of probation in which, in addition to fulfilling ordinary prescriptions, if you are a drug-addict or alcohol-addict, you undertake to continue or start a therapeutic programme agreed upon with a public facility (Ser.T) or a private partner facility (for example AISE, Lucignolo & co ...).

The therapeutic programme, which can always be changed following the evolution of your rehabilitation, can provide that you spend time in a home shelter or in a domicile that is deemed fit, and you will have to periodically go to the facility where the programme is held.

When can I get it?

- You have to be in a **state of substance abuse or alcoholism**, certified by a public facility in a document that shall also indicate which method was used to assess habitual use of drug or alcohol (urine, hair test...)
- The years left to serve your sentence **shall not be more than 6 years** (4 years if you are sentenced for a crime under art. 4-*bis*)
- You are required to have already started or just agreed a **rehabilitation programme** with a public or private partner facility; the facility shall issue a document stating that the programme, which shall be fully described, is **fit** to cure your addiction



ATTENTION

The measure is not granted when the alcohol or drug are assumed to have been taken on purpose to obtain probation: the addiction must be pre-existing and independent from imprisonment

Important: when you request the measure **you have to attach:**

1) a document certifying your state of substance abuse or alcoholism

2) a document describing the therapeutic programme agreed upon with the facility

if these documents are missing, the request will be declared **unacceptable** without fixing a hearing and without regarding the merits

During probation you have to be subject to periodical checks and if such checks say that you have taken alcoholics or drugs, the measure will be almost certainly revoked

House arrest

What is it?

It is an alternative measure which allows you to serve your sentence outside the prison, **detained in your own home**, at someone else's home (for example a family member's), or in a public treatment, assistance or care facility (for example a home shelter or a nursing home).

Board, lodging, medical expenses and anything that is necessary for your support will be charged to you.

During house arrest you will have to regularly meet the UEPE social worker whose job is to help you and support you, but also to report to the Surveillance Judge how the measure is going, informing him of any violation.

Depending on the cases, the Judge may forbid you from receiving visits at home or from talking to different people from those who live with you, or authorise you to leave home at certain times, to do shopping and other chores, to work, go to the doctor or do any other essential activities (for example taking your children to school).



ATTENTION

During the measure law enforcement will make checks, at any time. If you leave your house arrest without authorisation or come back late you will be reported for failure to return.

When can I get it?

There are **different types** of house arrest, with **different requirements**.

Ordinary house arrest (art. 47-ter paragraph law 354/1975) – can be granted if:

- You have yet to serve **no more than four years** of your sentence
- If you are released, there's no risk of commission of new crimes
- You find yourself in one of the following **personal conditions**:
 - You are pregnant or mother of children under 10, or you have children of any age with a totally invalidating handicap (if your home is not fit, the measure can also be enforced in a child-care family-house)
 - You are a father of children under 10, or you have children of any age with a totally invalidating handicap, if the mother cannot look after them (attention: the fact that the mother works or struggles to look after the children is not enough)
 - You're under 21 and you need to work, study, have family or health problems
 - You're over 60 and you have an inability, a physical problem that prevents you from being totally self-sufficient
 - You have serious health problems which force you to go often to the hospital to receive the cures you need

General house arrest (art. 47-ter paragraph law 354/1975) – can be granted if:

- You have yet to serve **no more than two years** of your sentence
- You have not been sentenced for a crime under art. 4-bis
- You don't have the requirements to obtain probation with social services
- If released, there's no risk of commission of new crimes
- You have proven that you deserve the measure, behaving well in prison

House arrest for people over 70 (art. 47-ter paragraph law 354/1975) – can be granted if:

- You are over **70**, even if you don't have specific health problems
- You have to serve a sentence of imprisonment (NO life sentence or arrest)
- You have not relapsed, nor been declared customary, professional criminal nor person with a criminal tendency
- You have not been sentenced for one of the crimes of particular severity laid down in law

Additionally, you can obtain house arrest without any sentence limit in the cases when mandatory or optional referral of the sentence is provided for (see the chapter on *"Health"*).

Who do I ask?

You must make a written request to the **Supervisory Court**, which will fix a hearing appointing a public defendant, unless you have already hired a private counsel.

If there are no **grounds for urgency**, the application should be submitted to the Surveillance Judge, with the request to provisionally enforce the measure (see the chapter on *"Alternative measures"*)

Against the Court's decision you can lodge **appeal to cassation** preferably with the help of a lawyer.



ATTENTION

The measure **can be revoked**:

- If another sentence becomes final that, added to the one you are serving, exceeds the sentence limit requested by law for granting house arrest
- If you break the prescriptions of house arrest or you behave against the law (for example if you commit new crimes). In this case the Court will assess the severity of your behaviour and will decide whether to revoke the privilege; the period spent under house arrest until that time will be counted as having served your sentence.

The Surveillance Judge provisionally suspends the measure; the Supervisory Court shall fix a hearing in which you are called together with your defence counsel and the Judge will decide whether or not to revoke probation.

IMPORTANT: if the Court does not decide within 30 days, the suspension loses effect and you have to be released.

Special house arrest

What is it?

It is a form of house arrest (see the chapter) specifically designed for inmates with little children, to allow them to live together outside the prison.

When can I get it?

Special house arrest (art 47- *quinquies* law 354/1975) can be granted if:

- You are a **mother** of children who haven't yet turned 10, or have children of any age with a totally invalidating handicap
- You are a **father** of children who haven't yet turned 10 (or have children of any age with a totally invalidating handicap), if the mother cannot take care of them and there is no-one else (for example a family member) to give their custody
- You have the actual possibility to move back with your children
- If released, there's no risk of commission of new crimes

There are also **sentence limits**:

- If you are sentenced to arrest or imprisonment, you need to have already served 1/3 of your sentence
- If you are serving a life sentence, you need to have already served at least 15 years of your sentence.



ATTENTION

If the years left to serve are less than 4 you don't need to have already served 1/3 of your sentence, because you can request ordinary house arrest (see the chapter)

IMPORTANT: If the sentence doesn't concern an offence under art. 4-*bis*, you can ask to serve the entire sentence, including the first third or the first 15 years, in an open prison for mother inmates (ICAM), or under house arrest.

Who do I ask?

You ask the **Supervisory Court**, as for ordinary house arrest (see the chapter)



ATTENTION

If you **leave your home** without a justified reason for no longer than twelve hours, the measure can be revoked; if you remain absent for more than 12 hours, you will be reported for failure to return and, if you are sentenced for this crime, the measure will be revoked.

When your child turns 10, you can request:

- An extension of house arrest, if you meet the requirements for parole (see chapter)
- Admission of the child to outside care (art. 21-*bis*), a privilege which allows you to leave the prison during the day to look after your child and go back at night, with similar rules as outside work (see the chapter on "*Work*").

Parole

What is it?

It is a measure which allows you to **spend part of your day outside the prison** to work, attend vocational education or training courses to perform useful activities like social reintegration (like voluntary work).

If you are admitted to parole you live in an ad-hoc unit of the correctional facility and have to meet a number of obligations and prohibitions contained in the ***behavioural programme***, prepared by the GOT and approved by the Surveillance Judge. The programme includes:

- The type of activity you are authorised to perform
- At what time you can leave and go back to the correctional facility
- Which people you cannot hang with (e.g. previous offenders)
- If you can also spend Sundays and holidays outside the prison, for example to have lunch with your family
- How often you need to meet the U.E.P.E. social worker, whose job is to support you but also to supervise your behaviour

When can I get it?

Parole (art. 48 law 354/1975) can be granted if:

- There's no risk of commission of new crimes
- The GOT believes that the prison treatment has allowed you to make good progress and that there are the conditions for your gradual reintegration into society.

There are also **sentence limits**:

- If you have yet to serve no more than 4 years of your sentence, you can request parole from the first day of imprisonment
- If you have yet to serve more than 4 years of your sentence, you need to have already served at least half the sentence (2/3 in case of crime under art. 4-bis)
- If you are sentenced to life you need to have already served at least 20 years of your sentence.

Who do I ask?

You must make a written request to the **Supervisory Court**, which will fix a hearing, appointing a public defender, unless you have already hired a private counsel.

If there are **grounds for urgency**, the request must be submitted to the Surveillance Judge, with request to provisionally enforce the measure (see the chapter on "*Alternative measures*")

Against the Court's decision you can lodge **appeal to cassation**, preferably with the help of a lawyer.



ATTENTION

Parole can be revoked:

- If you don't make enough effort in the activities and do not make progress in the treatment, if you break the prescriptions or behave so as to be unfit for the measure (for example committing a new crime)
- If during the measure another sentence becomes final which, added to the one you're serving, exceeds the sentence limit requested by law for the granting of parole

In these cases, the Surveillance Judge provisionally suspends the measure; the **Supervisory Court** shall fix a hearing in which you will be called together with your defence counsel and the Judge will decide whether or not to revoke parole.

IMPORTANT: if the Court does not decide within 30 days, the suspension loses effect and you will have to be released.

Attention to the **time of return** to prison:

- If you return unjustifiably late you will receive a disciplinary measure and parole may be revoked;
- If you are more than twelve hours late you will be reported for failure to return; parole will be suspended and, if you are sentenced for failure to return, it will be revoked.

Early release

What is it?

It is a special alternative measure, which allows you to finish early your imprisonment through a **subtraction of 45 days** (in jargon “ask for days”) for every 6 months of served sentence.

When can I get it?

Early release (art. 54 law 354/1975) can be granted if:

- You are **serving a sentence** inflicted with final judgment
- You have spent at least 6 months (**half year**) in prison, in preventive custody or in execution of the sentence



ATTENTION

- periods spent under house arrest, parole, probation and conditional release also count
- the half year period shall not have been spent uninterruptedly in prison, but can also be segmented (for example, if you’ve spent two months in preventive custody, have been released and then gone back to prison in execution of the final sentence, you can request early release after four months, because the two periods add up, even if they are spaced out by a period of freedom)
- there are no sentence limits: you can ask for the measure from the first half year of imprisonment, notwithstanding the sentence and also in case of life sentence
- you can also obtain the measure in case of sentence for a crime under 4-bis and for hard-prison inmates.

- During the half year period you **have been actively engaged in the reintegration treatment**, proving to be willing and cooperative, engaging in the proposed activities and being on good terms with the other inmates and the professional operators (if you are in probation or under house arrest, meeting the prescriptions and obtaining a positive evaluation from the U.E.P.E. office)
- During the half year period you have not received disciplinary measures or disciplinary referrals (see the chapter on “*Disciplinary proceedings*”)



ATTENTION

- usually behaving well is not enough to obtain the measure, but your active participation in the treatment is necessary. If however the correctional facility does not organize any activities, due to lack of resources, the Judge shall only assess your behaviour and, if your behaviour has been good, he will grant early release.
- if the Judge considers that you are still in contact with organized crime he will deny early release even if your behaviour in prison is formally good, because he will believe that you are not honestly participating in the reintegration project

Who do I ask?

You must make a written request to the Surveillance Judge, who will decide without calling you and without fixing a hearing, basing his decision on the GOT's report (or the U.E.P.E.'s report, for the periods spent under alternative measure).

If the request concerns different half year periods, the Judge may decide whether to grant or deny the days for all or even just some half year periods.

Against the Judge's decision you can lodge written **complaint** within 10 days to the **Supervisory Court**, indicating your reasons.



ATTENTION

Every half year period is assessed separately from the other, but a negative behaviour in one half year period may also prevent the measure from being granted for the previous half year periods. For this reason you should ask for early release from time to time, without accumulating half years.

Why is it important?

The days of ordinary and special early release which are granted are considered as if they had already been served (they add up), so:

- The end of the sentence comes closer
- It is possible to obtain faster privileges such as temporary releases, parole and conditional release, which may only be granted if the sentence left to serve is less than a certain limit, or if a certain part of the sentence has already been served (for example half, 1/4 etc.)



ATTENTION

Early release can be **revoked** by the Supervisory Court if, after obtaining it, you are **sentenced for an offence committed with criminal intent** while you are still serving your sentence. In case of revocation, the days of subtraction which had been granted will be added up to the sentence left to serve.

What is a special early release?

It is a special format of early release, established by legislative decree 146/2013, converted in law 10/2014, providing for a shortened sentence by **75 days** instead of 45 days per half year period, only for the half years of sentence served **between 1.1.2010 and 24.12.2015**.

It can be granted on the same conditions as “ordinary” early release (see above), but NOT:

- if you are sentenced for a crime under art. 4-bis
- for the periods spent in probation with social service, under house arrest, under “Alfano” house arrest (enforcement of the sentence at home established by law 199/2010)



ATTENTION

- if you have already obtained an ordinary early release for the periods between 1.1.2010 and 24.12.2015 you can ask 30 additional days per half year; to grant them, the Judge will make sure that the inmate has kept proving to be actively engaged in the reintegration treatment and that you have behaved well and diligently not just during the half year period under review, but also during the entire following period
- if you don't meet the requirements to obtain a special early release (for example because you are serving a crime under 4-bis) you can still request ordinary early release.

Enforcement of the sentence at home ("Alfano house arrest")

What is it?

It is a privilege, established by law 199/2010, which allows you to serve your sentence outside the prison, at your home, or in a public treatment, assistance or care facility (for example a home shelter).

Board, lodging, medical expenses and anything that is necessary for your support will be charged to you.

If you are addicted to drug or alcohol, you may attend a rehabilitation programme while serving your sentence.

During the enforcement you will have to regularly meet the UEPE social worker whose job is to report to the Surveillance Judge how the measure is going, informing him of any violation.

Depending on the cases, the Judge may forbid you from receiving visits at home or from talking to different people from those who live with you, or authorise you to leave home at certain times, to do shopping and other chores, to work, go to the doctor or do any other essential activities.



ATTENTION

During the measure law enforcement will make **checks**, at any time. If you leave your place of enforcement of the sentence without authorisation or come back late you will be reported for **failure to return**.

When can I get it?

You can be allowed to serve your sentence at home if:

- you have yet to serve **no more than eighteen months** of your sentence
- you have a **fit house**, where previous offenders or the victim of the crime do not live; a house visit will be made to make sure that the place is fit and that those who live there are willing to host you ("assessment report of house fitness").



ATTENTION

If you don't have a fit house it is advisable that you ask about reception centres, because it's up to you to indicate a facility that is willing to host you in the petition

The privilege **CANNOT be granted**:

- if the Judge believes that you, once released, may commit new crimes or fail to return
- if you have been sentenced for a crime under art. 4-*bis*
- if you have been declared a customary, professional criminal or a person with a criminal tendency
- if you have been subject to a special surveillance regime (art. 14-*bis* law 354/1975)

Who do I ask?

You must make a request to the Warden of the Correctional Facility, who will send it to the **Surveillance Judge** together with a report on your behaviour in prison, with the report assessing if the house is fit and the documentation (if any) of the rehabilitation programme that you intend to follow in case of substance abuse or alcoholism.

Even if you do not expressly ask for it, the Warden can still send at his discretion all the documentation to the Judge, if the sentence left to serve is less than 18 months.

The Court decides within 5 days, without calling you and without fixing a hearing; against the decision you can lodge a **written complaint** within 10 days to the **Supervisory Court**, indicating your reasons.



ATTENTION

The measure can be revoked by the Surveillance Judge:

- if another sentence becomes final that, added to the one you are serving, exceeds the limit of eighteen months
- if you break the prescriptions or behave against the law (for example committing new crimes)

Conditional release

What is it?

Conditional release implies the **suspension** of the enforcement of the **sentence** for a certain period, after which, if in the meantime no cause for revocation has occurred, the **sentence is extinguished**.

During the suspension period you are under **probation**, and you shall meet a number of obligations and prohibition, including:

- regularly meeting the UEPE social worker whose job is to help and support you, seeing how the measure is going
- being subject to the checks of law enforcement (your local Police Station) and inform them of your movements
- not leaving the municipality or the province you live in without the authorisation of the Surveillance Judge
- not leaving home at night
- if you have a job, doing it diligently and well
- not carrying out activities or having acquaintances which may lead to committing new crimes (taking drugs, carrying weapons, meeting previous offenders...)
- not going to certain public places

When can I get it?

You can get conditional release (art. 176 of the criminal code) if:

- in prison you behaved so as to ensure that you will **redeem**, behaving so as to prove to the Judge that you **retract your crime** and **have a real desire to change**
- you have **fulfilled the civil obligations** resulting from your

offence (i.e. you have paid damage to the victim of your crime), or you prove to that you cannot fulfil your obligations, i.e. you don't have the necessary financial resources to pay the damage.



ATTENTION

If you cannot pay the damage, you will still have to prove that you've done as much as possible to fix the consequences caused by your crime, making an offer, even partial, sending a letter of regret to the victim through your defence counsel, etc. The pardon of the victim is however not requested.

There are also **sentence limits**:

- "ordinary" prisoners must have already served at least 30 months of their sentence and in any case at least half of their sentence; the remaining sentence **must not exceed 5 years**
- **repeat re-offenders** must have already served at least 4 years of their sentence and in any case at least $\frac{3}{4}$ of their sentence
- prisoners sentenced for a **crime under art. 4-bis** (see the chapter) must have already served at least $\frac{2}{3}$ of their sentence
- prisoners serving a **life sentence** must have already served at least 26 years of their sentence

Who do I ask?

You must make a request to the **Supervisory Court**, which will fix a hearing appointing a public defendant, unless you have already hired a private counsel.

Against the Court's decision you can lodge a **complaint to cassation**, preferably with the help of a lawyer.



ATTENTION

If the Court rejects the request for conditional release because it believes that the requirement of redemption is missing, you cannot apply again earlier than six years.

If the measure is granted, you will be released and shall appear within a certain time interval at the competent Police Station, where you will be given a document (**prescription paper**) which contains the prescriptions to be met and which you shall always carry with you.



ATTENTION

The measure lasts as long as the sentence that is yet to be served, or 5 years in case of life sentence; once this period has elapsed, if the measure is **successful** (i.e. if you have behaved well and no cause for revocation has occurred), the Supervisory Court declares that the imprisonment is **extinguished** and will not have to be served anymore

The measure can be **revoked** if, during conditional release:

- you commit a crime of the same type as the one you had been sentenced for
- you break the prescriptions of parole

In this case, the Court will assess the severity of your behaviour and, if it decides to revoke the privilege, it will also decide if the period already spent in conditional release can be counted wholly or partly as having served your sentence.

In case of revocation, the conditional release may no longer be granted, unless you have been sentenced to life.

Expulsion

What is it?

The alternative measure of expulsion (art. 16 of legislative decree 286/1998) consists in the **replacement of the imprisonment**, or a part thereof, with the forced removal from Italy and the prohibition to return for ten years.



ATTENTION

There are other forms of expulsion (administrative expulsion, as a replacement of a short imprisonment, as a safety measure), which have different requirements and procedures of application

When can I get it?

Expulsion as an alternative measure to imprisonment is ordered if:

- you were sentenced with **final judgment**
- you are an **inmate** of a correctional facility
- you have yet to serve a sentence not exceeding **2 years**
- you don't have a stay permit and you are in the condition of being subject to administrative expulsion
- **you are not a national of Italy** or another EU member State
- you've been **identified** at the time of arrival or during imprisonment



ATTENTION

From your arrival the Warden will ask the Police Headquarters for information on your identity and nationality, the Police Headquarters in turn will get in touch with the consular and diplomatic authorities. If you don't have documents proving who you are and where you are from, your statement is not enough and your official identification could take time.

You **CANNOT** be expelled:

- if you have been sentenced for some **serious crimes** listed under art. 407 paragraph 2 lett. a) of the code of criminal procedure, like aiding and abetting a mafia-type organization, kidnapping, slaughter, terrorism, illegal fabrication and introduction of weapons, mafia association etc.), excluding extortion or aggravated robbery (see the article of the code)
- if in your original Country **you risk being persecuted** on the grounds of race, language, citizenship, religion, political opinions, personal or social conditions
- if before arrival you **lived with close relatives** (parents, children, grandchildren, siblings) of **Italian nationality**
- if you are **married to an Italian citizen** you used to live with before arrival
- if you are a **pregnant woman** or a woman who has delivered a child less than 6 months prior
- if you are the **husband** of a pregnant woman or a woman who has delivered a child less than 6 months prior and before your imprisonment you lived with her

Who do I ask?

You can send a petition to the **Surveillance Judge** asking to be expelled, but, if all the requirements are met, the Warden of the correctional facility will still send the Judge the necessary documents and the expulsion will be established by order, without calling you and without fixing a hearing, even if you did not ask for it and also against your will.

If you **do NOT want to be expelled** you can raise an objection against the Supervisory Court within 10 days from the date you were notified the order; the Court will fix a hearing and, if you haven't yet hired a private counsel, it will appoint a public defendant; until the Court's decision you may not be expelled and will remain in prison.



ATTENTION

In the Country of expulsion you are **free**. The punishment will remain suspended and will extinguish if you do not illegally return to Italy **before 10 years**; if you return earlier, you will go back to prison and will restart serving the part of your sentence that had been replaced with expulsion.

Regulatory references

MAIN INTERNATIONAL REGULATORY REFERENCES

- European Convention on Human Rights, Rome, 4 November 1950;
- United Nations Standard Minimum Rules for the Treatment of Prisoners: UN Resolution of 30 August 1955 (reviewed by Resolution no. 70/175 dated 17 December 2015);
- European Prison Rules: Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe.

MAIN DOMESTIC REGULATORY REFERENCES

- Constitution, promulgated on 27 December 1947, enforce on 1 January 1948;
- Criminal Code, Royal Decree of 19 October 1930, no. 1398;
- Code of criminal procedure, Presidential Decree of 22 September 1988 no. 447;
- Law no. 354 of 26 July 1975 ("Rules on the prison system and on the enforcement of the measures depriving and limiting freedom");
- Presidential Decree no. 230 of 30 June 2000 ("Regulation

containing rules on the prison system and on the enforcement of the measures depriving and limiting freedom”);

- Presidential Decree no. 309 of 9 October 1990 (“Consolidated act of the laws concerning the regulation of narcotic drugs and psychotropic substances, prevention, cure and rehabilitation of the related states of substance abuse”);
- Legislative Decree no. 286 of 25 July 1998 (“Consolidated act of the provisions concerning the regulation of immigration and rules on the condition of foreigners”);
- Presidential Decree no. 115 of 30 May 2002 (“Consolidated act concerning legal fees”);
- Legislative Decree no. 161 of 7 September 2010 (“Provisions to conform domestic law to the framework Decision 2008/909/GAI concerning the application of the principle of mutual recognition of criminal sentences which inflict imprisonment or measures depriving personal freedom, for the purposes of their enforcement in the European Union”);
- Law no. 199 of 26 November 2010 (“Provisions concerning the enforcement at home of an imprisonment of no more than eighteen months”);
- Ministerial Decree of 5 December 2012 (“Charter of the rights and duties of detainees and inmates”);
- Law no. 10 of 21 February 2014 (“Conversion in law, with amendments, of law-decree 23 December 2013, no. 146, containing urgent measures on the protection of the fundamental rights of detainees and controlled reduction of the prison population”).

