COVID-19 and people with disabilities

Assessing the impact of the crisis and informing disability-inclusive next steps

Italy

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1 Executive summary

Disability inclusivity of disaster and recovery planning

The Italian legislation on Civil Protection (Legislative Decree 2 January 2018, No. 1) mentions “people living in socially fragile contexts” and “persons with disabilities” (art. 18), but in a cursory way. The inclusion of persons with disability in emergency strategies is becoming more evident in some sub-national plans (i.e., in plans adopted by some of the Regions).

Impact of the virus on mortality among people with disabilities

In Italy, official data concerning the epidemic incidence – released by the National Health Institute (*Istituto Superiore di Sanità* – ISS) – does not provide information on the number of people with disabilities infected by, died from, and recovered from COVID-19.

Outline of key concerns about a disproportionately negative impact of the COVID-19 crisis on people with disabilities

1. The COVID-19 emergency made evident that Italy does not take the right to independent living seriously: Article 19 UN CRPD is not fully implemented (s. 9).
2. The ‘Integrazione scolastica’ (Integration in education) remains a core tenet of the Italian inclusive school system for persons with disabilities, but distance learning raises some serious concerns (s. 12).
3. The pandemic economic backlash would most likely hit harder persons with disabilities and their families, however there is still scant evidence of that given that the pandemic is still on-going, and that the Government has adopted an array of subsidies (s. 5).

Examples of good practice

- During the pandemic, the consolidation of the use of telemedicine and tele-rehabilitation and the strengthening of the mix between these interventions and face-to-face activity have played a very important role for persons with disabilities. From this point of view, the free “tele-rehabilitation medicine” service, provided by Italian Society of Physical and Rehabilitation Medicine (SIMER), represents a good practice, which deserves to be consolidated.
- The *Protocollo di Intesa* (Memorandum of Agreement) between the Guarantor of people with disabilities of the Campania Region and the National Association of Italian Municipalities (ANCI), signed last summer, aims to support coordination among different national, regional and local entities, and addresses the fragmentation of legislative and administrative powers.
- Some healthcare facilities are testing new inclusive pathways of care: these efforts must continue even after the pandemic.

Recommendations and opportunities for change

- Mainstreaming disability in recovery fund planning and setting up a monitoring and complaints system, involving persons with disabilities and their

organisations, in order to ensure that recovery funds are used to strengthen the rights of people with disabilities, rather than deny them.

- For persons with disabilities, appropriate and accessible assistive technologies can be a powerful tool in the fight against isolation due to social distancing measures. Recovery funds should be used to reduce digital divide.
- Supporting investments in inclusive education and accessible lifelong learning programmes.

2 Disability-inclusive disaster and recovery planning

Article 11 – Situations of risk and humanitarian emergencies & Article 4(3) – involvement of persons with disabilities

2.1 Commitments to disability in disaster management and recovery strategies

The Italian legal framework for disaster management has a relatively short history. The first consistent legislative intervention regarding disaster management was Law No. 996 of 8 December 1970, entitled Regulation on rescue and assistance to populations affected by disasters - Civil Protection. Currently, the Italian legislation on Civil Protection ("Codice della protezione civile"; Legislative Decree 2 January 2018, No. 1[1]) mentions "people living in social fragile contexts" and "persons with disabilities" (Article 18), but not in a substantive way.

The mentioned Legislative Decree affirms that "*Civil protection planning at different levels territorial is the non-structural prevention activity based on the activities of forecasting* and, in particular, of identification of the scenarios referred to in Article 2, paragraph 2, aimed at: a) the definition of the operational strategies and the model intervention containing the organisation of structures for the conduct, in a coordinated form, of the activities of protection civil and operational response for event management disasters foreseen or in progress, *guaranteeing the effectiveness of the functions to be performed with particular regard to people in conditions of social fragility and with disabilities*, in relation to optimal areas referred to in Article 11, paragraph 3, defined on provincial basis" (italics added).

As reported in the Civil Protection official website, "The national planning has the objective to define and coordinate rescue operations and assistance to face a pending disaster, event classified as 'Type C'. The national contingency plans are broken down by type of risk and related to specific areas of Italian territory, identified with the help of the scientific community, according to the event dangerousness and the vulnerability of the territory. The national emergency plan ensures the mobilization of all components of the National Civil Protection Service as a single organisation of emergency, which combines central and local institutions, volunteer organisations and private enterprises, foreign countries, and if necessary, to give first aid and assistance to citizens."

So, the Italian government adopted plans for seismic risk, vulcanic risk, meteo-hydrogeological risk, nuclear risk, tsunami risk, fire risk, sanitary risk, industrial risk. It is difficult to evaluate the disability inclusiveness of such intertangled planning system. The inclusion of persons with disability in emergency strategies is becoming more evident in some subnational plans: as an example, the Municipality of Rome just approved the "Civil protection plan – 2021", (adopted with Deliberazione n. 1/2021, 8 January 2021);[2] the plan mentions the concept of "sicurezza inclusiva" (inclusive safety).

With regards to pandemic, "National influenza pandemic preparedness and response plan", approved by the National Centre for Disease Prevention and Control back in

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[1] http://www.normattiva.it/eli/id/2018/01/22/18G00011/CONSOLIDATED/20201203.

[2] See *Roma Capitale: aggiornamento del Piano di Protezione Civile*, 9 February 2021, available at https://www.abiliaproteggere.net/2021/02/09/roma-capitale-piano-protezione-civile/.

2005, does not mention disability. The new "National Strategic-Operational Plan for Preparation and Response to an Influenza Pandemic (Pan-Flu) 2021-2023",[3] approved on 24 January 2021, underlines that "In addition to services *for the treatment of pandemic influenza patients, health services must be ensured for other types of critical and essential care, especially for vulnerable groups such as* children, pregnant women, children, the elderly, people with chronic and oncological diseases, *people with disabilities*." (p. 46; italics added).

Post COVID-19 recovery strategies take into account the condition of persons with disability.

Recently, in spring 2020, during the COVID-19 pandemic, a working group appointed by the Italian government published a three-year plan named "Recovery Initiatives 2020-2022", also known "Colao Plan", after the name of the working group chairman).[4] The plan is wide-ranging; it has no legal value, but a political one. Anyway, it should be noted the Piano Colao contains explicit reference to disability and to the United Nations Convention on the Rights of Persons with Disabilities, with regards to work inclusion, education, and social and health services.

The Colao Plan then led to a more formal "National Recovery and Resilience Plan"[5] (hereinafter, PNRR),[6] approved by the Council of Ministers on 12 January 2021,[7] mentions people with disability, says that it is necessary to "allocate huge resources to social infrastructures, functional to the implementation of policies in support of minors and people with severe disabilities and non-self-sufficient elderly people. These are interventions aimed at promoting the socialization, supporting independent life paths, and preventing institutionalization, also through the renovation of housing that exploit innovative technologies to overcome the physical, sensory, and cognitive barriers that prevent the autonomous development of acts of everyday life." (p. 136); other investments will concern DDI, assistive technologies and 'social infrastructures'.

2.2 Involvement of people with disabilities in disaster management and recovery strategies

A representative of the National Observatory on the Condition of Persons with Disabilities, created by Law 18/2009, was part of the working group set up for the Colao Plan. In the PNRR there is no evidence of an involvement of persons with disabilities and their organisations, but in the last months the Italian Federation of Handicap Overcoming (Federazione Italiana Superamento Handicap - FISH) and the Federation of national associations of people with disabilities (Federazione tra le associazioni nazionali delle persone con disabilità - FAND) presented a proposal[8] to amend the first draft of the PNRR, indicating the objectives and methods to make the PNRR even more "shareable, fair and effective".

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3 http://www.salute.gov.it/imgs/C_17_pubblicazioni_3005_allegato.pdf.
4 http://www.governo.it/sites/new.governo.it/files/comitato_rapporto.pdf.
5 The 'Colao working group' was the first step on the drafting of the PNNR (see PNNR, p. 15).
6 http://www.governo.it/sites/new.governo.it/files/PNRR_2021_0.pdf.
7 http://senato.it/service/PDF/PDFServer/BGT/1199293.pdf.
8 https://www.fishonlus.it/files/2020/10/FAND_FISH_Piano-Nazionale-di-Recupero-e-Resilienza.pdf.

2.3 Disability impact assessments and research to inform disaster management and recovery planning

As reported by the webpage “Abili a proteggere” (“Able to protect”), “In order to promote procedures for the rescue and assistance to people with disabilities in emergency, the Department of Civil Protection is defining a system for detecting the needs of people with disabilities in the event of an emergency and national indications on planning to be transmitted to the Regions.”[9] Apparently, no further information is available to the public about the use of impact assessment concerning the role of persons with disabilities to inform Disaster & Recovery planning.

2.4 Use of disaster management and recovery planning funds

The COVID-19 response has been characterized by ‘chain of measures’ (Law Decrees, DPCM, Guidelines) not entirely fitted to disaster management models previously described.

In the past, having regards to earthquake-related recovery funds, the allocation was criticized by persons with disabilities and their organisations;[10] the post-lockdown measures (as an example, Law Decree No. 34 of 19 May 2020, Article 104) allocated resources for persons with disabilities.

[9] https://www.abiliaproteggere.net/.

[10] See https://www.disabili.com/mobilita-auto/articoli-mobilita-a-auto/dopo-il-terremoto-ricostruiamo-in-maniera-accessibile.

3 Mortality connected to COVID-19 among people with disabilities

Article 10 – The right to life

3.1 Are official statistics available concerning the overall mortality rate of people with disabilities?

There are no official data concerning the mortality rate of people with disabilities during the period of the pandemic and for the same period in in 2019 and 2018.

No general data are provided concerning the mortality rate of people with disabilities during COVID-19 been proportionately higher, lower or the same as the mortality rate for the general population. A study conducted by ISS and Università Cattolica di Milano shows that in Italy the mortality rate for persons with down syndrome may have been up to 10 times greater than that of the general population.[11]

3.2 Are official statistics available concerning the mortality rate of people with disabilities who have died from complications connected to COVID-19?

There are no official data.

- According to the Report of 2 December 2020, of the ISS “Characteristics of patients who died positive for SARS-CoV-2 infection in Italy”, the average age of patients who died and positive for COVID-19 is 80 years. The report shows that, with increasing age, the number of chronic diseases increases.
- Even in the absence of official data, it is believed that the condition of disability represents a greater risk factor, both in terms of the onset of complications following contagion with Sars-CoV-2, as well as hospitalisation and mortality.
- A recent study found that mortality from COVID-19 among people with Down Syndrome is 10 times higher than in the general population. In these cases, the average age of the deceased is much lower (52 years instead of 78 years).
- It is also known the high mortality that occurred in the RSA (residential facilities), especially in the first months of the pandemic. In these facilities, there are usually both elderly people and people with disabilities. In May, the ISS concluded the first survey on RSA, to which less than half of the structures contacted (41.3 %) responded. In the three months of February, March, and April alone, 3 772 guests with COVID positive or flu-like symptoms died in these facilities.

There are no official data concerning the place of death of people with disabilities with a confirmed diagnosis of COVID-19.

There are no official data concerning the place of residence of people with disabilities that have died with a confirmed diagnosis of COVID-19.

[11] See E. R. Villani – A. Carfì – A. Di Paola – L. Palmieri – C. Donfrancesco – C. Lo Noce – D. Taruscio – P. Meli – P. Salerno – Y. Kodra – F. Pricci – M. Tamburo de Bella – M. Floridia – G- Onder - The Italian National Institute of Health CoVID-19 Mortality Group, *Clinical characteristics of individuals with Down syndrome deceased with CoVID-19 in Italy—A case series*, in *American Journal of Medical Genetics*, Vol. 182, 12, https://onlinelibrary.wiley.com/doi/10.1002/ajmg.a.61867.

4 Access to health

Article 25 – Health

4.1 Emergency measures

In the situation of emergency caused by the spread of the infection and the increasing use of intensive care, the problem of selecting access to life-saving medical devices arose. Therefore, problems related to possible discrimination emerged, in particular concerning the age and possible disability of patients.

In this framework, the SIAARTI (Italian Society of Anaesthesia, Analgesia, Intensive Care) approved the Recommendations for the COVID-19 emergency,[12] which have identified some criteria for the allocation of insufficient medical resources in a situation of mass influx. The recommendations are inspired by the four principles of health ethics: charity, non-maleficence, autonomy, and justice. Some criteria are defined which have the function of:

- guide medical staff in making choices;
- explain the criteria for the allocation of health resources in a situation of extraordinary need.

There are no specific provisions for people with disabilities. Among the recommendations of greatest concern, recommendation no. 4: “The presence of comorbidities and functional status must be carefully evaluated, in addition to the chronological age. It is conceivable that a relatively short course in healthy people potentially becomes longer and therefore more resource consuming on the health service in the case of elderly patients, fragile or with severe comorbidity.”

Subsequently, in January 2021, SIAARTI approved the guiding document “Decisions for intensive care in the event of disproportion between care needs and available resources in the COVID-19 pandemic areas”.[13] These guidelines translate the previous recommendations, formulating a set of specific criteria for triage, to guarantee treatment life support to as many patients as possible who can benefit from it.

The main Italian case law databases do not report judicial decisions regarding the right to health of persons with disabilities during the COVID-19 emergency.[14]

4.2 Access to hospital treatment for COVID-19

There are no official data. The Ministry of Health, the National Agency for Regional Health Services (Agenzia Nazionale per i Servizi Sanitari Regionali - AGENAS) and every single region provide data on daily basis about the trend of the pandemic, with

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[12] https://www.flipsnack.com/SIAARTI/siaarti_-_covid19_-_raccomandazioni_di_etica_clinica_-2/full-view.html.

[13] https://snlg.iss.it/wp-content/uploads/2021/01/2021_01_13__LINEE-GUIDA_DECISIONI-CURE-INTENSIVE_Def.pdf.

[14] The supreme administrative court, the Council of State (*Consiglio di Stato*) adopted an important decision (Cons. Stato, 2/1/2020, 1) regarding the right to health of disabled persons just some weeks before the pandemic emergency: for its relevance during the Covid phase, see L. Busatta, *Oltre i vincoli di bilancio: il nucleo essenziale del diritto alla salute del disabile*, in NGCC, 4/2020, pp. 879-893.

regards to the total amount of swab made, the total number of persons tested positive, the percentage of positive swabs out of the total, the reproduction rate (R number), the number of ICU beds occupied and, since January, the number of people vaccinated. But no reference is made to disabled persons.

4.3 Treatment for COVID-19 in congregate settings

Specific data on this point are lacking.

As pointed out by Berloto et al.[15] the Italian government acted late to manage COVID-19 outbreaks in the institutional settings and nursing homes; the Regions, without a clear national guidance, responded to COVID-19 late and with different approaches. In the first phase of the pandemic, every facility coped with the emergency on their own way. To provide a uniform approach, the ISS published a report entitled “Interim indications for the prevention and control of SARS-CoV-2 infection in residential, social, health and social care facilities”[16] in August 2020, with indications for facilities staff.

The National Observatory ASD (coordinated by the Ministry of Health and the ISS) approved another document in order to address indications for the treatment of persons with ASD, “Interim indications for appropriate support for persons with ASD and / or with intellectual disabilities in the current SARS-CoV-2 emergency scenario”.[17]

To monitor the situation and adopt potential strategies aimed at strengthening essential plans and principles for healthcare-associated infection (HCAI) control and prevention, on 24 March 2020, the (ISS) - in cooperation with Italy’s National Guarantor for the rights of prisoners and people deprived of their liberty (GNPL) - launched a survey on COVID-19 infection in institutional settings. The survey results indicate that the Mortality rate calculated as the number of deaths out of the total number of residents (sum of residents as of 1 February and new entries from 1 March), is a total of 9.1 %.

Moreover, “Of the 9 154 subjects who died, 680 tested positive for the swab and 3 092 presented with flu-like symptoms. In summary, 7.4 % of the total deaths involved residents with a finding of SARS-CoV-2 infection and 33.8 % involved residents with flu-like manifestations. The mortality rate among residents (residents as of 1 February and new entries from 1 March), considering the deaths of people who tested positive, is 0.7 per 100 residents. This value increases up to 2.7 % in the autonomous province of Trento. The mortality rate, considering the deaths of residents with flu-like symptoms, is 3.1 %, but increases up to 6.5 % in Lombardy.”

With regards to the main problems faced by residential facilities staff, “Of the 1 259 structures that answered the question, 972 (77.2 %) reported the lack of Personal Protective Equipment, while 263 (20.9 %) reported a lack of information received about the procedures to be carried out to contain the infection. In addition, 123 (9.8 %)

[15] See S. Berloto – E. Notarnicola, E. Perobelli – A. Rotolo, *Italy and the COVID-19 long-term care situation*, 31 July 2020, https://ltccovid.org/wp-content/uploads/2020/09/LTC-COVID19-situation-in-Italy-31-July-2020.pdf.

[16] https://www.iss.it/documents/20126/0/Rapporto+ISS+COVID-19+n.+4-2020_Rev.+2+%281%29.pdf/54f1745b-adef-935d-9b2a-09e875b14481?t=1599145436882.

[17] https://www.iss.it/documents/20126/0/Rapporto+ISS+COVID19+n.+8_Rev+2.pdf/6291c3cd-0d12-9c1c-f3bb-91b8c9891484?t=1604066001811.

facilities report a lack of drugs, 425 (33.8 %) an absence of health personnel, and 157 (12.5 %) difficulties in transferring residents affected by COVID-19 to hospital facilities. Finally, 330 facilities (26.2 %) declare that they have difficulties in isolating residents affected by COVID-19 and 282 indicated the impossibility of having swabs performed." The swab tests availability was another sore point. Often, for persons with mental health issues and persons with ASD, the swab procedure is a very frightening and painful experience.[18]

Finally, it has to be noted that the DPCM 2 March 2021 provided that caregivers of persons with severe disability can also provide assistance in the inpatient facility, following the indications of the medical director of the facility.[19]

4.4 Public health promotion and testing during the pandemic

In addition, in the first weeks of March, when Italy was preparing to launch ever stricter restrictive measures to contain the contagion, several calls were formulated by the world of associations and activism in favour of the rights of people with disabilities, to provide accessible information and to create inclusive care pathways.

Efforts to ensure the accessibility of information have not been lacking. During the press conferences of the President of the Council of Ministers and some regional presidents, broadcast on TV, for example, the translation service into the Italian sign language (*Lingua Italiana dei Segni*- LIS).

A press conference of the former Prime Minister Giuseppe Conte.

The Office responsible for disability policies (*Ufficio per le politiche per le persone con disabilità)* provided translation in LIS of several official press-conferences concerning the COVID-19 emergency.

For deaf people, an *ad hoc* email account was activated providing information about the pandemic. Despite these efforts, several accessibility problems to official pandemic

[18] See "Tamponi Coronavirus al drive-in: famiglie chiedono alternative per le persone con disabilità", available at https://www.disabili.com/medicina/articoli-qmedicinaq/tamponi-coronavirus-al-drive-in-famiglie-chiedono-alternative-per-le-persone-con-disabilita.

[19] See Art. 11, 5 c., DPCM 2 March 2021, available at https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg.

documents published on institutional websites have been reported in the media mainly during the first weeks of pandemic.[20]

Italian authorities do not provide COVID-19 home-testing as a general measure, despite the difficulties encountered by people with disabilities facing testing procedures. At a regional level, some alternative solutions have been prepared: as an example, the Emilia-Romagna Region provided for the possibility of taking the swab test at neighbourhood pharmacies. One year after start of the pandemic, the COVID-19 test accessibility for persons with disabilities is still a critical issue.

4.5 Impact of the COVID-19 crisis on access to health services for general or pre-existing physical or mental health conditions

The Italian public authorities do not provide data about the impact of the coronavirus on access to health services. Some studies show relevant decreases of medical treatment in multiple fields. A report published by Iqvia and Farmindustria in February 2021 points out that "As regards the main respiratory and cardiometabolic diseases, the significant contraction concerns both new diagnoses (-521 000 equal to a decrease of 12 %) and the initiation of new treatments (-277 000, -10 %). Specialist visits also collapsed, 1.5 million fewer (-30 %) as well as requests for examinations given that 2 415 000 fewer (-22 %) were carried out. In particular with regard to respiratory diseases (Bpco / asthma) there is a significant decrease in new diagnoses (Bpco: -62 000, asthma: -158 000), new treatments (-46 000 -124 000), referrals to the specialist (-123 000 -129 000) and spirometry requests (-108 000 -127 000). The decline highlighted during the first lockdown was also maintained in the following period. In the cardiovascular field for atrial fibrillation and heart failure) there is a significant decrease in new diagnoses (respectively -18 000 and -44 000), new treatments (-4 000, -29 000), referrals to the cardiologist (-81 000, -248 000) and ECG requests (-64 000, -180 000). The slight recovery after the lockdown did not compensate for the losses. Even in the oncology field […] the contraction was strong. In the period of the first lockdown, about 18 000 deferred diagnoses are estimated. The partial recovery in the summer months did not compensate for the decline: in October a total of 30 000 fewer diagnoses of cancer were made compared to the previous year. In particular, there was a decrease in requests for screening for breast (-7 %), lung (-10 %) and colon (-10 %) cancer. Furthermore, new diagnoses for cancer (-11 %), treatment beginnings (-14 %), surgical interventions (-17 %) and hospitalisations (-14 %) collapse".[21]

With particular regard to mental health, ISS, recognising that "An emergency like the current COVID-19 pandemic can be a source of stress for individuals and families who are confined to their homes, and healthcare workers who are dealing with the impact of the epidemic", published a report on the impact of pandemic on mental health. ISS did not provide quantitative data but set up a "Mental Health and COVID-19 Emergency" working Group, established by decree of the President of the ISS in April 2020, promoting "an intervention program to manage the impact of the COVID-19 epidemic on mental health".

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[20] See G. Kovarich – A. Marella, *Problemi di accessibilità per i documenti pubblici sul coronavirus: come risolvere*, Agenda digitale, 14 April 2020, available at https://www.agendadigitale.eu/documenti/problemi-di-accessibilita-per-i-documenti-pubblici-sul-coronavirus-come-risolvere/.

[21] The Report was summarized by M. Bartolini – B. Gobbi, *Il Covid taglia le altre cure: saltata una diagnosi su dieci*, in *Sole 24 Ore,* 9 February 2021.

Moreover, several studies found high rates of negative mental health outcomes in the Italian population after the COVID-19 lockdown, as well as different COVID-19 correlated risk factors.

4.6 Vaccination programmes

The Italian Strategic Plan for vaccination against SARS-CoV-2/ COVID-19 was approved with the Ministerial Decree of 2 January 2021. During Phase 1, health care staff member, staff and patients of residential facilities, seniors over the age of 80, are prioritised for COVID-19 vaccination. There are no specific provisions for people with disabilities living in residential facilities.

The Plan clarifies that the recommendations on target groups will be subject to change and will be updated considering the evolution of clinical knowledge available, in particular regarding I. vaccination efficacy and/or immunogenicity; II. safety of vaccines available for different age groups III. Awareness different risk factors.

In addition, the procurement plan has undergone changes and a relevant reduction of the number of doses of vaccine available. So, it was necessary to update the list of the “target categories” and reschedule the vaccination campaign.

The already mentioned document states that in the second phase those who present a greater risk to health will be vaccinated, defined on the basis of the criterion of the greatest risk of mortality linked to COVID-19. The determining factors are age and the presence of pathological conditions. Consequently, the plan identifies a number of disease areas, among which we find "Neurological conditions and disabilities (physical, sensory, intellectual, psychological)" and "Down syndrome".

The subsequent risk categories are identified in decreasing age groups.

5 Income and access to food and essential items

Article 28 – Adequate standard of living and social protection

5.1 Emergency measures

The latest available ISTAT data on poverty,[22] published in June 2020, relate to 2019 and do not take into account the consequences of the onset of the pandemic. The general picture that emerges is that of a slight decline in absolute poverty (from 7 % in 2018 to 6.4 % of households), which however remains at much higher levels than those prior to the 2008-2009 crisis. Relative poverty remained stable.

In this context, the government has undertaken a series of initiatives which have involved the provision of food voucher and the strengthening of income support measures. At national level, no specific measures have been taken for persons with disabilities but with regard to food vouchers, many municipalities have included among the access criteria, or in any case among the situations that provide an additional score, the "Presence of a member of the household in conditions of disability".

In fact, the Ordinance No. 658, of 20 March 2020 of the Civil Protection ordered the assignment of a contribution of EUR 400 million for food solidarity interventions to 8 000 Italian municipalities, to be provided through shopping vouchers or the distribution of food or basic necessities. The ordinance also provides that for the purchase and distribution of food and basic necessities, the Municipalities may use Third Sector Organisations.

The Civil Protection Ordinance did not provide for the methods for determining the beneficiaries by the individual Municipalities, establishing only the criterion of complementarity with the support measures already in place, yet leaving ample responsibilities to the Municipalities regarding the criteria to be adopted for their assignment. Therefore, no priority was granted to people with disabilities or to care-dependent people.

Each Municipality has also autonomously established the methods of involvement of Third Sector Organisations. The forecast was confirmed, also in the operating procedures, by Article 2 of the d.l. n. 154/2020 on "Urgent financial measures related to the COVID-19 epidemiological emergency.

Secondly, with reference to income support measures, Article 82 of the d.l. n. 34/2020 introduced the so-called Emergency income (REM), to support families with difficult financial situations, due to the epidemiological COVID-19 emergency. The legislation has undergone various extensions and small changes due to several subsequent law decrees (Legislative Decree No. 104/2020 and Legislative Decree No. 137/2020).

In this case, unlike measures foreseen for food vouchers, the conditions of access are established at a national level and essentially refer to residency and financial situation requirements.

[22] https://www.istat.it/it/files//2020/06/REPORT_POVERTA_2019.pdf.

5.2 Impact of the COVID-19 crisis

The Caritas report,[23] which is based on three surveys carried out in April, June, and September 2020, highlights the difficult situations experienced by many elderly people and by people with disabilities or with family members with disabilities. More specifically, it seems that 59.8 % of dioceses have noted an increase in the difficulties of people with disabilities or handicaps. Many Third sector organizations have taken action to provide material help (parcel delivery, medicines, telephone helplines, transport services, helping the elderly to collect their retirement pension), in addition to the distribution of food vouchers by the municipalities mentioned above.

With reference, however, to the Emergency income (REM), the amount of financial support is variable. Each share of the REM is EUR 400, which are multiplied on the basis of an equivalence scale.[24] The latter varies in relation to the composition of the family unit.

The REM shares go up to a maximum of 2, for a maximum total of EUR 800, or up to a maximum of 2.1 in the event that the family unit includes members in conditions of serious disability or who are care-dependent, as defined for ISEE purposes. It is therefore very clear that the presence of a person with disabilities is undervalued.

It is also important to emphasize that receiving the ordinary disability allowance (as opposed to direct or indirect pensions) does not prevent from receiving the REM. In the current period (starting from November 2020) and as a consequence of Ruling No. 152/2020 of the Constitutional Court, the amount of the civil invalidity pension has been increased, from EUR 280 to about EUR 650. Such increase, which is not linked to the ongoing health emergency, still appears worthy of note and able to affect the economic condition and access to essential goods of some people with disabilities.

[23] http://s2ew.caritasitaliana.it/materiali/Rapporto_Caritas_2020/Report_CaritasITA_2020.pdf.

[24] See paragraph 4 of Article 2 of the Decree Law of 28 January 2019, No. 4, converted with amendments by law 28 March 2019, 26 and, most recently, INPS circular No. 102 of 11 September 2020.

6 Access to transportation and the public spaces

Article 9 – Accessibility

6.1 Emergency measures

In Italy, the rules concerning transportation, movements and the public realm in general have undergone many changes, due to several government interventions during the course of the most difficult phases of the pandemic, up to now. Decrees of the President of the Council (DPCM) and decree-laws followed one another, even only after a week from each other, making it difficult to fully reconstruct their evolution.

Recently, the DPCM of 3 November 2020 introduces a differentiated regime between the Regions (still in force today). Each region is assigned to one of the three areas (red, orange, yellow) through an ordinance of the Ministry of Health, according to the risk of contagion, on the basis of 21 parameters. The assignment of a Region to an area may change every 15 days. The decree therefore provides measures to limit freedom of movement within the national territory, and some that concern individual regions, depending on the area in which they are located. The following rules will apply to the whole territory:

1. limitation of the movement of people from 22:00 to 5:00;
2. the coverage of the public transport capacity of local and regional rail transport is limited to 50 %;
3. bars and restaurants must close after 18.00;
4. visiting friends or relatives is allowed, within the same region (for the yellow areas) or the same municipality (for the orange or red areas), for a maximum of two people (children under 14 years, people with disabilities and care-dependent people are not considered in this calculation).

It is important to underline that, despite the limitations, the legislation has always allowed any movements that may be necessary to provide assistance to care-dependent people, even between municipalities / regions in different areas, should it be impossible to provide them with the necessary assistance through other people present in the same municipality or region. In these cases, the movement is justified only for an adult (possibly accompanied by minors).

Moreover, Article 9 provides that the social and health activities intended for people with disabilities - including those provided by the institutions - are restored according to the guidelines adopted by each Region (and Autonomous Province), ensuring compliance with the measures to prevent the spread of the virus and protect the safety of personnel and users. Consequently, movements that ensure this type of activity have been allowed, even in areas subject to greater restrictions.

Additionally, the Article 1, paragraph 10, letter. dd of the DPCM of 14 January 2021 provides that the access of relatives and visitors to hospitality facilities and long-term hospitalisation, assisted healthcare residences (RSA), hospices, rehabilitation facilities and residential facilities for the elderly, whether they are care-dependent or not, is limited only to the cases indicated by the health management of the structure, who are required to adopt any measures needed to prevent a possible transmission of infection.

Government regulations have provided for the mandatory use of respiratory protective devices indoors and outdoors, except in cases where there is the condition of isolation, with respect to people not living together. The use of these devices is also strongly recommended inside private homes when there are non- cohabiting people. There is also an exception for patients with pathologies or disabilities that are incompatible with the use of a face mask, as well as for those who interact with such patients.

Furthermore, in general, there is an obligation to maintain a safety interpersonal distance of at least one metre. However, there is an exception, even in this case: persons with physical, intellectual, and sensorial disabilities who need assistance can reduce social distancing with their own professional assistants, below 1 metre. Article 12 of DPCM of 14 January 2021 confirmed these measures.

To ensure safe public transport, specific guidelines have been issued, included in Annex 9 of the Prime Ministerial Decree of 26 April, however, there are no specific provisions for people with disabilities. Some transport companies have developed specific protocols dedicated to enable access to public mobility for people with disabilities (especially for sensory disabilities) during the COVID-19 emergency phase, advertising them on their websites.

In addition, in some municipalities specialised transport services have been activated for people with disabilities, personalised and “on demand”, to respond to needs related to travel for reasons of health, therapy, school, work or socialisation.

6.2 Impact of the COVID-19 crisis

Movement limitations and social distancing rules have heightened the sense of abandonment of many persons with disabilities. Social isolation and the sense of loneliness and discrimination often experienced by persons with disabilities have been amplified by the pandemic. In fact, there has been talk of "an emergency within an emergency".[25]

Many people did not even have an explanation as to why they could not see their families anymore and thought they were abandoned and left to die.[26] Isolation has also created significant disadvantages to children with disabilities, blocking or slowing down the processes of inclusion. For this reason, the document prepared by WHO has provided, among other recommendations, that of “Encouraging children with disabilities to continue playing, reading, learning, and to keep in contact with their friends through phone calls, messages or social media”.[27]

Furthermore, isolation has made it very difficult for people with disabilities to access information regarding the virus, the methods of contagion and the progress of the general health situation. In addition, some surveys showed that the government has

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[25] P. Boldrini, M. Garcea, G. Brichetto, N. Reale, S. Tonolo, V. Falabella, et al. Living with a disability during the pandemic. “Instant paper from the field” on rehabilitation answers to the COVID-19 emergency, in *Eur J Phys Rehabil Med* 2020; 56:331-4. DOI: 10.23736/S1973- 9087.20.06373-X), p. 333.

[26] https://www.internationaldisabilityalliance.org/sites/default/files/disability_rights_during_the_pandemic_report_web_pdf_1.pdf.

[27] https://www.who.int/docs/default-source/documents/disability/italian-COVID-19-disability-briefing.pdf?sfvrsn=122fd3a3_2, p. 4.

not taken any measures to protect people with disabilities in remote and rural areas. These findings reveal that people with disabilities in remote and rural areas have faced additional barriers to accessing food, medicines and healthcare.[28] Given the continuous modification of the rules concerning movements and obligations relating to the public realm, the Presidency of the Council of Ministers, through the Office for policies in favour of people with disabilities, prepared a guide[29] on Coronavirus with the rules for persons with disabilities (and their families), in the light of the measures adopted by the Government with the various DPCM. The guide is constantly updated.

[28] Available at https://www.internationaldisabilityalliance.org/sites/default/files/disability_rights_during_the_pandemic_report_web_pdf_1.pdf, p. 29.

[29] http://disabilita.governo.it/it/notizie/COVID-19-domande-frequenti-sulle-misure-per-le-persone-con-disabilita/.

7 Involuntary detention or treatment

Article 14 – Liberty and security of person
Article 15 – Freedom of torture or cruel, inhuman or degrading treatment or punishment
Article 16 – Freedom from exploitation, violence and abuse
Article 17 – Protecting the integrity of the person

7.1 Emergency measures

The Italian legal framework includes several provisions regarding involuntary detention or involuntary treatment. Article 32 of the Italian Constitution provides that "I. The Republic safeguards health as a fundamental right of the individual and as a collective interest and guarantees free medical care to the indigent. II. *No one may be obliged to undergo any health treatment except under the provisions of the law. The law may not under any circumstances violate the limits imposed by respect for the human person*." (italics added). Moreover, Article 13 of the Italian Constitution provides that "I. *Personal liberty is inviolable.* II. No one may be detained, inspected, or searched nor otherwise subjected to any restriction of personal liberty except by order of the Judiciary stating a reason and only in such cases and in such manner as provided by the law […] IV. Any act of physical and moral violence against a person subjected to restriction of personal liberty shall be punished […]".

Having regards to persons with mental illness, Law 833/1978, regulating the National Health Service (Servizio Sanitario Nazionale; SSN)[30] states that "Medical examinations and treatments are usually voluntary. In the cases referred to in this law and in those expressly provided for by state laws can be ordered by the authority medical examinations and mandatory health treatments, according to Article 32 of the Constitution, respecting the dignity of the person and civil and political rights, including as far as possible the right to free choice of doctor and place of care.". So, mandatory health treatment (Trattamento sanitario obbligatorio; TSO) is a precautionary measure for persons with mental disorder in the acute phase of their mental illness, considered compatible with art. 32 co. 2 IC. The TSO is based on the assessment of two doctors and ordered by the mayor as local health authority. This measure imposes the admission in a hospital or in another place of care, in order to allow suitable treatments, but must be transmitted by a tutelary judge within 48 hours. As provided by Article 35, Law 833/1978, in the following 48 hours the judge must provide for the validation of the ordinance. If the TSO is not validated, the mayor must order its immediate termination. In this case, the hospitalisation can continue only with the voluntary consent of the person and the intervention of the tutelary judge is not necessary.

Law Decree No. 11 of 8 March 2020 (entitled "Extraordinary and urgent measures to counter the epidemiological emergency from COVID-19 and contain the negative effects on the conduct of judicial activity"),[31] provided that the courts could not suspend the hearings regarding cases in referred to in Article 35 of the Law of 23 December 1978, No. 833 (Article 2, let. g), point 1).

[30] http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1978-12-23;833!vig=2021-02-05.
[31] https://www.gazzettaufficiale.it/eli/id/2020/03/08/20G00029/sg; Law No. 27 of 24 April 2020 repealed definitively D.L. 11/2020.

So, emergency measures in force during the lockdown period did not undermine this mechanism of protection of personal freedom. As pointed out by Griffo, "[t]he practice of institutionalising older people is widespread in northern Italy, less so in the South. In his 2018 report, [the National Guarantor] estimated that in 2014 there were 218 576 persons in these institutions […] For persons with disabilities the issue is more dramatic, because they often do not have the possibility to choose where they live. Residential institutions still host 3 147 minors with disabilities and 51 593 adults with disabilities (data taken from the aforementioned report). It is a large number of people, often without family or abandoned by their relatives.".[32]

The legislation related to COVID-19 has limited considerably the access to family or friends to people living in institutional care. Decrees issued by the President of the Council of Ministers (hereinafter, DPCM) disposed on several occasions that the access to institutions can be restricted in order to contain the spread of the coronavirus. Lastly, DPCM 14 January 2021,[33] valid until 5 March 2021, provides that "the access of relatives and visitors to hospitality and long-term hospitalisation facilities, assisted healthcare residences (RSA), hospices, rehabilitation facilities and residential facilities for the elderly, self-sufficient or not, is limited only to the cases indicated by the health management of the facility, which is obliged to take the necessary measures to prevent possible transmission of infection" (Article 1, 10 c., dd)). Previously, on 30 November 2020, the Ministry of Health approved a Circolare, entitled "Provisions for the access of visitors to residential socio-welfare, social-health and hospice facilities and indications for new entries in the event of COVID-19 positive patients in the facility".[34]

At regional level, different regions have enacted ordinances on this subject. Most recently, the Lombardy region, hard hit by COVID-19, approved an Ordinance (619/2020) providing the prohibition of access to nursing homes by family members, caregivers and acquaintances, unless expressly authorised by the medical staff.

In some cases, Regions tried to combat isolation using communication technologies and devices. As an example, Tuscany Region disposed that "Communication is guaranteed to relatives who have left their mobile number at the staff of the structure (to the person indicated by the staff) at least weekly. It is also guaranteed for all emergencies and critical situations at any time of the day or night and, in any case, if the guest expressly requests it. Generally, for each patient, the person in charge of updating family members always remains the same. Communication usually takes place through a video call or messaging system with operators or by phone even with guests. The management of the structure defines the morning and afternoon time slots in which the service to better facilitate relatives. Video calls can take place with a tablet, mobile phone but it would be optimal and important to equip them giant screen structures (because they are more suitable for the elderly) or connections with

[32] See G. Griffo, Institutionalisation, welfare and COVID-19, 08.02.2021, available at https://www.edf-feph.org/newsroom-news-institutionalisation-welfare-and-COVID-19/; the National Guarantor Report for 2018 is avaliable at https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/bbb00eb9f2e4ded380c05b72a2985184.pdf.

[33] http://www.governo.it/sites/new.governo.it/files/Dpcm_14_gennaio_2021.docx.

[34] Available at http://www.normativasanitaria.it/jsp/dettaglio.jsp?id=77455https://www.trovanorme.salute.gov.it/norme/renderNormsanPdf?anno=2020&codLeg=77455&parte=1%20&serie=null.

television screens and/or multimedia interactive whiteboards." (All. A., Ordinance 93/2020).[35]

The National Guarantor for the Rights of Persons Detained or Deprived of Liberty also continued to monitor respect for the rights of people with disabilities during the pandemic phase, urging the Scientific Technical Committee to take into account feelings of isolation and loneliness of elderly and disabled persons living in institutional care.

7.2 Impact of the COVID-19 crisis

During the pandemic, the precautionary measures adopted by the Italian government restricted considerably the rights of persons living in the institutions: the limitation of the access to residential institutions resulted in an increased risk of isolation and social exclusion (see 7.1).

In some cases, additional problems arose in psychiatric wards: as reported by Fagiolini *et Al.*, "For [COVID-19 positive psychiatric patients] who are unable or unwilling to stay isolated, or who are engaging in highly dangerous behaviours (e.g., spitting on or biting personnel or other patients), we have adapted a room in the COVID area to serve as a seclusion room. As the number of patients is unfortunately growing, we are also adapting one relatively large room in our psychiatric unit to serve as a seclusion room for COVID-positive patients, in case the seclusion room in the COVID area is not available".[36]

Several studies are related to lockdown, social distancing measures and mental health issues:[37] some of those highlighted an increase in mandatory health treatment (TSO). As an example, newspapers reported that in the city of Turin, during the lockdown, a peak of nine TSOs per day was reached from an average of one TSO every two days.[38] To date, official data regarding TSO in pandemic are lacking.

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[35] Available at http://www301.regione.toscana.it/bancadati/atti/Contenuto.xml?id=5267887&nomeFile=Ordinanza_del_Presidente_n.93_del_15-10-2020.

[36] See A. Fagiolini – B. Cuomo – E. Frank, COVID-19 Diary From a Psychiatry Department in Italy, 23 March 2020, https://www.psychiatrist.com/JCP/article/Pages/covid-diary-from-a-psychiatry-department-in-italy.aspx.

[37] See S. K. Brooks - The psychological impact of quarantine and how to reduce it: rapid review of the evidence.

[38] See https://mole24.it/2020/03/21/torino-la-quarantena-manda-in-tilt-la-gente-aumentano-i-casi-di-tso/.

8 Violence, exploitation or abuse

Article 16 – Freedom from violence, exploitation and abuse

8.1 Emergency measures

In a general way, as underlined by the Committee on the Rights of Persons with Disabilities in the "Concluding observations on the initial report of Italy" (2016),[39] the Italian legal framework lacks legal provisions and monitoring mechanisms to detect, prevent and combat violence within and outside the home" (43). Having regard to violence against children with disability, the Fundamental Rights Agency underlined that Italy (as well as other European countries, like Finland and Portugal) adopted policies which "acknowledge that children with disabilities are at increased risk of violence, but do not set specific objectives for them".[40]

The Italian legislation on Civil Protection ("Codice della protezione civile"; Legislative Decree 2 January 2018, No. 1)[41] mentions "people living in social fragile contexts" and "persons with disabilities" (Article 18), but not in a substantive way, nor with reference to risks of violence, exploitation and abuse.

In February 2001, the Italian Firefighters Headquarters set up a working group to analyse issues regarding "persons with disabilities' safety"; the recommendations adopted by the working group in 2004 ("Rescue for disabled people: indications for emergency management") do not address the risk or the possibility of violence and abuse in emergency related situations;[42] but the document just mentioned affirms that "[In case of emergency], the rescuer must remain calm, speak in a reassuring voice with the disabled person, be helped by people who may be present on the spot and quickly decide what to do. *The absolute priority is the physical integrity of the person, and the resort to any coercive containment intervention to safeguarding their safety may represent the only solution.*" (p. 27; italics added). Such a provision could be highly problematic, exposing persons with disability to a greater risk of physical violence.

Leaving aside the emergency legislation, recently the Italian parliament approved the Law 19 July 2019, No. 69, imposing a more severe punishment for the crime envisaged by Article 572 of the Italian criminal code ("maltreatment of family members and cohabitants"), if a person with disability is a victim or a witness of the above-mentioned crime.

It should be noted that in November 2020 the Chamber of Deputies approved a bill which extends the provisions of Articles 604 *bis* and *ter* of the Italian criminal code also to violence and discrimination linked to disability; the bill moved to the Senate on 4 November 2020.[43] In October 2018, the Chamber of Deputies passed a bill regarding measures to combat maltreatment or abuse in early childhood education services,

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[39] The report is avaliable at https://digitallibrary.un.org/record/1310650#record-files-collapse-header.

[40] See FRA, Violence against children with disabilities: legislation, policies and programmes in the EU, 2015, available at https://fra.europa.eu/en/publication/2015/violence-against-children-disabilities-legislation-policies-and-programmes-eu.

[41] http://www.normattiva.it/eli/id/2018/01/22/18G00011/CONSOLIDATED/20201203.

[42] http://www.vigilfuoco.it/aspx/ReturnDocument.aspx?IdDocumento=369.

[43] See A.S. 2005, "Misure di prevenzione e contrasto della discriminazione e della violenza per motivi fondati sul sesso, sul genere, sull'orientamento sessuale, sull'identità di genere e sulla disabilità" http://www.senato.it/leg/18/BGT/Schede/Ddliter/53457.htm.

preschool, and socio-health and social-assistance facilities for the elderly and people with disabilities; currently, the bill is assigned to the 1st standing committee of the Italian Senate.[44]

8.2 Impact of the COVID-19 crisis

The introduction of a national lockdown during spring 2020 increased risks of domestic violence, as multiple sources underlined. Particularly, women and children with disability have been individuals at risk.

As pointed out by Bellizzi, Nivoli *et al.*, "The Italian national network of shelters for women subjected to gender-based violence (D.I.R.E.) showed that 2 867 women contacted 80 shelters from the 2 March to 5 April 2020. This represents a steep increase (74.5 %) on the 2018 average monthly records. Of concern is the fact that only one quarter of the total requests included women reaching such a network for the first time in their life- time; in 2018 this proportion was as high as 78.0 % (n=1 288), meaning that women are under constant control by their perpetrators and unable to ask for help. Never before has a health emergency brought to the surface the close link between crisis and increase in violence against women and girls, as well as gender-based discriminations and abuse, not only in low- and middle-income countries but across the globe."[45]

Specifically, data concerning violence on women with disability during the Covid pandemic are lacking; the report "Women with disabilities who have suffered violence - Second edition of the VERA research", published in December 2020 by FISH – Federazione Italiana Superamento Handicap, affirms that "Although there is no direct information on women with disabilities, it is reasonable to think that [the above mentioned] trend has also affected them".[46]

To fight violence against women during the pandemic, the Italian government adopted some general measures: as remarked by the CoE report entitled "Promoting and protecting women's rights at national level",[47] in March 2020 the Italian Department for Equal Opportunities launched the new awareness campaign, "Libera puoi", promoting the free phone number "1 522" and the mobile app. It has to be underlined that in March 2020 the Parliamentary commission of inquiry into femicide and all forms of gender-based violence published a recommendation entitled "Measures to respond to the problems of women victims of violence, anti-violence centers, shelters and anti-violence and anti-trafficking counters in the epidemiological emergency situation from

[44] See A. S. 897, "Misure per prevenire e contrastare condotte di maltrattamento o di abuso, anche di natura psicologica, in danno dei minori nei servizi educativi per l'infanzia e nelle scuole dell'infanzia e delle persone ospitate nelle strutture socio-sanitarie e socio-assistenziali per anziani e persone con disabilità e delega al Governo in materia di formazione del personale", http://www.senato.it/leg/18/BGT/Schede/Ddliter/50825.htm.

[45] See S. Bellizzi, A. Nivoli et Al. *Violence against women in Italy during the COVID-19 pandemic*, in *Gynecology*, 150, 2, pp. 258-259; see also ISTAT, "Violenza di genere al tempo del COVID-19: le chiamate al numero verde 1522", 13 May 2020, available at https://www.istat.it/it/archivio/250804; see also D. Loi – F. Pesce, *La violenza di genere e domestica durante l'emergenza da COVID-19*, Wellforum.it, 9 February 2021, available at https://welforum.it/il-punto/laumento-delle-diseguaglianze-in-tempo-di-pandemia/la-violenza-di-genere-e-domestica-durante-lemergenza-sanitaria-da-COVID-19/.

[46] See "Le donne con disabilità che hanno subìto violenza Seconda edizione della ricerca VERA", available at https://www.fishonlus.it/progetti/multidiscriminazione/azioni/files/Report_VERA_2.pdf.

[47] https://www.coe.int/en/web/genderequality/promoting-and-protecting-women-s-rights#.

COVID-19”,[48] providing that it is necessary ensure full accessibility to information about services against domestic violence to victims with disabilities.

Moreover, the Minister of the Interior sent a Circular (Circolare Min. Int. 31 marzo 2020)[49] to all the Prefectures in order to identify and make available accommodation to women victims of violence, guaranteeing full health safety conditions. On April 2020, the Department for Equal Opportunities and Family, in accordance with President of the Federation of Italian Pharmacists' Associations, the Presidents of Federfarma and Assofarma, signed a Memorandum of Understanding to make women victims of domestic violence and/or stalking fully aware of the anti-violence services available to them in the framework of COVID-19 emergency.

In addition, the Italian Government allocated resources in order to guarantee assistance to women victims of violence during the pandemic, but the Italian system to combat violence against women has been underfinanced for years.

As remarked by UNICEF, “Children with disabilities already face greater risks of exploitation, abuse and violence than other children, as well as institutionalization and separation from their families. As COVID-19 adds to the stresses and pressures on families and communities, these risks are intensified”.[50] Data regarding the violence on children with disability during the COVID-19 pandemic are lacking; some sources underlined that the number of cases of violence regarding children have risen during the lockdown and it can be assumed that this trend also affect children with disabilities. As pointed out by the Country Report “Policies for Children with Disabilities”, published in 2014, “[In Italy] There are no national laws or policies on the issue of abuse of children with disabilities. Actions for prevention, combating and reporting of violence do not take into consideration the fact that children with disabilities are more prone to become victims of abuse. In addition, reporting mechanisms are not easily accessible to children with disabilities, especially those with severe impairments, as they may frequently involve in the use of telephone or internet”: this legislative gap could have serious consequences during the COVID-19 phase.

In January 2021, the Observatory for Security against Acts of Discrimination (OSCAD) published a document entitled “Hatred of disabled people”;[51] however, this drew on data prior to the previous years. Data regarding hate crimes against persons with disabilities during the pandemic are not available.[52]

[48] The recommendation is available at http://www.senato.it/service/PDF/PDFServer/BGT/1149433.pdf.

[49] https://www.interno.gov.it/it/amministrazione-trasparente/disposizioni-generali/atti-generali/atti-amministrativi-generali/circolari/circolare-31-marzo-2020-misure-urgenti-materia-contenimento-e-gestione-dellemergenza-epidemiologica-COVID-19-applicabili-sullintero-territorio.

[50] https://www.unicef.org/documents/COVID-19-protecting-children-violence-abuse-and-neglect-home.

[51] https://www.interno.gov.it/sites/default/files/2021-01/brochure-eng-def_mi-123-u-d-1-oscad-2021-11_3.pdf.

[52] For data regarding the previous years (2017-2019), see S. Chirico – S. Buscarino, *L'odio contro le persone disabili*, OSCAD, January 2021, at p. 7, available at https://www.interno.gov.it/sites/default/files/2021-01/brochure_ita_def_mi-123-u-d-1-oscad-2021-11_2.pdf.

In the last year, there have been cases of hate speech regarding persons with disabilities, even in relation to disabled persons tested positive for COVID-19.[53]

[53] The media reported some cases. In Florence, a 14 y.o. student with disabilities tested positive for COVID-19 was bullied by schoolmates ("Positivo al coronavirus: studente disabile insultato dai compagni", in Firenze Today, 23 Oct. 2020, available at https://www.firenzetoday.it/cronaca/studente-disabile-coronavirus-firenze-bullismo-chat.html); in Lucca, some persons with disabilities making permitted outdoor activities during the lockdown were insulted by neighbours ("Coronavirus, Luccasenzabarriere condanna gli insulti sui disabili a passeggio", 26 March 2020, available at https://www.luccaindiretta.it/in-sociale/2020/03/26/coronavirus-luccasenzabarriere-condanna-gli-insulti-sui-disabili-a-passeggio/171803/).

9 Independent living

[Article 19 – Living independently and being included in the community]

9.1 Emergency measures

Emergency measures had a great impact on everyday life of Italian population as a whole; but in the Italian context the main problem has been the pre-existing exclusion of persons with disabilities from independent living programs and their consequent institutionalisation. As remarked by some activists for the rights of persons with disabilities, "[For disabled persons] the lockdown period lasts for a lifetime".[54]

During the pandemic phase, most community services closed or have slowed down their regular activities; it is not possible, at date, evaluate carefully the impact of emergency legislation on independent living. It has to be noted that the personal assistance activities have always been allowed and that social distance measures do not apply to persons with disabilities and their personal assistants/caregiver: currently, the DPCM 2 March 2021 provides that persons with motor disabilities or with ASD, intellectual disabilities or sensory or psychiatric and behavioural problems or non-self-sufficient with need for support, can reduce the interpersonal distancing with their caregivers or personal assistants below the expected distance; in any case, to above mentioned persons with disabilities is always allowed, with the aforementioned methods, to carry out motor activities outdoors. *De facto*, it can be assumed that the spreading of the coronavirus limited the availability of personal assistance services (also for fear of contagion) reducing considerably the exercise of choice over living arrangements or control over everyday life. Data in this regard are lacking.

9.2 Impact of the COVID-19 crisis

As made clear above, validated evidence regarding the impact of COVID-19 on the right to independent living is still lacking. In the Italian legal framework, the analysis is made more difficult by the constitutional asset of competences defined by Article 117 of IC; every Italian region adopted different measures to ensure the right independent living.

With regard to personal protective equipment, it has to be noted that persons with disabilities are exempted from wearing the facial mask if it is not compatible with their health conditions. The lack of PPE has been an issue for the first months of the emergency, including for persons with disabilities.

With regards to financial provision, the Italian government increased funds for disability assistance and services: the "Decreto Rilancio" ("Recovery Decree") allocated total of EUR 150 million to strengthen assistance, services and independent living projects for people with very serious disabilities and people who are not self-sufficient, as well as to support their caregivers, following the COVID-19 epidemiological emergency.

[54] See AVI Toscana, *Per le persone con disabilità grave tutta la vita è un lockdown!*, 3 June 2020, available at https://www.superando.it/2020/06/03/per-le-persone-con-disabilita-grave-tutta-la-vita-e-un-lockdown/.

10 Access to habilitation and rehabilitation

Article 26 – Habilitation and rehabilitation

10.1 Emergency measures

In order to contain the spread of COVID-19, between February and March 2020, the activities carried out within the various types of day centres for people with disabilities were suspended throughout the national territory (Article 47 of Legislative Decree 18/2020, the so-called “Cura Italia”).

This suspension also affected rehabilitation services (particularly the services provided by the centres regulated by Article 26 of Law No. 833/1978), both outpatient and home, and each Region has adopted its own specific measures. A few difficulties have emerged regarding this type of services:

- frequent need for a prolonged and close interaction between patients and professionals;
- difficulty in communicating with the patient (due to cognitive difficulties or disordered consciousness);
- and consequent need to involve family members or other people in providing assistance.

The measures adopted have led many people with disabilities to home isolation, entailing an absence of the necessary care to safeguard their physical and mental health.

The pandemic has therefore had a strong impact in this field, in three different directions:

1. it has led to the trend of transferring more patients to hospital rehabilitation units from acute wards, in order to facilitate new admissions of COVID-19 cases and to ensure the care of patients with other medical conditions, whose hospitalisation cannot be postponed;[55]
2. it has resulted in major difficulties in providing rehabilitation care in outpatient and home settings, due to restrictions imposed by national and local authorities on the movement of people to prevent the spread of infection (see section six - Access to transport and the public domain);
3. it has resulted in an increase in potential users of rehabilitation services, represented by those who survive COVID-19 with disabling after-effects.

Subsequently, the DPCM of 26 April 2020, Article 8, provided for the resumption of health and social services in favour of people with disabilities, following the adoption of territorial plans, adopted by the Regions, and aimed at identifying specific protocols

[55] P. Boldrini, A. Bernetti, P. Fiore, Impact of COVID-19 outbreak on rehabilitation services and Physical and Rehabilitation Medicine (PRM) physicians’ activities in Italy. An official document of the Italian PRM Society (SIMFER), in European Journal of Physical and Rehabilitation Medicine, March 2020 (https://www.simfer.it/impact-of-COVID-19-outbreak-on-rehabilitation-services-and-physical-and-rehabilitation-medicine-prm-physicians-activities-in-italy-an-official-document-of-the-italian-prm-society-simfer/).

for the prevention of contagion and for the protection of the health of people with disabilities.

The increase in cases of contagion caused the multiplication of a series of recommendations, provisions and rules issued by national, regional, and local authorities. As highlighted by the Italian Society of Physical and Rehabilitation Medicine (SIMER), only some of the differences in prevention measures existing between regions and / or local health districts are justified by real differences in the organization of services. Furthermore, very often these recommendations address general aspects of infection prevention or management and are not adapted to the specific needs of rehabilitation activities, or to the different and non-standardized needs of people with disabilities.

In this scenario, the recommendations adopted by SIMER[56] aim “at providing recommendations fully compliant with the national and regional provisions, but specifically focused upon the rehabilitation sector, to support the physical and rehabilitation medicine physicians […] and policy makers in taking decisions in such an unusual and largely unknown circumstance”. The recommendations start from the need to ensure adequate interventions for people in need of rehabilitation, but at the same time recognize the importance of acting in support of all other areas of the health care sector, in order to promote continuity of care. This highlights the need, even in emergency situations, to provide integrated health responses.

Furthermore, the recommendations require the preparation of a system for identifying priorities, in order to guarantee the delivery of interventions in situations where they cannot be deferred. At the same time, they suggest, in other cases, to favour access to services through alternative treatment options (tele-assistance, tele-rehabilitation ...), in order to postpone treatments while maintaining the therapeutic relationship.

10.2 Impact of COVID-19 and/or emergency measures adopted

The latest data available on access to rehabilitation services are those provided by ISTAT in 2016 and refer to 2013. In 2013, rehabilitation was provided to 6.8 % of the population, with outpatient services at 4.3 %, receiving 10.6 individual sessions each.[57]

Growing evidence is emerging that patients, usually treated in rehabilitation settings, are left behind due to the shift of resources to the emergency sector and the limited outpatient and home services imposed by the lockdown.[58] In fact, a survey[59] by the

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56 https://www.minervamedica.it/en/journals/europa-medicophysica/article.php?cod=R33Y2020N03A0316&html=1&htmlID=SGNwaE5mTWVOaW53bE0rd1kwWEpaekRkeE1ua3N4TXhpYlhFZWdTWjdwdUpiWlNyUWhhRkpkVThwNTRSMU9BbA%3D%3D.

57 https://www.istat.it/it/archivio/5471.

58 Boldrini P, Garcea M, Brichetto G, Reale N, Tonolo S, Falabella V, Fedeli F, Cnops AA, Kiekens C. Living with a disability during the pandemic. "Instant paper from the field" on rehabilitation answers to the COVID-19 emergency. Eur J Phys Rehabil Med. 2020 Jun;56(3):331-334. doi: 10.23736/S1973-9087.20.06373-X. Epub 2020 May 14. PMID: 32406226 (https://pubmed.ncbi.nlm.nih.gov/32406226/).

59 S. Negrini, K. Grabljevec, P. Boldrini, C. Kiekens, S. Moslavac, M. Zampolini, N. Christodoulou, up to 2.2 million people experiencing disability suffer collateral damage *each day of COVID-19 lockdown in Europe*, in European Journal of Physical and Rehabilitation Medicine, My, 08, 2020).

European scientific societies ESPRM and UEMS-PRM found that up to 2.2 million people in Europe so far had to interrupt rehabilitation treatments due to the pandemic.

In this perspective, some associations of people with different conditions of disability have described the difficulties they are facing during the pandemic, the initiatives undertaken to support their members and their future prospects and expectations.[60] They stressed the importance of the remote communication system (from social media platforms to more professional and personalized tools) to support patients and their families, through self-organized initiatives.

Additionally, some studies have shown that the current state of the emergency has exacerbated the psychological risk condition for health workers and families, as they need to take care of their family members with disabilities and special health needs full time and without any specialists.[61]

In consideration of the restrictions on access to rehabilitation services deriving from the current health emergency, the free service of “tele-rehabilitation medicine”, provided by SIMER, was activated. The service aims to provide information and advice to people with disabilities of different origins, family members and carers. The service is provided by a pool of Physical and Rehabilitative Medicine doctors, coming from many different areas of the country. The consolidation in the use of telemedicine and tele-rehabilitation and the strengthening of the mix between these interventions and the activity in the presence was also highlighted by the National Institute of Health in relation to people included in the autism spectrum and / or with intellectual disabilities.[62]

Furthermore, in April 2020, ANFFAS adopted specific guidelines[63] for the resumption of activities, services and health and social centres for people with disabilities. The guidelines provide for a series of general preparatory measures and specific measures, divided by type of service and level of intervention (outpatient, home, semi-residential), which also affect facilitation and rehabilitation services.

As highlighted in the II biennial action program for the promotion of the rights and integration of people with disabilities, it is necessary to structure a data collection system for the monitoring and evaluation of the effectiveness of the right to

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[60] Boldrini P, Garcea M, Brichetto G, Reale N, Tonolo S, Falabella V, Fedeli F, Cnops AA, Kiekens C. Living with a disability during the pandemic. "Instant paper from the field" on rehabilitation answers to the COVID-19 emergency. Eur J Phys Rehabil Med. 2020 Jun;56(3):331-334. doi: 10.23736/S1973-9087.20.06373-X. Epub 2020 May 14. PMID: 32406226 (https://pubmed.ncbi.nlm.nih.gov/32406226/).

[61] S. Grumi, L. Provenzi,A. Gardani,V. Aramini, E. Dargenio, C. Naboni, V. Vacchini, R.Borgatti & Engaging with Families through On-line Rehabilitation for Children during the Emergency (EnFORCE) Group (2021), Rehabilitation lockdown services during the COVID-19 emergency: the mental health response of caregivers of children with neurodevelopmental disabilities, Disability and Rehabilitation, 43:1, 27-32, DOI: 10.1080/09638288.2020.1842520.

[62] Istituto Superiore di Sanità, Indicazioni ad interim per un appropriato sostegno delle persone nello spettro autistico e/o con disabilità intellettiva nell’attuale scenario emergenziale SARS-CoV-2. Versione del 28 ottobre 2020. Osservatorio Nazionale Autismo ISS, 2020, 38 p. Rapporto ISS COVID-19 n. 8/2020 Rev. 2

[63] http://www.anffas.net/dld/files/Linee%20di%20indirizzo%20per%20la%20ripresa%20graduale%20delle%20attivit%C3%A0_%20servizi%20e%20centri%20a%20carattere%20sanitario%2C%20sociosanitario%20e%20sociale%20per%20le%20persone%20con%20disabilit%C3%A0.pdf.

rehabilitation and qualification, with particular reference to the drafting of a personalised rehabilitation plan.

11 Access to justice

Article 13 - Access to justice

11.1 Emergency measures

In the Italian legal system, the right to defence and access to justice is protected by Article 24 of the Constitution, according to which "All persons are entitled to take judicial action to protect their individual rights and legitimate interests. The right to defence is inviolable at every stage and instance of legal proceedings. The indigent shall be assured, by appropriate measures, the means for legal action and defence in all courts. The conditions and means of redress for judicial errors shall be determined by law".

In response to the emergency caused by the spread of the COVID-19 epidemic, several regulatory interventions were adopted urgently, in the judicial field. These interventions have a general value; i.e., they do not provide explicit measures or procedures for persons with disabilities.

In the first phase of the emergency, such interventions were mainly aimed at suspending or postponing all legal activities, in order to minimize the forms of personal contact that favour the spread of the epidemic. From this point of view, it should be noted that the Justice of the Peace of Lanciano (CH) presented to the Court of Justice (Case C-220/20) a request for a preliminary ruling, aimed at verifying whether the national provisions on the extension of the state of emergency and the paralysis of civil and criminal justice violate the provisions of the Treaties and the Charter of Fundamental Rights, which protect the independence of the judiciary, the violation of the principle of due process and equality before the law.

At the same time local courts are requested to adopt the guidelines to ensure that the ordinary judicial activity is carried out respecting the necessary safeguards preventing the propagation of the virus. On 9 May 2020, the Union of Italian Criminal Chambers sent a letter to the Ministry of Justice to denounce the extreme diversity of the guidelines adopted on a local level and the fact that many proceedings have been postponed (also to 2021).

Finally, according to the Decree Law No. 137 of 2020, some measures were introduced for the enhancement of the tools of the telematic process and remote judicial activity, in order to reduce the negative effects that the deferral of procedural activities can have on the protection of rights, due to the potential trend of procedural terms.

Among the provisions of the Decree Law No. 137/2020, which have a direct effect on people with disabilities, the provisions regulating the carrying out of sentences on pensions before the Court of Auditors are highlighted.

The Court of Auditors is competent for judgments relating to pensions fully paid by the State and for those paid by social security institutions merged with INPDAP. Disputes may concern both the existence of the right to a pension and its extent, such as invalidity or invalidity pensions.

The Article 85 of the Decree Law No. 137 of 2020 has ordered the postponement of hearings and meetings at the Court of Auditors until the end of the epidemiological

state of emergency, except for the causes for which delayed treatment could seriously damage the parties involved.

This means that, by way of derogation from the provisions of the accounting justice code, all pension disputes brought into discussion before the accounting judge on a single basis, both in a chamber hearing and in a public hearing, pass for decision without oral discussion, on the basis of filed. The parties have the right to submit brief notes and documents, up to two free days before the date set for the discussion. Once the case is over, the judge immediately pronounces the ruling, promptly informing the parties in office by certified e-mail. The provision has the purpose of not delaying the rulings relating to the recognition of the aforementioned pensions. Furthermore, the decree-law of 17 March 2020, No. 18 (so-called "Cura Italia"), converted, with amendments, by the Law of 24 April 2020, No. 27 provided for the suspension of the terms of forfeit, in judicial and administrative disputes, in the matter of civil invalidity and social allowances.

11.2 Impact of COVID-19 crisis

As highlighted by the UN Document “International Principles and Guidelines on Access to Justice for Persons with Disabilities”,[64] access to justice is essential for the enjoyment of all human rights. Unfortunately, many barriers prevent people with disabilities from accessing justice on a basis of equality with others. Such barriers include the lack of physical access to judicial facilities; the lack of accessible transport to reach these facilities; obstacles to accessing legal assistance and representation; the lack of information in accessible formats.

In this perspective, the Second Biennial Program for the promotion of the rights and integration of people with disabilities also underlines the importance of working with a view to creating a judicial system “which is measured in response to those who are discriminated”.

The pandemic outbreak in progress has further aggravated this general situation: the limitations to transport and travel and, above all, the suspension of judicial proceedings, have literally put this right on hold. Currently there are no official data on the number of persons with disabilities who have had negative consequences from the anti-COVID rules that have concerned justice. As mentioned above, no specific provisions have been introduced to ensure access to justice for people with disabilities. The only exceptions to the suspension of judicial proceedings concerned compulsory health care and, more generally, the adoption of children, foster care, proceedings relating to the protection of minors and maintenance proceedings, when there is prejudice for the protection of essential needs.

[64] https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/10/Access-to-Justice-EN.pdf.

12 Access to education

Article 24 – Education

12.1 Emergency measures

On the website of the Ministry of Education we read that "educational integration of pupils with disabilities is a strong point of the Italian school system, aimed at creating a welcoming community in which all pupils, regardless of their functional diversity, can build upon experiences of individual and social growth".[65] Through a Circular dated 5 November 2020,[66] issued following the DPCM of 3 November 2020, the Ministry reiterated the need to guarantee an effective school inclusion ("not only a formal one") in all contexts in which Integrated Digital Education (DDI) activities take place. DDI must be aimed at "maintaining an educational relationship that allows effective school inclusion."

The circular states that school managers, together with teachers of any classes concerned and special needs teachers, jointly with families, will favour the attendance of pupils with disabilities, in line with the IEP [Individualized Education Plan].
These principles were explained in Ministerial Decree No. 39 of 26 June 2020 (2020-2021 School Plan), which adopted the "Document for the planning of school, educational and training activities in all institutions of the national education system". The Plan contains a section titled "Disability and school inclusion" which summarizes the regulations in force:

- guaranteeing the daily presence at school of pupils with disabilities and with special educational needs, "in a true and participatory inclusive dimension", also through the provision of suitable reasonable accommodation;
- in accordance with the Prime Ministerial Decree of 17 May reported above, students with forms of disability which are not compatible with a prolonged use of a face mask are not subject to the obligation to use it;
- on the assumption that physical distance between the student with disabilities and the assistant is not always possible, the use of additional devices (nitrile gloves, protective devices for eyes, face, and mucous membranes) must be provided for the school staff.

The Plan specifies that the various disabilities must necessarily be taken into account in the application of the prevention and protection measures. The Plan also introduces some important principles to keep in mind, in the event that the epidemiological trend should configure a new phase of suspension of teaching in person and the resumption of remote activities:

- the State, the Regions, local authorities and educational institutions must guarantee school attendance in person, in conditions of real inclusion, for pupils with disabilities;
- should it be not possible, due to specific individual conditions or context, to guarantee school attendance for pupils with disabilities, the specific support staff made available by local authorities must be involved (in accordance with the

[65] https://www.miur.gov.it/alunni-con-disabilita.
[66] https://www.edscuola.eu/wordpress/wp-content/uploads/2020/11/m_pi.AOODPIT.REGISTRO-UFFICIALEU.0001990.05-11-2020.pdf.

provisions of Article 48 of the Law converting the DL "Cura Italia", "Care-Italy"), to "ensure a high level of inclusiveness for pupils with severe disabilities and maintain their educational relationship with class teachers and with the special needs teacher";
- additionally, each school identifies ways to redesign the teaching activity, "with particular regard to the specific needs of pupils with disabilities, with Specific Learning Disorders and with other Special Educational Needs".

Special provisions are foreseen for frail and immunosuppressed pupils: the MIUR Ordinance of 9 October 2020, No. 134,[67] clarified that students with serious or immunosuppressed diseases (whose condition is assessed and certified by their paediatrician or general practitioner), for whom the risk of contagion from Coronavirus can be particularly dangerous, the possibility of accessing Integrated Digital Education (DDI) must be guaranteed, upon request of their families.

12.2 Impact of the COVID-19 crisis

The ISTAT report on "Educational inclusion of pupils with disabilities",[68] updated in December 2020, clearly shows how the current health emergency, and the consequent generalized use of distance learning (*Didattica a Distanza* -DAD), has made the educational inclusion process more difficult.

The inclusion policies implemented over the years favoured a progressive increase in pupils with disabilities who attend mainstreaming school.[69] In the school year 2019/2020 the students with disabilities were over 13 000, more than the previous year, with a constant percentage increase of 6 %. However, with distance learning, the levels of participation greatly decreased: between April and June 2020, over 23 % of pupils with disabilities (about 70 000) did not take part in lessons (in Southern Italy this percentage grows up to 29 %). The other students who did not participate, on the other hand, make up 8 % of the students. The reasons that have made it difficult for pupils with disabilities to participate in Distance Learning are multiple:

- the severity of the disease (27 %);
- the difficulty of family members to collaborate (20 %);
- socioeconomic hardship (17 %);
- the difficulty in adapting the Education Plan for Inclusion (IEP) to distance learning (6 %);
- the lack of technological tools (6 %);
- the lack of specific teaching aids (3 %).

Impossibility to attend classroom lessons makes the inclusion process very difficult. Students lack relationships with peers, support from competent figures, the possibility of using adequate technologies.

67 https://www.miur.gov.it/documents/20182/2432359/Ordinanza+Ministeriale+n.134+del+09+ottobre+2020.pdf/b86c6841-8412-f1b0-f22c-a8b506b71dcd?version=1.0&t=1602501572907.

68 https://www.istat.it/it/files//2020/12/Report-alunni-con-disabilit%C3%A0.pdf.

69 In Italy there are no "separate schools" for people with disabilities, but there are very few special schools (about 70, of which 24 in Lombardy), for children with severe and very severe disabilities.

Technical and organisational difficulties, combined with a shortage of personal tools and supports, and communication difficulties, have made distance learning more difficult for children with disabilities. The difficulties are much greater in the presence of serious pathologies or disadvantaged socioeconomic contexts.

According to a recent study, at the beginning of the 2020-2021 school year, about 170 000 pupils with disabilities (59 % of the total) did not have the same special needs teacher who was assisting them in class during the previous year.[70]

Moreover, on top of this extremely negative element, there are still the "ordinary" problems of the Italian school system, represented primarily by the shortage of accessible school buildings.

Although during the 2018/2019 school year 15 % of schools carried out construction works aimed at removing architectural barriers, only one out of 3 schools is accessible for pupils with motor disabilities. The most common barrier is the lack of an elevator (46 %); followed by lack of ramps (33 %) or bathrooms in accordance with the law (29 %). The overall picture is also critical concerning sensory disabilities: only 2 % of schools have all the sensory-perceptive aids intended to facilitate the orientation of students within the school building, and only 18 % of schools have at least an aid.

Although it is certainly necessary to guarantee face-to-face teaching, at the same time, it is extremely important to make school buildings completely accessible.

[70] https://www.tuttoscuola.com/quei-170-mila-alunni-disabili-il-59-che-non-ritroveranno-il-proprio-insegnante-di-sostegno/.

13 Working and employment

Article 27 – Work and employment

13.1 Emergency measures

During the lockdown period, the Italian government approved some measures regarding the working life of persons with disability and others 'vulnerable individuals'.

As provided by several legal provisions, persons with disabilities *ex* Articles 3, 3 c., Law No. 104, 5 February 1992[71] ("Framework law for assistance, social integration and the rights of handicapped people"), as well as workers with a person with disabilities in their family, persons with weakened immune systems, persons with oncological pathologies and persons carrying out life-saving therapies, have the right to smart working ("lavoro agile"), if the smart working is compatible with the characteristics of the service.

Having regard to the private sector, persons suffering from serious and proven pathologies with reduced working capacity have priority access to smart working. Law n. 126, 13 October 2020[72] extended the "lavoro agile" for persons with disability until 31 December 2020.

For persons with disabilities, the absence from work due to the risk of contagion is equated to a sick leave. Moreover, persons with disabilities have the right to an extension of permissions provided by Articles 33, 6 c., Law 104/1992.[73] It has to be noted that the 'lavoro agile' for a worker with disabilities has a longer withdrawal period than that of non-disabled workers (the minimum notice is 90 days for disabled workers and 30 days for non-disabled works). It has to be noted that some judicial decision considered the denial of 'lavoro agile' for disabled persons during the COVID-19 emergency as 'a discriminatory conduct' *ex* Law No. 67/2006.[74]

The emergency measures partially suspended the mechanism of mandatory placement for persons with disabilities provided by Law 68/1999; the Ministry of Labour and Social Policies adopted a circular letter (No. 19 of 21 December 2020) providing the above-mentioned suspension for companies in a situation of corporate crisis that benefit from the ordinary layoffs, the redundancy fund in derogation, the wage supplement fund or bilateral solidarity funds, as a result of the COVID-19 emergency.

[71] "If the disability, single or multiple, has reduced personal autonomy, correlated to age, in order to make a permanent, continuous assistance intervention is necessary e global in the individual sphere or in that of relationship, the situation assumes the connotation of gravity. The situations recognized as being of severity determine priorities in programs and in interventions by public services."; see http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1992-02-05;104!vig=2021-02-10.

[72] http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2020-10-13;126!vig=2021-02-12.

[73] "The disabled person of age in a situation of gravity can use the permits referred to in paragraphs 2 and 3, has the right to choose, where possible, the workplace closest to [his/her] own domicile and cannot be transferred to another location without his consent."

[74] See M. Capobianco, *Disabilità e lavoro in tempo di pandemia (e oltre): il diniego di smart working nella recente giurisprudenza*, 3 November 2020, available at http://www.gruppoarealavoro.it/lavoro-e-previdenza/disabilita-e-lavoro-in-tempo-di-pandemia-e-oltre-il-diniego-di-smart-working-nella-recente-giurisprudenza/.

13.2 Impact of the COVID-19 crisis

Currently, emergency measures prohibited individual or collective dismissal until 1 April 2021. So, the effects of the lockdown on employment levels have not yet manifested. In the coming months the employment situation could become very complex. Data about the influence COVID-19 on the working inclusion of persons with disabilities are not yet available. In January 2021, the Italian government presented to the Parliament the Report regarding the implementation of Law 68/1999, but it covers the three years period 2016-2018.

Some organization of persons with disabilities repeatedly underlined that after the pandemic there is an increasing risk of exclusion from the work market for persons with disabilities.[75] In July 2020, the FISH presented a brief report about workers with disabilities and COVID-19 pandemic.[76] The report underlines that “Only one in three people with disabilities has had access to so-called agile work […], [and] about a fifth of the interviewees (20.8 %) continued to work face-to-face, hypothesis allowed by emergency regulations only for certain categories of activities and in compliance health regulations”; moreover, “Workers who continued to visit the premises during “Phase 1” reported problems on the actual ability of companies to ensure adequate preventive measures: In particular, about one out of two workers reported having received personal protective equipment and had received indications with respect to the adoption of the necessary interpersonal distances. Less frequent the aeration and sanitation of premises and temperature detection. About one in five workers have never received gloves instead, while one out of two reports the non-adoption of temperature controls entering the premises.” The persons with disabilities interviewed expressed concerns about the measures adopted by the Government to contrast the spreading of the Coronavirus on the workplace. In November 2020, the INAIL launched a new campaign of sensibilisation about the working inclusion of persons with disabilities, in order to contrast the risk of further exclusion of disabled persons from the job market.[77]

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75 See https://www.repubblica.it/solidarieta/disabilita/2020/12/18/news/disabilita_-278928087/.

76 See https://www.fishonlus.it/progetti/joblab/files/Report_Covid.pdf.

77 See https://forumpa2020.eventifpa.it/it/2020/10/27/disabilita-e-reinserimento-lavorativo-ecco-la-nuova-campagna-di-comunicazione-di-inail/.

14 Good practices and recommendations

14.1 Examples of good practice

- Among the good practices that have been launched in recent months, *the Protocollo di Intesa* (Memorandum of Understanding) between the Guarantor of people with disabilities of the Campania Region and the regional ANCI (National associations of Italian municipalities), signed on 30 June 2020, can be mentioned. The topics of the protocol concern: promotion and protection for people with temporary and permanent disabilities; information and training of Public Administration operators on the rights and benefits due to people with disabilities; access to justice; universal accessibility. The protocol allows a closer collaboration between the 550 municipalities of the region and the third sector entities, for a more effective and efficient management of social and socio-health services, through the identification of common objectives, their translation into planning acts and their constant monitoring. From this point of view, the protocol instrument bypasses and tries to overcome the coordination problems, even intra-regional, that Italy suffers, and which are due to municipal fragmentation and the fragmentation of legislative and administrative powers.

- During the pandemic, the consolidation of the use of telemedicine and tele-rehabilitation and the strengthening of the mix between these interventions and face-to-face activity have played a very important role for persons with disabilities who require continuous rehabilitation interventions. From this point of view, the free "tele-rehabilitation medicine" service, provided by SIMER, represents a good practice, which deserves to be consolidated. The service aims to provide information and advice to people with disabilities of different origins, family members and carers. The service is provided by a pool of Physical and Rehabilitative Medicine doctors, coming from all the different areas of the country.

- The Hospital San Camillo-Forlanini (Rome) offers to people with intellectual or relational disabilities the opportunity to access diagnostic procedures that are useful and necessary to prevent and treat diseases not directly related to the main disease from which they suffer (TOBIA Project).[78] This kind of approach could be very useful to ensure a better access to swab tests and a more comprehensive access to health care for "difficult patients".

- Technology could play a relevant role increasing safety of public spaces: as an example, the Italian Union of the Blind and Visually Impaired (UICI) proposed the adoption of mobile apps aiming at keeping a safe distance aboard trains and buses.

14.2 Recommendations

- Improve and strengthen the tools to analyse the situation of people with disabilities. The ongoing health emergency has shed a light on the lack of official and updated data on the condition of people with disabilities in various fields. In this regard, it is particularly detrimental that there are no data on COVID-19 related mortality among people with disabilities. It is necessary to implement

[78] http://www.scamilloforlanini.rm.it/in-evidenza/368-progetto-tobia.

Article 31 UN CRPD, which provides that "States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention".

- It is necessary to mainstream disability in every post-pandemic planning initiative, prohibiting or discouraging the use of recovery funds for re-institutionalisation policies: each post-emergency intervention must guarantee accessibility and usability to all, enacting Article 19 UN CRPD, and allowing people with disabilities to live in an appropriate independent way and to participate fully in all aspects of life, on an equal basis with others.

- There are being steps forward in disability-oriented policymaking, but it is desirable a greater involvement of persons with disabilities and their organisations. Their involvement has to become a priority.

- For persons with disabilities, appropriate and accessible assistive technologies can be a powerful tool in the fight against isolation due to social distancing measures. The Italian welfare system has to adopt an open approach towards the use of innovative digital technologies, considering the human dignity of disabled and elderly persons as a fundamental criterion.

- Greater consideration of the role that the school plays for the realisation of the full social inclusion of persons with disabilities. Recognition of the importance of the continuity of the training path and the development of digital skills, to ensure the use of lessons for people with disabilities, in the phases in which the use of distance learning is essential. In the latter cases, make sure the family is supported by specific support figures made available by local authorities.

- As pointed out by Mazzuccato, the pandemic has been a traumatic experience for a very large number of persons with disabilities, increasing a feeling of "worthless" and rejection. In this perspective, Italian public entities could promote experiences of restorative justice for persons with disabilities victims of discriminations during the pandemic period.[79]

- Improve measures to combat poverty for persons with disabilities. Disability is a key factor that exposes people to the risk of poverty in Italy. The legislation that introduced measures to combat poverty is characterized by fragmentation and by a high number of subsequent amendments, which did not adequately take disability into account in the definition of criteria to access benefits, allowances and social welfare payments. The COVID-19 epidemic increased the problems related to access to food and essential items but emergency measures (such as Emergency Income or food voucher delivered by municipalities) have not taken into due account the condition of disability.

- As pointed out by Piera Nobili, "the first research conducted in recent months also reported the experiences of patients, who at the time of discharge showed understanding for the critical issues due to the emergency, declared gratitude to

[79] See C. Mazzuccato, To heal COVID-19 wounds we need a Truth and Reconciliation Commission. Reflections from Lombardy, Italy, 2020, available at https://www.euforumrj.org/en/heal-COVID-19-wounds-we-need-truth-and-reconciliation-commission.

the staff who looked after them; but at the same time they described the malaise felt in being in an "open place" where the screams, the continuous crying, the pain and death of others, the lack of privacy (the care of the body, as well as that of the pathology, is essential), the absence of relationship with loved ones and estrangement in relation to time were constantly present". The COVID-19 emergency remarked the inadequacy of the current 'spaces of care' and underlined the opportunity to re-think and re-project those spaces, making more accessible and inclusive ICU units, emergency rooms and healthcare facilities.[80]

- As underlined by Marija Pejčinović Burić, Secretary General of the CoE, "The major social, political and legal challenge facing [CoE] member states will be their ability to respond to [COVID-19 crisis] effectively, whilst ensuring that the measures they take do not undermine our genuine long-term interest in safeguarding Europe's founding values of human rights, democracy and the rule of law".[81] Italy has not established a national human rights institution. It is necessary close this gap.

14.3 Other relevant evidence

Not applicable.

[80] See M. G. Bernardini – S. Carnovali (eds.), Diritti umani in emergenza. Dialoghi sulla disabilità ai tempi del COVID-19, forthcoming Spring 2021.

[81] See https://www.coe.int/en/web/portal/-/secretary-general-writes-to-victor-orban-regarding-COVID-19-state-of-emergency-in-hungary.

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