



DEFENCE FOR CHILDREN
International-Italia

DEFENCE FOR CHILDREN INTERNATIONAL-ITALY
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1. INTRODUCTION

DCI Italy is a voluntary organization established in Italy in 2005 aimed at protecting and promoting the rights of the child. It focuses its actions on juvenile justice, children in conditions of vulnerability and children in situations of migration, including prevention of trafficking and exploitation.

2. CONSIDERATIONS

The following considerations recall the non-implementation of the main recommendations made during the previous UPR cycle which took place on 09 February 2010:

- The incorporation of the crime of torture into the Penal Code has still not been achieved despite the introduction of different bills in the Italian Parliament for the purpose. The last bill presented is currently under discussion in the Senate.
- Italy has not recognized Roma and Sinti as national minorities.
- The establishment of an independent national commission for Human Rights has not yet been implemented. On 20 July the Senate approved the bill 2720 for the institution of the National Commission for the promotion and protection of Human Rights, which has been sent to the Chamber of Deputies. However, there is no information about when the law will be adopted.
- Italy has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- The Convention for the Protection of All Persons from Enforced Disappearance has still not been ratified by Italy.

3. POLITICAL CONTEXT

There is lack of political attention and of economic and human resources for the implementation of the UN Convention on the Rights of the Child (CRC) in Italy. An example of this are the difficulties and delays related to the appointment of: the President and Vice Presidents of the **Parliamentary Commission for Childhood and Adolescence**, which resulted in eight months of vacancy; the new **National Observatory on Childhood and Adolescence** that has been vacant since November 2012; and the **National Authority for Childhood and Adolescence**, who was appointed in November 2011 and whose regulation was approved only in September 2012.

Likewise, the **National Plan for Childhood** should be elaborated by law every two years, but its adoption has been irregular and inconsistent. Since the last plan expired in 2011, a new one has not been elaborated. Nevertheless, a working group chaired by the National Authority has undertaken the definition of the *Essential Levels of Service Provision concerning Civil and Social Rights*, which previously had not been specifically defined for children. They are being developed in order to define minimum standards for child service delivery at the local level, harmonising the current differences between regions and municipalities.

The Government has cut public budget allocation for social policies and the financial support provided to the regions was reduced by 85% between 2008 and 2011. Children

and families are increasingly affected by poverty, especially in the Southern regions of the country. 17% of minors lived below the poverty line in 2013¹.

Italy declared in February 2011 a humanitarian emergency as a consequence of the civil and political tensions in North Africa, which was upheld up to the end of 2012. During the 'emergency' period, serious concerns about substandard reception conditions were reported concerning in particular the situation in Sicily and in Lampedusa. Between May 2011 and January 2013, a new procedure for the placement and care of non-asylum-seeking children was implemented under a piecemeal approach guided primarily by the legal status of the child and the pre-assumption that places would not be available rather than by the best interests of the child (core principle of the UNCRC). The fragmentation and lack of coordination and common methodology among the various governmental entities and the absence of a national data collection system on children is still one of the main structural obstacles to the effective implementation of the CRC in Italy.

4. POSITIVE DEVELOPMENTS

- The ratification of the Council of Europe Convention on Action against Trafficking in Human Beings enabled it to come into force on 30 July 2010.
- Law 112/2011 recently established the National Authority for Childhood and Adolescence (*Autorità Garante per l'Infanzia e l'Adolescenza*) which also chairs the National Conference for the Rights of Childhood and Adolescence, made up of the regional Ombudsmen for children's rights within the country.
- Italy signed the third Optional Protocol to the CRC on a Communications Procedure on 28 February 2012; on 1 October 2012 the Italian Parliament approved the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse by introducing various paedophilia-related offences in the Penal Code (Law 172/2012).
- On 3 April 2013 Italy ratified the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

5. GENERAL RECOMMENDATIONS

Italian political institutions should:

- Develop a comprehensive law pertaining to children in order to end the extreme fragmentation within and between laws, policies and regulations.
- Elaborate a new National Plan on Childhood and Adolescents with compulsory implementation for all Italian regions and include a specific budget allocation.
- Establish a national data collection system which centralizes and focuses on the concrete implementation of the rights of the child.
- Elaborate adequate and child rights-based national standards for service provision around childcare and protection.
- Increase and improve attention and investments on childhood and adolescence.
- Systematically assess and enhance the level of child-centred competences of professionals from all sectors likely to come into contact with children.
- Establish and make operational an effective cooperation and coordination mechanism for the implementation of the CRC that embraces all relevant

¹ Adamson, Peter (2013), *Child Well-being in Rich Countries: A comparative overview*, UNICEF.

national ministries, departments and institutions as well as authorities at the regional and local level.

6. IMMIGRATION:

6.1 Immigration law

The legal, political and implementation framework in Italy is both complex and fragmented. Compliance is hindered by the frequent changes of laws and policies on migration; short-term strategies based on ‘emergencies’; the legal status of children; the unclear distribution of roles and responsibilities among national, regional and local authorities; and the need to enhance both the training of professionals and the awareness of children in relation to their rights.

The recent amendments to the Immigration Act demonstrate the increasing prevalence of an exclusionary approach to immigration issues and entail a restriction of migrants’ rights. Some provisions have affected separated children’s rights and welfare among which more restrictive criteria to obtain the conversion of the residence permit upon reaching adult age and the criminalization of illegal entry and residence in the country without envisaging an explicit exemption for separated children.

As to asylum legislation, several problems have been reported over the years in relation to the length of the asylum procedure and the lack of adequate information for children.

Recommendations:

- Harmonise legislation, policies and practices with international and European standards in relation to children’s legal status (e.g. citizenship and/or registration), especially ensuring that the best interest of the child is taken into paramount consideration.

6.2 Migrant and refugee protection

In May 2009 Italy implemented a “push-back” policy and began to intercept migrant boats in international waters and force them to return without verifying whether the migrants were refugees, asylum-seekers, pregnant women, separated children, or victims of trafficking. In February 2012, in the case of *Hirsi Jamaa and others v. Italy*, the European Court of Human Rights ruled against Italy for these summary and collective expulsions which exposed people to inhuman and degrading treatment in their countries of origin². Despite the ruling, serious child rights violations occurred also more recently as Italian officials at the Adriatic ports failed to admit children to the territory and to provide access to information on their human rights. A recent publication³ highlights the scarce services available in the Italian ports, which should instead be present by law. It also claims systematic violations of fundamental principles of national and international law by Italy including the prohibition of direct and indirect refoulement, of exposing migrants to risk of inhuman or degrading treatment and of collective expulsions.

Recommendations:

- Properly assess the protection needs of migrants and refugees arriving in Italy.

² Human Rights Watch (2013), *Turned away. Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece*, 2013.

³ Medici per i Diritti Umani (2013), *Porti Insicuri. Le riammissioni dai porti italiani alla Grecia e le violazioni dei diritti fondamentali dei migranti*, 2013.

- Fully respect national and international legislations in order to end with human rights' violations, especially to urgently end with the systematic rejection of migrants in full respect for human rights.
- Provide information and raise awareness to migrants arriving in Italy on their human rights especially children.

6.3 Child care, protection services and referral mechanisms

The "North-African Emergency" showed the lack of adequate programming and the tendency of an "emergency" approach to migration failing to reinforce the ordinary system, and which posed serious concerns for the quality of service provision and for the procedure adopted for the placement of children. Placement procedures differ depending on the local context and the situation of minors when they come into contact with social services.

The adoption of family foster care measures, which should be prioritized in the case of children deprived of their family (Law 184/1983), are not adequately and homogeneously disseminated and supported throughout the country. As regards to guardianship, the appointment of a guardian may take up to several months, with all the subsequent legal problems, and sometimes a guardian may not be appointed at all. When a separated child applies for international protection, the authority should appoint a guardian within 48 hours, but this often requires more time.

There is also a lack of different and more flexible forms of placement (e.g. housing, low-threshold drop-in centres), and a limited number of places available for separated asylum-seeking children within the SPRAR (System of Protection for Asylum Seekers and Refugees). In this regard, a recent positive development is the announcement made on 23 September 2013 by the Ministry of the Interior that in the next three years the total number of places of the SPRAR would be increased from 3.000 to 16.000.

Recommendations:

- Adopt a consistent and comprehensive specific law on separated and unaccompanied children regardless of their legal status, for the promotion of their human rights and create unified referral mechanisms to be applied in relation to their individual care and protection.
- Establish and follow a common, multidisciplinary and child-centred methodology for age assessment, including a clear definition of the safeguards for children's rights and specific procedures and practices.
- Endorse the development of alternative forms of placement, such as in low-threshold drop-in centres and foster families, inter alia.
- Design and implement a national training strategy for all the professionals involved in the child care and protection on the various risk factors children are exposed to, including provision of adequate tools for child empowerment.
- Pursue reform of provisions on guardianship in order to put them in line with the definition of guardianship included in the CRC (art. 18) and to explicitly link guardians' role and responsibilities to the determination and continuous assessment of children's best interests and to the protection of their rights.

7. EDUCATION

In Italy, the early school-leaving rate exceeds the average EU value (15%) and is more than double the EU benchmark of 10%. Recently adopted legal provisions (2013/2014) recognise a central position to students and their needs, enhance the autonomy of schools and focus on inclusion.

Non-national children are particularly affected by additional challenges including lack of training for teachers on multiculturalism and budget reductions forcing teachers to support students on a voluntary basis; difficulties in enrolling in the educational/vocational often children who do not hold a residence permit face some difficulties in enrolling in the educational/vocational training systems; and increase of violence and bullying in schools, including episodes of xenophobia and homophobia. However, the potential of sports to contribute to social integration was recognised in the 2012 National Plan for the Promotion of Sport Activities in Italy, which aimed to increase the diffusion of sport activities especially among children, this constitutes a national good practice.

Recommendations:

- Monitor the outcomes and implementation of the recently adopted legal provisions on education, including teachers and students' perceptions and suggestions.
- Interventions and budget allocation should effectively meet children's needs and expectations, and consultation should be done to best design, target and implement programmes in the most effective way possible.
- Better equip the education system to meet the special needs of separated children, including asylum-seeking children, children victims of trafficking, children placed by child reception facilities, children being deprived of their liberty, as well as, migrant and national children who are living in poverty.

8. HEALTH CARE

There is a low number of paediatricians across the national territory and lengthy waiting lists to receive specialised care as well as a lack of psychological/psychiatric care for children and adolescents, which endangers families' and, consequently, children's economic access to healthcare. The decentralisation of health care has led to regional and local differences in supply, which affects particularly the access of undocumented migrants and EU citizens who are staying over three months without registering their residence. Difficulties accessing healthcare services have been experienced by migrant children, particularly undocumented children, separated children and children who are citizens of countries that have recently joined the EU. A general lack of available and reliable data on the access of migrant children to healthcare services hinders the development of appropriate and effective measures for improvement.

Recommendations:

- Children should be consulted in decision-making processes, including planning and development of health care services, as well as, in decision-making related to individual health treatment throughout the country.
- Enhance health education, health promotion, disease prevention and culture mediation programmes especially among migrant children.
- Monitor the implementation of the Charter on Children's Rights in Hospital.
- Establish mechanisms to monitoring the quality of life in relation to chronic conditions, disability, children living in poverty and risk behaviours in order to address the underlying determinants of health.

9. VIOLENCE, TRAFFICKING AND EXPLOITATION OF CHILDREN

There is no national monitoring system on child abuse and neglect; and common criteria and practices vary between different regions of the country. Press reports have transmitted 130.017 pieces of news concerning abuse and neglect between January 2011 and June 2012. The great majority of these cases concerned girls who had experienced abuse, cases of paedophilia (including online grooming), intra-familial violence, heavy neglect, abandonments and care pathologies, as well as, female genital mutilation.

In terms of child trafficking data is very limited, incomplete and not based on a standardized and common methodology. In Italy, the weak support available to children in care upon reaching adulthood represents a protection gap in terms of prevention of trafficking and exploitation.

However, a recent positive addition to Italian legislation on child trafficking takes into account prevention measures, within a framework which is based on children's rights according to article 5 of Law n° 96 of 6 August, which entered into force on 4 September 2013.

Recommendations:

- Urgent establishment and effective implementation of a national monitoring, evaluation and data collection system of all forms of violence affecting children, in close collaboration with existing regional child protection systems.
- Adoption of preventive measures and support strategies for children victims of abuse.
- Establishment of a cross-sector partnership (including health, education, social security, immigration authorities, law enforcement and justice sector) and effective coordination of institutions at national and regional level.
- Apply consistently the extension of protection measures up to 21 years old regulated by law.

10. JUVENILE JUSTICE

The Italian Parliament has been working for long time on a new legislative proposal for the reform of the national Juvenile Justice system, in particular on provisions regarding the penitentiary system. The adoption of a new law and subsequent reform needs to be urgently undertaken, particularly following the indications provided by the Council of Europe in November 2010⁴.

The Italian system does not provide any form of victim-offender mediation and penal mediation is not regularly practised. Overcrowding in some Juvenile Detention Centres affects the quality of care services.

Many non-national children are primarily restricted in detention centres for adults, and only after an age assessment process, are transferred to juvenile detention centres. The rate of national children enjoying alternative measures is higher than that of non-national children. There are trends indicating that migrant children, children belonging to ethnic minorities and to some extent also Italian children from the southern part of the country are disadvantaged by the Italian Juvenile Justice System. Furthermore, mental health services for adolescents are lacking in many of these structures.

⁴ Council of Europe – Committee of Ministers (2010), *Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice*.

Recommendations:

- Reform the national juvenile prison system in accordance to international laws and standards.
- Adopt legislative provision on juvenile criminal mediation.
- Adopt uniform procedures for the age assessment.
- Increase the child's right to be heard, in particular for what concerns his/her life project and his/her best interest as well as ensuring children's rights are guaranteed throughout judicial investigations and proceedings (as established by international laws and standards).
- Increase human and financial resources allocated to the area of juvenile justice systems and services in order to effectively implement standards and international obligations.

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