

# Contribution to the Universal Periodic Review Mechanism 34th Session of the Working Group of the Universal Periodic Review (UPR)

## Italy

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Over the past four years, Italy has experienced an unprecedented influx of migrants and refugees. Since 2014, more than 70,000 unaccompanied and separated children have arrived in Italy. Approximately 60,000 of them have now turned 18, losing the rights and the protection they are entitled to as children. At the end of February 2019, there were about 8,500 'Unaccompanied Minors' (UAMs) who have arrived alone having travelled by themselves or lost their families en route. Most of them are registered in the Italian reception system, although an additional and estimated 4,300 are not. The majority (93%) are boys, and more than 85% are aged between 16 and 17. Without the right support, the psychosocial stress and trauma they are exposed to during the journey, coupled with pre-existing multiple deprivations, undermine UAMs mental health and well-being, let alone their social and economic inclusion prospects.

In the face of the gravity and complexity of the situation, and the high number of unaccompanied children reaching Italy, the United Nations Children's Fund (UNICEF) launched a humanitarian response for affected children in Italy since summer 2016.

This report comments only on the status and progress against the UPR recommendations regarding refugee and migrant children.<sup>1</sup> UNICEF recommendations are in line with the Convention on the Rights of the Child (CRC) and all the relevant General Comments issued to highlight States obligations to the rights of children in the context of international migration.

**Prevent and combat xenophobia, discrimination and marginalization of refugee and migrant children (Recommendations: 145, 63, 67, 68, 69, 70, 71, 72, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90)**

Italy is commended for the plans set out in the 2017 National Plan for Integration<sup>2</sup> to prevent, document and combat the increase in discrimination, in support to the last National Plan against Racism, Intolerance and Discrimination, covering years 2014-2016<sup>3</sup>. However, the increase in direct and indirect acts of discrimination and refugee and migrant children's sense of isolation and difference are a cause for concern.

Despite the existence of an official database and the efforts of several organizations recording acts of discrimination, racism and hate speeches<sup>4</sup>, it is still necessary to ensure that data collection is based

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<sup>1</sup> [https://www.upr-info.org/sites/default/files/document/italy/session\\_20\\_-\\_october\\_2014/a\\_hrc\\_28\\_4\\_e.pdf](https://www.upr-info.org/sites/default/files/document/italy/session_20_-_october_2014/a_hrc_28_4_e.pdf)

<sup>2</sup> <http://www.interno.gov.it/sites/default/files/piano-nazionale-integrazione.pdf>

<sup>3</sup> <http://www.unar.it/cosa-facciamo/strategie-nazionali/piano-nazionale-azione-razzismo-xenofobia-intolleranza-2014-2016/>

<sup>4</sup> <http://www.unar.it/la-nostra-rete/protocolli-e-accordi/oscad-osservatorio-la-sicurezza-gli-atti->

on principles of verification and disclosure and that it meets international standards, as documented in the Report of the Parliamentary Commission on intolerance, xenophobia, racism, discrimination and hate crime in 2017.<sup>5</sup> According to the National Office for Racial Antidiscrimination (UNAR), the most prevalent forms of discrimination are those ethnically and racially motivated (82% of all). The Observatory for the security against discriminatory acts under the Ministry of Interior reports an increase of hate acts from 736 in 2016 to 1,048 in 2017. In the fall 2018, a team of UN experts urged the Italian government to combat incitement to hatred and discrimination, racism and xenophobia.<sup>6</sup>

According to a poll conducted by UNICEF through U Report on the Move<sup>7</sup> in October 2018, levels of xenophobia are perceived as high by U-Reporters in Italy, with 4 out of 10 feeling rejected and half of them because they sensed fear.

UNICEF calls on governments and partners to promote measures to combat xenophobia, discrimination and marginalization in countries of transit and destination. **UNICEF recommends** improving data collection and recording of acts of discrimination and scaling up interventions for the prevention and reporting of discriminatory acts, including through promotion of a culture of tolerance in schools.

### **Right to Education for Migrant and refugee children (Recommendations 145.152, 156, 181)**

Despite provisions of the law in line with the CRC, there are still gaps in the full realization of the right to education and social inclusion of refugee and migrant children in Italy. Despite lack of data there is evidence of important geographical disparities in access to and completion of compulsory schooling. For example, in a UNICEF U Report on the move poll focusing on the right to education 30% of UAMs' declared that they were not enrolled in school<sup>8</sup>. Some of the main challenges include: lack of comprehensive data on access to education and vocational training, significant degrees of variation in literacy levels of unaccompanied minors upon arrival in Italy and the lack of competencies assessment tools, administrative obstacles, availability of resources (both human and financial) in some regions, difficulties in accessing vocational training opportunities, disruption in the inclusion path of children.

**UNICEF recommends** that all unaccompanied and separated children have access and continuity to educational and vocational training paths, through the application across all regions of the National Guidelines on the Right to education for students not living with their families<sup>9</sup>, the assessment and the validation of educational qualifications for unaccompanied minors who already obtained an education degree in their country of origin, the establishment of a national monitoring database on

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[discriminatori/](#)

<sup>5</sup> <https://www.camera.it/leg17/1264>

<sup>6</sup> <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/ITIndex.aspx>

<sup>7</sup> <http://onthemove.ureport.in/polls/>

<sup>8</sup> <http://onthemove.ureport.in/poll/2371>

<sup>9</sup> <http://www.miur.gov.it/-/scuola-fedeli-e-albano-firmano-le-linee-guida-per-il-diritto-allo-studio-delle-alunne-e-degli-alunni-fuori-dalla-famiglia-di-origine>

their enrolment in schools and attainment of school certificates. It is also important that there is adequate budget allocation to this end.

## **Migration Governance (Recommendations 145.164, 166)**

### **Coordination**

Despite attempts to create an integrated reception system by the Government, the current system is characterised by fragmentation and implementation of different standards creating unequal treatment in terms of protection and opportunities for UAMs. Coordination between the different stakeholders is generally a challenge at both national and decentralised levels given the complexity of the reception system and the inter-sectoral cooperation needed.

**UNICEF recommends** strengthening an effective and efficient coordination between the central and local level of government and across the key Ministries in charge of the protection and social inclusion of UAMs, in order to ensure the harmonization of the standards and the compliance with international ones<sup>10</sup>.

### **Migration policies and planning**

So far Italy has not adopted the Global Compact for Migration. The Compact provides a non-binding global framework for cooperation to improve migration management and to make it safe for all, including children. It recognizes – for the first time - that children are central to migration management. **UNICEF recommends** the Compact to be endorsed as it will help the State to meet its obligations vis a vis all children on its territory under the UN Convention on the Rights of the Child, and to deliver against its commitment to leave no child behind within the 2030 Agenda.

### **Respect for the views of the child and right to information**

Despite the provisions of the law (n.47, 7 April 2017), which guarantees the rights of UAMs to be heard, participate and be adequately informed, UNICEF believes that there are gaps for the realization of these rights. UAMs' access to information remains critically limited with most of them reporting lack of information with regards to important issues, such as the different phases of the asylum process and their transfer from first line to secondary reception centres. The limited understanding of the complex and multiple steps for processing of the legal status and social inclusion paths put to severe test the wellbeing of UAMs.

UNICEF calls on Governments to promote the participation of migrant and refugee children in the design and implementation of policies and programmes for their protection and social inclusion. If we take children and young migrants seriously as partners, they can provide solutions. In line with the EU Reception Directive, **UNICEF recommends** the scale up of the training of duty bearers involved in the best interest determination of the child and of the availability of information services, including through use of digital technologies, with a particular focus on areas of high density of UAMs.

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<sup>10</sup>EU Reception Directive (2013), EASO guidance on reception conditions (2016)

**Protection of refugee and migrant children (recommendations 145. 91, 92, 159, 160, 161, 162, 163, 167, 168, 169, 171, 174, 175, 176, 177, 178, 179, 180)**

**Legal framework**

The Government of Italy is commended for the development of the Law n.47 of April 2017 which constitutes a comprehensive protection framework for unaccompanied children. Despite this, the implementing decrees are not yet issued limiting the positive impact of the Law.

In September 2017 a new National Plan for Integration for asylum seekers and those granted international protection – including UAMs – had been approved, but it is not yet operationalized: no additional budget for its implementation is allocated, and the coordination group in charge of its monitoring has yet called to be called.

In December 2018, a new Law (n.132/2018) was adopted, containing restrictive provisions in terms of immigration. Even though the new Law does not affect directly the system of protection and reception set up for UAMs, several provisions have secondary effects that raise concerns, for children turning 18 and accompanied children in particular. The new Law abrogates the humanitarian protection status, which had been granted to 61 % of the UAMs who had submitted an asylum applications in 2018<sup>11</sup>, limits the access to the secondary reception system (so-called SIPROIMI), excluding those who were granted humanitarian protection and the asylum seekers. Furthermore, it introduced fast-track procedures for asylum applications at the borders that, coupled with the lack of a standard procedure for age determination, might increase the risk for a child to be identified as adult, resulting in limited access to legal aid, legal representation and right to appeal.

UNICEF is particularly concerned with families with children who are kept in primary reception centres, designed for temporary stay, until their asylum request is granted. This precludes and delays access to critical social inclusion measures foreseen in the secondary reception system. It discriminates between unaccompanied and accompanied children, in contradiction with the principles enshrined in art.1 of UN Convention of the Rights of the Child. Furthermore, UNICEF is concerned with UAMs holding humanitarian protection and turning 18. They are at risk of not being granted extended protection (approved on a case by case basis by the Juvenile Court up to the age of 21) and of falling out of the formal reception system, despite the recent mitigation measures set up by the administrative circular of the Ministry of Interior on 3rd January 2019 which allows those who benefit from this kind of protection to continue to be hosted in the second-level reception centers (SIPROIMI).

**UNICEF recommends** a) the adoption of the implementing Decrees of Law 47/2017 without further delay; b) the operationalization of the Integration Plan, together with the allocation of the required resources and the activation of the related working group; c) to take the necessary measures to ensure Law 132 does not affect accompanied and unaccompanied children, particularly those about to turn 18, in limiting their access to a legal status, accommodation and due process in fast-track asylum procedures.

**Search and Rescue Operations and non-refoulement.**

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<sup>11</sup>Ministry of Labour and Social Policies, December 2018

Lack of search and rescue operations in the central Mediterranean and lack of an EU regional cooperative disembarkation arrangement is a cause of concern. In 2018 2,278 people died while crossing the Mediterranean (1 death for every 51 arrivals, a higher ratio compared with 2016 and 2017)<sup>12</sup>. Anecdotal evidence show that the psycho-physical conditions of people rescued during the last rescue operations deteriorated, due to the long period of detention and the violence and torture suffered in Libya.

**UNICEF recommends** a) to resume the search and rescue operations by the Italian Coast Guards in the Central Mediterranean and ensure the presence of qualified personnel for the identification of and first aid to the most vulnerable groups, including UAMs and mothers with children while Italy pursues its advocacy efforts with other EU Member States for a fair, coordinated and predictable regional mechanism for rescue operations and disembarkation. **UNICEF also recommends** b) to guarantee the protection of UAMs rescued at Sea, allowing for immediate disembarkation when boats dock in Italian harbours, c) to immediately assign them a guardian d) to provide suitable accommodation in shelters meeting international standards; e) to ensure age determination procedures during disembarkation procedures are standardized and in line with domestic, regional and international guidance.

#### **Reception system and alternative care.**

The integrated reception system for all UAMs from first to second line reception centres envisaged in Law 47/2017 responds to the commitment made by the GoI in ensuring the harmonization and provision of quality reception to UAMs. The Law 132/2018 established that SIPROIMI is the unique second-level reception system for UAMs (including for those who turned 18 and are granted a special protection by the Juvenile Court). Despite this, the capacity of SIPROIMI is still limited, (only 3.500 places out of more than 8.500 UAMs registered in the formal reception system)<sup>13</sup> and no services are available for UAMs with special needs (e.g. disabilities, mental health disorders, victims of trafficking). Furthermore, the reception system is being managed by different institutions in charge of the multiple types of centres, both at local and central level. This decentralization of the system results in lack of harmonized standards and services, policies and practices at local level. According to available data, projections show that nearly 60% of UAMs' currently hosted in reception centres (around 6.500 adolescents) will turn 18 during 2019 and hence are at risk of losing protection and being exposed to violence, exploitation and abuse.

Given the extraordinary numbers of arrivals from Central Mediterranean during the last four years, the reception of migrants and refugees has been characterised by an emergency approach. However, it is highly recommended that UAMs have access to family and community-based shelters as alternative options to emergency shelters. In Italy there are a lot of practices that could be considered alternative care, as per definitions of the CRC and related guidelines but they remain at local level due to the lack of human, financial and technical resources. Furthermore, they are regulated by regional and local level legal frameworks, which further increase the fragmentation of the child care system. Despite the provision enshrined in Law 47/2017, foster care measures are

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<sup>12</sup><https://www.unhcr.org/desperatejourneys/>

<sup>13</sup>SIPROIMI official data

underused, especially for UAMs: according to official statistics, only 4,3% of UAMs are in foster family type of care.

The number of volunteer guardians is still insufficient, even though there are no official and updated data. As per data collected by UNICEF in Sicily, for example, there are only about 350 volunteer guardians out of around 2.700 UAMs hosted in the Region. 1

**UNICEF recommends** a) further harmonization of the reception system standards across first and second level – in line with the international standards –, b) extension of the capacity of the SIPROIMI system c) strengthening of the human and financial capacity of the child care system to ensure UAMs have access to alternative forms of care; d) ensuring the guardianship system is effective, efficient and harmonized across the regions and all UAMs have a guardian, properly trained, supported and monitored.

### **Gender based-violence and other types of violence**

It is well documented that women and children on the move, particularly unaccompanied minors face physical and psychological abuse as well as severe forms of sexual violence, exploitation, and situations of slavery on their journey to Europe. As documented in the recent study of the Women's Refugee Commission<sup>14</sup>, sexual violence against all refugees and migrants—including men and boys - appears to be widespread along the central Mediterranean route.

There is increasing evidence of the pervasiveness of sexual violence in many different forms in countries of origin, en route, and particularly in Libya. Women and girls remain most effected, but men and boys are also experiencing sexual violence. Once in Italy, while a level of security is achieved, refugee and migrant populations are still subjected to different forms of exploitation, including sexual exploitation. UAMs and young people transitioning into adulthood, might be at particular risk, also as a consequence of the weakened reception system.

While the migrant and refugee population is mostly male, girls continue to face specific risks of violence and exploitation, seemingly some are staying out of the reception system and self-identifying as adults rather than under age, or as unaccompanied rather than accompanied.

Systems for violence prevention and response and reception are not sufficiently integrated. Gaps remain in terms of front-line workers ability to detect, manage and refer survivors to specialised services. Services that cater to specific groups, such as migrants, male survivors, LGBTI etc. are insufficient.

**UNICEF recommends** a) to support reception facilities' compliance with minimum standards on protection and sexual and gender-based violence; b) to strengthen service providers and frontline workers capacity, within and outside the reception system, on sexual violence prevention and response, to improve awareness of sexual violence and to reduce stigmatization of male and female survivors; c) to identify, promote, and disseminate good practices on sexual violence prevention and response across the country.

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<sup>14</sup>*"More Than One Million Pains": Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy*

