

**Contribution submitted by the Italian Committee for Unicef
to the Secretariat of the UN Committee on the rights of the child
on the occasion of the 2012 Day of General discussion
dedicated to**

“The rights of all children in the context of International migration”

Introduction

Children and adolescents are particularly vulnerable in the context of migration and the risks of violations of their rights have been exacerbated by the global economic crisis which is having a substantial impact on the lives, rights and needs of migrant children and other children affected by migration (including children left behind in countries of origin and children of foreign origins born in destination or transit Countries). In Italy, as in several Countries, protection of children's rights has been undermined by increasingly restrictive migration laws and harsher enforcement: migrants in irregular situation have been especially affected and so their children¹.

In particular family reunifications regulations have become more severe; discrimination in the provision of public services contributes to the impoverishment of the most vulnerable social groups, including migrant children and children of foreign origins; xenophobic discourse and acts against migrants, including physical violence and xenophobic public statements by politicians, are widespread and confirmed by recent European and national surveys².

Compared to other Countries, International migration in Italy is a recent phenomenon, which started taking shapes during the 90's. Over the last 20 years the foreign population in Italy has progressively increased: a considerable portion it is composed of children, whose conditions are not so clear because of the lack of statistical information and disaggregated data.

Italy does not have one, specific Law on protection and care of migrant children/children of foreign origins: provisions concerning these children are spread among different laws concerning mainly immigration (Legislative Decree 286/1998 so called “Testo Unico Immigrazione”), citizenship (Law 91/1992) and public security (Law 125/2008 and Law 94/2009 composing the “Security Package”) but rules are integrated also in the Civil Code and among regulations of international adoption.

In compliance with the law, foreign minors cannot be expelled (Art. 19, paragraph 2, sub-paragraph a., T.U. Immigrazione), nor held in Identification and Expulsion Centres (CIE) (Art. 9 of Decree Law 92/2008 converted into Law 125/2008), nor in Reception Centres (CDA) (in accordance with a Directive of the Ministry of the Interior, 30 August 2000).

Main Data

The definition of foreign minors used by the National Institute of Statistics - ISTAT includes different groups of children: migrant children who move with their parents/ adult guardians,

1 Law 94/2009, part of the so called “Security Package”, introduced the crime of illegal entry and stay within the territory of the State, entailing a monetary penalty ranging from 5,000 to 10,000 euros that can be converted in expulsion. On April 2011 the EU Court of Justice issued a decision ruling that Italian law that punishes migrants who remain in Italy after being ordered to depart is precluded by EU Directive 2008/215 which establishes the procedure by which Member States may return illegally staying third country nationals (and that Italy has never transposed). The Italian law in question punished the act of illegal staying in Italy after being ordered to depart with 1 to 4 years imprisonment.

2 See e.g. Special Eurobarometer 317, Discrimination in the EU in 2009, November 2009; Qualitative Eurobarometer Study, The Rights of the child, October 2010; Lorien Consulting for the Italian committee for UNICEF, Survey on perceived racism in Italy. Adolescents compared with adults, November 2010; Communication and Social Research Department of “La Sapienza” University and centro d'ascolto dell'informazione radiotelevisiva, Minorities Stereotypes on Media project, with the support of the Open Society Foundation, 2011.

unaccompanied migrant children, children of foreign origins born or brought up in Italy, internationally adopted children, asylum seeker and refugee children.

According to ISTAT recent data³, resident foreigners in Italy reached 4,570,317 as at 1 January 2011: 335,000 more than the previous year (+7.9%): on the basis of the data the demographic growth depends almost entirely on the foreign residents. During 2010 the number of resident foreigners rose primarily as a result of immigration from abroad (425,000 individuals) but also partly as a result of births of foreign children.

In 2010, around 78,000 foreign babies were born to both foreign parents, 13.9% of the total number of those born to residents in Italy. Compared with the previous year, the number was up by a mere 1.3%. The increase in 2009 had been significantly higher (+6.4%).

The percentage of foreign citizens in the total resident population (approximately 60 million people) is rising: at 01 January 2011 it was 7.5% (from 7% the previous year).

Almost 22% of the foreign resident population is composed of children (993,238 unit), most of them born in Italy (650,000).

According to the latest data given by the Ministry of Education, University and Research⁴, during the 2010/2011 School year, there were 711,046 students of foreign origins enrolled in the National School system, that is to say the 7,9% in the total School population.

42% of the school population of foreign origins enrolled in the National School System in 2010/2011 was composed of children born in Italy (299,565): the highest incidence occurred in pre-school where 78% of the pupils of foreign origins were born in Italy.

According to the Italian Law, all children of foreign origins, even if they don't own a residence permit⁵, have the right to education.

Migration policies

The implementation of policies to control immigration are, in many ways, undermining the best interest of the child, especially in the following circumstances:

IDENTIFICATION

Children without documents may be mistakenly identified as adults. The use of medical examinations to determine a child's age is increasingly being used systematically. The method most frequently used is to x-ray the wrist of the person instead of adopting a multidisciplinary approach. Secondly, the medical reports do not always contain any reference to the margin of error, which means that the principle of the benefit of doubt cannot be applied and a copy of the report is not always issued.

3 ISTAT, Italy's resident foreign population, September 2011. <http://www.istat.it/en/archive/40658>

4 Ministry of Education, University and Research – ISMU Foundation “Students with non Italian citizenship 2010/2011. Public and Non Public Schools”, October 2011. http://www.istruzione.it/alfresco/d/d/workspace/SpacesStore/ddeae23b-7f1e-4dec-b122-ccb399332db3/Sintesi_Miur-Ismu_Alunni_stranieri.pdf

5 Non-EU nationals who are planning to come to Italy for short visits, business, tourism or study for a period not exceeding 3 months you are not required to apply for a residence permit, otherwise they must apply for it. A foreigner who resides legally in Italy can have his/her children included in his/her residence permit until they are under the age of 14.

After the age of 14, foreign minors may be granted either a separate residence permit for family reasons valid until they reach 18 years of age or a long-term residence card.

After they have reached the age of 18, foreign children are entitled to renew their residence permit for the same duration as their parents' s. The same right apply to minors under guardianship.

After they have reached the age of 18, foreign nationals meeting relevant requirements can obtain a different type of residence permit (study, registration at the employment office, employment, or self-employment).

RESIDENCE PERMIT

Regarding the appointing of a guardian and the issuing of a residence permit, the procedures differ enormously, even within the same region. Moreover, the issuing of a residence permit to a person who reaches majority has been made even more difficult by the introduction of a measure modifying Art. 32 of T.U. Immigrazione. This measure threatens to encourage minors who enter Italy after their sixteenth birthday not to take part in the social inclusion projects they are offered and to expose them to the risks of exploitation. It may also encourage them to migrate to Italy at an earlier age.

ASSISTED REPATRIATION

Until 2005 these measures were decided on by the Foreign Children Committee using an administrative procedure, without the involvement of any judicial authorities. In 2007, the Central Coordination Unit (OCR) was set up within the Ministry of the Interior to protect EU unaccompanied foreign minors and to implement the bilateral agreements between Italy and Romania, which entered into force on 12 October 2008. At the beginning of 2009, the Ministry of the Interior issued a Circular containing an implementing directive for the Italian-Romanian Agreement. These special procedures, which are for any Romanian minors caught up in the Italian juvenile justice system, are in contrast with the Italian Constitution (Art. 10), which states that only laws can regulate the situation of foreigners in Italy, and with European Union legislation, which identifies the judicial authorities as the only body with the jurisdiction to take decisions concerning parental responsibility.

Unaccompanied and separated children

Up to August, the body in charge to monitor the presence of unaccompanied foreign minors in Italy has been the Foreign Children Committee⁶, an inter-ministerial body established by Art. 33 of Legislative Decree 286/1998 (T.U. Immigrazione), which had its offices at the Ministry of Labour and Social Policies.

As of 31 December 2011 the number of unaccompanied children and adolescents reported by the Foreign Children Committee was 7.750 .

This figure does not include children who have applied for asylum, children from the member States of the EU and children who did not have contacts with national or local authorities.

Between January 1st and September 24th 2011, as a direct consequence of the crisis in North Africa and Middle East, 3.793 unaccompanied children and adolescences arrived in Italy, many more of the 698 landed on the Italian shores throughout 2010.

In 2011, the first three countries of origin were Egypt (901 minors), Tunisia (570 minors) and Afghanistan (534 minors). Most of the unaccompanied minors are aged 17 (4.207 minors) and 16 (2.006 minors). Unaccompanied children aged 0-6 account for the 0,9 % (72 minors) of the total.

Main issues of concerns regarding their conditions are:

- lack of a national care and protection system for these children;
- delays in the guardianship appointments;
- lack of adequate dedicated reception centres for unaccompanied minors;
- time of staying in reception centres is too long;

6 In July the Government approved the Decree 95/2012 “Spending Review Decree” with “the aim to reduce public spending without decreasing the quality of public services that are provided to citizens”. Due to the Decree – converted into ordinary Law 135/2012 by the Parliament, the Foreign Children Committee was dismissed from its post and its functions assigned to the Directorate general of Immigration and Integration Policies of the Ministry of Labour and Social Policies.

- more efforts needed to guarantee access to education and health services to these children;
- missing children, ran away from care homes, as a result of poor conditions;
- poor attention to the age or the ethnic origin of the children and adolescents and/or children placed in facilities designed for adults;
- lack of harmonized procedure in the best interest of the child to deal with unaccompanied minors throughout the national territory
- Foreign Children Committee at risk of closing down because of the provisions of the “Spending review Decree”

Discrimination, Second generation children and the citizenship issue

Children of foreign origins in Italy are nearly 1 million; 650,000 of them born in Italy, but foreigners until they reach the age of 18; henceforth they'll have just 1 year to apply for citizenship (Law 91/1992 on Italian citizenship).

Due to a mix of political new trends and economic crisis, social norms in Italy have changed and overt racism is becoming socially acceptable. Since 2010 the Italian Committee for UNICEF has been involved with the campaign “Me like You” promoting equal rights for all children of foreign origins living in Italy (www.unicef.it/iocometu).

The major objectives of the Campaign are: tackling discriminating social norms emerging in the Country and lobbying the Government to facilitate the access to the Italian citizenship for Second Generations and children of foreign origins.

On occasion of November 20th 2011, the Italian Committee for UNICEF, in collaboration with Lorien Consulting, made public the results of the survey ‘The perception of racism among Italian adolescents and adolescents of foreign origin’, in the context of “Me like You” campaign. This sample survey has involved 400 Italian adolescents and 118 adolescents of foreign origin, between the ages of 14 and 19.

Some highlights from the survey:

Answering the question ‘How often do you get in touch with people of foreign origin?’ Italian adolescents said: at least once a week 70,0%, especially during leisure time (43,9%) or at school (42,2%). Racism is present in the daily life of adolescents, in particular among those of foreign origin. For both Italian and foreign adolescents, racism is not expressed only through violent demonstrations (15.3% of adolescents of foreign origin, 17.5% of Italian adolescents), but primarily through rejection or marginalization (44.4% of adolescents of foreign origin and 43.0% of Italians). 22.2% of the adolescents of foreign origin interviewed reported to have suffered acts of racism, mainly at school (61,5%).

About the knowledge of citizenship law: the greatest part of the sample did not know the mechanisms to obtain the Italian citizenship: 69.0% of Italian adolescents, and 68,1% of minors of foreign origin. The majority of Italian adolescents (67%) and almost all of those of foreign origin (91.7%), however, agree to give the Italian citizenship to anyone who is born in Italy.

Children's role in the design and regulation of migration policies

Existing legislation does not explicitly give children the right to be listened to when they are placed in an institute, sheltered community or foster care. Eg. in case of unaccompanied foreign minors to be repatriated, their opinions are generally disregarded, even when listened to.

Good examples of tools and methods to assess the situation and rights of children in the context of international migration and to promote the integration of migrant children and of children born to migrant parents in countries of transit/destination

On March 27th, 2012 the Parliamentary Commission on Childhood and Adolescence released a final document about the investigation the Commission conducted in 2011/2012 on the situation of unaccompanied foreign minors in Italy. In this document the Commission took in the recommendations on unaccompanied minors of the 2nd supplementary Report on the implementation of the CRC issued by the Italian NGO Group for the CRC which collects nearly 90 NGOs, included the Italian Committee for UNICEF.

UNAR- National Office against Racial Discrimination - issued recently a Study on stereotyping and discrimination through Mass media information⁷.

In the context of the “Me like You” Campaign, the Italian Committee for UNICEF ordered to Lorient Consulting Institute two surveys: the first one in 2010 on perceived racism in Italy among adolescents and adults, the second one in 2011 on perceived racism among adolescents in Italy (Italians and of foreign origins) .

Within the Campaign, the Italian Committee for UNICEF also tried to support the Parliamentarians involved in the reform process of Law 91/1992 on citizenship through a sort of “Reading Guide” in order to amend L.91/1992 in compliance with the CRC, in particular with its 4 guiding principles.

Waiting for the reform of the National Law on Italian citizenship, many Italian Municipalities are assigning the honorary citizenship (which has a mere symbolic value) to children born in Italy to foreign parents in order to show it's time to recognize them as fully Italian. The initiative has been supported even by the President of the Italian Republic, who has been sending letters of appreciation to the Municipalities that carried out the proposal.

The initiative was also included within the “Child friendly Cities toolkit” of the Italian Committee for UNICEF among the best practises to promote at local level.

Main sources of information:

Position shared by the Italian Committee for UNICEF with the Secretariat of UN Committee on the Rights of the Child on the occasion of the examination of 3rd and 4th periodic reports submitted by Italy (2011)

5th Follow up report on the the implementation of the CRC issued by the Italian NGO Working Group for the CRC (2012)

2nd supplementary report on the implementation of the CRC issued by the Italian NGO Working Group for the CRC (2009)

<http://gruppocrc.net/-documenti->

UNICEF “Me Like You” Communication ToolKit <http://www.unicef.it/iocometu>

UNICEF “Child Friendly Cities Toolkit” <http://www.unicef.it/doc/154/citta-amiche-dei-bambini.htm>

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⁷ ISIMM Research for UNAR, Study on stereotyping and discrimination through Mass media information, July 2012. http://2.114.23.93/unar/_image.aspx?id=39963e4d-f088-4e37-9b5b-9a11b37dd2ae&sNome=allegato sintesi report intermedio Isimm Ricerche .pdf