

REPORT

on the reception conditions of Unaccompanied Minor Asylum Seeker Children in Italy

(excerpt)

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NOTE

The information contained in the present report correspond to the authors best knowledge and belief. They derive information from their direct experience in the practice of immigration and asylum law for unaccompanied migrant children in Italy, their on-field research within the duties of their positions as advisors to Save the Children Italy (Rome) and rely on the sources indicated in specific paragraphs (see also the attached list of reports taken as a reference).

1. LEGAL FRAMEWORK

Unaccompanied minor asylum seekers in Italy

The Italian legal system recognises the fundamental rights to all minors having ratified the United Nations Convention on the Rights of the Child of 1989 (Parliamentary Act of 27 May 1991 n. 176) and all main instruments of international human rights law. As a consequence, all legal provisions protecting the rights of children in Italy equally apply to all minors, irrespective of their nationality and the best interests of the child must be a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies (Article 28 of the Italian Aliens Act, legislative decree of 25 July 1998 nr. 286, *hereafter Aliens Act*). The rights to protection measures (guardianship, foster care, adoption, protection from expulsion) and to education, health care are fully recognised in relation to foreign minors, including children asylum seekers. In particular, public officials have a duty to immediately provide unaccompanied minors with a safe shelter (Article 403 of the Civil Code) and to notify the competent judicial authorities for child protection. The Juvenile Court and the Tutelary Judge have a duty to take protection measures according to the Civil Code (guardianship appointment, Article 343 and ff.) and to Parliamentary Act 184/1983 (Minor's Right to a Family).

A specific interministerial body – the Committee for Foreign Minors – is in charge for overseeing asylum seeking children's residence conditions and coordinating the administrative bodies involved in their care, as well as for researching children's families and in order to arrange their repatriation when possible (Article 33 section 2 of the Aliens Act). However, it has to be noted that the reception of minor age asylum seekers, although unaccompanied, falls outside of the Committee's scope of action. As described in Article 1 of the Committee's regulation, its competence refers to all minors who do not bear the nationality of Italy or of another EU Member State who, *not having applied for asylum*, find themselves in the Italian territory without their parents or other adults who are legally responsible for assisting and representing them (President of the Council of Ministers decree of 9 December 1999 nr. 535).

Guarantees are recognised to unaccompanied minor asylum seekers (Article 19 of Legislative decree of 28 January 2008 nr. 25 in matter of Procedures for international Protection), such as assistance with their asylum application, the appointment of a guardian to support the child throughout all stages of the asylum procedure, non-invasive methods of age assessment upon the minor's consent, adequate information on both age assessment and the asylum procedure, presumption of the applicant's minor age when in doubt, reception in dedicated reception centres for children within the Protection System for Asylum Seekers and Refugees (SPRAR - *Sistema di Protezione per richiedenti Asilo e Rifugiati*).

However, no regulation specifies what is meant by “assistance”, “non-invasive methods for age assessment”, “adequate information”, nor guidance/policy as to how the minor's opinion should be considered and reported, how the authorities' judgment of the minor's age is documented and on which reasons it should be based. The proposed regulation establishing the criteria and protocol of managing asylum reception centres has never been enacted. A previous regulation is deemed applicable in so far its norms are compatible with the subsequent decrees (Article 20 section 5, Legislative decree nr 25/2008).

In general, the Italian regulation of asylum procedures is scattered among several acts of laws and government decrees lacking coordination and organization, resulting in an intricate layered structure which can be difficult to reference for the same administrative and legal operators.

The recently introduced criminal offence of illegal entry and stay in the country applies to asylum seekers, irrespective of their age. The criminal proceedings are suspended during the asylum application process and are resumed if the application is rejected and the refusal will be relied on as evidence of unjustified illegal entry in the Italian territory (Article 10bis section 6 of the Aliens Act, in force since 8 August 2009).

2. IMPLEMENTATION OF THE LAW (2007-2010)

There exists an appreciable gap between legal provisions and their actual implementation which is clear from on-field observation and available data. By considering that the figures of asylum applications and of unaccompanied foreign minors are comparable with that of many EU Member States, this situation seems mainly due to a lack of controls and monitoring of practices by authorities at local level and of reception services, as well as to a limited national coordination of reception policies.

The Italian government (Ministry of Home Affairs) undertook some important initiatives aimed at securing adequate reception to asylum seekers and of unaccompanied minors in particular, such as the establishment of a National Service for the Protection of Refugees and Asylum Seekers (SPRAR, since 2003) and the National Program for the Protection of Unaccompanied Minors, in cooperation with ANCI- National Association of Italian Municipalities and local authorities (since 2007). However, these initiatives have not been sufficient in securing adequate reception facilities and a considerable number of both minors and adult asylum seekers/people seeking international protection still live without adequate assistance. The following information illustrates some of the shortcomings of the Italian asylum system in relation to unaccompanied children seeking asylum.

2.1 Age assessment – The results of these are crucial in order to activate the protection measures provided for by Italian law in considering the best interests of a minor.

Although the law does not require age assessments to be carried out other than in criminal procedure regulation, the Ministry of Home Affairs issued a directive to police offices recommending recourse to age verification only if there are doubts about the minor's actual age. When medical verification leaves room for uncertainty the principle of "benefit of doubt" in favour of the minor should be applied (Ministry of Home Affairs directive of 9 July 2007 Prot. nr. 17272/7).

In June 2008 a inter-ministerial working group was created at the Ministry of Home Affairs (with the support of various scientific experts), in order to accurately study scientific publications as well as the documents published by international bodies on this issue of verifying age. Directives are awaited by the relevant authorities as to the specific means and procedures of age assessment to be applied.

On field observations show problematic aspects in the identification of children

In 2007, the Italian Government appointed a Commission for investigating the standard of conditions in reception centres (De Mistura Commissione composed of Ministry of Home Affairs officials as well as of UNHCR and humanitarian organizations members) Members of the Commission raised concerns that the exclusive method deployed to determine age was hand wrist X-ray which was noted (according to scientific literature) to have a margin of error of between 18-24 months. At the same time there was insufficient consideration of other factors for example obtaining personal details from the applicants due to a lack of translators and cultural mediators. By observing that most of the incoming minors are adolescents, the Commission noted that there was a substantial risk of minors being identified as adults and expelled or detained as adults due to the flawed system of age assessment. (De Mistura Commission Report, 31 January 2007, p. 19-21).

Since 2008, the organization Save the Children (Italy) has monitored the compliance with procedures on reception of migrant children in Sicily and as well at the conditions in reception centres. Since January 2010, Save the Children has also been involved in the monitoring of other key reception regions (Apulia, Marche) within the framework of PRAESIDIUM, the Italian Ministry of Home Affairs project for migrants reception in disembarkment regions, also in cooperation with the UN High Commissioner for Refugees, the International Organization for Migration and the Italian Red Cross.

The 2008 Monitoring Report raised concerns in relation to various practices at local level, ranging from the lack of any age assessment practice and the widespread assumption of adult age, to the systematic recourse to hand-wrist radiographs as the only means of identifying age. Concern was particularly raised in the context of the lack of knowledge about the margin of error in relation to hand-wrist radio graphs,, the long waiting period for the results, scarce or nil information provided for to the migrants' when obtaining their consent. The observers verified the presence of minors in adult detention centres quite clearly as a consequence of errors on initial reception at disembarkment areas (Save the Children Italy 2009 First Report on the reception of disembarked minors in Sicily, p. 10; 2010 Third Monitoring Report, page 18).

Similar observations are repeated in the 2009 Monitoring Report, with reference to the disparate practices, arbitrary registrations at the busiest disembarkment areas, summary and collective identification practices which were rarely subject to review in less hurried circumstances, once migrants are moved from the arrival area to reception and detention centres (Save the Children Italy 2009 First Report on the reception of disembarked minors in Sicily, p. 9-10).

2010 Monitoring confirmed a lack of a common standards and procedures for age assessment amongst police authorities operating at local level, deployment of invasive means of verification applied to those who claimed to be or appeared to be children. The authorities usually never questioned the asylum seekers themselves. Age assessment medical reports still contain very scarce information and no indication of any recognition of the margin of error. Information is not offered by authorities, but rather provided by NGO's some of whom are in the reception operation (Save the Children Praesidium IV Report on the reception of disembarked minors in Sicily, Apulia and Marche, November 2010, p. 8-13). As detailed below, it is well known that migrant children detained for long periods or in inappropriate conditions in reception centres pretend to be adults to secure release from such centres. The NGO monitoring showed that police authorities at disembarkment areas hardly ever questioned migrants/asylum seekers' declarations of adult age also when they looked too young for being adults. The presumption of adult age based upon the migrant's declaration,

despite their physical appearance, avoided longer processes of age verifications and reports to Child Protection authorities and led to incorrect identifications.

With reference to the considerations above, flawed age assessment procedures result in children being registered as adults thus depriving them of the protection recognised by the law. Indeed the monitoring activities provided evidence of incorrect identifications in both senses: minor asylum seekers registered as adults but also adults were sometimes registered as minors. Incorrect identity registration also derives from minors' declaration of a false date of birth, in order to appear adult. There can be a number of reasons for this - in particular to avoid being separated from other countrymen, and to avoid placement in or to get release from overcrowded, inadequate and unsafe reception systems. The problems with Italian reception centres are well documented and have been extensively criticised.

From our contacts and interviews with social workers and authorities at Save the Children Italy national legal information service for migrant children, we observe that Italy will register returnees under EU Council Regulation 343/2003 as adults where they were previously recorded as adults in Italy, notwithstanding that they were accepted as children by the sending Member State. The Italian authority relies on registrations made by Italian authorities before the concerned asylum seeker left Italy and in our experience and on information provided to us they will not reassess the returning claimant or change their age to show they are children upon the sending Member State's different age assessment report.

(...)

2.2. Reception of unaccompanied minor asylum seekers

Facts and statistics concerning the reception of unaccompanied migrant minors in Italy are to be found in the periodical reports of the National Association of Municipalities (ANCI), also based on the data collected by the Committee for Foreign Minors, with regard to the number of unaccompanied minors who were received by most social services since 2006.

The Committee for Foreign Minors has gathered data regarding UMAs contacted by administrative authorities in Italy - excluding unaccompanied minors asylum seekers because they fall outside the Committee's area of competence set by the Committee's regulation (para. 1) - and published guidelines for administrative bodies in order to coordinate their reporting duties to the Committee. This body has carried out in some of UMA's countries of origin upon agreement with the International Organization for Migration and others, and has organized the repatriation of some children since its inception. However, the available information to the public is very limited and there is a clear lack of any monitoring and coordinating activity of UMA's reception in Italy. Therefore it is arguable whether the Committee actually performs the duty of "overseeing children's residence conditions and coordinating the administrative bodies involved in their care" for which it is in charge according to the law (Article 33 of the Aliens Act).

Information on the actual reception conditions of unaccompanied minors is very limited, due to the lack of a systematic institutional monitoring of reception centres and protection measures implemented. The following information is based on the Save the Children Monitoring Reports in Sicily since 2008 (and recently in the regions of Apulia and Marche) within the Italian Government project PRAESIDIUM.

2.2.2. Reception conditions

2008 - A first monitoring was conducted within the Ministry of Home Affairs project Praesidium by Save the Children Italy as cooperating organisation on the reception of unaccompanied minors in Lampedusa disembarkment area and first reception. The report highlighted serious shortcomings in the island centre with regard a to a lack of hygiene conditions, the prolonged stays of hosted children, insufficient number of beds and basic facilities, insufficient and untimely distribution of food, limited access to health triages, absence of information relating to the matters provided for by the law on immigration and asylum, lack of interpreters, cultural mediation service and of professional figures for support to the most vulnerable child cases.

2009 – 2010 Further monitoring was conducted in reception centres in Sicily and later also in the regions of Apulia and Marche with regard to the reception conditions of unaccompanied minors in centres working upon agreement with the competent local authorities (Prefettura for the Ministry of Home Affairs).

2009 First Monitoring Report – Monitoring period: May 2008-February 2009

2010 Second Monitoring Report – Monitoring period: March 2009 – February 2010

2010 Third Monitoring Report – Monitoring period: January – August 2010

a. Access to information and asylum

Information on the opportunity to apply for asylum is limited and hindered by the widespread lack of training of personnel in reception centres in immigration and asylum procedures (page 15, First MR; page 21 and 26, Third MR). Most of the reception centres in Sicily proved to lack the requirement provided by the law, revealing a lack of monitoring by the competent local authorities (Municipalities and Prefettura for the Ministry of Home Affairs) in charge for hosting children and financing the same reception centres.

Access to the asylum procedures were often significantly delayed, in most cases whilst awaiting other steps to be taken , such as appointment of guardians, official reception in centres and confirmation of costs coverage by the competent institutions. Only 249 of the total 1,860 hosted (detained) minors applied for asylum in the considered monitoring period (page 17, First MR).

At national level, the 2009 ANCI report recorded that 3.2% of received unaccompanied minors applied for asylum in 2006, 8.7% in 2007 and 12.2% in 2008 (ANCI Report 2009, p. 106). These very low figures reflect the lack of assistance given to children to make an asylum application.

It has to be noted that unaccompanied minors in Italy who are not granted asylum find it virtually impossible to receive a residence permit and consequent access to basic rights in several of the monitored provinces (2010 Third monitoring Report, p. 34). Most of them are considered illegal and therefore faced with expulsion at the age of eighteen, due to recently introduced modification of the law (Public Safety Act nr

94/2009; 2010 Third monitoring Report, p. 34).

b. Guardianship - Of 1,860 hosted UMAs, only 355 were assigned a guardian in 2008 monitoring period (First Monitoring Report, p. 17).

A dramatic drop in the number of disembarked migrants in Sicily in 2009 and 2010, due to the practice of rejection of approaching migrants vessels from to Libya, resulted in a considerable reduction of the presence of unaccompanied minors in Sicily and an increased attention to individual cases by authorities.

1994 UMAs in the first monitoring period (May 2008-February 2009)

278 UMAs in the second monitoring period (March 2009-February 2010)

113 UMAs in the third monitoring period (February-August 2010)

Observations showed that almost all hosted unaccompanied minors were appointed a guardian in 2010. However, while guardians were assigned to children, from our monitoring it is clear that many/ most minors often do not have contact with the appointed guardians. Practice and time for appointment varies widely in the monitored territories, in which the time for appointing a guardian ranges from a few weeks to six months (2010 Third monitoring Report, p. 33-36).

Primary forms of protection provided by the law (Parliamentary Act 184/1983 on children's right to a family) – such as being placed with foster families – are practically never applied (page 17). This trend is confirmed in the following monitoring reports.

c. Accommodation and access to services

The first monitoring of reception conditions in Sicily revealed a critical situation (2009 First Monitoring Report, pages 15-19)

Agreements with authorities were made for accommodating 4-5 times a higher number of minors than available places in reception centres: as a result, centres were overcrowded, despite the law set at 10 the maximum number of minors to be accommodated in each centre.

Reception centres claimed that they were not provided with the necessary funding by local authorities (Prefecture and municipalities) in order to be able to provide services and adequate reception facilities. Reception centres claimed that local authorities breached their contracts and they did not receive the agreed payment for their service, or in some cases they received it with a one year long delay. (2010 thirs monitoring report p. 21, ff)

Many centres lacked sufficient space for the provision of communal activities, including recreational ones. In many cases, there was no or insufficient distribution of clothing, shoes, underwear, soap/shampoo even after several days of housing in centres.

Only about 1/3 of centres had access to appropriate interpreters, while access to cultural mediators was very limited. In some centres, minors belonging to determined linguistic groups were excluded from services.

Legal assistance was given by operators in centres and again this arrangement proved highly inadequate, although the personnel appeared willing to cooperate with authorities and organizations providing legal help. Legal training of police/ministry local officials appeared inadequate and information on asylum and immigration norms was

entirely entrusted to NGO's.

Access to education was limited to primary school (from 6 to 10 years of age), access to secondary school or professional training is very limited. 51% of hosted UMAs declared they never participated in literacy or educational classes. 97% declared to never have had secondary schooling or professional training.

Children were often recruited in the unregulated work market and exposed to exploitation. Some of them declared that they earned daily pay of €25-30 in agriculture, or €5-10 per night. There was no access to telephones in the centres, although some minors had mobile phones and their calls from their mobiles were not monitored

Access to health care was limited, because the provision of health care was linked to the (mandatory) issue of a residence permit for UMAs (Article 19 of Aliens Act nr. 286/1998), and in these reception centres the issue of residence permits was subject to considerable delays.

There is a mandatory requirement for the presence of a professional nurse in child reception centres but again the monitoring of these centres showed that this requirement was mostly absent. 68% of interviewed UMAs declared they have sought medical care, but only 27% received it in or out of the reception centre.

Contacts with local communities were limited – these contacts were available in only 4 of 10 centres. Only half of the hosted UMAs declared that they had the chance to participate in recreational activities 70% evaluated positively those activities.

Escape rate - Most minors abandoned their reception centres during the monitoring period: 1,119 out of 1,860 minors, particularly Egyptian, Eritrean and Somali UMAs abandoned centres or declared that they were adults in order to avoid being accommodated in child reception centres.

The data provided by the National Association of Italian Municipalities (2009 Third Report of the National Association of Italian Municipalities on Unaccompanied Foreign Minors, pages 58-70) show the following figures at national level:

in 2007 - 4,199 received UMAs, 46.5% of whom escaped
in 2008 – 4,176 received UMAs, 40.1% of whom escaped

In 2010 the third monitoring revealed better conditions for child reception in Apulia and Marche, while confirming the inadequacy of services in Sicily (Third Monitoring Report, pages 21-30).

Although the number of hosted minors does not now exceed capacity in reception centres, the distribution of minors apparently overlooks the actual services offered by the particular reception centre. That results in an uneven distribution especially in the territory of Sicily, while the number of escaping minors remains high.

In the most recent monitoring some critical aspects are confirmed also in Apulia and Marche, with reference to the lack of monitoring of reception centres by competent authorities and a referral at national level. These features mean that Italy continues to fail to provide adequate child reception standard for the generality of reception centres and continues to risk the neglect of hosted minors. Only a limited number of the reception centres hosting unaccompanied migrant children are involved in the State managed National Fund for unaccompanied minors (ages 5-6):

5 on 28 reception centres in Sicily
2 on 38 reception centres in Apulia
11 on 24 reception centres in Marche

All reception centres in the three regions complained about the lack of necessary financial resources, due to the failure of competent authorities in paying the promised fees. This problem affects the ability of the centres to offer adequate services and reach an acceptable standard.

In the recent monitoring Sicily reception centres and operators possessed the basic qualifications for their service. However, specific training in core services is scarcely available and important services such as legal assistance, translation and cultural mediation are lacking in all monitored regions. The consequences are that minors are only limited assisted to understand the process and cannot properly participate in the asylum application or age assessment process and proposed education and integration plans are mostly limited to a basic education level.

Sicily reception centres appear particularly defective in granting UMAs access to basic services and particularly to education other than mere basic literacy. Exchanges with local communities appear limited and occasional, mainly connected with local Parishes. Due to the lack of adequate integration initiatives – also connected to the restricted access to asylum and long term residence - most minors, also when received in centres, tend to be recruited into the illegal labour market and are exposed to violence and exploitation. Employment in agriculture allows a daily pay of 25/30 Euros (page 30). Minors forced to live in these conditions stay in Sicily for the time necessary to receive a residence permit and plan to move elsewhere.

Escape rate - Observation of reception conditions has revealed a direct relationship between the level of services and the rate of **escaping minors from centres**. 2010 rates have decreased since 2008 and 2009, although they vary significantly in the considered territories (pages 37-40):

- 50% of hosted minors escape from centres in Sicily
- 13% of minors hosted in Apulia, with a peak of 93% in the Apulian province of Lecce
- 18% of minors in Marche reception centres

Exploitation and abuse - Information on unaccompanied minor's exposure to exploitation and abuse is limited and mainly reported in areas of Italy where social services are more effective in examining and monitoring these problems (2009 Third Report of the National Association of Italian Municipalities on Unaccompanied Foreign Minors, pages 115-128), in particular in the regions of Piedmont and Emilia-Romagna. Only a few cases (0 to 4 in each region) are reported in more problematic areas with a major presence/passage of unaccompanied minors such as in Sicily, Rome (Lazio), Milan (Lombardy), Naples (Campania). This should not be taken to mean these areas do not have child exploitation problems – on the contrary anecdotal evidence shows it to be of real concern – the lack of data is evidence of a lack of investigation and monitoring of the obvious social problem.

2.2.3 Young asylum seekers registered as adults

The flaws in the system of determination of age and the inadequate reception conditions have resulted in widespread registration of unaccompanied foreign adolescents as adults. These problems are also responsible for children declaring

themselves to be adult so as to leave the centres. For these reasons, it is worth taking into consideration the general reception conditions which young asylum seekers experience in Italy.

Legislative decree of 30 May 2005 nr. 140 recognises a right to assistance measures to asylum seekers holding a residence permit, who lack sufficient means for guaranteeing an adequate life standard for their maintenance and health, as well as for their family members (Article 1 section 2). Reception during the asylum procedure is usually referred as **primary reception**. Reception measures cease at the moment in which a decision on the asylum application is notified (section 6). The reception may be extended when an appeal is lodged, for the time in which the applicant is not admitted to work (section 7).

Available reception facilities consist of (Article 6 of legislative decree 140/2005):

a) lodging and assistance in centres coordinated at national level within the Protection System for Asylum Seekers and Refugees (SPRAR - *Sistema di Protezione per richiedenti Asilo e Rifugiati*), for 3000 places in 123 municipalities and provinces, 501 of which are reserved for vulnerable categories of asylum seekers, including unaccompanied minors (2010 SPRAR Report);

b) when no place is available in SPRAR centres, reception of adult asylum seekers is provided in reception centres (CARA) for not longer than strictly necessary for processing the asylum application, and in any case for not longer than 35 days (Article 20 section 3 of legislative decree of 28 January 2008 nr. 25). Available places are reported in the number of about 1,000 in CARAs, while a few thousand places are available in identification and first reception centres for emergency stays (see also official information spread by the Ministry of Home Affairs website at <http://www.interno.it/mininterno/export/sites/default/it/temi/immigrazione/sottotema006.html>)

There is a critical lack of **sufficient available places**, with reference to that of asylum applications lodged.*

YEAR	Asylum applications	Recognition as Refugees	Subsidiary Protection	Humanitarian protection (national)
2009	17 603	2 230	5 194	2 149
2008	30 462	1 934	6 843	2 236
2007	14 053	1 408	6 318	Non available data

*data provided by the Ministry of Home Affairs and available also on the Ministry's website at <http://www.interno.it/mininterno/export/sites/default/it/temi/asilo/sottotema009.html>

Secondary reception measures are to be applied after a positive decision is taken on the asylum application - these secondary reception measures are partly conferred to the competence of municipalities and partly to the State mainly through the same SPRAR reception system and the same number of available places referred above (3000) for asylum seekers in first reception. Asylum seekers and people granted international protection thus concur for the same available places for reception, although the first ones appear to have a priority, with particular regard to vulnerable categories. These are evaluated by municipalities social services.

Data and research on secondary reception is still limited, whilst observations from Save the Children Italy outreach services and CARITAS services for migrants reveal the presence of a high number of Somali, Eritrean and Afghan recognised refugees squatting in public areas and abandoned private premises in Rome, Milan, Turin,

Naples, Bari, Palermo due to the lack of adequate housing and integration policies. Although entitled to protection according to Italian and community law, these people are in reality excluded from enjoying it. They may have a residence permit but because local administrations refuse to register their residence, they are denied access to most social and health care services, becoming easy prey of criminal organizations, violence and exploitation and even perceived as threats to public safety (2010 CARITAS Statistic report on Immigration, p. 96, ff.).

As for access to public housing, the recently introduced requirement of ten years of registered residence in Italy for applicants of foreign nationality and not for Italians) represents a further obstacle to achieve dignified living conditions and integration for refugees (Parliamentary Act of 6 August 2008 nr. 133, article 11 "Piano casa").

Some initiatives to tackle the problem have been taken by charities and supported by authorities, such as the Enea Centre in Rome for the reception of single refugees and people granted subsidiary protection, open since 2008, with 400 places (<http://www.centroenea.it>), with the support of the municipality of Rome and the Ministry of Home Affairs. However, the number of available places is far from responding to the needs of the several thousands of people.

2.2.4. Reception of transferred asylum seekers under EU Council regulation 343/2003

Returning unaccompanied minors are received by the Italian airport police and reported to the competent authorities for adopting the protection measures provided by the law, including immediate shelter.

It should be noted that most of persons being returned under the so-called Dublin II Regulation by other EU Member States to Italy are older than 16 years of age, have already applied for asylum for several months or even years before and most probably a decision was taken by Italian authorities. Moreover, they have often been registered as adults in Italy. In these cases, the general reception regulation for adults apply. Since primary reception of asylum seekers is the priority set by the law and available places are in a very limited number, in comparison with that of asylum applicants, the reception of returnees registered as adults and already having a decision on their application is subject to evident limitations.

At our inquiries, airport official services for asylum seekers (depending from the local Prefettura of the Ministry of Home Affairs) in main destinations - Milano/Malpensa and Rome/Fiumicino - confirmed that authorities can offer reception and assistance only to returnees who need to apply for asylum or are still waiting for a decision by the competent Italian authority. Those whose application has already been processed, upon check at their arrival in the airport, will be invited to go to the police headquarter of city in which the local authority is located which had decided the asylum application. There the concerned person should receive notification of the authority decision and receive assistance, within the said limits of the reception system. We have limited information or evidence concerning police workings at the airport for Dublin returnees. We are well aware that there is a lack of interpreter assistance and cultural mediator services at the airport for ensuring that returnees understand and are actually enabled to reach the competent authority and the services for the city in which the decision was taken.

No financial means or any assistance is provided at the airport for reaching the city of

the competent authorities (which are often located in very far parts of the country), with the possible exception of cases of evident need (interviewed authorities defined them as physically disabled people, extremely young looking returnees).

Reports from sending countries concerning the minor age or psycho-physical condition of returnees are rarely taken into consideration by the contacted authorities whose view is that it is not their role to provide assistance to returnees who already have a decision on their asylum application in Italy. Interviewed officer at Malpensa and Fiumicino airports services claimed that such assistance falls outside the scope of their contract with the Ministry of Home Affairs local authority (Prefettura). According to the interviewed air police officers in Malpensa, correction of returnees identity data by airport police authorities, with reference to information from the sending EU Member State, is out of their competence and may be made by the competent police authority at the area of destination as defined above.

Basic information on the legal position of the concerned returnee in Italy is needed - In order to foresee if such reception will be secured to unaccompanied minors in transfer to Italy, it is essential to verify whether the concerned person is registered as a minor in the Italian database of asylum seekers and has authorized stay. In the case of the present appellants, we are unable to comment as we do not have sufficient information regarding the processing of their applications for asylum in Italy.

Given the lack of information about their actual status,, we have proceeded to consider various scenarios .

a) In case their former asylum application in Italy was accepted, returnees can claim a residence permit as refugees or for subsidiary protection. Renewal is handled by the the local police headquarters, although only the national Commission for asylum can revoke or cease the international protection status (Article 5 of Legislative decree 25/2008).

b) Supposing that their former asylum application was rejected, if the decision contains a recommendation for issuing a residence permit for “humanitarian reasons”, according to Article 5, section 6 of the Aliens Act, the police (Questura) may grant a residence permit for one year, subject to renewal upon discretionary decision of the same authority. However, practice shows that renewal is often refused, especially if the applicant does not dispose of a sufficient income and suitable housing.

c) Whereas if the decision was not yet notified, returnees receive notice upon arrival that they have a right to lodge an appeal (if they find counsel and legal aid) within 30 days before the Tribunal of the main city of the Court district in which the competent local asylum Commission lies, during which they cannot be removed from the country (Article 35 of Legislative decree 25/2008).

d) If the decision was notified and the appeal is declared unfounded, removal to the country of origin is the consequence provided by the law. In case of identification difficulties or lack of means, the law provides that claimants will be ordered to leave the country on their own within five days. Failure to abide by this order is a criminal offence, punished with imprisonment from 1 to 4 years, according to Article 14, sections 5bis and ter of the Italian Aliens Act.

The previous declaration of a false birth date or other identification data is

considered a criminal offence, punished with imprisonment for a period from 1 to 6 years under Article 495 of the Italian Criminal Code. Public officials must refer to the public prosecutor who has the obligation to institute criminal proceedings under Article 112 of the Italian Constitution.

This criminal offence is not included among those for which a previous sentence hinders a residence permit renewal (Article 4 section 3 of the Italian Aliens Act), although it can be evaluated as a ground for expulsion as a safety measure, provided the concerned foreigner is regarded as socially dangerous, to be included into the judicial sentence for the concerned offence (Article 15 of the Aliens Act). Expulsion of refugees and people enjoying subsidiary protection status is permitted by the law if the concerned person represents a danger to the State or for the "public order or safety" (Article 20 of Legislative decree of 19 November 2007, nr. 251 implementing EU Council directive 2004/83/EC). The latter is presumed when the concerned refugee or protected person has been sentenced for a criminal offence for which the law provides a punishment of imprisonment of four years in the minimum or ten years at a maximum (Article 20 of Legislative decree nr 251/2007).

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2008 Lampedusa Report - "Reception and Protection of the Rights of Children at the Lampedusa Centre" (in English), Praesidium III Project, Save the Children Italy, Rome, January 2009 www.savethechildren.it

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"L'accoglienza dei minori in arrivo via mare. Rapporto finale di monitoraggio delle comunità di alloggio per i minori in Sicilia" (in Italian) [Reception of Disembarked Minors. Final Monitoring Report of Minors Reception Centres in Sicily], Save the Children Italy for Praesidium III, Rome, April 2009 in www.savethechildren.it

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http://www.interno.it/mininterno/export/sites/default/it/assets/files/19/0986_Terzo_rapporto_o_minori_stranieri_Anci.pdf

2008/2009 Yearly Report of the Italian Protection System for Asylum Seekers and Refugees (SPRAR) by the ANCI-National Association of Italian Municipalities and Ministry of Home Affairs: "Rapporto Annuale del sistema di protezione dei rifugiati e richiedenti asilo 2008-2009" (in Italian), available on the Ministry of Home Affairs website:
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(SPRAR) as anticipated in the 13th European Conference on Asylum of 24-28 October 2010 in Palermo (Italy) by the SPRAR managing agency Servizio Centrale

2010 CARITAS Statistics on Immigration, Dossier Statistico Immigrazione (in Italian), CARITAS Migrantes Foundation, Rome, October 2010

De Mistura Commission Report, 31 January 2007, Ministry of Home Affairs. Report, information on the Commission and attachments available on the Ministry of Home Affairs website at

http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampa/notizie/immigrazione/notizia_23602.html