

Children's rights in Italy

**2nd Supplementary
Report
to the
Implementation
on the Convention
on the Rights
of the Child**



Gruppo di Lavoro
per la Convenzione
sui Diritti dell'Infanzia
e dell'Adolescenza



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ACP - Associazione Culturale Pediatri	Geordie Associazione onlus
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ALAMA - Associazione Laziale Asma e Malattie Allergiche	Il Corpo va in città
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Associazione Antigone	IRFMN - Istituto di Ricerche Farmacologiche Mario Negri
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CIES - Centro Informazione e Educazione allo Sviluppo	OVCI la Nostra Famiglia
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Glossary

National Childhood and Adolescence Documentation and Analysis Centre (CNDA)	<p>The Centre, established by Law 451/1997 and subsequently reorganised by Presidential Decree 103/2007, is responsible for collecting and disseminating information regarding all relevant legislation, statistics and scientific publications, as well as studying the situation of children and adolescents. The Istituto degli Innocenti in Florence is responsible for handling all the activities related to the functioning of the Centre, following an agreement signed with by the Ministry of Labour, Health and Social Policies and the Department for Family Policy of the Presidency of the Italian Council of Ministers.</p> <p>Further information can be found at www.minori.it.</p>
Parliamentary Commission on Childhood and Adolescence	<p>The task of this Commission, which was established by Law 451/1997 and recently emended by Law 112/2009, is to provide guidance and monitor the implementation of international agreements and legislation concerning the rights and development of children. It reports to the Italian Parliament at least once a year on the results of its activities and makes comments and proposals regarding the effects and limits of existing legislation, and the eventual need to modify it, above all with regard to the respect of the CRC.</p> <p>For further information see: www.camera.it/_bicamerale/nochiosco.asp?pagina=_bicamerale/leg16/infanzia/home.htm</p>
Interministerial Committee on Human Rights (CIDU)	<p>The task of this Committee, which was established by Ministerial Decree 519/1978 and reorganised by Decree of the President of the Council of Ministers on 11 May 2007, is to coordinate the Government's activities regarding the promotion and protection of human rights. The Committee is located within the Ministry of Foreign Affairs and collects information from the various Ministries and prepares regular reports on the measures taken to implement, at a national level, international conventions ratified by Italy, including the CRC.</p>
Gruppo CRC	<p>The Italian NGO Group on the Convention on the Rights of the Child (Gruppo CRC) is a network of Italian associations whose task is to independently monitor the implementation in Italy of the CRC and the concluding Observations of the UN Committee on the Rights of the Child.</p> <p>Further information can be found at www.gruppocrc.net.</p>
National Observatory on Childhood and Adolescence	<p>The Observatory was established by Law 451/1997 and is currently regulated by Presidential Decree 103/2007, which assigns its joint-presidency to the Minister of Labour, Health and Social Policy and the Under-Secretary of State to the Presidency of the Italian Council of Ministers with responsibility for family policy. Every two years the Observatory draws up the National Action Plan and measures for the protection and development of children (National Action Plan for Children). Every five years it must also draft the outline of the Government Report to the United Nations on the implementation of the CRC.</p> <p>Further information at www.minori.it/?q=osservatorio.</p>
National Action Plan for the Protection and Development of Children (National Action Plan for Children)	<p>The National Plan, in accordance with Law 451/1997, is intended to give priority to programmes regarding children and to strengthen co-operation for childhood development in the world. It also identifies how the measures should be financed and ways to strengthen and coordinate the different activities carried out by the different public administrations, the regions and local authorities. The National Plan is drawn up every two years by the Observatory, after consultations with the Parliamentary Commission on Childhood and Adolescence, and it is approved by the Council of Ministers. The National Plans adopted so far are available at www.gruppocrc.net/PIANO-NAZIONALE-D-AZIONE-PER-L-INFANZIA</p>
CRC Follow-up Report	<p>Gruppo CRC produces a yearly report on the monitoring of the CRC in Italy, which is published on the day the CRC was ratified in Italy (27 May). All the CRC Reports are available at the website of the Gruppo CRC www.gruppocrc.net.</p>



Methodological note

This Report is an abridged version of the Report published in Italian by Gruppo CRC in November 2009. In the abridged version, the analysis of the context and phenomenological aspects have been shortened, the notes containing references to documents or websites exclusively in Italian have been eliminated, and reference to the specific parties to whom they were addressed have been replaced by “the Government”. The reasoning behind this is that the Italian version is aimed at institutional stakeholders so that they can receive the point of view and suggestions of the associations. We are aware of how important it is to identify exactly for whom these recommendations are intended and provide information that is always supported by references to legislation or available sources. The Italian version is also intended, however, for a much broader public, including people who do not work in this sector, and so it is important to provide a general framework and detailed descriptions of the relevant phenomena, as well as bibliographic references for further information. The English version, on the other hand, is intended primarily for the members of the UN Committee on the Rights of the Child, so, following the guidelines of the NGO Group for the CRC, this version is shorter, while still describing all the strengths and weaknesses of the Italian system.

Moreover, while at the beginning of each chapter in the Italian version there is a section summarising and highlighting the main changes (both positive and negative) that have occurred during the period of reference (2003-2009), in the English version only the Concluding Observations of the UN Committee are mentioned.

To help in the drawing up of this Report, Gruppo CRC requested information through the Inter-Ministerial Committee on Human Rights (CIDU) from the Ministry of Foreign Affairs (MAE), the Department for Family Policies, the Ministry of Justice, the Ministry of Labour, Health and Social Policies and the Department of Equal Opportunities. In reply, we received written communications from the Directorate General for Cooperation Development (MAE), the Department for Family Policies, the Ministry of Justice, the Ministry of Labour, Health and Social Policies and the Ministry of the Interior.



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Preface

The publication of the Second Supplementary Report marks the end of the first cycle of monitoring carried out by the Gruppo CRC, which began with the publication of the UN Committee's Observations regarding the implementation of the CRC in Italy in 2003. In this period the Gruppo CRC has published a Report each year monitoring the progress made and highlighting any problematical areas as regards the implementation of the rights enshrined in the CRC in Italy. We have gradually broadened our field of observation to include new issues, while, at the same time, ensuring an up-to-date analysis of previous issues, including all eight groups of rights into which the UN Committee subdivided the CRC. This has been made possible by the growing number of organisations that have joined the network, and their active involvement in the monitoring process and the drawing up of the report.

The Second Supplementary Report, which we are publishing exactly eight years after the first, highlights the hard work and perseverance of the third sector in keeping attention focused on the rights of the child in Italy in the face of changes in Government, Ministerial reorganisations and non-standard practices throughout the country, which have not favoured continuity in the work carried out by the institutions. Indeed, they have been responsible for delays and omissions.

The Report has been written by various authors and is a compendium of different positions, competences, fields of expertise and backgrounds. The report does not claim to offer a complete, exhaustive analysis of all the questions relating to children's rights. Its aim is to provide a "photograph" of the situation in Italy from the point of view of the associations. It is complimentary to the Report published by the Italian Government and offers food for thought for all those people who, for whatever reason, are involved in promoting the rights of children and adolescents, especially those institutions responsible at both a national and local level for the implementation of policies regarding children and adolescents.

Working together over the years, we have been able to benefit from the experience acquired by each association and decide together on the priorities, by modulating our language and agreeing on the final analysis. The goal of creating a common, permanent, independent system of monitoring by the associations involved in the promotion and protection of children's rights in Italy has been achieved and this system is now fully operational. The goal of guaranteeing the actual implementation of all the rights contained in the CRC for every child on Italian territory, on the other hand, has not yet been achieved although considerable progress has been made in the last few years.

The Second Supplementary Report was published in November 2009, a few months after publication of the Government's Report and during the celebrations for the 20th anniversary of the UN Convention. Our hope is to contribute, through the recommendations contained in this Report, to the development and adoption of policies, procedures and legislation that can improve the conditions of all children living in Italy. We, therefore, hope that the numerous events that have been planned to celebrate the 20th anniversary of the CRC and the imminent meeting with the UN Committee to examine the situation in Italy are not merely formal occasions, but instead provide an opportunity for shared reflections that can lead to formal undertakings being given by the competent authorities.

Arianna Saulini
Coordinator of Gruppo CRC

Chapter I

General MEASURES of implementation

☐ not implemented
☒ implemented

Legislation

7. The Committee recommends that the State party continue to rigorously review the legislation and ensure that national and regional laws are rights-based and conform with international human rights standards, including the Convention, and effectively implemented.

Resources

9. The Committee recommends that the State party continue to increase, as far as possible, resources allocated to children and their family and undertake an analysis of all sectoral and total budgets across the State party and in the regions in order to analyse the proportion spent on children, identify priorities and allocate resources to the “maximum extent of ... available resources”. The Committee also recommends that the State party apply this principle in the activities carried out by the Foreign Ministry’s international development aid and cooperation.

National Fund for Children and Adolescents only for 15 metropolitan areas (Law 285/1997)

2007	2008	2009	2010	2011
€44.466.940	€43.905.000	€43.892.000	€40.074.000	40.074.000

National Fund for Social Policies (Law 328/2000)

2007	2008	2009	2010	2011
€1.564.917.148	€1.582.815.000	€1.311.555.000	€1.029.957.000	€920.592.000

2007 Budget Law: Special plan for the development of an integrated system of social and educational services

International development aid and cooperation

2009 Budget Law confirmed a cut of 56% (€411,000,000)

The resources devoted to children

2006	2007	2008
€18.356.317,54	€17.849.369	€19.234.752

Coordination

11. The Committee recommends that the State party:
- (a) Strengthen effective coordination, in particular by the National Observatory and the State-Regions Conference, within and between government agencies at the national, regional and local levels in the implementation of policies for the promotion and protection of the child, as it previously recommended (CRC/C/15/Add.41, para. 13);
 - (b) Ensure closer and more active cooperation with NGOs working for the rights of the child, especially at the local level;
 - (c) Encourage the participation of children in the activities of the National Observatory.

National Plan of Action

13. The Committee recommends that the State party:
- (a) Expedite the consideration of the National Plan of Action for its adoption;
 - (b) Ensure the harmonization between the National Plan of Action and the plan for the implementation of the UNGASS outcome document;
 - (c) Effectively monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.



Chapter I

General MEASURES of implementation

Independent monitoring structures

15. The Committee recommends that the State party complete its efforts to establish a national independent ombudsman for children, if possible, as part of a national independent human rights institution (see the Committee's General Comment No. 2 on the role of independent human rights institutions), and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (The "Paris Principles") (General Assembly resolution 48/134, annex), to monitor and evaluate progress in the implementation of the Convention. It should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and equipped with the means to address them effectively. The Committee further recommends that appropriate linkages between the national and regional institutions be developed.

Data collection

17. In line with its previous recommendations, (*ibid.*, para. 14), the Committee reiterates its recommendations that the State party:

- (a) Strengthen its mechanism for collecting and analysing systematically disaggregated data on all persons under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups, including children with disabilities, Roma children, children belonging to migrant families, unaccompanied children, child victims of violence and children from economically and socially disadvantaged households;
- (b) Use these indicators and data effectively in formulating and evaluating policies and programmes for the implementation and monitoring of the Convention;
- (c) Ensure the coherence of the data collection process by the various institutions, both at the national and regional levels.





General MEASURES of implementation

1. ITALIAN LEGISLATION

CRC/C/15/Add. 198, paragraph 7, 18 March 2003

a) Civil and criminal procedure for minors

During the meeting between the UN Committee on the Rights of the Child and the Italian Government delegation in 2003, the delegation informed the Committee that the Government intended to carry out **a reform of the juvenile justice system** to make it more efficient and resolve the problem of the large geographical jurisdiction of juvenile courts¹. Some bills have been presented in Parliament², but at the time of writing not only had the reform not been carried out, but Parliamentary discussions on the topic had not even begun.

Until now, on the basis of Ruling 8362/2007 of the Court of Cassation, confirmed by subsequent rulings³, juvenile courts have had jurisdiction over the **care and maintenance of children born out of wedlock**, and the ordinary courts jurisdiction over **children born into marriage**. Two bills have been put before the current Parliament⁴ aimed at overcoming this division of responsibility, proposing that jurisdiction over the care and maintenance of children born out of wedlock should be transferred to the ordinary courts. These two bills have been widely criticised, however, for the way they are structured. Indeed, were jurisdiction to be transferred to the ordinary courts, as proposed in these two bills, this would further reduce the likelihood of a single specialised body being created to manage the juvenile justice system.

Differences still remain between **children born into marriage and those born out of wedlock**, as regards, for example, inheritance matters⁵ and relations between a child born out of wedlock and the eventual legitimate family of the parent⁶. Legislation should, therefore, be introduced to eliminate any kind of distinction between these two figures. After a six-year delay, **Law 149/2001** finally entered into force

on 1 July 2007, including the part relating to procedural rules. The law introduces the figure of the “counsel for the minor”, and guarantees the right to cross-examination and the right of the child’s parents to a defence. It also allows children over 12 or even younger, depending on their ability to form their own views, to be heard before they can be declared adoptable. Nevertheless, the entry into force of the law without the issuing of the necessary rules concerning the appointment by the court of the counsel for minors or a rethinking of juvenile trials has meant that this law is very difficult to apply. Indeed, it has given rise to new problems. **It is two years since Law 149/2001 came into force** and the problems regarding its interpretation and application have still not been resolved. This has resulted in different courts using very different practices, which has rendered the protection of minors a somewhat arbitrary matter. There are still many uncertainties concerning the **minor’s *curatore speciale*** (a kind of guardian ad litem) and counsel, above all with regard to the relations between these two figures and the minor and also the other parties in the proceedings. Moreover, there is no professional body to establish the professional skills that these figures should have and no indication is given as to who will pay these people for their work. A crucial issue, given the lack of any specific mention in law, is the creation of standard procedures to keep a child informed with regard to what is happening during the proceedings and to give weight to the opinions expressed by a child capable of forming his or her own views in relation to his or her own family situation and future⁷.

With regard to juvenile criminal procedure, the failure to reform the **prison rules** is noted with great concern. Proposed reforms for the **prison rules** were officially recorded by the Cabinet of the Minister of Justice on 15 January 2008. Unfortunately, these bills expired and no initiative has been taken in the current Parliament on this issue. Despite the fact that Parliament has failed to pass any legislation on this issue, it should be noted that there have been numerous initiatives and considerable debate aimed at promoting the introduction of specific juvenile prison rules.

¹ Juvenile courts were first introduced in Italy in 1934.

² Parliamentary Bills A.S.178 and A.C. 393 presented 29 April 2008.

³ Ruling 19406/2007, and Ruling 19909/2007.

⁴ Parliamentary Bill A.S.1211 presented 17 November 2008 and A.S.1412 presented 26 February 2009.

⁵ For example Art. 537 of the Civil Code.

⁶ For example Art. 252 of the Civil Code.

⁷ See also Chapter V, section “A panorama of national and international adoption in Italy”.



Gruppo CRC, therefore, recommends that the Italian Government should:

1. Proceed with the reform of the juvenile justice system, which must be managed by a single, specialised body.
2. Reform existing legislation concerning the court-appointed defence of children in proceedings concerning parental responsibility and declarations of adoptability.
3. Re-examine the proposals recorded by the Cabinet of the Minister of Justice on 15 January 2008 so that a bill for the reform of juvenile prison rules can be drafted without delay.

b) Social policies for children and adolescents

CRC/C/15/Add.198, paragraph 3, subparagraph d, paragraph 21, subparagraphs c, d, e

A great deal has changed since the last Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report) was published in 2001 in relation to the planning and implementation of social policies in favour of children and adolescents.

The most important developments are:

- **The entry into force of Law 328/2000 created a single National Fund for Social Policies** which includes the 70% of the National Fund for Children and Adolescents introduced by Law 285/1997. Law 328/2000 has, therefore, created a single, general fund without limits on individual items of expenditure and with funds allocated on a yearly basis in the Government's annual budgets compared with the three-year funding of the previous National Fund for Children and Adolescents.
- **The change to Title V of the Constitution⁸ in 2001 transferred exclusive responsibility for social policies to the regions**, with the minimum levels of social services to be provided throughout the country fixed in the Essential Levels of Social Assistance introduced by Law 328/2000.

These legislative and institutional changes have brought about an authentic revolution with regard to the implementation of policies in favour of children and adolescents:

- regions have been given exclusive responsibility for the planning and programming of social policies, although they must respect the framework provisions of Law 328/2000 and the LIVEAS; as a result, even the drawing up of (or the failure to draw up) the National Action Plan for Children by

the Central Government has lost its original importance, as this has now become just a steering document;

- there has been a shift in focus away from the promotion of children's rights, which was the focus of Law 285/1997, towards the "social services" (Law 38/2000), giving rise to a *de facto* shift from tried and tested policies of the past towards problems of social exclusion;
- the LIVEAS are meant to identify the minimum standards that must be met throughout the country, but the Government has so far failed to agree on these levels with the regions, after consultations with local government, which actually provides the services;
- considerable differences now exist between the fifteen metropolitan areas⁹ (which continue to receive 30% of the Fund in accordance with Law 285/1997) and the rest of the country.

The devolution of power from central government to the regions in the area of social policies is rather worrying with regard to equal access, the enjoyment and protection of the rights and opportunities of all children, independently of the region in which they live, as was highlighted in the Government Report.

The allocation of financial resources and the decision of where to invest is now the responsibility of regions, and, as a result, depend on the specific social problems and financial resources of each region.

It should be remembered here that the UN Committee on the Rights of the Child stated that the Government of a State Party is directly responsible for fulfilling the obligations that derive from the CRC¹⁰. For this to be possible, it is essential that the LIVEAS are clearly defined at the earliest possible opportunity; **it is extremely worrying to note, therefore**, that even though this was made a priority in the "2006-2008 National Report on Social Security and Social Inclusion Strategies" (NAP Inclusion)¹¹, **these levels have still not been set 10 years after Law 328/2000 came into force**. It would also be a good idea to study the tools needed to monitor the various social policies.

With regard to **identifying political priorities relating to children and adolescents** at a national level, it is worrying to see that the nuclear family is the focus of attention for social policies aimed at minors.

⁹ Venice, Milan, Turin, Genoa, Bologna, Florence, Rome, Naples, Bari, Brindisi, Taranto, Reggio Calabria, Catania, Palermo and Cagliari (in accordance with Art. 1, paragraph 2, Law 285/1997).

¹⁰ UN Committee on the Rights of the Child, General Comment No. 5, paragraphs 40-41.

¹¹ Published by the Ministry for Employment and Social Welfare, the Ministry for Social Solidarity and the Ministry of Health, November 2006.

⁸ Constitutional Law 3/2001.



NAP Inclusion 2008-2010¹² identifies the goals and strategic challenges relating to the situation of children in Italy, setting the minimum standards to be achieved by 2013 and identifying the indicators that can reveal whether these goals have been achieved.

Finally, it is important not to underestimate the consequences of the far-reaching legislative reform underway concerning “Fiscal Federalism”¹³, as, in the next few years, it will radically alter the way that funds are transferred from Central Government to local service providers. This reform introduces the concept of “standard costs” for the regions, also with regard to social services, and this will determine how much is invested by regions in the various services.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Define the LIVEAS, so that children and adolescents can enjoy the same level of rights throughout the country, and actively promote these rights, placing special emphasis on children from the most vulnerable groups.
2. Promote a mechanism to constantly monitor the priorities of regional social policies in favour of children and adolescents to prevent devolution from creating inequalities between regions in terms of the enjoyment of their rights.
3. Amend the “general” laws relating to children and adolescents, such as Law 451/1997, in the wake of the changes introduced to Title V of the Constitution, with the greatest possible attention being paid to the impact the proposed reforms, above all “Fiscal Federalism”, could have on the rights of children.

2. THE RESOURCES ALLOCATED FOR CHILDREN AND ADOLESCENTS IN ITALY

CRC/C/15/Add. 198, paragraph 9

a) In Italy

Despite the fact that greater attention is being paid to children's rights, it is still not possible to discover exactly how much of the national budget is being spent on policies for children and adolescents. Indeed, it is an extremely arduous task to monitor the allocation of resources on children in Italy.

There are no references in the Government Report to spending on juvenile justice, nor is there any mention of children or adolescents in the expenditure of the Ministry of the Interior, in investments in public works projects or in the social spending of regions using their own funds.

As far as **social welfare spending** is concerned, the data, which in any case, as mentioned in the Government Report¹⁴, also include “items for the family not necessarily intended for minors”, refers to 2005.

With regard to **social policies**, it should be noted that the entry into force of Law 328/2000 resulted in the creation of a single, general fund for social policies¹⁵ and, in practice, rendered obsolete **Law 285/1997** and the relative National Fund for Children and Adolescents¹⁶, as **only the metropolitan areas**¹⁷ continue to receive funds that can be used solely for projects in favour of children and adolescents. The funds being allocated for these purposes are slowly falling, however¹⁸, as is the money being allocated to the **National Fund for Social Policies** of the Ministry of Labour, Health and Social Policies, which is distributed between the regions and the autonomous provinces of Trento and Bolzano to finance the integrated system of social services¹⁹.

One positive development in the **2007 Budget Law**²⁰ was the introduction of a number of funds and tools that have a direct impact on policies for children and adolescents²¹. Unfortunately, the financing for these funds was cut in the 2009 budget and sizeable cuts are also expected in 2010 and 2011²². With regard to the **Fund for the Social Inclusion of**

¹⁴ See Government Report, pp. 11-12.

¹⁵ Law 328/2000: “Framework law for the creation of an integrated system of social services and activities”, Art. 20.

¹⁶ Law 285/1997: “Measures for the promotion of the rights and opportunities of children and adolescents”, Art. 1.

¹⁷ The metropolitan areas, as determined by Art. 2 of Law 285/1997, are Venice, Milan, Turin, Genoa, Bologna, Florence, Rome, Naples, Bari, Brindisi, Taranto, Reggio Calabria, Catania, Palermo and Cagliari.

¹⁸ The funding amounted to €44,466,940 in 2007 and €43,905,000 in 2008, while the multi-year budget in 2009 allocated €43,892,000 for 2009, €40,074,000 for 2010 and €40,074,000 for 2011 (see the 2009 Budget Law – Law 203/2008 – Table C, pp. 53-54).

¹⁹ The Budget Laws had allocated a total of €1,564,917,148 in 2007 and €1,582,815,000 in 2008, and the multi-year budget €1,311,555,000 in 2009, €1,029,957,000 in 2010 and €920,592,000 in 2011.

²⁰ Law 296/2006.

²¹ The Fund for Family Policies and the relative National Plan; the Fund for the Social Inclusion of Immigrants; the Fund for the National Plan against Sexual and Gender Violence (including violence against children), which are part of the Fund for Equal Opportunities; the Fund for Youth Policies (which also involves adolescents); Special Plan of Action for the development of regional socio-educational services (nurseries).

²² For a comparison of the multi-year financing for some of the funds mentioned, see Table C, published in the *Gazzetta Ufficiale – Supplemento Ordinario*, No. 285/L of 30.12.2008, pp. 37-73.

¹² Ministry of Labour, Health and Social Affairs, *Rapporto nazionale sulle strategie per la protezione sociale e l'inclusione sociale*, November 2008.

¹³ Law 42/2009: “Delegation to the Government on matters of Fiscal Federalism, in pursuance of Article 119 of the Constitution”, which came into force on 21 May 2009.



Immigrants²³, the sum of €50,000,000 allocated in 2007 for the years 2007, 2008 and 2009 in favour of children and adolescents, above all from the most vulnerable groups, such as Roma, Sintii and Camminanti, unaccompanied and second-generation foreign minors, was declared unconstitutional by the Constitutional Court, as these funds regard matters, such as the social services and education, for which the regions are responsible and not the State²⁴. An important development as regards **educational spending** on young children was the *Special plan for the development of an integrated system of social and educational services*²⁵: these funds, allocated for early childhood services, amounted, in 2008, to a total (including both State and regional funds) of €774,000,000, to which should be added €100,000,000²⁶ of State funds for 2009. With regard to **spending on health services**, the figures contained in the Government Report²⁷ refer to the entire population and the share allocated for children and adolescents has been calculated in relation to their demographic presence. The Government has failed to monitor spending on children and adolescents, as is also evident from the communications received by Gruppo CRC in reply to requests for further information.

The sum allocated for the **National Children's Rights Observatory** and the **National Childhood and Adolescence Documentation and Analysis Centre**, amounting to €1,500,000 for 2008²⁸ and 2009, is far less than the sum allocated for the National Observatory on the Family²⁹ (€2,500,000 for 2009). While funds have been expressly allocated to support the National Action Plan for the Family³⁰, there are no specific resources to support the National Action Plan for Children.

Considerable funds have been authorised over the last few years in the **fight against paedophilia**, such as the €6,000,000 allocated in the 2008 Budget Law for the Observatory for the Fight against Paedophilia and Child

Pornography³¹. Despite repeated requests on the part of Gruppo CRC for information concerning these funds, there has been no reply from the Ministry responsible³². The Government Report³³ would seem to indicate that these funds are in the budget of the Department of Equal Opportunities, under a specific heading.

Another positive development was the amount of money allocated in support of **international adoptions**, which in 2009 rose to €25,000,000³⁴.

There are still, however, many problems in identifying detailed reporting for the resources allocated to the aforementioned sectors in the past.

There are enormous differences between **regions** in terms of the amount spent on children and adolescents, but, unfortunately, there is no comparable data.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Introduce a monitoring system to analyse the amount of money that Italy allocates each year to children and adolescents, both globally and for each specific sector (taking into account the resources coming from the various Ministries, regions and local authorities), and increase the resources in the next budgets for the national funds that finance the services for children and adolescents.
2. Implement, and make accessible, a reporting system on allocated resources.
3. Introduce a common monitoring system at a regional level, accessible via the Internet, for social expenditure on children and adolescents, which is based on resources that are actually allocated.

b) Funding for children and adolescents in international cooperation

Italy's financial commitment in this field remains among the lowest in Europe. Moreover, Italy has failed to achieve any of the goals it officially declared as its priorities in international fora.

The movement which, in 2007, led to the tabling in Parliament of a draft Delegated Law³⁵ for the reform of international cooperation has still not died out, but international cooperation continues to be regulated by the 1987 law. The

²³ Created with the 2007 Budget Law, with an allocation of €50,000,000 for the years 2007, 2008 and 2009 (Art. 1, paragraph 1267).

²⁴ Constitutional Court, ruling 50/2008.

²⁵ See Chapter VI, section "Child care services (nurseries)".

²⁶ Ministerial Decree, 15 April 2009.

²⁷ See Government Report, pp. 11-12.

²⁸ Art. 1, paragraph 1, subparagraph b, Decree of 22 January 2008, cit.

²⁹ Established by Decree No. 242, 30 October 2007. Regulation concerning the "Creation and functioning of the National Family Observatory".

³⁰ In 2007 €10,000,000 was allocated to organise the National Conference on the Family aimed at drawing up the National Plan for the Family (Art. 1, paragraph 1, subparagraph d, Decree of 2 July 2007, cit.), with the same sum allocated in 2008 (Art. 1, paragraph 1, subparagraph d, Decree of 22 January 2008, cit.). For 2009, €3,000,000 has been set aside (Decree of 3 February 2009 of the Undersecretary of State with responsibility for Family Policy).

³¹ Art. 1, paragraph 1, subparagraph g), Decree of 22 January 2008, cit.

³² Department for Family Policy and then, following a name change, the Department of Equal Opportunities.

³³ See Government Report, p. 171.

³⁴ Decree of the Undersecretary of State with responsibility for Family Policy, 3 February 2009, subparagraph e), Art. 1.

³⁵ Draft Government Delegated Law, approved by the Cabinet on 12 January 2007.



recommendation to enact this law has been completely ignored and so, consequently, has the recommendation that Italy create a single, transparent fund for all public development aid. Despite the fact that the procedures for presenting projects promoted by Non-Governmental Organisations have been improved and are now far quicker and easier than in the past, a consistent Human Rights Based Approach (HRBA) for cooperation projects that influence strategic choices, *policy* and the implementation of Italian cooperation programmes has still not been introduced.

Monetary investment in Official Development Assistance (ODA) has generally been around 0.2%, a long way off the international objective 0.7% or even the European objective of 0.33% that should have been achieved in 2009. The 2009 Budget Law³⁶ confirmed a cut of 56% (€411,000,000) to the cooperation budget of the Ministry of Foreign Affairs. Even though the cooperation budget only accounts for around 0.1% of Government spending, it will account for 4.7% of the general cuts in public spending in 2009. This measure will obviously have immediate consequences on the Italian Government's ability to guarantee the necessary cover for existing commitments³⁷.

The **resources devoted to children**, as can be seen from the Government Report³⁸, amounted to €18,356,317.54 in 2006, €17,849,369 in 2007 and €19,234,752 in 2008, an increase of 11%. The promotion and protection of children should have a transversal role in all projects financed by Italian cooperation, using the HRBA. In the **three-year Strategic Plan** for 2009-2011, children are one of the four transversal themes, but there is a danger that the adjustments to the guidelines on children will not be completed because of a lack of financial resources.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Resume discussions on the reform of the Italian cooperation system.
2. Render transparent in their documents and the presentation of the budget in Parliament the exact resources they intend to allocate specifically for the financing of activities in favour of children and adolescents.
3. Introduce tools that can be used for the pre and post-assessment of child-centred projects to ensure the success of these projects and guarantee that they help those people for whom they were intended.

3. COORDINATION AT AN INSTITUTIONAL LEVEL AND BETWEEN INSTITUTIONS AND NGOs

CRC/C/15/Add.198, paragraph 10
CRC/C/OPSC/ITA/CO/1, paragraph 8

In 2003, the UN Committee on the Rights of the Child welcomed the establishment of the **National Observatory on Childhood and Adolescence** established by Law 451/1997. This agency coordinates work of central government, regions, local government, associations, professional orders and non-governmental organisations involved with children. There are, however, a number of problems regarding the way in which it functions. Firstly, there is a lack of continuity in its work³⁹ and, secondly, no children have been able to participate in any of the work or meetings of the Observatory, not even merely as observers⁴⁰. A further problem is the **new institutional setting** resulting from the changes introduced to **Title V, Part II, of the Constitution in 2001**. As a result of central government handing over competence for social policies to the regions⁴¹, the most recent version of the regulations concerning the Observatory⁴² state that the regions, in accordance with the autonomous provinces of Trento and Bolzano, must adopt suitable measures to coordinate the collection and processing at a local level of all data concerning the situation of children and adolescents within a region. It was, however, impossible to obtain information on whether this information was actually being sent and so there are still doubts as to the efficacy of the coordination between central and regional government. The State-Regions Conference should set up an internal working group to coordinate the planning and implementation of policies aimed at children and adolescents⁴³.

As far as the other coordinating bodies are concerned, it must be pointed out that the **overlapping of several Ministries**⁴⁴, not just with regard to planning, but also to the implementation and monitoring of activities aimed at the

³⁹ The Observatory met on three occasions in 2003, on two occasions in 2004, three occasions in 2005, one occasion in 2006, one occasion in 2007, one occasion in 2008 and just one occasion in 2009. The Observatory met again on 14 July 2010 to submit a draft of the Childhood Plan revised by the Government.

⁴⁰ See Chapter III, section "Child participation (Art. 12, paragraph 1)" for further details.

⁴¹ Constitutional Law 3/2001.

⁴² Art. 1, paragraph 4, Presidential Decree 103/2007.

⁴³ Art. 7, paragraph 2, of Legislative Decree 281/1997 allows this.

⁴⁴ Ministry of Labour, Health and Social Policies, Department for Family Policies, Ministry for Youth Policies, Department of Equal Opportunities, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Education, University and Research, Ministry for Economic Development – Department for Communications.

³⁶ Law 203/2008, Table C.

³⁷ At the end of 2009 €129 million were allocated for 2009.

³⁸ See Government Report, p. 13.



promotion and protection of children's rights, as well as the mushrooming of bodies⁴⁵ responsible for coordinating these issues, have given rise over the years to problems, delays and considerable red tape as regards the adopting and implementing of policies in favour of children and adolescents. Referring specifically to those agencies mentioned in the Government Report, it must be stated that, after they have been set up, there tends to be a certain lack of continuity in their work, which has made it difficult for them to achieve their goals. It is still not known, for example, who the members of the **Observatory Against Paedophilia and Child Pornography** are meant to be, even though it was established by Law 38/2006 and the regulations for its functioning⁴⁶ came into force on 5 January 2008. The **Coordinating Committee of the Government and the social partners in the fight against child labour** has not been convened since November 2007, and the **Observatory on Prostitution and Related Crimes**, established by the Ministry of the Interior in 2007 is no longer operational. At a **regional level**, while it is to be applauded that, as highlighted in the Government Report⁴⁷, most regions have passed legislation creating Observatories or Regional Centres for Children's Rights (15 out of 20 regions), only eleven regions have actually done anything with these agencies and, in April 2008, only six of them were fully operational⁴⁸.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Ensure, also by providing sufficient financial resources, the continuity of the work of the National Observatory on Childhood and Adolescents, introducing the necessary forms of coordination with the regions, and promote the participation of children.
2. Identify the legislative tools needed to harmonise the legislation that has been introduced in recent years and has altered the legal system (Law 451/1997 and Constitutional Law 3/2001 amending Title V, part II, of the Constitution).
3. Redefine the functions and tasks of the National Childhood and Adolescence Documentation and Analysis Centre so as to create a structured system of regional Centres or Observatories that can help overcome the problem of the lack of information on the situation of children and the services provided for them at a local and regional levels.

⁴⁵ National Observatory on Children and Adolescence, National Observatory on the Family, Inter-Ministerial Committee on Human Rights (CIDU), Inter-Ministerial Committee for the Fight Against Paedophilia (CICLOPE), Commission for Intercountry Adoptions (CAI), Foreign Children Committee, Observatory on Prostitution and Related Crimes, the Advisory Board for the problems of foreign immigrants and their families, the various inter-ministerial and other committees on specific issues, such as the combating of child labour and trafficking in human beings.

⁴⁶ Ministerial Decree No. 240, 30 October 2007.

⁴⁷ See Government Report, p. 11.

⁴⁸ Osservatorio «minori», *Le esperienze regionali per la conoscenza dell'infanzia e dell'adolescenza*, Valerio Belotti, in *Prospettive Sociali e Sanitarie*, No. 20/2008.

4. NATIONAL ACTION PLAN FOR CHILDREN

CRC/C/15/Add. 198, paragraph 12 and 13
CRC/C/OPSC/ITA/CO/1, paragraph 10

Italy has been without a new National Action Plan for Children since 2004. The last Plan approved was for the period 2002-2004. Only two National Plans have been approved in the 12 years since Law 451/1997 came into force⁴⁹.

This is despite the fact that, in 2003, the UN Committee on the Rights of the Child, following a meeting with the Italian delegation, had "noted that the new Action Plan for Children was about to be discussed by Parliament" and that, in 2006, the UN Committee on the Rights of the Child had noted, once more following a meeting with the Government delegation, that the Government was "concluding and about to adopt the National Action Plan". It appears from the Government Report that the implementation of these National Plans was monitored, but nothing appears to have been published.

One positive development was the reintroduction and reorganisation⁵⁰ of the **National Observatory on Childhood and Adolescence** in 2007⁵¹. The task of this agency is to draw up the National Action Plan for Children, but the drafting of the National Action Plan for Children, which was interrupted at the end of the previous Parliament, was only resumed on 26 February 2009.

At the time of writing, even though the Observatory had handed over a draft of the future National Action Plan for Children to the competent Ministries and despite the fact that it had already been announced that the Plan would be presented during the National Children's Conference (November 2009) and then at the end of January 2010, the Action Plan had still not been approved or made public. The Observatory was convened once more on 14 July 2010 for the presentation of the draft Action Plan as revised by the Government. This revision has been criticised by numerous associations as a result of the Government's decision to reduce the part devoted to "participation" and "interculturality".

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Adopt the new National Action Plan for Children as speedily as possible, in line with the indications contained in the Presidential Decree 103/2007.

⁴⁹ 2000-2001 National Action Plan for the protection and development of children; 2002-2004 National Action Plan for the protection and development of children.

⁵⁰ DPR No. 103, 14 May 2007.

⁵¹ See section, "Coordination at an institutional level and between institutions and NGOs".



5. NATIONAL OMBUDSPERSON FOR CHILDREN

CRC/C/15/Add. 198, paragraphs 14 and 15
CRC/C/OPSC/ITA/CO/1, paragraph 17

Numerous bills have been presented in Parliament over the years, including the current Parliament, on the creation of both a national Ombudsperson for the rights of the child and a national independent institution for the promotion and protection of human rights. Their passage through Parliament has always been slow and strewn with obstacles, and neither of these two figures has yet seen the light of day.

With regard to the creation of a **National Ombudsperson for the Rights of the Child**, the Government presented its own bill to the Chamber of Deputies in 2008⁵² and this bill is currently being examined in the lower house together with the other bills presented by both Government and Opposition members⁵³. While appreciating this initiative on the part of the Government, it must be added that the **Government's bill**, as it stands, does not meet international standards on the topic, as outlined in key documents, such as the Paris Principles, General Comment No.2 of the UN Committee on the Rights of the Child in 2002 and the Guidelines of ENOC (*European Network of Ombudspersons for Children*). There are various flaws, with regard to the lack of the necessary hierarchical and functional independence, the lack of sufficient financial and human resources, and a lack of incisiveness with regard to its competencies⁵⁴.

At a regional level, almost all the regions have passed a regional Law creating an Ombudsperson for the Rights of the Child⁵⁵. At the time of writing, however, the Ombudsperson was only actually operating, with a variety

of approaches, in **7 regions**⁵⁶ and in the **autonomous province of Trento**. It should be mentioned, as highlighted in the Government Report⁵⁷, that the 2002 regional law that created the Children's Ombudsperson in the **Marche** was repealed in 2008 and a new figure introduced: "the regional Ombudsperson for the rights of adults and children"⁵⁸, who is responsible for defending the rights of citizens, prisoners and children. These tasks are currently being performed by the general Ombudsperson. In **Friuli Venezia Giulia**, the figure of the regional Ombudsperson, created in 1994, was abolished in 2008 to help improve the region's finances, with the President of the Regional Council temporarily assuming the Ombudsperson's functions. In May 2010, the region modified the two regional laws on early childhood services and family support, passing a law re-introducing an independent Ombudsperson for Children, whose functions, until his or her appointment, are being performed by the President of the Regional Council⁵⁹.

In September 2010 the resident on the regional council resigned also as the regional Ombudsman for children and an amendment has been presented at regional level to modify the current law and plug the gap.

At the beginning of 2009, the **autonomous province of Trento** also passed a law abolishing the Ombudsperson for the Rights of the Child (created in 2007), assigning the Ombudsperson's tasks to the general Ombudsperson⁶⁰. In Liguria, too, the functions of the Ombudsperson for the Rights of the Child have been assigned to the general Ombudsperson until the children's Ombudsperson is appointed.

There are **considerable differences** at a regional level **as regards** these children's Ombudsperson in terms of both their appointment, structure, composition and tasks⁶¹, and the operational difficulties encountered by those Ombudsperson who have so far been appointed⁶².

There are also a few examples of Ombudsperson for the Rights of the Child at a provincial level⁶³.

The difficulties encountered in trying to create a **national independent institution for the promotion and protection of human rights** are similar to those encountered in the case of

⁵² Parliamentary Bill A.C. 2008 approved by the Cabinet on 1 August 2008 and presented to the Chamber of Deputies on 11 December 2008.

⁵³ Parliamentary Bills A.C. 127, A.C. 349, A.C. 1197, A.C. 858, A.C. 1591, A.C. 1913 and A.C. 2199.

⁵⁴ On 22 April 2009, 52 associations from the Gruppo CRC sent a letter to the Constitutional Affairs and Social Affairs Committees in which they expressed their concern over these shortcomings.

⁵⁵ Tuscany (Regional Law 26/2010); Autonomous Province of Bolzano (Regional Law 3/2009); Piedmont (Regional Law 31/2009); Umbria (Regional Law 18/2009), Lombardy (Regional Law 6/2009), Abruzzo (Regional Law 46/1988), Veneto (Regional Law 42/1988), Basilicata (Regional Law 15/1990), Friuli Venezia Giulia (Regional Law 49/1993), Marche (Regional Law 18/2002), Lazio (Regional Law 38/2002), Calabria (Regional Law 28/2004), Emilia Romagna (Regional Law 9/2005), Puglia (Art. 30, Regional Law 19/2006), Campania (Regional Law 17/2006), Molise (Regional Law 32/2006), Liguria (Regional Law 9/2007 as modified by Art. 3 of Regional Law 38/2009) and the Autonomous Province of Trento (P.L. 1/2009).

⁵⁶ Veneto, Friuli Venezia Giulia, Marche, Lazio, Campania, Molise, Liguria, Autonomous Province of Trento. Abruzzo and Basilicata passed regional laws to delegate the role of the Ombudsman for the Rights of the Child to the regional UNICEF committees.

⁵⁷ See Government Report, p. 19.

⁵⁸ See Regional Law 23/2008, published in the BU No. 75, 7 August 2008.

⁵⁹ Ordinary supplement No. 18, 22/08/2008, to the BUR No. 34, 20/08/2008, pp. 29-30, and R.L. No.7, 24 May 2010, Art. 48ff.

⁶⁰ Regional Law 1/2009.

⁶¹ For example, not all Ombudspersons are allowed to receive reports on violations of rights from the children themselves.

⁶² For example, more than a year after being appointed, the Ombudsperson in Molise still did not have an Office with the necessary human and material resources, while the children's Ombudsperson in the Veneto asked for his Office to be reorganised to enable it to function more efficiently.

⁶³ For example, the provinces of Foggia, Cagliari and Nuoro.



the National Ombudsperson for the Rights of the Child. Various bills have been presented in both the current and previous Parliaments⁶⁴, most of which, in any case, fail to meet the basic, internationally established criteria concerning independence and guarantees. So far only one of these bills, A.S. 1223, is being examined by the relevant parliamentary committees (as of March 2010).

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Pass the law providing the economic and human resources necessary for it to function correctly in line with the minimum standards outlined in General Comment No. 2 of the UN Committee on the Rights of the Child, the Paris Principles and the treaties ratified by Italy.
2. Pass identical laws for the creation of regional Ombudspersons for the Rights of the Child and proceed without delay with their appointment, guaranteeing the necessary coordination with the future National Ombudsperson for the Rights of the Child. This national Ombudsperson, who is either totally independent or part of a national independent institution for the promotion and protection of human rights, must be independent from a hierarchical and functional point of view, have a high level of specialisation and be provided with the necessary resources.
2. Collect, compare and monitor regional legislation on this matter and encourage cooperation between the State, regions, institutions, the third sector and the children themselves.

6. DATA COLLECTION

CRC/C/15/Add. 198, paragraphs 16 and 17
CRC/C/OPSC/ITA/CO/1, paragraphs 13 and 14

Gruppo CRC highlights the **shortcomings in the Italian data collection system**, especially as regards particularly vulnerable groups of children, despite the fact that, in some cases, there is a legal requirement to have up-to-date data banks. Gruppo CRC recognises that it is difficult to monitor and collect data for certain complex, continually changing phenomena. Nevertheless, the lack of data, or up-to-date data, regarding children who are being looked after by the social services is a serious matter. This lack of data makes it impossible to calculate the prevalence of the phenomena and also hinders the planning and introduction of the necessary policies and specialised activities. The UN Committee on the Rights of the Child concerns that in some areas data is still collected using a family-based approach rather than on an approach in which the child is considered as an autonomous being are still founded.

ISTAT (the National Statistics Institute), as mentioned in the

Government Report⁶⁵, produces and makes available information on the social, economic and environmental situation of the country, but this data is not always up-to-date, complete, comparable or focused on children.

The data made available by the Ministries, mentioned in the Government Report, has, in some cases, served to highlight the problems concerned with the data collected⁶⁶.

At a **regional level**, the different systems used to collect data often make it impossible to compare the data accurately. It still, nevertheless, emerges that there are enormous differences between the regions⁶⁷. With regard to **minors belonging to particularly vulnerable groups**, the data in the Government Report on **children who have been placed in foster care or in a community** referred to 2005 and did not include Sicily. There is still no data bank for children who have been declared adoptable or for couples looking for national or international adoptions, despite the fact that this is required by Art. 40 of Law 149/2001 and should have been created within 180 days of the law being passed. Moreover, there is no national system to record **child victims of ill-treatment**. The pilot project mentioned in the Government Report⁶⁸ has only been adopted by five regions and even in these regions it has only been experimented with in small areas, without ever becoming a “national system”. The data bank of the Observatory Against Paedophilia and Child Pornography is still not operational⁶⁹. Finally, there is no reliable data on **Italian and foreign children with disabilities** aged 0-5, as confirmed in a written communication sent to Gruppo CRC by the Ministry of Health in 2008 and as is also clear from the Government Report⁷⁰.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Take action to improve the system for the collection of data on children and ensure that, in addition to being up-to-date, the data is representative and comparable as regards the different regions.

⁶⁵ See Government Report, p. 19.

⁶⁶ For example, the data on unaccompanied foreign minors made available by the Foreign Minors Committee does not provide an exact photograph of the presence of unaccompanied foreign minors in Italy because it does not include all those minors who do not come into contact with the institutions, minors who have applied for asylum or minors from European Union Member States. There is no quantitative and qualitative disaggregated data that makes it possible to have a detailed picture of the phenomenon of trafficking in Italy and identify the different types of services provided or the forms of assistance that have been set up to help the victims.

⁶⁷ For example, only ten regions have a Records Office that it is capable of monitoring the educational career of children. Fifteen regions have set up a regional children's Observatory or Centre, but only eleven of these have actually done anything and, in April 2008, only six of them were fully operational.

⁶⁸ See Government Report, p. 82.

⁶⁹ See also Chapter VIII, section “Paedopornography”.

⁷⁰ See Footnote number 103 on Government Report, p. 95.

⁶⁴ Parliamentary Bills A.C. 1720, A.C. 1918, A.S. 1223 and A.S. 1424.

Chapter II

The definition of a CHILD IN ITALIAN law (art. 1)

Below the age of 18, depending on their level of maturity and development, as children grow older, they acquire certain rights with regard to their **consent or their being heard** in, for example, legal proceedings or medical treatment. In many situations, however, it is still not very common for children to be heard in Italy.

With regard to the hearing of children **in legal matters**¹, there have been major developments **in civil law matters**, following the entry into force of Law 149/2001 and Law 54/2006. In adoption proceedings, it is still necessary to hear the opinion of minors aged 12 and over and also minors under that age who are capable of forming their own views, as was already the case before the entry into force of Law 149/2001, while, in the case of proceedings regarding parental responsibility, the new law does not explicitly mention their right to be heard. With regard to the hearing of minors in separation proceedings involving their parents, there are different interpretations of Law 54/2006 and, as a result, the application of this law varies considerably. The same is true in **criminal matters**, where there are no standard procedures in Italy's courts.

With regard to **minors giving their consent for medical treatment**², despite the guidelines provided by the codes of conduct of professional bodies, there is still no systematic legislation in Italy indicating the principles and most correct ways to obtain a child's consent for medical treatment.

Finally, with regard to the recognition of the **opinions of unaccompanied foreign minors**, it must be pointed out that the guarantees resulting from Legislative Decree 25/2008, referred to in the Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report)³, are only applied in the case of minors seeking international protection (573 in 2008⁴) and not in the case of all unaccompanied foreign minors (7,797 on 31 December 2008⁵). Indeed, Legislative Decree 25/2008 refers

exclusively to the procedures used for the granting or rescinding of refugee status. Moreover, even in the case of unaccompanied foreign minors who are seeking asylum, the guarantees offered by Legislative Decree 25/2008, mentioned in the Government Report, are often ignored in practice, in particular with regard to the procedures indicated for determining their age, the starting of guardianship proceedings and the subsequent appointing of a guardian⁶.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Ensure that all persons under 18 years of age on Italian territory receive the protection that has been created for minors and consequently enjoy the rights enshrined in the CRC.

¹ See Chapter III, section "The hearing of minors in judicial proceedings" (Art. 12, paragraph 2).

² See Chapter VI, section "The right of children to be informed and heard as regards their health: informed consent".

³ See Government Report, page 154.

⁴ See Chapter VIII, section "Children seeking asylum".

⁵ See Chapter VIII, section "Unaccompanied foreign minors (EU and non-EU)".

⁶ See Chapter VIII, section "Unaccompanied foreign minors (EU and non-EU)", "Reception at the border of migrant children arriving by sea".

Chapter III

General PRINCIPLES OF THE CRC

☐ not implemented
☒ implemented

Non-discrimination

- ☐ 21. In accordance with article 2 and other related articles of the Convention and in line with its previous recommendations (ibid., paras. 17 and 18), the Committee recommends that the State party:
- (a) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes, and implement the recommendations of the Committee on the Elimination of Racial Discrimination (A/56/18, paras. 298 and 320);
 - (b) Strengthen its efforts to incriminate and take appropriate penal sanctions against any act of racism, racial discrimination, xenophobia and related intolerance;
 - (c) Carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake, on the basis of this evaluation, the necessary steps to prevent and eliminate discrimination through proactive measures;
 - (d) **Ensure that the devolution process will enhance the elimination of disparities between children, based on the wealth of the region to which they belong;**
 - (e) Continue to prioritize and target resources and social services to children belonging to the most vulnerable groups;
 - (f) Study promptly the situation of foreign children in detention, ensure their full rights without discrimination, especially to education, and ensure their right to integration into society.

Respect for the views of the child

26. The Committee recommends that:

- ☒ (a) Legislation governing procedure in courts and administrative proceedings ensure that a child capable of forming his or her own views has the right to express those views and that they be given due weight;
- ☐ (b) Particular emphasis be placed on the right of every child to participate in the family, at school, within other institutions and bodies and in society at large, with special attention to vulnerable groups;
- ☐ (c) Awareness-raising among the public at large, as well as education and training of professionals on the implementation of this principle, be reinforced.





General PRINCIPLES OF THE CRC

1. THE PRINCIPLE OF NON-DISCRIMINATION (ART. 2 CRC)

CRC/C/15/Add. 198, paragraphs 20 and 21

■ Discrimination against children born out of wedlock

Decisions relating to the care and maintenance of children born out of wedlock come under the jurisdiction of juvenile courts, while for children born into marriage the same matters are dealt with by the ordinary courts. Moreover, there is still a difference in treatment in matters of inheritance and the relations between a child born out of wedlock and the eventual legitimate family of the parent¹.

■ Discrimination against minors in nuclear families not legally resident in Italy

After it was made a crime to enter Italy and reside there illegally, all public officials and persons providing a public service must report to the authorities any migrant whose situation presents irregularities (Law 94/2009). It is believed that as a result of this law, for fear of being identified as irregular migrants and therefore expelled, parents who are irregularly resident in Italy avoid using public services, such as education and health, and local government offices (including civil records offices).

■ Discrimination against foreign minors with regard to access to health care

A series of health problems common to many foreign minors depend on their lack of **genuine access to prevention and primary health care**, and in particular on the delays with which they turn to health care structures and the very limited use they make of primary care paediatricians, especially after the entry into force of Law 94/2009. There are no national figures on the use that legally resident foreign families make of primary care paediatricians, though some indications are provided by local studies. What emerges is that a disproportionate number of foreign minors are treated in casualty departments or hospitalised.

■ Discrimination against children with disabilities

In practice, students with disabilities are isolated from their group-classes and placed in special areas where they receive individual attention, thereby creating what are in fact “special classes”. There are teachers who have no special training and find it difficult to deal with classes in which there are one or two students with disabilities and the process of inclusion tends to be passed on to the support teachers. Guided visits, educational visits, moments of play and recreation, and cultural activities may all “paradoxically” become situations of exclusion, above all for students with severe disabilities.

■ Discrimination against poor children

72% of Italian children classified as poor live in southern Italy². More than a third of the numerous families in southern Italy are classified as poor (37.5% of families with five or more members), and one in two families with three or more children are also classified as poor (48.9%). Italy is geographically divided by a high level of inequality, a problem that needs to be tackled through serious policies aimed at combatting child poverty. These policies should combine job creation schemes, income support schemes and other social welfare services. Moreover, the combating of poverty should be made a priority in the National Action Plan for Children³.

■ Adoption of suitable measures to prevent and eliminate regional inequalities

The UN Committee’s recommendation that the process of devolution should help eliminate inequality among children resulting from the wealth of the region in which they live has been totally ignored. Indeed, the Essential Levels of social services (LIVEAS) have still not been defined; 70% of the National Fund for Children and Adolescents has been included in a generic National Fund for social policies, while the remaining 30% has been allocated to the 15 metropolitan areas, thereby creating substantial differences between these areas and the rest of the country; and the Ombudsman for Children has only been appointed in 6 regions⁴.

¹ For example, Art. 252 of the Civil Code states that the placing of a child born out of wedlock into the legitimate family of one of the parents requires the consent of their partner. Art. 537 states that while children born out of wedlock receive the same share of inheritance as those born into marriage, the latter have the right to transform the share of the children born out of wedlock into money or other goods where they are in agreement. Where they are not in agreement, it is left to the court to decide.

² See ISTAT, *La povertà relativa in Italia 2007*, op. cit.

³ See Chapter VI, section “The situation of poor children and adolescents in Italy”.

⁴ See Chapter I, section “Social policies for children and adolescents”; “National children’s Ombudsperson”.



■ Discrimination against juvenile prisoners

Migrant children (above all unaccompanied minors), Roma, Sinti and Italians from the deprived areas of large cities in southern Italy, where unemployment is high and organised crime rife, are over-represented in Italy's juvenile correctional institutions (IPM).

Foreign minors, in particular, are more likely than Italian minors to have criminal action taken against them, they are convicted more frequently, they are held in pre-trial custody for longer periods, and they are less likely to receive alternative measures to custodial sentences, be pardoned or placed on pre-trial probation, even though the situation with regard to pre-trial probation and being placed in a community is improving. **Roma and Sinti minors** are also over-represented in the statistics concerning juvenile penal institutions, above all among girls, even though there is little reliable data on these minors as records are based on their nationalities.

■ Discrimination against children belonging to minority groups

There are still social difficulties with regard to the situation of Roma, Sinti and Camminanti children and adolescents, both Italians and non-Italians, as highlighted by the UN Committee on the Rights of the Child in its Concluding Observations in 2003, above all in the areas of health, social welfare, education and housing⁵. Hate speech is still used in public speeches and there continue to be episodes of racism against the Roma, both issues on which the UN Committee on the Rights of the Child expressed its concern. The situation of the Roma and Sinti communities is tackled using *exceptional* measures.

■ Discrimination due to of sexual orientation

There are no official studies or statistics that can be referred to as regards this issue. However, there is considerable scientific literature showing that homosexual adolescents are affected by a high-level of "*minority stress*", which can lead to self-injurious and suicidal behaviour. In the last few years there have been various cases in the news of suicides or attempted suicides linked to homophobia and serious problems of non-acceptance within the family.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Allocate sufficient economic resources to guarantee that the principle of non-discrimination is implemented, above all with regard to children and adolescents from the most vulnerable groups.

⁵ See Chapter VIII, section "Children from ethnic minorities: Roma, Sinti and Camminanti".

2. CHILD PARTICIPATION (ART. 12, PARAGRAPH 1)

CRC/C/15/Add. 198, paragraph 26

During the last few years the promotion of the participation of children and adolescents has increased significantly in Italy, above all as a result of Law 285/97 and the influence of important European and international research. This issue has still not fully entered the mainstream of social or institutional thinking, however. Any initiatives in which children and adolescents are involved tend to be organised at a mainly local level and are sporadic in nature. They are the result of the awareness of certain local administrations, the presence of non-governmental organisations and associations active in this field and/or schools involved in participatory processes. Where such processes exist, they are piecemeal and discontinuous, although there is considerable variety in terms of content and approaches.

In 2008, the National Observatory on Childhood and Adolescence began collecting examples of good practice through its own group on participation. This resulted in the first monitoring of the different experiences, initiatives and difficulties, which are described in one of the chapters of the draft National Action Plan for Children (PNI) drawn up by the Observatory. This part of the draft plan was completely rewritten in the revised version prepared by the Italian Government and submitted to the Observatory on 14 July 2010. The Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report) does not include detailed information with regard to paragraph 1 of Art. 12 of the CRC, concentrating instead only on paragraph 2, concerning the hearing of children in judicial proceedings.

The main areas in which there needs to be the active participation of children and adolescents in Italy include:

a) The consulting of children and adolescents

If adults are to promote a process of consultation, they must explain its goals and fix the boundaries. They must also explain very clearly the ways in which the children's opinions will be taken into account and developed in the various policies and actions, and explain how long this will take. It would be useful to complete the information contained in the Government Report with regard to two important initiatives taken at a national level. In December 2007, during the fifth anniversary of the United Nations General Assembly Special Session on



Children in 2002 (UNGASS), the Italian delegation contained two girls and two accompanying adults from the PIDIDA network ("For the Rights of Childhood and Adolescence"), who took part in the Children's Forum⁶. However, the involvement of these girls in the Government delegation was developed with the relevant institutions at a very late date, without giving them sufficient time to prepare and receive training on the topics being discussed during the event, as indicated should be done by the International Standards. Moreover, even though a national programme for the participation of children was started by the PIDIDA Coordination network in 2006, unfortunately nothing more came of this. No children were, therefore, involved in the drawing up of the National Action Plan for Children. In the light of what has happened, it must be stressed here that the relevant institutions must provide the necessary support, also of a logistical nature, and adopt a time frame that meets the needs of the children in order to ensure their effective participation. This means that consultations cannot drag on for years or be continually interrupted.

b) Children's councils

These councils were first created in Italy at the end of the 1990s with a variety of names⁷. It is essential, however, that the Government coordinates these different experiences and the bodies promoting them, through the creation, for example, of an *ad hoc* inter-institutional body that also includes associations and non-governmental organisations. Unfortunately, no official research has been carried out on these children's councils, nor is there any register of these councils, or any form of coordination at a national level. Universities have shown only a marginal interest in this phenomenon. Nevertheless, during the last few years, the number of these councils has gradually grown⁸, but none of the existing regional or national structures appears equipped to coordinate and support these different experiences at present.

c) Participation at school

The Ministry of Public Education in its "Indications for the curriculum for pre-schools and primary schools" (2007) recognised for the first time that participation is essential in order to create a positive climate and a democratic environment.

It is stated in the Government Report⁹ that teachers have a duty to listen to students at school and that students have a right to be heard, as laid down in the Charter of students' rights and duties. It is not common practice, however, to use the CRC in the planning of teaching activities or to involve children other than through very general processes entrusted to student bodies. Moreover, with reference to the **UN Committee on the Rights of the Child recommendation** asking for education to be improved, there is no specific mention in the Government Report of teacher training, nor is there any reference to a national teacher training programme to be implemented by the regions. What is needed is an involvement of students that goes beyond individual issues and has more to do with the curriculum, and this can be achieved by involving students in the governance of schools¹⁰.

As far as the **Provincial Councils of Students** are concerned, the extending of their mandate from one to two years could lead to improvements from an operational point of view, as there have been many cases in which little has been achieved in terms of quality as a result of the shortness of the mandates¹¹. The current **Ministry of Education, University and Research**, through the teachers who are the point of reference for these Councils, should encourage the creation of committees where schools can promote awareness about the promotion and safeguarding of children's rights.

Gruppo CRC recommends that the Italian Government should:

1. Resume its actions to involve children and adolescents in the monitoring of the current National Action Plan for Children and the drawing up of future Plans, with particular attention to children from vulnerable groups, through the involvement of local bodies and organisations working for and with children and adolescents, in respect of the international standards as regards participation.
2. Take into account Art. 12 of the CRC when setting the LIVEAS (essential levels of social assistance) and promote, at all levels, the hearing and involvement of children in the drafting and monitoring of policies that concern them.
3. Promote and support a national training programme for teachers on the question of participation and the techniques involved.

⁶ UNGASS + 5, World fit for children plus 5: www.unicef.org/worldfitforchildren/index.html.

⁷ In particular, over fifty councils from all over Italy met in the city of Reggio Emilia in June 2007 for three days to discuss the issue of representation and the different *modus operandi* of the various councils.

⁸ In Emilia Romagna, for example, according to the survey carried out by the association Camina, the number of councils has increased from 55 in 2003 to at least 80.

⁹ See Government Report, p. 45.

¹⁰ An example of good practice is the State Middle School Rinascita-Livi in Milan, where for years a council of student delegates elected by their classes has been involved in the *governance* of the school.

¹¹ Amendment to paragraph 1 of Art. 6, DPR 567/1996.



3. THE HEARING OF MINORS IN JUDICIAL PROCEEDINGS (ART. 12, PARAGRAPH 2)

CRC/C/15/Add. 198, paragraph 26

In civil law matters, important changes have resulted from the full entry into force of Law 149/2001 in July 2007 and the entry into force of Law 54/2006, with regard to the specific issue of the **hearing of minors**. While in **adoption proceedings** it is still necessary to hear the opinion of children aged 12 and over or younger children who are capable of forming their own views, as was already the case before the entry into force of Law 149/2001, in **proceedings regarding parental authority**, the new law does not explicitly mention their being heard. With regard to the hearing of minors in **separation proceedings**, despite the provisions of Law 54/2006, there remain different interpretations and the application of this law varies from court to court. There is no new legislation as regards **criminal matters**, and there continue to be no standard procedures adopted by the courts.

With regard to **civil matters**, the Government Report¹² draws attention to the importance of the interpretation that the Constitutional Court gave to Art. 12 of the CRC in its ruling 1/2002, where it stated that a minor is party in the technical sense of the term to all proceedings that concern him or her. A minor has the right to appoint a lawyer in all proceedings and not just where there is a conflict of interests with his or her parents. The situation is far less clear than in the past and there appears little chance of current legislation being applied uniformly throughout the country.

With regard to measures concerning **parental authority**, the Government claims in its Report that after the entry into force of Law 149/2001, the presence of a lawyer for a minor is required in all proceedings concerning matters of parental authority and not just where there is a conflict of interests between the minor's parents, and that the minor must be considered a party to the proceedings in the technical sense, with a right to be protected by a lawyer. This claim is not supported by most jurisprudence, however, and at the time of writing there were strong disagreements between juvenile courts, and also between the ordinary courts and certain sections of the Court of Appeal. The interpretation of most courts, and of all the juvenile courts in Milan¹³, is that, while awaiting a general reform of the matter, judges

may only appoint a *curatore speciale* (a sort of guardian ad item) for a minor when there is a conflict of interests between the minor and the parents, in accordance with the general principles of Art. 79 Code of Civil Procedures.

The situation with regard to the **procedures used to declare a child adoptable** leads to rather different considerations. Law 149/2001 states that a minor must be defended from the very start of proceedings, but Art. 10 of this law only allows the court to appoint a lawyer to represent the parents, not the minor. According to the general rules concerning a conflict of interests between the represented and representer, and in light of the natural conflict of interests between the parents and the child in these proceedings, juvenile courts can appoint a *curatore* (a sort of legal guardian) for the minor. If this *curatore* is a lawyer, he or she can defend the minor directly. Otherwise, he or she appoints a lawyer to defend the child's interests during the proceedings. Under any other circumstances, with the legislation as it currently stands, it does not appear possible for courts to appoint a lawyer directly to defend a child's interests. Finally, no protocols appear to have been developed in the courts to regulate the appointment of the **defence counsel and *curatore speciali*** of minors mentioned in the Government Report¹⁴. There are merely lists of defence counsel in the various courts based on the lists of court-appointed criminal defence lawyers. There is, therefore, a problem with regard to the specialisation of these *curatori* and defence counsel.

With regard to **separation and divorce proceedings, which come under the jurisdiction of the ordinary courts**, the Government Report makes certain claims that do not appear to be supported by doctrine or jurisprudence. While Law 54/2006 is supposed to be part of the measures to protect minors, it does not appear able to make them a party to these types of proceedings, however anomalous, as the Government Report claims. Becoming a party to legal proceedings means that being able to defend oneself, being able to start proceedings and being able to appeal against any decisions that are taken. None of these things are envisaged in the case of minors.

With regard to the obligation to hear minors and the ways in which they are to be heard, despite what is stated in the Government Report, the implementation of the law has given rise to a variety of different procedures. In order for the law to be implemented in the same way in all courts, various protocols have been produced by leading associations of lawyers and by representatives of juvenile court judges, who

¹² See Government Report, p. 34.

¹³ Milan Juvenile Court, 6 July 2007, in *Famiglia e minori*, October 2007, pp. 15ff.

¹⁴ See Government Report, p. 35.



are well-known and respected¹⁵. Once more, however, there are differences in interpretation between the different courts¹⁶. There is still no agreement on what needs to be done and, above all, there is no agreement on the crucial point of whether the failure to hear a minor in judicial proceedings renders the whole proceedings null and void or whether this decision is left to the discretion of the judges, who must then justify their decision.

Finally, the Government Report speaks at length about the **Strasbourg Convention of 25 January 1996** (ratified by Italy with Law 77/2003). The application of this law has been greatly limited by the statement made by the Ministry of Foreign Affairs when the instrument of ratification was deposited. The obligation to hear minors was restricted to matters of little importance and of limited application¹⁷. This situation does not appear to have been altered by the entry into force of Law 54/2006.

With regard to **criminal proceedings**, the instruments of special protection present in the Italian legal system¹⁸ with regard to the hearing of minors who are **victims of sexual and/or other crimes**, are still not used in the same way throughout Italy's courts.

With regard, in particular, to **the protective procedures used for child witness testimony** for child victims, even though they allow judges to call an expert in child psychology to provide support and to use a suitable setting for the cross-examination in the case of children under 16 years of age, these procedures have not been properly employed and do not always respect the child's rights. Moreover, protective hearings currently only apply to trials involving sexual crimes, with a few rare exceptions for other types of crimes, while their use should be extended and made compulsory for all trials involving child victims, including ill-treatment. Far too often, when children finally get to testify, they are mentally and physically exhausted as a result of the numerous occasions on which have been questioned and the many hearings they have to attend due mainly to a lack of coordination between the various investigative and judicial bodies. Moreover, they receive virtually no protection as often no emotional or psychological counselling is provided.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Carry out a complete reform of the system of legal aid and court-appointed lawyers.
2. Introduce specific training courses for the curatori and lawyers of children.
3. Adjust the statement made at the moment of ratification of the European Convention on the Exercise of Children's Rights so that the Convention can be applied in all judicial proceedings involving children.

¹⁵ For example, the Observatories for Civil Justice of Milan, Verona, Venice, Palermo and Salerno.

¹⁶ In the protocol drawn up by the Observatory for Civil Justice in Milan, it is not compulsory for minors to be heard. That decision is left to the discretion of the judge. The protocol drawn up by the Committee for Family and Minors of the Bar Council in Rome, on the other hand, states very clearly that a lawyer must be present when a minor is heard.

¹⁷ "Petition for a broader application of the Strasbourg Convention in the exercising of children's rights in the Italian legal system", UNICEF Italy.

¹⁸ Art. 11 and 13 of Law 66/1996.

Chapter IV

Civil RIGHTS AND FREEDOMS

☐ not implemented
☒ implemented

The right to an identity

28. In the light of article 7 of the Convention, the Committee recommends that the State party:
- (a) Ensure, as far as possible, respect for the child's right to know his or her parents' identity should it be an adopted child or a child born out of wedlock who has not been recognized by either of his or her parents;
 - (b) Urgently review and amend legislation in order to ensure that children born out of wedlock legally have from birth a mother (in accordance with the European Court on Human Rights' decision *Marckx v. Belgium* and the rule *mater semper certa est*) and encourage recognition of these children by their fathers (as a way to prevent "easy" abandonment of children);

Freedom of thought

30. In the light of articles 2, 14 and 29 of the Convention, the Committee recommends that the State party make sure that parents, in particular of foreign origin, when they are filling out the relevant forms, are aware that Catholic religious instruction is not compulsory.

Torture and ill-treatment

32. In line with its previous recommendations (*ibid.*, para. 20), the Committee recommends that the State party:
- (a) **Incorporate the crime of torture or other cruel, inhuman or degrading treatment or punishment into criminal law;**
 - (b) Set up child-sensitive mechanisms for receiving complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and within detention centres;
 - (c) Systematically train the police and carabinieri forces, as well as professionals at detention centres, on the human rights of children.
20. The Committee also suggests that the clear prevention and prohibition of torture or other cruel, inhuman or degrading treatment or punishment, as well as a ban on corporal punishment within the family, be reflected in the national legislation. (CRC/C/15/Add.41, 27 November 1995)





Civil RIGHTS AND FREEDOMS

1. THE RIGHT OF A BIRTH MOTHER TO DECIDE WHETHER OR NOT TO RECOGNISE HER NEWBORN BABY AND THE RIGHT OF THE CHILD TO HAVE AN IDENTITY

CRC/C/15/Add.198, paragraphs 27 and 28 subparagraphs a) and b)

The law currently in force in Italy attributes some important rights to women, while also safeguarding the child:

- **the right of a birth mother to decide whether or not to recognise her newborn baby as her child**, whether the child is born out of wedlock or into marriage¹;
- **the right to anonymous childbirth**, which must be guaranteed by all the health and social welfare services involved. **The civil records official**, after being notified by the health staff who delivered the baby, **gives the newborn child a first name and a surname**, prepares the birth certificate and contacts the juvenile court requesting it to declare the child adoptable; when the adoption is officially recognised (after a year of pre-adoption care), the child takes the surname of the adopting family and becomes their legitimate child;
- **the right of a birth mother to ask the juvenile court to suspend the declaration making the child adoptable** for a maximum of two months in order for her to decide on whether or not to recognise the newborn baby.

Italian law is clearly attempting to protect both the birth mother who has decided not to recognise her child, ensuring that she can give birth to the child in a suitable medical setting while maintaining her anonymity in the birth certificate, and also the newborn child, making sure that the birth takes place in the best possible conditions. **The right to a name** is guaranteed as the civil records office gives the newborn child a first name and a surname. When the child is adopted, this surname is replaced by that of the adoptive parents and the adopted child becomes their legitimate child, with the same rights and duties as children born into marriage. With regard to the **right to an identity**, the law forbids access to information about a person's origins in these cases, but it unfortunately does not include any mechanisms to check with

the passing of time whether it is still the wish of the biological mother not to reveal her identity². As explained in the Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report)³, this aspect of the law is based on the idea that “the guarantee of anonymity over time” ought to help the birth mother to make her choice in the knowledge that she will not be sought in the future. This principle was recently upheld by the Constitutional Court⁴.

The most recent **data on this phenomenon (2007)** show that 641 of the 1,344 children declared adoptable had not been recognised at birth. In 2006, they accounted for 501 out of 1,254 births, in 2005, 429 out of 1,168 births and, in 2004, 410 out of 1064 births⁵.

With regard to **access of adopted children to the identity of their biological parents**, Art. 28, paragraph 5, of Law 149/2001, establishes the **possibility** for an adopted person over 25 (this can be reduced to 18 years of age “if there are serious, demonstrable reasons relating to the persons psychological or physical well-being”) to access “information concerning his or her origins and the identity of his or her biological parents”. Juvenile Courts **may** authorise access to this information at the end of a procedure in which the judges hear whoever they deem necessary and collect all the necessary information. The same article also states that an adopted child must be “informed about his or her situation” and that “the adoptive parents will do this when and how they consider most appropriate”.

Finally, mention should also be made of the measure contained in **Law 94/2009** (Art. 1, paragraph 22, subparagraph g), making it **compulsory** for all non-Italians to **show their residence permits in order to obtain civil records**. In the case of a birth certificate or the recognition of a child, this measure could deter mothers from giving birth in public health structures because of their fear of

² Law 149/2001, Art. 28, paragraph 7: “The access to information is not allowed if the adopted person was not recognised at birth by the biological mother, and wherever even just one of the biological parents stated that they did not wish to be named, or gave their consent to adoption on condition that they remained anonymous”.

³ See the Government Report, p. 45.

⁴ Constitutional Court, ruling 425/2005.

⁵ Source: ISTAT elaborations of data from the Ministry of Justice's General Directorate of Information Systems.

¹ Constitutional Court ruling No. 171 of 5 May 1994.



being identified as irregular immigrants, and also of not being allowed to recognise their child and, therefore, of being separated from him or her⁶. It must be stated, however, that, on 7 August 2009, the Ministry of the Interior issued a circular containing “indications with regard to civil records” in which it is stated that “for any activities concerning birth certificates and the recognition of a child (*civil records office*), **it is not necessary to show documents regarding one's right to be in the country as these activities also safeguard the rights of the child and as such are in the public interest**”.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Introduce legislation obliging the regions to set up one or more highly specialised services (to be run by the bodies that actually provide these services), capable of offering pregnant women, irrespective of their residency or citizenship, all the necessary services and support so that they can make informed choices, free from any social and/or family conditioning, with regard to whether or not to recognise their child.

2. THE RIGHT TO THE FREEDOM OF ASSOCIATION

While it is true that Article 18 of the Italian Constitution expressly recognises the right of all citizens to the freedom of association, the exercising of that right by children is hindered by a number of provisions deriving from different laws. Minors do have the right to be members of an association, but there are difficulties with regard to their setting up and running formally created organisations. While in our legal system **legal capacity**, understood as a person's ability to have rights, duties and obligations⁷, is acquired at birth, the **capacity to act**⁸, which is a person's ability to validly perform legal acts (which allow the person to act on their own behalf, acquire rights or assume legal obligations), is usually acquired when a person reaches majority. That is why minors cannot perform all those acts that are legally required to create an association (a memorandum of association underwritten exclusively by minors is invalid in that none of these subjects has the capacity to act – or more precisely, the act is not in itself void, but it is voidable in court). Moreover, any obligation contracted in the name of or on behalf of the association would also be voidable, such as any contracts

entered into for the renting of the premises and any utilities. It might, theoretically, be possible to join and perhaps even “run” an association in which no capital obligations were entered into, but there would still be the problem of the validity of the bylaws, in relation to both the members of the association and to any third parties. In practice, there are no known cases of associations whose legal representatives are minors, while it is common for minors to be recognised as members of associations “run” by adults⁹.

In brief, Gruppo CRC intends to highlight the need to begin a phase of study and analysis to see whether it is possible for minors to exercise the right of association in relation to the setting up of associations (Child Led Organisations).

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Carry out an ad hoc monitoring of the possibility of exercising the right of the association as expressed in Art. 15 of the CRC, identifying good practices that make it possible to apply this article, working in collaboration with national networks and coordinating bodies for the third sector and youth organisations.
2. Find a way of harmonising constitutional principles and the CRC with the Civil Code in relation to the capacity to act, taking into account the legislation and norms that regulate the right of association in Italy, so as to allow the creation of Child Led Organisations.

3. THE RIGHT OF CHILDREN TO THE FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

CRC/C/15/Add.198, paragraph 30

In replying to the recommendations of the UN Committee on the Rights of the Child, the Government Report¹⁰ reiterates that “Catholic religious instruction (CRI) is optional”. It does not, however, contain information with regard to what has been done in the last few years to ensure that Catholic religious instruction is truly optional.

In order not to receive Catholic religious instruction, it is necessary to fill in a form¹¹. The Government Report does not provide any information on the availability of these forms in languages other than Italian, nor does it mention anything about how these forms are distributed.

⁶ See also Chapter VI, section “Access of non-Italian children to health care”.

⁷ Art. 1 of the Civil Code.

⁸ Art. 2 of the Civil Code.

⁹ Agesci, Arciragazzi and Legambiente (children's section).

¹⁰ See Government Report, p. 46.

¹¹ *MODULO D* – the form that must be filled in to exercise the right to choose whether or not to receive Catholic religious instruction.



From the **figures** in the Yearbook on Catholic religious instruction in Italy¹², published by the National Service of the Italian Episcopal Conference¹³, in collaboration with the *Osservatorio Socio-Religioso Triveneto*, it appears that **91.1%**¹⁴ of students received Catholic religious instruction during the 2007/2008 school year¹⁵.

Students who do not receive Catholic religious instruction ought to be able to choose between the following alternatives: a) extra lessons; b) study and/or individual research with the supervision of teaching staff; c) unsupervised study and/or individual research; d) release from school. As also highlighted in the Government Report, the choice of not receiving Catholic religious instruction is easier for students attending secondary school as they are old enough to enter school later or leave earlier. It is much more difficult for students attending pre-school or primary school¹⁶. Indeed, the statistics show that the percentage of students who do not receive Catholic religious instruction is highest in upper secondary school¹⁷.

In the Government Report, however, **there is no information or figures on the alternative activities that are offered by schools**. From the data contained in the Yearbook on Catholic religious instruction in Italy, in 48.1% of the cases the alternative activity chosen was release from school, in 9.9% it was extra lessons, in 17.2% supervised study and in 24.8% unsupervised study¹⁸. The figures seem to highlight the lack of valid teaching alternatives to the hour of CRI, above all in upper level secondary schools.

Finally, mention should be made of the fierce ongoing debate concerning the full participation of the teachers of CRI, or the alternative teaching activity to CRI, in the deliberations of the *consiglio di classe* (the panel of teachers who award the school credits). In July 2009, the Regional Administrative Court (TAR) of Lazio upheld two lawsuits brought before it by a group of students and by atheist and non-religious associations, ruling that since teachers of religious instruction have no right to contribute to the mark students receive with the subject they teach, they may not participate fully in the meetings in which students' end-of-year marks are decided on¹⁹ and that the school credits assigned for CRI

or alternative teaching activities are not legal. In August, the Ministry of Education, University and Research decided to appeal to the Council of State against this decision²⁰. The Council of State ruled that the school credits assigned for CRI are legal, putting them on the same level as the other alternative lessons. In practice, however, the other alternative lessons do not have the same "resources" and so this hour often become an hour of "free study". Alternatively, the students just come to school later or go home earlier.

Gruppo CRC recommends that the Italian Government should:

1. Introduce the necessary measures to ensure that all parents, especially non-Italians, are made aware of the fact, when enrolling their children, that they can choose not to receive CRI, providing information in the most common languages of the students attending the school.
2. Monitor the alternative activities offered and promote the introduction of valid teaching alternatives to contribute to the students' education.

4. THE RIGHT OF MINORS TO ACCESS APPROPRIATE INFORMATION

Given the massive growth in the use of information and communications technology in Italy, albeit a not very even distribution either socially or geographically and with forms that are not always accessible to children with disabilities²¹, it is necessary to highlight the flaws of the legislation aimed at protecting children when using these media. Insufficient attention is also paid to the quality of what is available in these media. The lack of long-term, global strategies between the different institutions involved has meant that any action that has been taken in this filed has been piecemeal and short-term. As a result, they are incapable of tackling the complex problem of protecting children using the new technologies.

There remains a clear economic and technological gap between the north and south of the country. ISTAT data for 2008²² show that in the north-west of the country 78.2% of

¹² *Annuario sull'insegnamento della religione cattolica in Italia. Anno scolastico 2007/2008 (quindicesima edizione)*.

¹³ The Italian Episcopal Conference (CEI) is the permanent assembly of Italian bishops.

¹⁴ The study was carried out on the basis of information provided by the Italian dioceses. *Annuario sull'insegnamento della religione cattolica in Italia*, op. cit., p. II.

¹⁵ *Annuario sull'insegnamento della religione cattolica in Italia*, op. cit., p. II.

¹⁶ See Government Report, p. 46.

¹⁷ *Annuario sull'insegnamento della religione cattolica in Italia*, op. cit., pp. II-III.

¹⁸ *Annuario sull'insegnamento della religione cattolica in Italia*, op. cit., p. X.

¹⁹ *Corriere della Sera*, www.corriere.it/cronache/09_agosto_12/religione_cei_contro_tar_fcab20ao-8720-11de-a53e-00144f02aabc.shtml.

²⁰ Press communiqué of the MIUR, 12 August 2009.

²¹ For example, there are Internet sites which are not accessible, i.e. they do not respect the W3C standards, television programmes for young children without subtitles and the infrequent use of a simplified language.

²² ISTAT, Multipurpose Study, *Aspetti della vita quotidiana - La vita quotidiana di bambini e ragazzi*, 17 November 2008 (specific module on children resulting from an agreement between the Italian national institute of statistics and the Ministry of Labour, Health and Social Policies).



families with children have a PC, compared to 61.4% in Sicily and Sardinia; at a national level, 88% of the families of business people, managers and self-employed professionals have a PC, compared to 57.1% of working-class families. More than 55% of children in the north of Italy attend courses outside of school compared to 39.7% in the south of the country, including Sicily and Sardinia. "Technology" can, however, help to reduce the *digital divide*: there is a higher percentage of families with children in the south of Italy who own encyclopaedias on CD roms or DVDs (23.3% compared to 18% in the North)²³. The increased use of new technologies has reduced the time children spend watching TV, shifting them from a passive form of behaviour to a more active approach in the way they use the media²⁴. Another positive development is that more and more children are reading **books** in their spare time, 68% in the north and 42% in the south. The legislation introduced until now to regulate the new media, from the simple use of **mobile phones** to the increased use of interactive forms of communication of **web 2.0**, with the inherent dangers of "grooming", bullying and the invasion of privacy, has many shortcomings and, in some cases, has already become obsolete. This situation has resulted in a flurry of activity by the various Authorities: from the numerous warnings issued to television and radio broadcasters about the inappropriate content of their programmes by the Italian Communications Authority²⁵ to the heavy fines imposed by the Italian Market and Competition Authority on the various mobile phone operators for unfair business practices aimed at children. Very little has been done in Parliament to tackle this matter. During the previous Parliament, just one bill was presented²⁶ and it did not become law. During the current Parliament, which opened on 8 June 2009, so far just one bill has been presented, but it has not been discussed yet²⁷.

The **Media and Children Code** mentioned in the Government Report²⁸, which is meant to regulate this area globally as "in 2000 there were already 13 self-regulatory codes", has still not been completed. This Code, which should have been approved in 2008, is meant to have the necessary tools to monitor and sanction broadcasting

companies, videogames producers, Internet providers and mobile phone operators. As a result, **various self-regulatory codes are still in force**²⁹. While the "TV and Children Code" and the "Internet and Children Code" include a "committee of application" with supervision and sanctioning powers, the remaining self-regulatory codes in Italy, including the "Code of conduct for premium rate services and the protection of children" for mobile phone operators, the Pegi Code for videogames and the self-regulatory code for advertising of the IAP, are all voluntary initiatives of companies that have adopted a common approach and the violation of these codes cannot be sanctioned by the institutions. Moreover, it should be noted that the committee applying the Internet and Children Code, appointed in 2004, has not been re-appointed since its mandate expired in 2007. The committee for the application of the TV and Children Code (subsequently renamed the "**Media and Minors Committee**") has continued its monitoring and sanctioning work uninterruptedly, however³⁰. In 2008, the "Media and Minors Committee" examined 228 complaints and began 69 disciplinary procedures. 28 were deemed violations, 40 resulted in warnings and 11 other cases the were forwarded to the Communications Authority. Finally, the National Users Council³¹, the regional Communications Committees, the Postal and Communications Police, the Financial Police and the various associations that protect the rights of users and private citizens have also carried out monitoring activities, in collaboration with the **Italian Communications Authority**. All these bodies have reported numerous infringements to the Communications Authority. Between 1 May 2007 and the 30 April 2008 the Communications Authority concluded 57 proceedings. With regard to the **Internet**, with the arrival of web 2.0 and the new communications platforms, as emerged from a recent study on the use of social networking among adolescents³², most of the boys and girls interviewed wanted providers to enable them to use these services more safely, with greater protection of their privacy and with information provided in a clearer, more easily understandable language. The Data Protection Ombudsman intervened on this issue, inviting social network service

²³ ISTAT, Multipurpose Study, *La lettura di libri in Italia – Anno 2006*, 10 May 2007.

²⁴ ISTAT, Multipurpose Study, *Aspetti della vita quotidiana - La vita quotidiana di bambini e ragazzi*, op. cit.

²⁵ See the yearly report of the Italian Communications Authority for 2008.

²⁶ Parliamentary Bill A.C. 3014.

²⁷ Parliamentary Bill A.C. 2495.

²⁸ See Government Report, p. 56.

²⁹ See the text of the audition of the President of the Italian Communications Authority before the Parliamentary Commission on Children on 30 October 2008.

³⁰ The new members of the Committee were appointed on 31 July 2009.

³¹ See Decision No. 19, 26 January 2009, of the National Council of Users and in general the entire report on this body's activities to protect children using the media.

³² Save the Children Italy, *Servizi WEB 2.0 e tutela dei diritti dell'infanzia e dell'adolescenza*, 10 February 2009.



providers to introduce technical solutions that can more easily protect the privacy of young users³³. The Data Protection Authority has also taken emergency measures³⁴, and warned the press and radio and television news broadcasters to respect the Treviso Charter. These initiatives are not sufficient, however.

What is needed is a more global approach, at both a legislative and educational level, in order to encourage an on-going dialogue with younger generations, educating them to adopt a more careful use of the new means of communication. Special attention must also be paid to the quality and quantity of information in the media and on how an excess of information can result in widespread disinformation.

Gruppo CRC recommends that the Italian Government should:

1. Correct the legislative flaws by drawing up and approving a new Media and Minors Code with the necessary tools to monitor and sanction the media.
2. Transpose EU Directive 2007/65/EC "Audiovisual Media Services" into law.
3. Introduce media education as a compulsory topic in primary schools and lower level secondary schools.

Other bills have been put before Parliament in the past. Italy, moreover, has still not ratified the **Optional Protocol to the CAT**, nor has the Government presented a ratification bill, despite the undertaking it gave to the United Nations when it submitted its candidacy to become, and was subsequently elected, a member of the the United Nations Human Rights Council in 2007. It must be mentioned, furthermore, that the 1995 recommendation concerning **corporal punishment** has been ignored³⁸.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Pass the necessary legislation to introduce the crime of torture into the Italian Criminal Code, thereby complying with repeated requests from the United Nations.
2. Ratify the Optional Protocol to the United Nations Convention against Torture in line with the undertakings it has given and also with its being a member of the United Nations Human Rights Council.

5. TORTURE

CRC/C/15/Add. 198, paragraph 32
CRC/C/15/Add.41, 1995, paragraph 20

The **recommendation** to introduce the crime of torture into the Italian Criminal Code **has not been followed up**. In February 2009, the Italian Senate, in a secret ballot, voted against the amendment to the Law and Order Bill (A.S. 733³⁵) that would have finally introduced this crime into the Italian Criminal Code³⁶ with 123 votes in favour, 129 votes against and 15 abstentions. During the current Parliament, four bills have been put before the Senate for the introduction of the crime of torture³⁷, but at the time of writing, the discussion of these bills had still not begun.

³³ Speech by the Data Protection Ombudsman on European Data Protection Day: *Social network: attenzione a non cadere nella rete*, 28 January 2009.

³⁴ New warnings and emergency measures by the Data Protection Authority concerning the Treviso Charter, 16 February 2009.

³⁵ Law 94/2009 was passed and came into force on 8 August 2009.

³⁶ The crime of torture was, however, introduced into the Italian Military Criminal Code by Law 6/2002, which applies to all "troops sent abroad on armed military operations", also "in times of peace".

³⁷ Parliamentary Bills A.S. 1237, A.S. 374, A.S. 256 and A.S.1596.

³⁸ See Chapter V, section "Ill-treatment and abuse within the family".

Chapter V

Family environment and alternative CARE

☐ not implemented
☒ implemented

Children deprived of family environment

- ☐ 34. In the light of article 20 of the Convention, the Committee recommends that the State party:
- (a) Take all necessary measures to ensure the implementation of Law 184/83;
 - (b) As a preventive measure, improve social assistance and support to families to help them with their child-rearing responsibilities, including through education and counselling of parents and community-based programmes;
 - (c) Take effective measures to develop alternative forms to institutionalization, such as foster care, family-type foster homes and other family-based alternative care, and place children in institutions only as a measure of last resort;
 - (d) Ensure regular inspections of institutions by independent bodies;
 - (e) Establish effective mechanisms for receiving and addressing complaints from children in care, monitor standards of care and, in the light of article 25 of the Convention, establish regular periodic review of placement.

Adoption

- ☒ 36. In the light of article 21 of the Convention, the Committee recommends that the State party take the necessary measures:
- ☒ (a) To harmonize proceedings and costs of domestic adoption among authorized agencies throughout the State party;
 - ☒ (b) To conclude bilateral agreements with (sending) countries that have not ratified the aforementioned Hague Convention.

Violence, abuse and neglect

- ☐ 38. In the light of article 19 of the Convention, the Committee recommends that the State party:
- (a) Undertake studies on violence, ill-treatment and abuse against children, especially those from vulnerable groups, including sexual abuse, particularly within the family and at schools in order to assess the extent, scope and nature of such practices;
 - (b) Develop awareness-raising campaigns with the involvement of children in order to prevent and combat child abuse;
 - (c) Amend its legislation regarding the existing age-limit set for a special protection against all forms of violence against children;
 - (d) Evaluate the work of existing structures and provide training to professionals involved in these types of cases;
 - (e) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse, within the family through a child-sensitive inquiry and judicial procedure, in order to ensure better protection for child victims, including their right to privacy.





Family environment and alternative CARE

1. PARENTAL SEPARATION

Law 54/2006 affirms, as a general principle, that the custody of the children and parental responsibility is shared between both parents, also in the case of civil partnerships. The Supreme Court¹ ruled that joint custody is a rule that can only be ignored in those cases in which the application of this law would be harmful to the best interests of the child.

In practice, the conflictual relationship that often characterises the period after the breakup of a marriage often interferes with this principle. Law 54/2006 includes, however, a number of tools which are aimed at safeguarding the principle of coparenting. This law is undoubtedly aimed at promoting a new era of children's rights within the family and we are confident that results will soon be seen. A review of the old laws in the civil code concerning parental responsibility is urgently required, however, in order to bring them into line with the new principles and to attach greater importance to parental responsibility.

With regard to **the rights of children and adolescents separated from parents who are in prison**, there have been no major changes during the last five years, even though far greater attention is now being paid to this issue, as demonstrated by the importance attached to the topic in the Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report). Nevertheless, the situation of **the 75,000 children in Italy who are separated from one (or both) parent because they are in prison**² is critical. These children constitute a group with special needs and they are greatly at risk unless they are provided with necessary assistance to help them come to terms with this experience. Children who visit a parent in prison are "invisible children" statistically speaking³. We know, however, that in the prison of San Vittore in Milan

alone 150 children go there every week to visit their fathers⁴. Prisons must be able to deal with these children. They must be listened to, respected and above all have their rights and needs recognised⁵. It would be a good idea, therefore, to monitor the presence of children in prisons and the effects of their presence. Long-term research should also be carried out on how the mechanisms of detention affect children in order to be able to provide them with the necessary support. Another critical issue is **the presence in prison of babies** living there with their mothers. These babies, besides living in an environment that is not suitable for a normal psychological and physical development⁶, then suffer the trauma of separation from their mothers at three years of age unless their mothers meet the requirements for house arrest in accordance with the so-called "Finocchiaro Law"⁷. The problems in applying this law, above all in the case of non-Italian or Roma women who do not have an abode in which they can be placed under house arrest, and the severe limitations resulting from the other requirements that have to be met for house arrest to be granted, reveal the need for this law to be amended. In June 2008, there were **58 babies in prison with their mothers**⁸, most of them in Lazio (19) and Lombardy (14). Mention must be made here of the experimental project ICAM ("Attenuated Custody Institute for Mothers") in Milan. In the two years since this project was begun almost 80 babies have stayed in this institute with their mothers. This is an example of an attempt to solve the problem by the Lombardy Prison Authorities, with the collaboration of the Province, Municipality and Region, by adopting a damage limitation approach.

Another crucial point, which has not yet been suitably tackled from a legislative point of view, is the need for prison staff to be made more aware of the consequences that the way the parent is arrested, treated and kept under surveillance in prison can have on the children. Training programmes should, therefore, be set up to deal with this

¹ Cf. Civil Court of Cassation, section I, 18 June 2008 No. 16593.

² Studio Eurochips – Centre for prison studies, November 2005, Paris.

³ In the official statistics of the Department of Prison Administration of the Ministry of Justice, there is always a table showing the number of children of the prison population in Italy (at the end of 2008 the official figure was 20,114 children who are separated from a parent in this way), but there is a note to the table which states: "The survey is limited to those subjects who are known to be fathers/mothers. It does not, therefore, include prisoners who do not have children or those for whom this information is not known".

⁴ March 2009 data from "Spazio Giallo", a project run by the association Bambinisenzasbarre in Milan.

⁵ The coordination of the non-governmental organisations of Relais Italia has drawn up a charter of the rights of children with parents in prison.

⁶ G. Biondi, *Lo sviluppo del bambino in carcere*, Franco Angeli, Milan, 1994.

⁷ Not awaiting judgement, having served a third of the sentence, having a child under 10 years of age and having a permanent abode in accordance with Law 40/2001.

⁸ www.giustizia.it.



issue. Special attention must be paid to the sensitive issue of the children's prison visits, bearing in mind that this is often the only way in which their relationship and emotional ties can be maintained.

Finally, it is necessary to provide adequate support for those projects and examples of good practices that can be turned into regular services financed normally by the relevant Ministries (Ministry of Justice, Ministry of Labour, Health and Social Policies) and local authorities.

Gruppo CRC also recommends that the Italian Government should:

1. Suitably reform the legislation concerning mothers in prison to prevent any interruption to the mother/child relationship (or father/child where the mother is absent) and to defend the principle that no limitations should be imposed on the personal freedom of children because of the circumstances of their parents.
2. Better monitor the family situation of incarcerated people and carry out a survey to discover the number of children who have one or both parents in prison, highlight the services that have already been activated to help them and plan suitable policies of support.
3. Improve the conditions and organisation of prisons by bringing them into line with Law 230/2000 concerning the implementation of the Italian Prison Rules, above all as regards Articles 37 (visits) and 39 (telephone conversations), and focus greater attention and resources on training the staff who supervise prison visits in relation to the rights of children with parents in prison.

2. FAMILY REUNIFICATION

The legislation currently in force is the result of a number of legislative changes, the most recent of which (not mentioned in the Government Report) was **Legislative Decree 160/2008**. This decree "modified and integrated" the transposition into Italian law of Directive 2003/86/EC⁹. Further changes were introduced by Law 94/2009 "Measures relating to public safety", which came into force on 8 August 2009. Although existing legislation contains many positive elements, there are a worrying series of measures in the recent law passed by the Government to protect "public safety" that tend to limit the right to family reunification. Moreover, there are various problems with regard to both

the wording and practical application of this law – problems that are not considered in the Government Report. Three problems, in particular, that need to be addressed are mentioned here as they affect the situation of minors.

Firstly, there is the problem of the **lengthy procedures** for family reunification, an important factor when children under 18 of age are involved, especially if they are of school age. Secondly, the *Testo Unico Immigrazione*¹⁰ (Consolidated Law on Immigration) regulates, above all, the situation of minors under 14 years of age whose names are registered on their parents, **residence permit. After 14 years of age** these minors must then apply for their own residence permit for family reasons, which remains "valid until the minor reaches the age of majority", or a "permanent residence card"¹¹. In practice, the provincial police headquarters normally issue children with a residence permit that is valid for the same length of time as that of their parents. As a result, children who were born or have grown up in Italy may lose their right to a residence permit before reaching majority if they are aged 14-18 and their parents' residence permit is revoked or not renewed. The indications contained in the circular letter issued by the Ministry of the Interior on 28 March 2008 have not altered this procedure.

Finally, in transposing Directive 2003/86/EC on the right to family reunification with **Legislative Decree 5/2007**, the Government changed a number of measures in the *T.U. Immigrazione*. The wording of the new measures gives rise to an important problem of interpretation. If these new measures are interpreted literally, the most favourable treatment when applying for the issue/renewal of a residence permit and/or when being faced by expulsion applies to foreigners arriving in Italy through family reunification procedures and excludes nuclear families formed in Italy. As regards children, the new measures paradoxically offer greater protection to children arriving in Italy through family reunification just before they reach majority than to children born in Italy, who are immediately registered on their parents' residence permit. As a result of the Ministry of Interior's failure to issue an alternative interpretation, the provincial police headquarters and *Prefecture* are applying a literal interpretation of these measures.

⁹ The Government Report talks instead about Legislative Decree 5/2007 transposing the European Directive into Italian law.

¹⁰ Art. 31, paragraph 2, *T.U. Immigrazione*.

¹¹ The "permanent residence card" has now been replaced by the EC residence permit for long-term residents.



Gruppo CRC, therefore, recommends that the Italian Government should:

1. Take internal measures to ensure that applications for family reunifications regarding children are prioritised and, therefore, dealt with more speedily than ordinary applications.
2. Issue a new circular in which it is made clear to all the provincial police headquarters that the residence permit issued to children over 14 years of age who were previously registered on their parents' residence permit must be issued with a residence permit that is valid "until they reach majority", in accordance with Art. 31, paragraph 2, T.U. Immigrazione.
3. Issue a circular in which it is stated that the new text of Art. 5, paragraph 5, and the new paragraph 2 bis of Art. 13 of T.U. Immigrazione, referring to foreigners who have "exercised the right of family reunification" or are a "relative who has arrived through family reunification", refers to all cases of people exercising their right to family unity, in accordance with Art. 28ff. of T.U. Immigrazione, thereby extending the provisions to nuclear families that have been created in Italy.

3. CHILDREN DEPRIVED OF THEIR FAMILY ENVIRONMENT

CRC/C/15/Add. 198, paragraph 34

Law 149/2001 established that children would no longer be placed in institutions after 13 December 2006 and would instead be placed in foster care or, where that was not possible, in family-type foster homes. In the Government Report¹², it is claimed that "formally" this has "almost been achieved", but, despite the excellent aims of the law, the situation in practice is far from perfect. The right of a child to grow up in a family environment is a **right that cannot always be exercised**, in that the services envisaged by this law are dependent on the resources of the State, regions and local authorities. This has meant the measures contained in this law have not always been implemented or that sometimes they have been interpreted and implemented in a way that was not intended.

a) Foster care

Not enough is being done to promote this invaluable tool to help children and their families in moments of difficulty, although there have been some positive developments. **Regions and local authorities** have, in general, failed to carry out their precise institutional duties adequately,

thereby limiting the use of foster care. In those regions where they have invested sufficiently and worked hard to implement this measure, such as **Liguria, Tuscany and Piedmont**¹³, the results have been positive.

At a national level, mention should be made of the foster campaign launched in 2004 and the national project for the promotion of foster care in 2008. The aim of this project is to study what has already been done in the field of foster care and see what can be learnt from past experience by "mapping" all the different bodies involved in foster care, the different types of training given and any "publications concerning the various experiences, contents and approaches so that they can be a point of reference at a national level; both culturally and operationally, with regard to the issues tackled".

From a **quantitative** point of view, according to the Government Report¹⁴ (December 2008), on **31 December 2005** there were **12,551** children in foster care in Italy. This figure is not complete, however, as it does not include, for example, Sicily. Analysing the available data, 70% of the placements were involuntary, 52% of the children in foster care were over 12 years of age, 60% of the children had been in foster care for more than two years, around 50% of the placements were with relatives, and the percentage of foreign minors in foster care¹⁵ increased from 6.6% in 1999 to 22% in 2005¹⁶.

The **Conference of the Regions** still has to approve the guidelines concerning foster care in order for it to be promoted nationally. The **regions** themselves must then pass specific legislation¹⁷ in order to provide the necessary services to ensure that all children have the right to grow up in a family environment and that the bodies which provide these services (individual municipalities or several municipalities working together) must then take the necessary decisions at a local level to make this right possible. It is also necessary to ensure that there is a sufficient number

¹² See Government Report, p. 69.

¹³ The high rate of foster care achieved in these three Regions (respectively 31, 27 and 21 children in foster care per 10,000 children resident in the Region, compared to a national average of around 12.6 – source the Government Report, op. cit. p. 76) is a result of a series of factors these three Regions have in common, such as the presence of public foster care centres, staff training and ongoing support for the families. Sometimes, however, these high figures are due to the good work of a single municipality or area. In **Liguria**, for example, it is the **Municipality of Genoa** that has the good practices.

¹⁴ See Government Report, p. 70.

¹⁵ The Municipality of Parma has been tackling the problem of unaccompanied foreign minors by placing them in **same-culture foster families**. Between 2000 and 2006, around 230 unaccompanied foreign minors were looked after in this way.

¹⁶ Figures from the first study on foster care carried out by the Italian National Childhood and Adolescence Documentation and Analysis Centre.



of suitably trained social workers and health staff to assist the families involved by drawing up the relevant protocols of collaboration.

Useful information on this topic can be found in a document published by the *Coordinamento Nazionale Servizi Affidato* (CNSA – National Coordination of Foster Care Services) in December 2007: “Proposals for guidelines on foster care based on the consolidated experience of the social welfare services and dialogue with the associations involved”¹⁸. This document should be further developed and used in the national project to promote foster care.

Foster parents clearly have a central role in the foster care project. They, therefore, need to be trained, assessed and provided with the necessary support. They should also be heard by social workers and juvenile judges before any important decisions are taken with regard to the children. As for the **length** of these placements, the main goal is to reunite the children with their original families where possible. The success or failure of a placement cannot be judged solely in terms of how long a child stays with a foster family before being reunited with his or her original family. Existing legislation even allows for long-term foster care where this is in the best interests of the child and is not the result of a “lack of care” on the part of the local authorities. Indeed, the two-year limit can be extended by juvenile courts, as already happens in various jurisdictions¹⁹. In hearings involving parental responsibility, juvenile courts can “order the removal of a child from his or her family home”²⁰ and have the child placed in the care of another family. In such cases, the placement may even be long-term²¹.

Examining the data in the Government Report²², it is not, therefore, surprising to find that 60% of foster placements last more than two years, considering that 70% of these placements were involuntary and that 52% of the children placed in foster care were over 12 years of age in 2005. It is necessary to change this situation and encourage voluntary foster care, agreed upon together with the child’s parents, and to place very small children in foster care as a form of prevention.

Juvenile courts should make sure that the relevant services fulfil their obligations to inform the Juvenile Court without

delay of any events of particular importance concerning foster placements and to submit a six-monthly report on all foster placements in accordance with Law 149/2001.

In the greater interests of the child, it is also essential that at the end of the period in foster care the right ways are found, specific to each individual case, to transfer the child and enable him or her to continue his or her relationship with the foster family. In the wake of recent negative experiences, we consider it important that the child maintain the emotional ties with the foster family and that all traumatic interruptions should be avoided. Art. 5, paragraph 1 (final part) of Law 149/2001, where it states that the “foster parents must always be heard in civil proceedings regarding parental responsibility, foster placements and the adoptability of their foster child” must always be observed. Unfortunately, this part of the law is often ignored. Whenever **a child who has been in foster care is declared adoptable**, the juvenile court must carefully assess the greater interests of the child and by law²³ the juvenile judge must, “on the basis of the investigations carried out, choose from among the couples that have applied for adoption the couple best able to meet the needs of the child”. The judge must, therefore, also consider the possibility of allowing the foster parents to adopt the child if they are deemed suitable and are willing to adopt.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. In pursuance of Law 149/2001, promote foster care at a regional level, by allocating sufficient funds, providing the necessary social workers and health staff, compiling regular statistics by monitoring the number and outcome of foster placements, and making the necessary support available, above all for difficult placements.
2. Ensure that juvenile courts carry out their tasks, in particular with regard to the regular assessment of foster placements and the situation of the original nuclear families in the form of six-monthly reports sent by the social welfare services; the application in all cases of Art. 5, paragraph 1 (final part), of Law 149/2001, namely that “foster parents must always be heard in civil proceedings regarding parental responsibility, foster placements and the adoptability of their foster child”.

¹⁷ See, for example, Piedmont Regional Law 1/2004.

¹⁸ 60 public bodies and 17 regions are members of this organisation. They develop specific issues through group work and then produce joint documents, with the involvement since 2001 of associations from the third sector.

¹⁹ For example, the Juvenile Courts of Piedmont and Val d’Aosta.

²⁰ Cf. Art. 330 and 333 of the Civil Code.

²¹ A.C. Moro. *Manuale di diritto minorile*, 2008.

²² See Government Report, p. 70.



b) Reception communities for children

Law 149/2001 states that “the regions, in so far as it falls within their competence and on the basis of the criteria established by the Standing Conference for the relations between State, Regions and the Autonomous Provinces of Trento and Bolzano, must **define the minimum standards of services and care** to be provided by family-type communities and institutions, and check regularly that these standards are met.” The criteria decided upon by the Conference of the Regions ²⁴ **only envisaged two types of communities, however: family-type communities**, located in normal homes with a maximum of six children, and **community-type structures**, with a maximum of 10 places, plus two more in the case of emergencies. Nothing is mentioned, however, with regard to standards or essential structures.

In order to prevent regional disparities, it is important to set minimum standards and criteria at a national level, which the regions must respect or improve on. These standards must also take into consideration the main functions of the different types of communities (for example, educational, family and educational, function-related-assessing parental rehabilitation or recovery from the harm suffered by children). At the time of writing, however, more than seven years after the entry into force of Law 149/2001 and more than two years after the deadline set for the elimination of institutions, there are still no national standards and there is a very real danger of there being important differences between the regions.

The **standards regarding the structures themselves** should be based on housing standards and there should be no centralised services or the placing together of different communities within the same building. Moreover, there should also be **quality criteria** concerning, for example, the maximum number of children, the length of their stay (making sure that this is only a temporary solution), the professional qualifications of the staff and the number educators.

With regard to the **structural and organisational standards**, these are only vaguely mentioned by Art. 11 of Law 328/2000. As for the **inspections of these structures**, as highlighted in the Government Report, Law 149/2001²⁵ requires that they submit a list of all the children in their care and a report on the children's relations with their families and their psychological and physical condition to the juvenile courts²⁶. This is to enable the juvenile prosecution service to speed

up the procedures to have a child declared adoptable, where necessary²⁷. The law also requires the juvenile prosecution service to carry out inspections (or order them to be carried out) every six months (inspections can, of course, be carried out by the juvenile prosecution services at any time), sending all the documentation together with a report to the juvenile court²⁸. This is not what happens in practice²⁹, however, and we urge full implementation of the legislation on children in communities.

As in the case of children placed in foster care, **there are no up-to-date figures on the number of children being cared for in “residential structures”**, the term used repeatedly in the Government Report. This term, however, is too generic as it includes very different types of services (for example, family-type foster homes, educational communities and institutions that have been internally reorganised into so-called “communities”). **The figures available date back to 31 December 2005:** at that time there were 2,226 residential structures, in which there were 11,543 children. This data is not complete, however, as it does not include the figures for 216 structures studied in Sicily in 2005 (because they were never received). From the last survey carried out over the phone, however³⁰, the Italian National Childhood and Adolescence Documentation and Analysis Centre states that, on 31 March 2009, the process of de-institutionalisation required by Law 149/2001 had, at least formally, been completed. At that date, there were just 15 children being looked after in three different institutions (two in Sicily and one in Puglia). There is no mention, however, of the criteria used to identify these places as institutions. As already mentioned, there are institutions which have been reorganised internally, with the creation of different apartments or housing units, which are still connected to one another, and there are far more than the six or ten children indicated by law in these so-called “communities”.

The data collected says nothing about the children's **length** of the stay, which is an important piece of information, considering that these children often “pass” from one structure to another. Nor does it include the children being looked after in the different types of health care structures or those in boarding schools. As far as is known, the children in these structures have never been quantified. The concern expressed by the UN Committee on the Rights of the Child

²³ Law 184/1983 (as amended), Art. 22, paragraph 5.

²⁴ The same criteria established by Ministerial Decree 308/2001, issued in application of Law 328/2000.

²⁵ Art. 9, paragraph 3.

²⁶ Art. 9 paragraph 2, first part.

²⁷ Art. 9 paragraph 2, second part.

²⁸ Art. 9 paragraph 3.

²⁹ See *Conclusioni della ricerca in merito all'attuazione da parte delle Procure della Repubblica presso i Tribunali per i Minorenni dei compiti inerenti le dichiarazioni di adottabilità*, published in *Prospettive Assistenziali* No. 157/2007.



in 2003 with regard to the excessive length of stay is still justified.

Another worrying factor is the data on the **age of the children**: 58 % are aged 12-17. We do not know how long they have been in care, nor what will happen to them in the future, but there is a danger that they will remain in these communities until they reach majority.

A rather unusual fact concerning the **unaccompanied foreign minors** in these communities must also be mentioned. A survey carried out by the National Association of Italian Municipalities (ANCI) concluded that it has become increasingly obvious that initial reception care must be supported, improved and extended, given that 62% of the children “disappear” after what is unquestionably a very short stay in the initial reception structures³¹.

We are extremely disappointed to note that a **register** of the children being cared for in residential structures has **still not been set up by all regions**. A register of this kind, kept constantly up-to-date, would make it possible to constantly monitor the presence of children in these structures and plan alternative solutions. The Government Report makes no mention of such a register.

In order to monitor the presence of children who actually live in these residential structures, it is essential to carry out a **new “census”** 10 years after the first national survey was carried out. Moreover, it is also necessary to create a **national register** that is kept constantly up-to-date as regards the number and age of children who are not living with their families, indicating the reasons and the length of stay, and ensuring that the same terminology is used in every region.

Gruppo CRC, therefore, repeats the same recommendations that the Italian Government should:

1. Revise the minimum standards for the different types of communities, which must be respected by all the regions in their legislation, without the possibility of different interpretations, thereby ensuring an accurate monitoring of the required standards, with the closure of those communities that do not meet these standards.
2. Carry out a careful monitoring of children in reception communities through the creation of reliable “data banks”, using identical criteria agreed upon by the State and regions.
3. Constantly monitor the situation of children in communities, in accordance with Law 149/2001, Art. 9, paragraphs 2 and 3, and Art. 25 of the CRC, in order to enable the children to exercise their right to live in a family environment.

³⁰ The previous surveys were also carried out over the phone.

4. A PANORAMA OF NATIONAL AND INTERNATIONAL ADOPTIONS IN ITALY

CRC/C15/Add.198, paragraph 36

As mentioned in the Government Report³², and in line with the recommendation put forward by the UN Committee on the Rights of the Child, the Commission for International Adoptions (CAI)³³ **harmonised the costs of adoption** in 2003. Tables were drawn up to identify the parameters on which the minimum and maximum charges that can be applied were based. The authorised agencies – there are currently 74 officially recognised agencies in Italy – have been divided up into three categories on the basis of the services they provide and the charges they apply. It is clearly necessary, however, to periodically check the charges which these agencies say they apply and the amount that couples actually pay³⁴. Gruppo CRC has, in fact, complained on more than one occasion that the checks carried out on the activities of these authorised agencies are rather random, above all in the countries of origin of the children, where the phenomenon of “*child laundering*” should not be underestimated.

With regard to the UN Committee’s second recommendation, almost half of foreign adoptions in Italy are from countries that have **not ratified the Hague Convention**. Despite what is stated in the Government Report³⁵, namely that Vietnam is the only non-ratifying country of origin, in 2008 48.3% of international adoptions involved children from the following non-ratifying countries: Ukraine, the Russian Federation, Ethiopia, Vietnam, Hungary and Nepal. Of these countries, Italy has only signed bilateral agreements with Vietnam (2004) and the Russian Federation (2008).

National and international adoptions in Italy are regulated by **Law 184/1983** and its subsequent modifications. It should be noted that:

- a) The **new procedure for deciding whether children are adoptable**, as laid down by Law 149/2001, only came into force on 1 July 2007. The earlier legislation was extended for six years while awaiting specific legislation on the court-appointed defence of children in adoption proceedings and

³¹ See http://msna.ancitel.it/docs/Sec_Rapporto_definitivo.pdf.

³² See Government Report, page 77.

³³ The Commission for International Adoption (CAI) is the central body for international adoptions in Italy.

³⁴ The association “Oltre l’Adozione” has mentioned on several occasions the danger of being paid “by the job” in foreign countries and the question of payments into current accounts after specific invoices have been presented.



those involving the limiting or removal of parental authority. This legislation was never passed, resulting in worrying differences in the thinking and procedures adopted by the prosecution services and juvenile courts, as was noted in a recent survey carried out by the National Union of Juvenile Courts.

b) **The raising from 40 to 45 years of the maximum age difference** between the adopting couple and the adoptable children, which can be raised even further in certain cases, has led to an increase in applications and pointlessly raised the hopes of older couples of adopting a young child.

c) The **National Data Bank for adoptable children and adoptive parents**³⁵, which was meant to start operating in December 2001, **has still not been set up**.

d) There are adoptable children in Italy who, because of their age or because they have health problems and/or disabilities, are unable to find families who will adopt them³⁷. Couples would be encouraged to adopt these children if the State, regions and local authorities intervened with specific measures to guarantee support, also of a financial nature, for couples **adopting children with disabilities children over 14 years**, in accordance with Art. 6, paragraph 8, of Law 184/1983, as amended by Law 149/2001³⁸.

With regard to the **social rights of the adoptive parents**, adoptive parents are now treated almost identically to biological parents with regard to maternity leave, parental leave and time off.

While appreciating the importance attached to **post-adoption services** in the Government Report³⁹, it must be pointed out that Law 476/1998 reduced the role of local social services in providing support and supervision during the post-adoption period⁴⁰. In the last few years, post-adoption services have improved, but there are **important regional differences** as a result of differences in regional legislation. Adoptive parents require advice during the first year of adoption and specific forms of support need to be introduced for adopted children.

With regard to **national adoptions**, there are up-to-date disaggregated data for every juvenile court and every type of civil proceedings regarding adoptability (in relation to children of both known and unknown parents), but even here

it must be highlighted that **there is no up-to-date data**, not even in the Government Report, **on the age and characteristics of the adoptable children or the children that have been adopted**. In the case of **international adoptions**, on the other hand, up-to-date data is published every six months by the CAI.

Gruppo CRC, therefore, repeats the same recommendations that the Italian Government should:

1. Improve its monitoring and assessment of the work carried out by authorised agencies in Italy and above all abroad, also through greater involvement of the Ministry of Foreign Affairs.
2. Render operational the National Data Bank for adoptable children and prospective adoptive parents so as to continually monitor the situation as regards adoptable children and make the information collected by Italian juvenile courts available to one another on line.
3. Provide support in the case of difficult adoptions as regards both Italian and foreign children by introducing specific social and financial measures in application of Art. 6, paragraph 8, of Law 149/2001.

a) "Soft" adoptions (adozione mite)

There is a fierce, on-going debate over the so-called "soft adoptions", a term often used rather vaguely to refer to different situations and problems, which are erroneously described as "open adoptions" in the Government Report⁴¹. **"Open adoptions"** are not contemplated in Italian law although they have been included in a few bills put before Parliament. In this type of adoption, the adopted child maintains relations with his or her original family. This Anglo-Saxon term is used in Italy to indicate those cases in which a child who has been legally adopted in accordance with Art. 25 of Law 184/1983 maintains de facto relations with his or her family of origin or some of its members.

"Soft" adoptions are not contemplated in Italian law either. This is a procedure that the juvenile court in Bari started to use in June 2003. This type of procedure, which is based on Art. 44, paragraph 1, subparagraph d) of Law 184/1983 and is used in those cases in which it has proved impossible to place a child in preadoptive foster care, does not give a child the same legal rights as in a normal adoption. This type of adoption is now being used in many of those cases described legally as *permanent semi-abandonment*.

³⁵ See Government Report, pp. 77, 78.

³⁶ As specified by Art. 40, Law 149/2001.

³⁷ It was estimated that in 2008 there were 191 adoptable children who were not adopted because they were adolescents or because they had serious health problems. See the letter dated 17 March 2008 from the Head of Department of Juvenile Courts to the President of the National Observatory on Childhood and Adolescence.

³⁸ Only Piedmont has done this with Decision No. 11035/2003 of the Regional Government.

³⁹ See Government Report, p. 79.

⁴⁰ See Art. 35, Law 476/1998.



The supporters of “soft adoptions” believe that these children in a state of “permanent semi-abandonment” have a right to maintain relations with their biological parents, who, though present, are incapable of looking after their children. They also believe that these children need to have the relationship they have formed with the family that is looking after them made more stable, also formally. This is why the juvenile court of Bari began applying Art. 44, paragraph 1, subparagraph d) of Law 184/1983 to these kinds of situations and their example has since been followed by other juvenile courts⁴².

The critics of “soft adoptions” state, in particular, that according to Law 184/1983 if children are “lacking the moral and material care their parents or relatives are bound to provide”, they must be declared adoptable and adopted through normal adoptions and not by resorting to Art. 44, paragraph 1, subparagraph d), which provides for adoptions in special cases “where pre-adoptive placement proves to be impossible”. They believe that “soft adoptions” should not be used to regularise “long-term” placements in foster care as the family of origin must not be deprived of its parental role. It should also be mentioned that, unlike normal adoptions, “soft adoptions” are not irrevocable.

The fierce debate underway on “soft adoptions” in any case reveals the existence of problematical situations, such as foster placements that continue indefinitely, that cannot be resolved by current legislation.

Gruppo CRC, therefore, recommends:

1. There should be a legal review of the field of application of adoption in special cases, in particular with regard to the application of Art. 44, letter d, of Law 184/1983 (as amended), and suitable forms of protection should be introduced for the children involved in such cases.

5. THE INSTITUTION OF KAFALAH

Part of the Government Report is devoted to the institution of *Kafalah*, although it is not clear what the purpose of this analysis is with regards to the monitoring of the implementation of the CRC in Italy.

The legislation on **family reunification** involving foreign citizens resident in Italy⁴³ equates the position of children who have been adopted, placed in foster care or put under a legal guardian to that of children born within a family and

allows them to enter the country. The Court of Cassation intervened on this matter in 2008 with two important rulings (7472/2008 and 19734/2008), clarifying the limits of public policy and the relationship between public policy and the best interests of the child, with the latter taking precedence over the former. In application of these principles, the *Kafalah* measures ought to be recognised automatically in Italy by the public administration without the courts having to decide whether they are legally valid.

At the time of writing, there was no available data on the number of cases of family reunifications applied for and authorised for children entrusted to families through *Kafalah*. It is important to consider, however, that when foreign children placed in *Kafalah* come to Italy, they find themselves outside their original families in resident nuclear families. This is the result of a parallel channel to the one established by Italian law on foster care and the adoption of foreign minors. These children find themselves under the authority of adults, including single adults, who are neither assessed (as they are in the case of adoptions), nor monitored during this long period of “foster care”. While acknowledging that the institution of *Kafalah* is an important tool to prevent the abandoning of children in numerous countries where there are no alternatives, there is still, however, a need to coordinate family reunification with Law 184/1983 and its subsequent modifications.

Given the difficulties in adapting an institution with such distinct characteristics as *Kafalah* to the Italian situation, it is necessary to hold broader discussions of a legal and social nature in order to find a solution that can protect the interests of foreign minors who enter Italy through this institution.

Gruppo CRC, therefore, recommends:

1. The organising of events to discuss the institution of *Kafalah*;
2. The collection and publication of data each year on the number of cases of family reunification applied for and authorised in Italy for children through *Kafalah*.
3. The ratification of the Hague Convention of 1996 on the Recognition of Foreign Measures for the Protection of Children, which should have taken place, according to the timescale indicated by the European Council with decision 2008/431/EC, by 5 June 2010, also in respect of the CRC.

⁴¹ See Government Report, p. 73.

⁴² See the decision of the Juvenile Court of Brescia, 6 May 2008.

⁴³ Art. 29, paragraph 2, Legislative Decree 286/1998, modified by Law



6. ILLEGAL TRANSFERS AND NON-RETURN OF CHILDREN ABROAD

The number of marriages in Italy in which at least one of the spouses is not Italian has increased in the last few years⁴⁴, passing from 8.1% in 2001 to 13.8% in 2007⁴⁵. As a result, so has the number of children who are abducted. There are no figures for civil partnerships involving mixed couples. According to **data** provided by the Ministry of Foreign Affairs, the number of abductions has risen from 89 in 1998 to **258**, and since 2000 the Ministry of Justice has been involved in **1.388** proceedings for the return of a child⁴⁶. Europe has more contested children than any other part of the world: out of a total of 212 cases in 2007, 124 of these cases involved countries in Europe, 45 the Americas, 23 the Mediterranean and Middle East, 3 Sub-Saharan Africa, and 17 Asia and Oceania⁴⁷. Of the 50 cases resolved in 2008, 32 were in Europe and the other 18 in the rest of the world. 19 cases were resolved during the first few months of 2009.⁴⁸ Italy ratified the Hague Convention of 25 October 1980 with Law 64/1994. The EU Regulations 2201/2003, better known as “Brussels II Bis”, also regulate matters in this field.

There are, however, important legislative restrictions in domestic law, which often hinder the application of the Convention, and judges are affected by a lack of real tools to resolve cases.

There are numerous practical difficulties with regard to the application of the **procedure for the immediate return of a child**. Although it is expressly forbidden by the Hague Convention in proceedings concerning the return of an abducted child, judges in the country to which the abducted child has been taken decide on matters relating to parental custody, over which the courts in the country of habitual residence have sole jurisdiction. This problem mainly arises when the parent who has abducted the child invokes the application of Art.13, which frees the judicial or administrative authority from the obligation to order the return of a child when there is a serious risk that doing so would expose the child to physical or psychological harm, or otherwise place the child in an intolerable situation. There have been a number of cases in which the parent of the abducted child has invoked this article as a pretext.

189/2002 (T.U. Immigrazione). See also section “Family reunification”.

⁴⁴ *Italia in Cifre 2009*, ISTAT, p. 6.

⁴⁵ Out of a total of 250,360 marriages, ISTAT, *Italia in Cifre 2009*.

⁴⁶ Press communiqué, 20 May 2009.

⁴⁷ Contested children, a guide for parents, 2008, Ministry of Foreign Affairs.

⁴⁸ The number of cases does not necessarily correspond to the number of children involved as the same case can also involve brothers and/or sisters. The association *Figli Sottratti* believes the official figures are too

On 20 May 2009, the Ministry of Foreign Affairs presented the **inter-ministerial “Task Force” on the international abduction of children** to accredited ambassadors in Italy. This new body is made up of representatives from the Ministry of Foreign Affairs, the Ministry of the Interior and the Ministry of Justice. It is hoped that this “task force” will help to overcome the division of responsibilities, which has been the cause of many problems.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Strengthen judicial cooperation in order to guarantee the respect of international and European legislation that requires the immediate return of children to their habitual residence and assigns the judicial authorities in this country the task of examining any questions concerning parental custody.
2. Strengthen international cooperation in order to guarantee the immediate return of children to their place of habitual residence (cf. Art. 11, paragraph 8, Reg. EC 2201/2003), and only subsequently start judicial procedures regarding the merit of the matter.

7. ILL-TREATMENT AND ABUSE WITHIN THE FAMILY

CRC/C/15/Add.198, paragraph 38

The **ill-treatment and abuse of children within the family** is a **phenomenon** which continues to be **underestimated** in Italy, above all with regard to certain types of ill-treatment, such as witnessing violence and psychological ill-treatment. The protection of children is carried out on the basis of piecemeal legislation, which needs to be reorganised by introducing a framework law that can create a new system of responsibilities and safeguards.

Italy still does not have a national system to record child victims of ill-treatment, its frequency, its epidemiology, the risk factors and its causes. Although a pilot scheme was introduced by the National Childhood and Adolescence Documentation and Analysis Centre, this scheme has only been adopted by five regions and experimented with in just a few small areas. It is a long way from becoming a “national system”⁴⁹. As regards the specific area of sexual exploitation, the data bank of the Observatory for the Fight against Paedophilia and Child Pornography is still not operational⁵⁰. The **piecemeal nature of the approach to this problem** can

low.

⁴⁹ Mentioned in the Government Report.



immediately be seen from the policies on the prevention and protection against child abuse, which are characterised by a total lack of coordination at a national level.

With the reform of Title V of the Italian Constitution, **regions** have acquired a central role with regard to the organising and managing of social welfare services, which are one of the pillars in the system to protect children from violence. Only a few regions have issued **guidelines on child abuse**⁵¹, however, and the way **these guidelines are implemented varies considerably**. Moreover, these guidelines do not generally appear to be monitored or updated. One positive exception is **Emilia Romagna**, which has a well-organised system of prevention and protection against child abuse⁵². With regard to the **prevention of ill-treatment**, Italy has still not followed the recommendations of the World Health Organisation (WHO) and the United Nations Secretary-General's Study on Violence against Children, which calls for the adoption of a National Action Plan to prevent violence. The introduction of awareness campaigns and training programmes for staff from the social services, the health sector, schools and other educational agencies has also been left to sporadic, local initiatives. Without a common framework and a coordinated approach, their impact is limited. Moreover, these measures fail to involve children. Greater attention should, therefore, be paid to ensuring the necessary training at a national level with regard to the problem of the prevention and protection against child abuse for people working in schools or emergency departments, paediatricians and general practitioners, so that they can recognise the early signs and prevent the situation from worsening.

Although it is strongly recommended in the WHO-ISPCAN guidelines, there is virtually no use in Italy of **home visiting** as a form of **prevention** and where it is practised, it tends not to be carried out very professionally. In order for home visiting to be successful, it is necessary to carry out a careful preliminary monitoring of the situation in order to identify risk groups and then to monitor the action being taken to see how effective it is.

Physical or humiliating punishment within the family is not expressly forbidden by law in Italy⁵³. In 1996, Court of Cassation ruled that the use of physical or psychological

violence cannot be considered right, even where it is being used for educational purposes, but no specific legislation has been introduced to enforce this ruling.

There is a need to create greater awareness about the fact that people become accustomed to violence and find it difficult to defend themselves against it. There is a real danger that children who grow up in an environment characterised by violence adult lifestyles suffer not only physical violence, but also psychological violence, because children copy the type of relationships they grow up in. The violent outskirts of Italy's cities and certain other areas of the country do not normally have the social services needed to combat this kind of violence.

Not enough attention is paid to **tertiary prevention**, which consists in taking action when violence is already occurring in order to limit the harm being done to victims, interrupting situations of ill-treatment at an early stage and taking action to prevent the ill-treatment from occurring again. Regions are responsible for this type of prevention, but there is no standard organisation of the service. It should be remembered here that both the ***Atto di integrazione socio-sanitaria*** (Health and Social Care Integration Act) and the **LEA** (essential levels of health care) of 2001⁵⁴, which include activities for the prevention, treatment and combating of child suffering, abuse and ill-treatment, are included among the compulsory forms of health care that must be guaranteed. As a result of differences between the various regional Health Services, these extremely important activities, which need to be further improved in the new LEA, have not been provided in a sufficiently homogeneous way throughout the country.

With regard to social services, the essential levels of social services (**LIVEAS**)⁵⁵ required by Law 328/2000, which are aimed at guaranteeing a minimum level of services throughout the country, have still not been set. These essential levels also include services aimed at helping children who are victims of violence and their families. The failure to set these minimum levels has resulted in important differences in the quality of the services provided in different parts of Italy.

In general, planning at a regional level is based more on reacting to events and there is a failure to provide financing not just to maintain existing services, but also to promote innovative services, such as the ***Centri di secondo livello***

⁵⁰ See also Chapter VIII, section "Paedopornography".

⁵¹ Piedmont, Lombardy, Veneto (the Office of the Ombudsman for Children of Veneto has also published "Linee guida 2008 per i servizi sociali e sociosanitari – La cura e la segnalazione – Le responsabilità nella protezione e nella tutela dei diritti dell'infanzia e dell'adolescenza in Veneto"), Liguria, Emilia Romagna, Tuscany, Lazio, Abruzzo, Molise and Campania.

⁵² Regional Law 14/2008.

⁵³ Art. 571 of the Italian Penal Code punishes the "abuse" of correctional

measures, seeming to imply that there is a legal use of such measures.

⁵⁴ Prime Minister's Decree 14 February 2001 and Prime Minister's Decree 29 November 2001, fixing the essential levels of health assistance (LEA), which are currently being reviewed.

⁵⁵ For further information see Chapter I, section "Social policies for



(Second Level Centres), which can provide the specialised professional resources needed to ensure a correct diagnosis and to treat children who have been ill-treated or abused. Furthermore, it is necessary to improve the psychological care provided, which must also be developed for parents who ill-treat or abuse their children so that, where possible, the family, with all its resources, can be restored.

Gruppo CRC recommends that the Italian Government should:

1. Immediately activate a national system to record and monitor children being looked after by the social services and health care workers in situations of malaise, neglect, ill-treatment and abuse in order to have essential comparable data at a regional and national level with regard to its incidence, epidemiology, forms, causes and consequences on children and adolescents.
2. Support the introduction of a common national strategy for primary, secondary and tertiary prevention of the ill-treatment and abuse of children by involving all the relevant public and private services, including educational services, inter alia to help draw up a National Action Plan for the prevention of violence, as recommended by the United Nations Study on violence against children and by the WHO.
3. Introduce a national training programme for social workers, and health care and school staff on the prevention and protection of children from violence, also in collaboration with the regions and non-governmental organisations operating in this field



Chapter VI

Health AND ESSENTIAL SERVICES

1. HEALTH AND HEALTH CARE SERVICES

There is no systematic collection of representative, standardised **data** on children, divided by age, that makes it possible to compare the situation in different regions. There is also a lack of up-to-date data. Indeed, the data provided in the Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report) too often refers to 2003, 2004 and 2006.

The 2006-2008 National Health Plan, the last to be adopted, transformed **the role of the State in health care**. This has resulted in a number of problems due, on the one hand, to the failure of the State to clearly define the essential levels of health care (LEA)¹, concerning, for example, priorities in mother and child health care, above all during pregnancy and childbirth, and, on the other hand, to the complicated handover of power by the National Health Service (SSN) to the regional health services, not all of which were equally able to apply the LEA.

It is difficult to identify a single **interlocutor** for health matters involving children and adolescents because of the division of responsibilities between the various Ministries and the reorganising carried out by successive Governments².

Finally, **with regard to health care expenditure on children**, the Ministry of Health has failed to monitor exactly how much is spent on children, as clearly emerges from the Government Report, where it states that the data in the report refers to the entire population and that the amount spent on children has been calculated on the basis of their percentage of the overall population³.

¹ On 23 February 2002, the Government passed a Prime Ministerial Decree setting the LEA, i.e. the services that the National Health Service (SSN) must be able to provide all citizens free of charge or with a partial contribution towards the cost (*ticket*) using funds collected through taxation. On 23 April 2008 the Government issued a new decree changing the LEA. This decree contained an interesting new development concerning the social-care integration that includes the division of funds between healthcare and social services. This decree was repealed, however, by the Government in 2008.

² See also Chapter I, section "Coordination at an institutional level and between institutions and NGOs".

³ See Government Report, pp. 96,97.

a) Being born and growing up in Italy

■ Paediatric mortality

During the last five years there has been a clear drop in the mortality rates of children up to 1 year of age (from 4.0 to 3.4 deaths per thousand live births), even though there are important regional differences, with the higher rates in southern Italy. There are still striking regional differences with regard to neonatal care, most noticeably in southern Italy and Lazio. Better treatment needs to be provided, above all in the case of premature births in order to reduce neonatal and infant mortality.

■ Newborn infants and neonatology

The regional distribution of newborn infants according to their weight shows that **from 2002 to 2006** 1% of newborn infants weighed less than 1,500 g. The regional distribution of births show that in the **regions of northern Italy** more than 84% were delivered in large maternity units (more than 1,000 births per year). In Abruzzo and Sicily, in the **south of Italy**, they accounted respectively for just 30% and 45% of total births. 6.5% of births in Italy are premature, but **Neonatal Intensive Care Units (NIC)** were only to be found in 20% of the maternity units studied. As a result, 4.5% of premature births and 5.7% of very premature births take place in structures that do not have an NIC unit or a Neonatology Department. The 2008 Budget Law allocated €7 million for a multi-year programme aimed at either creating or improving Neonatal Intensive Care Units, so it will be important to monitor how these funds are used⁴.

In order to have good perinatal care, those hospitals which do not have an NIC unit must have a **Neonatal Emergency Transport Service (NETS)**, provided by staff trained in neonatology. Two fact-finding studies show that some regions have a NETS covering the whole of the region, others covering only some of the provinces, while some have no service at all. Unfortunately, there is no "neonatal transport system register" in Italy.

■ Caesarean births

Confirming the trend of the previous years, in 2006, the last year for which data is available, 37.4% of births involved C-section procedures, with considerable **regional differences** (23.9% in Friuli Venezia Giulia and Tuscany, 42% in Lazio,

⁴ Communication sent by the Ministry of Labour, Health and Social Policies to the CRC Group in July 2009.



52.9% in Sicily and 60.8% in Campania). These figures are much higher than the European average (23.7%) and the 10-15% limit which, according to the World Health Organisation (WHO), guarantees the maximum overall benefit for mother and child. Caesarean births were more common among Italian women than among non-Italian women (39.2% vs. 27.2%).

■ Chronic diseases

Every year in Italy around 60,000 children require special treatment during the neonatal period and in paediatric age. Various studies estimate a 2.5% rate of chronic diseases among children of school age. This figure does not include asthma and other allergic respiratory diseases, which affect 20-25% of the paediatric population in Italy. 2-8% are affected by food allergies, which still amounts around 1-2% even if only the most serious cases are considered. This figure does not include cases of obesity or gluten intolerance, which according to a recent study affect one out of every 100 children of school age. Rare diseases affect one out of every 200 children⁵.

Very little data is available, however, on the incidence of chronic disease among children and there are no studies making it possible to monitor this over time.

■ Paediatric AIDS

Of the 60,346 cases of AIDS recorded in Italy on 31 December 2008, 1.3% involve children of paediatric age. There has been a gradual drop in the number of cases of paediatric HIV infection since 1995. However, the *Centro Operativo AntiAids* (COA) estimates that in June 2009 a quarter of the people with an HIV infection did not know they were infected⁶.

■ Suicides

The data for 2003 and 2006 show that there was a slight drop in the number of suicides among children aged 10-14 and 15-19, from 3.5 to 1.4 cases per million among the first group and 25.6 to 17.5 million among the second group. With regard to the criminal justice statistics alone, the number of suicides fell from 0.4 to 0.13 known cases per million among the 0-13 age group and from 15.9 to 12.8 per million among the 14-17 age group. Children account for 1.1% of all cases of suicide and 2.7% of attempted suicide. Mental illnesses and emotional problems are the main causes, accounting for more than 30% of all cases. As regards the geographical distribution of suicides, the suicide rates among the 10-14 age group are, for both sexes,

slightly higher in the south of Italy, while among the 15-19 age group they are higher in the north of the country. The data reveals, however, that this phenomenon deserves further study.

■ Vaccinations

Some paediatric vaccinations are required by law, while others, made freely available by local health authorities and intended to cover a certain percentage of the infant and adolescent population, are voluntary. Vaccination cover for some diseases still **varies from region to region**, as there is no national schedule and so everything depends on the different regional policies. The most up-to-date data available on vaccination cover is the 2007 data of the Ministry of Labour, Health and Social Policies collected from the regions.

At the time of writing, the 2005-2007 National Vaccination Plan was still being used as the 2008-2010 Plan, which included the Essential Levels of Assistance and offered all newborn children meningococcal C and pneumococcal vaccinations with an identical schedule for the whole of the country, has not been approved by the Government⁷. Finally, as highlighted in the Government Report, the Ministry of Labour, Health and Social Policies decided that, as of 2008, the anti-HPV vaccine will be offered to all girls aged 11-12 free of charge. Here too, however, the programme has been implemented in different ways and with different schedules by the various regions. Moreover, there is concern as to the economic sustainability and duration of the programme, as no decision has yet been taken about these matters.

Gruppo CRC recommends that the Italian Government should:

1. Introduce educational, information and training programmes for all health staff (and others) in order to reduce the enormous differences that exist between and within regions with regard to children's health care.
2. Carry out further studies to improve the monitoring of a number of variables of both a health/epidemiological and social/demographic nature, relating to childbirth, infant mortality, hospital health care, infective diseases, vaccinations, chronic illnesses and disabilities affecting the child population.
3. Study new integrated methods to improve vaccination protection by eliminating differences in terms of access to free vaccines, providing greater information and encouraging families to participate in the vaccination programmes.

⁵ Ronfani L., Macaluso A., Tamburini G., *Rapporto sulla salute del bambino in Italia: problemi e priorità*.

⁶ Istituto Superiore di Sanità (Higher Institute of Health).

⁷ Source: Ministry of Labour, Health and Social Policies.



b) The right of children to be informed and heard as regards their health: informed consent

There is still no systematic legislation in Italy indicating the principles and best ways of obtaining the consent of children for **treatment** they receive. The only exceptions are Law 194/1978⁸ on the interruption of pregnancies, Law 685/1975⁹ on the right to medically examine people who have taken drugs and Law 837/1956, Art. 4¹⁰. These laws do not, however, set the minimum age at which children may exercise these rights, nor do they offer clear definitions as to what is meant by the ability to decide or “maturity” with regard to the question of consent, nor do they explicitly say anything about the issue of informed consent.

This gives rise to considerable uncertainty in clinical matters.

The most critical aspects are:

- i) a lack of guidelines to ascertain the ability of children to decide for themselves, which, in the Government Report¹¹, is tackled in a rather vague way, with the approach based on a category, namely “reasonableness”, which is not mentioned in any international conventions or domestic legislation, where reference is made to the “ability to form one’s own views”;
- ii) the establishing of the age, or other possible criteria, at which children have the right to give their consent;
- iii) how to resolve cases of conflict between a child’s wishes and that of his or her legal guardian in special cases;
- iv) the lack of common information strategies for health care workers and service users with regard to these issues.

Gruppo CRC recommends that the Italian Government should:

1. Draw up and pass the necessary legislation to regulate when children can give their consent with regard to medical treatment.
2. Draw up a framework law for social and health care activities that enable children to express their own views with regard to health care choices that affect them;
3. Promote suitable awareness and information campaigns among health care workers and the general public, using leaflets and other suitable media.

⁸ Art. 12 allows minors to *personally* ask to have their pregnancy terminated, without the consent of their parents, “when there are serious reasons that prevent or make it inadvisable to consult the legal guardians of these minors or when these persons, after being consulted, refuse to give their consent or have different opinions among themselves”, without indicating any lower age limit.

⁹ Art. 95 states that anyone who takes drugs may ask to be diagnosed and that in the case of minors the diagnosis may be requested “not only by the minor, but also by his or her legal guardian”.

¹⁰ On the reform of the legislation concerning the prophylaxis for venereal diseases.

¹¹ See Government Report, p. 47.

c) The rights of children in hospital

Various hospitals currently use the principles contained in the Charter of the Rights of the Child in Hospital¹². **Veneto, Friuli Venezia Giulia and Molise** are all regions with **good practices** to be copied. An example of good practice at a national level was the meeting on the “Project for the training of family and hospital paediatricians on pain in newborn children, children and adolescents”¹³.

With regard to **paediatric hospital care**, 781,488 children aged 0-14 were hospitalised in 2006. The main cause of hospitalisation was respiratory illnesses, followed by neonatal pathologies and trauma, which together accounted for 40% of paediatric hospitalisation. The situation as regards **regional hospitalisation rates** (in normal circumstances), is rather heterogeneous. There are enormous differences between the different age groups, with the biggest differences occurring among the youngest children. The length of stay falls with age. It is now more common for people to be hospitalised in a region in which they do not reside or even abroad as a result of the extension of health care to the entire population, with the same services being offered to all citizens. The regions of central and northern Italy, above all Liguria and Lazio, attract the highest number of people from other regions, while the highest rates of people seeking treatment in hospitals outside of their region occur in southern Italy, above all Calabria and Campania.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Improve coordination between the different institutions involved, and achieve greater cooperation between the social and health care services and greater continuity in care between hospitals and other regional services (including local authorities and associations), by agreeing together on common approaches to treatment at a national and regional level.
2. Introduce or promote a survey in paediatric departments to see if and how the Charter of the Rights of the Child in Hospital are applied.

¹² The rights contained in the Charter of EACH (European Association for Children in Hospital) were adapted to the Italian situation. In 2001 the Charter of the Rights of the Child in Hospital was adopted by AOPI (the Italian Association of Paediatric Hospitals) and then extended by ABIO (Italian Association for Children in Hospital) to include problems concerning adolescent children.

¹³ Rome, 15 January 2009, at the Ministry of Labour, Health and Social Policies.



d) Feeding

The **lack of information** on both the specific resources allocated to promote, protect and support breast feeding, and the results of specific public health programmes, makes it **difficult to assess the efficacy** of these initiatives. The **lack of coordination** between the different fields of action and the different bodies responsible for taking action also gives rise to problems, to which must be added the **regional differences**.

Although the *Comitato Nazionale Multisetore per l'Allattamento Materno* was set up¹⁴, the guidelines contained in WHA Resolution 55.25 (2002) on infant and young child nutrition have still not been added to the *curricula* of the schools of medicine, obstetrics and nursing science. This is a serious omission in the **training of Italian health care workers** and makes it even more difficult to implement the breast-feeding programmes correctly.

Even though the Ministerial data mentioned in the Government Report¹⁵ indicates that 81.1% of mothers breastfeed for 7.1 months on average, this figure does not distinguish between the different types of breastfeeding as in Italy there is still no system for the **monitoring of breastfeeding rates** in line with the WHO definitions¹⁶. The results of a recent study¹⁷ show that very few women in Italy manage to breastfeed their babies following the WHO and UNICEF recommendations and the WHA *Guidelines*. In fact, although the percentage of mothers who leave hospital breastfeeding their babies is very high (around 90%), 31% no longer breastfeed after just three months and very few women only breastfeed even though, with the right support, almost all women would be able to exclusively breastfeed their babies for **six months**. No objective study has been carried out at a national level into the **causes of the failure to breastfeed** and the progressive drop in breastfeeding rates a few weeks after giving birth. Among the reasons that have stopped mothers breastfeeding are **hospital procedures** that do not favour or even hinder the correct way of breastfeeding and its continuation afterwards, the **lack of coordination between hospitals and the other local services** and, therefore, also of the support of these local

services, the failure to fully implement **maternity support policies**, and the aggressive promotion, also by the health authorities, of products, the sale of which should be limited. The companies that produce and distribute alternative products to a mother's milk are still able to apply considerable **marketing pressure**. Without the necessary trained support, whenever the mother has any doubts or problems, she decides to use, together with or in place of her own milk, powdered milk or other products. Finally, although Italy has ratified Convention No. 183 (2000) of the International Labour Organisation (ILO) defending the **rights of working mothers**, more and more people are being employed on short-term contracts, which do not protect the rights of working mothers.

12.3% of children are obese and 23.6% are overweight. Overall, more than 1.1 million Italian children weigh more than they should for their height¹⁸. One of the goals of the new National Prevention Plan (PNP 2010-2012) is to combat **overweight and obesity** among children. The National Centre for Disease Control and Prevention (CCM)¹⁹ has produced a number of documents over the last few years on overweight and obesity among children and adults, and has called for action to be taken at both regional and local level to promote **better styles of eating and greater physical activity**. The project "Guadagnare Salute" (Gaining Health) is also aimed at **limiting the advertising of foods and drinks aimed at children** through agreements with manufacturers, self-regulation codes and legislation. It is not known, however, to what extent, if any, these measures have been successful.

Gruppo CRC recommends that the Italian Government should:

1. Monitor the national rates of breastfeeding in line with the WHO definitions and carry out an objective study of the causes of the failure to breastfeed.
2. Bring all national, regional and local measures in line with the International Code of WHO/UNICEF and subsequent pertinent World Health Assembly resolutions.
3. Implement the National Prevention Plan and the project "Guadagnare salute" by taking coordinated, verifiable action to regulate the advertising of food and drinks aimed at children and adolescents.

¹⁴ The National Multisector Committee For Breastfeeding, established by Ministerial Health Decree on 15 April 2008, is made up of representatives of the Government, the regions, scientific societies and professional associations, the Italian Committee for UNICEF and NGOs.

¹⁵ See Government Report, ISTAT data 2005, page 226.

¹⁶ *Indicators for assessing infant and young child feeding practices*, WHO, Geneva 2008.

¹⁷ *La cultura dell'allattamento al seno tra le mamme in Italia – Ricerca realizzata per la Società Italiana di Pediatria- Rapporto di ricerca*, Istituto per gli Studi sulla Pubblica Opinione, July 2008.

¹⁸ Data collected in 18 regions in 2008 as part of the project "Guadagnare Salute".

¹⁹ A body coordinating activities between the Ministry of Labour, Health and Social Policies and the regions.



e) Mental health

With regard to **mental health during infancy and adolescence**, Italy has good models and laws to follow, but their implementation tends to be limited or at least vary considerably both between regions and within regions. That is why, for example, the March 2008 “National Guidelines for Mental Health” mentioned in the Government Report²⁰ have not yet been implemented. Moreover, the Government has still not allocated sufficient resources to ensure that the local health authorities (ASL) and the Child and Adolescent Neuropsychiatric Services (NPIA) can create multidisciplinary teams capable of carrying out truly effective forms of non-pharmacological treatment. While some regions have created a suitable system of NPIA over the years and can more or less ensure that children and their families are taken care of and treated, there are other regions which do not have the necessary facilities to hospitalise children with mental health disorders or do not have all the necessary members of the multidisciplinary teams to carry out the treatment. **The situation is particularly worrying with regard to adolescents.** What is missing, above all, is a system to globally monitor mental health during infancy and adolescence, the services provided and the various initiatives. This makes it difficult to assess the situation and, therefore, plan correctly for the future, while family paediatricians do not receive the necessary information or training.

After the increases discovered in the **prescribing of psychotropic drugs to children and adolescents** between 2000 and 2002, and 2003 and 2006, there was first a drop and now the situation is stable. However, a recent study has revealed a significant increase, compared to other countries in Europe, in the unacceptable and/or illegal use of psychotropic drugs among adolescents to improve their performance at school or combat bouts of depression²¹. The National Health Service ought to focus greater attention on mental disorders and provide sufficient resources to make sure that the necessary treatment can be provided and that psychotropic drugs are only used when and where they are truly necessary.

Youth suicides²² are a phenomenon in which the greatest risk factor is depression, but there are other factors, such as behavioural disturbances, substance abuse, and family, social and psychological problems. Some of the

psychopharmaceuticals authorised in Italy for paediatric use, or in any case administered for “*off-label*” uses²³, have among their undesirable side effects increased suicidal ideation. It is, therefore, hoped that such treatment is carefully monitored.

We clearly welcome the projects mentioned in the Government Report promoting mental health during infancy and adolescence and regarding the early diagnosis of neuropsychological disorders. Nevertheless, these projects are few in number, not connected to one another and receive limited funding. Moreover, there is a lack of coordination between the various health bodies involved (for example, between the Department of Adult Mental Health, which is involved in at least two of the initiatives mentioned above, the NPIA and paediatric services) and the educational and social sectors, including schools.

Gruppo CRC recommends that the Italian Government should:

1. Guarantee the presence throughout the country of a standardised, integrated system of child neuropsychiatric services, in terms of both the professional skills and facilities offered, by investing sufficient resources, and enable these services to work together with other professional figures to ensure that a highly multidisciplinary approach is adopted in the treatment of psychological disorders.
2. Set up a suitable system to monitor the mental health of children and adolescents, mental health services, and the procedures for the diagnosis and treatment of neuropsychological disorders in children and adolescents.
3. Plan coordinated activities to promote mental health, paying special attention to the information and training given to family paediatricians and school staff, the correct use of drugs and the prevention of suicides.

f) Child health and disability

Little has changed during the last five years with regard to the policies favouring children with disabilities and no significant changes have been made to pre-2003 national and regional legislation. The framework law on disability (Law 104/1992) has not been amended, despite the new cultural and scientific paradigms promoted by the WHO since 2001, which have completely overturned the whole concept of disability. There are two basic age groups in which children are more vulnerable because of their disabilities: 0-5 and 14-18 years of age.

²⁰ See Government Report, p. 98.

²¹ *The 2007 ESPAD report. Substance use among students in 35 European countries* (2009), European School Project on Alcohol and Other Drugs.

²² See section “Being born and growing up in Italy”.

²³ *Off-label* use means using a drug for indications for which it has not been officially approved.



The Government Report struggles to understand that **social inclusion** should be the goal of national policies favouring children and adolescents. On the few occasions the Report refers to children with disabilities²⁴, the cultural and social approach is still based on the idea of a handicap. Although the mentioning in the Government Report of “activities to promote the use of the ICF” (**International Classification of Functioning, Disability and Health**) “as part of the assessment of disability related to access to benefits and assistance”²⁵ is greatly welcomed, it was not possible to obtain further information on this. The Government is urged to adopt an inclusive approach based on the new cultural and social paradigms.

The **lack of reliable data on Italian and non-Italian children and adolescents with disabilities** is a problem that has been highlighted in the past, but nothing appears to have been done to alter this situation. Here, too, it must be emphasised, therefore, that a suitable system must be introduced to measure the **health of children with disabilities from a quantitative and qualitative point of view, especially for those in the 0-5 age group**.

With regard to **programmes to protect and promote the health** of children and adolescents with disabilities, there is no mention in the Government Report of any action and/or undertakings with regard to their right to be looked after from an early age through to adolescence.

Moreover, **there is no model that can be followed throughout the country** based on the founding principles of the LEA. A **correct, early diagnosis followed by immediate rehabilitation programmes** can vastly improve the quality of life of a child and his or her family. It is necessary, therefore, to create the necessary links between early childhood intervention services, nurseries and schools to facilitate a child's passage through these structures, and ensure that the services are simple and effective, avoiding delays and red tape²⁶. The most serious situation concerns the services responsible for taking care of children with disabilities from an early age, with many delays and a piecemeal application throughout the country.

More attention needs to be drawn to one of the most well-known genetic disorder and/or “complex” disabilities: **autism**. This pathology is increasing in Italy, with an

estimated incidence of 6-10 children per 10,000 children born suffering from it²⁷.

There is a need to identify centres for neonatal screening, and the diagnosis, treatment and management of underlying disease and intercurrent disease, but also to ensure, throughout the country, the necessary coordination between the various health services and the social and educational services. Moreover, the same basic services must be available for all children throughout the country in line with the principle of equal opportunities.

Caring for children with disabilities requires the active involvement of the **families**, who must be provided with **immediate support** in the form of information and training with regard to their rights and what services are available.

Gruppo CRC recommends that the Italian Government should:

1. Introduce suitable, shared methodologies and tools to create a reliable, up-to-date data bank on the different forms of disabilities during infancy and adolescence, and on the social and demographic variables associated with these disabilities;
2. Introduce more modern policies in health care and social welfare services based on the new WHO health and disability paradigms and guarantee the right to a correct, early diagnosis and to be taken care of, if necessary, throughout one's life by, for example, including the “certainty of an early diagnosis” among the Essential Levels of Assistance (LEA);
3. Adopt, following the devolution of social policies to the regions, “inclusive” regional and local welfare policies and models.

g) Access of non-Italian children to health care

The birth rate of children born in Italy to non-Italian parents has increased over the years, rising from 1.7% of total births in 1995 (around 9,000 births) to 12.7 % in 2008 (around 70,000 births), even though less than 7% of the total population are non-Italians²⁸.

The **newborn children of immigrant parents** are more likely

²⁴ There are a few mentions in the sections 1, 6 and 7 of the Government Report.

²⁵ See Government Report, p. 95.

²⁶ UN Committee On the Rights of the Child, General Comment 9, paragraph 57, “Early Diagnosis”, 2006.

²⁷ Autism guidelines – technical and operational recommendations for the infant and adolescent neuropsychiatric services – drawn up by the Italian Society of Child and Adolescent Neuropsychiatry (SINPIA), approved by the Advisory Board, March 2005.

²⁸ In central and northern Italy the figures are much higher: in the north almost 19% of total births were to foreign parents, in the centre 14% and in the south just 3.4%. ISTAT, *Bilancio demografico nazionale (Anno 2008)*, 23 June 2009.



to be born prematurely and weigh less than Italian newborn children. Stillbirths and perinatal mortality are also higher than among the Italian population. This data reveals how many immigrant women, for economic or cultural reasons or because of problems in gaining access to health care, do not undergo the necessary clinical, blood and ultrasound tests before becoming pregnant or during pregnancy.

The delays in collecting and processing the data (the most recent data is for 2005) and the limited information available at a national level with regard to the **Hospital Release Forms** (SDO)²⁹ considerably limit any assessments that can be made in this matter. Moreover, there are no national studies analysing the SDOs concerning children of foreign nationality, also as a result of the difficulty in identifying children of foreign nationality in hospital, as this depends considerably on the definition adopted to determine whether a child is foreign or not, and also on the quality and completeness of the information available.

Some studies have shown that **adolescent immigrants** are more likely to be affected by psychosomatic symptoms and to be less satisfied with their health and lives in general than their Italian counterparts. The differences recorded in relation to their symptoms and perceived state of health³⁰ are presumably due to socio-economic inequalities, the lack of social integration and victimisation.

There is no national data on the actual use of primary care paediatricians by regularly resident foreign families, but local-based studies show that a disproportionate number of foreign children are treated in emergency departments or are hospitalised. Children of foreign nationality are more likely to be hospitalised, treated in ordinary hospitals than in day hospitals, and to stay longer in hospital.

There is concern that some of the measures introduced by **Law 94/2009**, above all Art. 1, paragraph 16, which makes it a crime **to enter Italy and stay there illegally**, may have created fear and uncertainty among parents who are not regularly resident in Italy and caused them not to access healthcare services. There is also concern over Art. 1, paragraph 22, subparagraph g), which makes it compulsory for foreign citizens to show their residence permit in civil records offices, as this measure threatens to discourage families from using services that protect children and pregnant mothers because of the level of uncertainty it has

created among health care and social workers and immigrants, despite the recent clarification by the Ministry of the Interior in its Circular on 7 August 2009.

Gruppo CRC recommends that the Italian Government should:

1. Create efficient communications networks between all those involved in order to provide immediate information on the right to health care of immigrants and the guaranteed levels of support, ensure that the resources allocated and services available for foreign children truly meet their needs and priorities, contribute to promoting basic healthcare, and assess quality and costs;
2. Do everything possible to ensure that "Prevention plans" operating at a national and regional level also reach children of foreign origin, including those children whose parents are not regularly resident;
3. Improve knowledge of the specific health needs of immigrant children and how to record these, paying particular attention to mother and child health care, by identifying new operational ways of meeting the hidden, but emerging demand for health care from immigrant children and their families, and ensure that the National Health Service meets these needs.

2. SOCIAL SECURITY, CHILD CARE SERVICES AND STRUCTURES (NURSERIES)

As described in detail in the Government Report³¹, there was an improvement with regard to the Government's policies to reconcile work and family through the development of early childhood social and educational services in the 2007 Budget Law, which included **special measures for the three-year period 2007-2009**.

More than 30 years after the entry into force of Law 1044/1971, creating municipal nurseries³², just 2,400 public nurseries were operating in 2000³³, in addition to around 600 private nurseries, for a total of 3,008 nurseries. This is well below the figure that was envisaged in the 1971 legislation. The National Childhood and Adolescence Documentation and Analysis Centre published a further study on nurseries in 2006, containing data for every region. This data is only partially comparable (also with the 2000

²⁹ The SDOs are used in the case of patients being hospitalised for severe attacks, rehabilitation and long medical stays.

³⁰ Vieno A., Santinello M., Lenzi M., Baldassari D., Mirandola M., *Health status in immigrants and native early adolescents in Italy*. Community Health, 2009, June, 34(3): pp. 181-7.

³¹ See Government Report, page 63.

³² This law called for the opening of 3,800 public nurseries.

³³ National Childhood and Adolescence Documentation and Analysis Centre (CNDA), *Indagine sui nidi d'infanzia e sui servizi educativi 0-3 anni integrativi al nido al 30 settembre 2000*, Quaderno No. 21, Istituto degli Innocenti, 2004.



National Census), however, as the regions collected the data using different methods and for different periods³⁴. What emerges from this data is that the information available is decidedly incomplete, above all from a quantitative point of view, as is also clear from the data produced by ISTAT, which had **not collected data on nurseries since 1992**³⁵.

The differences that exist between the south and the centre and north of the country emerge very clearly from the data. While the centre and north are, with a few exceptions, generally well served, there is a large shortage of nurseries in the south of the country. This lack of early childhood services is, of course, closely connected to the higher levels of female unemployment. The average rate of female employment in the south of Italy is 22.5%³⁶, where only 14% of municipal nurseries are located.

In terms of the **quality of the services provided for children aged 0-3** in relation to the **everyday functioning of the services**³⁷, 64% of public and private nurseries are closed 2-3 months a year, leaving families without support above all during the summer. An average of one in four children are on a **waiting list** for a place in a nursery, a clear indication of the shortage of places. The **cost** of private nurseries appears excessively high in relation to family income. According to a recent study, the **average annual cost** of 10 months in a nursery was **almost €3,000 for 2007/8**, with the monthly payment to the nursery accounting for around 10% of a family's overall average expenditure³⁸. Another worrying figure is the **average increase in the fees** (+1,8% compared to 2006/07), with average monthly nursery fees rising by 3.5% in the north of Italy, while remaining more or less stable in the centre and south (2006/07). The study also revealed important differences between Italy's **more expensive** and **less expensive** cities. Calabria, in the south, is Italy's most economical region, while Trentino, in the north, is the most expensive.

Finally, with regard to the special measures contained in the 2007 Budget Law, the Ministry for Family Policy stressed

in the communication it sent to Gruppo CRC for the updating of the 2008 Report that for the three-year period 2007-2009 the Government had allocated €457,000,000 for the nurseries programme, in addition to the €282,000,000 of regional funding³⁹.

Gruppo CRC recommends that the Italian Government should:

1. Introduce a special national plan also for the next three years in order to create further municipal nurseries, increasing the tax incentives and offering other forms of financial support for the municipalities.
2. Introduce legislation, with the necessary financial support, to turn nurseries from being a service requested by individual families into a universal service, with the same standards between and within regions for reasons of social justice.
3. Improve and make more widely available the information on the services offered for children aged 0-3, above all by providing disaggregated data for each municipality on the target groups, demand, costs and the general functioning of the services.

3. LIVING STANDARDS

a) The situation of poor children and adolescents in Italy

Italy now has the sixth largest gap between rich and poor of all 30 OECD countries⁴⁰. Not only is the poverty "rate"⁴¹ one of the highest in Europe, but so is the "degree" of this poverty, with a coefficient of 24⁴². **Child poverty** has fallen quite rapidly, from 19% in the mid 1990s to 15% in 2005, but is still above the OECD average of 12%.

The risk of **child poverty in the European Union** is 19%, while **it is estimated to be 24% in Italy**⁴³. According to ISTAT data, 2,737,000 nuclear families in Italy were living in relative poverty in 2008⁴⁴. **During the last four years (2005-2008) the relative poverty rate has remained more or less stable,**

³⁴ National Childhood and Adolescence Documentation and Analysis Centre (CNDA) *I nidi e gli altri servizi educativi integrativi della prima infanzia* Quaderno No. 36, Istituto degli Innocenti, 2006.

³⁵ ISTAT recorded some data on nurseries in its *Seconda Indagine censuaria sugli interventi ed i servizi sociali dei Comuni*, published in 2004 (and preceded in 2003 by the first census survey). This was a focus study on the expenditure of municipalities on various services/activities divided up into the different types of services.

³⁶ ISTAT data 2003.

³⁷ IRES study on data from the National Childhood and Adolescence Documentation and Analysis Centre (CNDA), 2000, Quaderno No. 21, op.cit.

³⁸ *Osservatorio prezzi e tariffe*, Cittadinanzattiva ("Active Citizenship", an Italian nonprofit organisation).

³⁹ See also Chapter I, section "The resources allocated for children and adolescents in Italy".

⁴⁰ Cf. OECD, *Growing Unequal? Income Distribution and Poverty in OECD Countries*, 2008.

⁴¹ The poverty rate is the percentage of poor families out of the total number of families.

⁴² Cf. *Rapporto sulle politiche contro la povertà e l'esclusione sociale, Anno 2007*, pp. 14-15.

⁴³ This percentage is 5% higher than the average for the whole of the population of Italy. Cf. *Social Protection Committee "Child Poverty and Well-Being in the EU"*, January 2008, pp. 13-15.



even though this phenomenon is more common in the south of the country, where the relative poverty rate is five times higher than in the rest of the country and where the largest families are to be found, above all those with three or more children, especially with children under 18 years of age. These families often include additional family members as well. The poverty rate of families with three or more children is 27.2% on average, but it reaches 38.8% in the south. **ISTAT estimates that there are 1,728,000 children living in relative poverty in Italy, around 23% of the poor population, even though they account for less than 18% of the total population.** These children tend to be young (61.2% are under 11 years of age) and they tend to be concentrated in the south, where 72% of poor children in Italy live⁴⁵.

Statistics were recently published on **absolute poverty** in Italy. These figures show that 975,000 families – 2,427,000 or 4.1% of the total population – live in absolute poverty. The rate of absolute poverty rises with the number of children in the family, reaching 8% when there are three or more children⁴⁶.

A study on the budgets of Italian families by the Bank of Italy⁴⁷ reveals that the highest levels of net wealth are to be found in families in which the head of the family has a university degree, is a manager or an entrepreneur, or in families residing in municipalities with more than 500,000 inhabitants. It shows that there is a situation of **social rigidity, with little income mobility**, where people who have little wealth tend to remain where they are and where **children are the most disadvantaged social group**.

It must be added that almost all the **national surveys on poverty** use **as their basic unit of measurement** families with one or more members and **not children**. In 2006, the **Italian Government** introduced a series of **policies for social inclusion** aimed at achieving greater social equity. As yet, however, the Government has only introduced uncoordinated measures of a primarily fiscal nature, which have had little impact.

We believe that priority should be given to all those measures aimed at combating absolute poverty among children in the 2008-2010 Action Plan for Children (PNI).

Gruppo CRC recommends that the Italian Government should:

1. Introduce indicators that take into account the multidimensional nature of child poverty, and develops and promotes a multidimensional approach to the study of child poverty, focusing on the rights of children and adolescents.
2. Promote legislation and social expenditure of a more continuous nature (not one-off measures) that help to create a more 'global' project to assist children (and their nuclear families), by coordinating and reorganising existing services so as to provide efficient services that truly assist these children and their families and thereby favour a "child-based" economic and social form of development.
3. Carry out a study aimed at introducing minimum standards at a national level for the reduction of child poverty and monitor the action taken to see whether the goals are achieved.

b) The environment and child health

As highlighted in the Government Report, the **mortality rate** among children under 14 **due to road accidents** was 1.2 cases every 100,000 children in 2005, remaining more or less stable over the last five years. The death rate among children aged 15-17 was much higher, however, with 11.4 cases per 100,000 children⁴⁸.

Overweight and obesity among the population aged 0-14 has been growing over the last few years⁴⁹, due mainly to a lack of physical activity, and has now reached 24%⁵⁰. This trend is evident throughout the country.

The link between air pollution, both outdoor and indoor, **and respiratory pathologies**, especially during infancy, has been known for years. In the most polluted areas, the death rate is 15% higher than in areas with average annual concentrations of PM10.

The quality of the air is 10-50 times worse inside homes than it is outdoors as a result of the additional pollutants caused by activities carried out within the home, primarily smoking⁵¹.

There is no reliable epidemiological data in Italy on the **exposure of children to chemical pollutants and physical**

⁴⁴ ISTAT, *La povertà relativa in Italia 2008*, 30 July 2009.

⁴⁵ Cf. Ministry of Labour, Health and Social Policies, *Rapporto nazionale sulle strategie per la protezione sociale e l'inclusione sociale*, November 2008, p. 6.

⁴⁶ Cf. ISTAT, *La povertà assoluta in Italia 2007*, ISTAT, April 2009.

⁴⁷ Cf. Bank of Italy, *I bilanci delle famiglie italiane nell'anno 2006*, Supplementi al bollettino statistico – indagini campionarie, XVIII, 7, 28 January 2008.

⁴⁸ See Government Report, p. 94.

⁴⁹ See also section "Feeding".

⁵⁰ *L'eccezionale quotidiano. Rapporto sulla condizione dell'infanzia ed adolescenza in Italia*, Ministry of Labour, Health and Social Policies, National Observatory on Childhood and Adolescence, Italian National Childhood and Adolescence Documentation and Analysis Centre (CNDA), 2006, pp. 286-92.

⁵¹ Figà-Talamanca I., Mantovani A., *Ambiente e Infanzia in Italia*, Rome, Verduci Editore.



agents in the environment. In general, despite the scientific evidence and specific European programmes on the environment and child health, **little attention is paid to the environment by Italian institutions.** For example, these problems are not analysed in the Government Report⁵², no body has been given the task of monitoring the situation at a national level, specific training is not included in the curricula of doctors, and these problems are not included in lifelong learning/professional development.

Gruppo CRC recommends that the Italian Government should:

1. Improve conditions with regard to transport, safety and the quality of life in cities, increase efforts to reduce private transport near schools by promoting safe pedestrian routes to schools, and monitor the application of the guidelines for the protection and promotion of health in the surrounding areas.
2. Implement European guidelines concerning the protection of children from environmental factors that affect their health and promote specific research aimed at discovering the links between chemical pollutants and health risks, starting at prenatal age, and introduce every possible form of prevention.
3. Make environmental pollution a topic in degree courses in Medicine and Surgery and one of the compulsory lifelong learning courses for all practising doctors, with the full involvement of patients' associations.

⁵² Government Report, in the part concerning the drawing up of the 2008-2011 National Action Plan for Children (PNI), refers merely to an environment fit for children (page 151), but does not make any mention of the danger of exposure to chemical pollutants and physical agents in the chapter on prenatal health (pages 96-98).

Chapter VII

Educational, cultural and leisure activities

☐ not implemented

☒ implemented

Education

44. The Committee recommends that the State party:

- ☒ (a) Strengthen its efforts to curb the drop-out rate in upper secondary education;
- ☐ (b) Take all necessary measures to eliminate the inequalities in educational achievement between girls and boys and among children from different social, economic or cultural groups and to guarantee to all children quality education;
- ☐ (c) Take measures to set up adequate mechanisms and structures with the participation of children to prevent bullying and other forms of violence in schools and include children in the development and implementation of these strategies;
- ☐ (d) Ensure that legislation throughout the State party reflects article 12 of the Convention and respects children's rights to express their views and have them given due weight in all matters concerning their education, including school discipline.

Training/dissemination of the Convention

19. The Committee recommends that the State party:

- (a) [...]
- (b) Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel).





Educational, cultural and leisure activities

Introduction

Since the UN Committee on the Rights of the Child issued its recommendations in 2003, various laws have been passed in the field of education. First there was **Government Delegated Law 53/2003** introducing the general rules with regard to education and the essential levels for education and vocational training (the so-called Moratti Reform). Then, in 2005, three legislative decrees were passed to implement this reform¹. Gruppo CRC has expressed concern about these decrees, highlighting in particular the discriminatory aspects of certain measures in relation to the most vulnerable groups. Indeed, there is a danger that the socially, culturally and economically worst-off students will be excluded from upper secondary education. The **2007 Budget Law** raised the school leaving age to 16 (subsequently implemented by Decree 139/2007).

In 2008, as part of the urgent measures aimed at stimulating economic development and, above all, cutting expenditure on public sector employees with **Decree Law 112/2008**² converted into **Law 133/2008**³, the Government introduced a number of changes in the way Italian schools are organised, including, as of the 2009/2010 school year, raising the student-to-teacher ratio, changing the criteria for the forming of classes and reintroducing a modular system in primary school education⁴. Further new elements were introduced by **Decree Law 137/2008**⁵ converted into **Law 169/2008**⁶.

Although it is still too early to fully assess the consequences of these changes, Gruppo CRC, while welcoming the introduction of the topic “Citizenship and the Constitution”⁷,

believes that the current system of marking students’ performances with a mark out of 10 is an obstacle to integration, above all for boys and girls with disabilities. It must also be mentioned that the Constitutional Court ruled on **24 June 2009** that certain parts of Law 133/2008 and Law 169/2008, introducing important savings in spending on school education as of the 2009/2010 school year⁸, are partially unconstitutional, as the criteria, timing and modus operandi used to streamline the school system cannot be introduced through Ministerial regulations. The Court also ruled that any measures required to attenuate the consequences of amalgamating schools in small municipalities are the exclusive competence of regions and local authorities. The Court affirmed, however, that, in general, the measures contained in these laws met the need to set standards as regards the quality of teaching to ensure similar standards throughout the country, adding that there was consequently no need for further legislation to be passed at a regional or local level.

1. THE RIGHT TO AN EDUCATION OF CHILDREN AND ADOLESCENTS FROM THE MOST VULNERABLE GROUPS

CRC/C/15/Add. 198, paragraphs 43 and 44

a) The right to an education of children and adolescents with disabilities

The number of students with disabilities in compulsory education is growing constantly. During the 2008/2009 school year there were 192,873⁹ (+ 2,5%).

As acknowledged in the Accord approved during the Joint Conference on 20 March 2008¹⁰, the **inclusion in school** of children with disabilities must be carried out following the criteria of the bio-psycho-social model in the ICF (*International Classification of Functioning, Disability and Health*), which defines disability as the result of a health condition in an unfavourable environment. It considers

¹ Legislative Decree 226/2005, Legislative Decree 76/2005 and Legislative Decree 77/2005.

² Decree Law 112/2008.

³ Law 133/2008. Conversion into law, with modifications, of Decree Law 112/2008.

⁴ Law 133/2008, Art. 64.

⁵ Decree Law 137/2008.

⁶ Law 169/2008. One of the most important new elements introduced by this law is the awarding of a mark (out of 10) for students’ *behaviour* at school and the inclusion of this mark in the students’ global end-of-year mark. If a student’s mark is less than 6/10, the student is not promoted to the next year of the course or is not allowed to take the exam that concludes secondary school education. The purpose of this measure is to stop bullying in schools. In primary schools, teachers covering all subjects were introduced with a teaching load of 24 hours per week.

⁷ Law 169/2009, Art. 1. See also section “Educational goals: educating about human rights”.

⁸ Art. 64, paragraph 6 *bis* of Decree Law 122/2008, converted into Law 133/2008.

⁹ Ministry of Public Education, University and Research: “Alunni con disabilità gestione e ordine scuola – Dati provvisori A.S. 2008/09”.



schools as a decisive environmental factor in improving or worsening the situation and quality of life of every individual. Although by law¹¹ the families and all the class teachers of students with disability must be involved in drawing up the Dynamic Functional Profile (PDF) and an Individualised Education Plan (PEI), and it is stated in the March 2008 Accord that the drawing up of the Functional Diagnosis (DF) is carried out by the Multidisciplinary Unit “in collaboration with the school and family”¹², in practice¹³, families continue to be asked merely to sign the documents that have already been drawn up by the school and the local health authorities (ASL). They are not informed about what has been planned, nor are they informed, above all, that in cases of students with complex disabilities there is no planning or PEI. The role of support teachers is fundamental, but their presence is being restricted by the indiscriminate budget cuts¹⁴ and by a lack of planning, which often results in the discontinuous presence of these teachers.

Support teachers should, in theory, work alongside ordinary teachers, whose role is educational and didactic. In practice, the support teachers are given the task of achieving the inclusion of children with disabilities, while many ordinary teachers are unprepared and have problems dealing with a class in which there are one or more students with disabilities¹⁵.

The process of inclusion in school should also involve other staff, such as autonomy, communication and personal hygiene assistants and the specially trained staff responsible for motor education, and the relative structures. Not only do these figures not receive the necessary training, but they are also few in number, despite which their numbers are being cut all the time.

A further obstacle to the participation of students with

disabilities in schools occurs as a result of the inaccessibility and unsuitability of many schools due to the presence of **architectural barriers**.

Finally, it is important to note that the **National Observatory for the Integration of Disabled People** and the Federation of Associations, mentioned in the Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report)¹⁶ as being operational since 1996, have never been attended by Ministry officials, nor has the liaison unit between these two bodies been rendered operational. The Federation of Associations has, however, been convened since the present Government came to office, publishing in August 2009 the “**Guidelines on School Integration**”¹⁷.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Introduce specialised training, also as part of lifelong learning, for ordinary school teachers and all other relevant members of staff (autonomy, communication and personal hygiene assistance, and staff responsible for motor education).
2. Draw up partnership programme agreements with the full involvement of families, schools and local services.

b) The right to an education of foreign children

The number of students of non-Italian citizenship enrolled in Italian schools has increased considerably over the last few years. There were 574,133 in the 2008/2009 school year. The percentage of schools with non-Italian students is also increasing (71.3% in 2007/2008). The highest percentage of non-Italian students is to be found in primary schools (7.7%), while geographically the north-east of Italy has the highest percentage of non-Italian students (10.3% of the total).

With regard to their country of origin, Romania ranks first with 92,734 students (16.2% of the total), 35.2% more than in the previous school year, followed by Albania (85,195, equivalent to 14.84% of the total) and Morocco (76,217, equivalent to 13.28%). The students from these three countries account for 44.27% of all non-Italian students in Italian schools.

¹⁰ Art. 2, paragraph 2.

¹¹ Art. 12, paragraph 5, Law 104/1992; Art. 2 of the State-Regions Accord of 20 March 2008.

¹² Art. 2, paragraph 2, Accord, cit.

¹³ The procedures mentioned have been noted thanks to the monitoring carried out by the Admission and Information Service (SAI), the National Information Office on Inclusion at School (Anffas Onlus) and the National Observatory for Integration at School (FISH Onlus).

¹⁴ Law 244/2007, Art. 2, paragraphs 413-414 (2008 Budget Law), which states that there cannot be more than the national average of one support teacher for every two students with disabilities, whatever their specific needs are. Law 133/2008 converting Decree Law 112/2008, Art. 64, paragraph 1, which calls for a general, gradual cut in the number of teachers and other school staff.

¹⁵ In 2007 the MIUR introduced the project “*I care*”, the aim of which is to promote various forms of training for teachers and administrators. While appreciating the contents and goals of this project, no data have been published on who has taken part in the project and on what has been achieved.

¹⁶ See Government Report, p. 116.

¹⁷ MIUR - General Directorate for Students, Integration, Participation and Communication “Linee guida sull’integrazione scolastica degli alunni con disabilità”.



During the 2007/2008 school year, a record was kept for the first time of the number of these students who were born in Italy, the so-called **“second generation” students**, and the number of non-Italian students enrolling for the first time in the Italian school system. From an analysis of this data it emerges that students born in Italy without Italian citizenship account for 34.7% of all non-Italian students, with the highest percentages in nurseries and primary schools. Moreover, the number of **foreign students with disabilities** amounted to 2% of all non-Italian students.

As a result of the increase in the number of non-Italian students, a number of policies have been adopted since 1999 to promote their integration in school. In February 2006, the guidelines for the admission and integration of foreign students were approved¹⁸. Then, in December 2006, the Observatory for the integration of foreign students and intercultural education was set up, publishing its own guidelines for the integration of foreign students in October 2007¹⁹.

With regard to available **resources**, the funding allocated in the 2007 Budget Law for the social inclusion of immigrants, including €2,000,000 for the reception of foreign students, was eliminated by Decree Law 112/2008²⁰.

Moreover, there are a number of initiatives in the current political debate, above all in Parliament, which are opposed to the very idea of interculturality. On 14 October 2008, the Chamber of Deputies passed a motion calling on the Government to introduce “initiation classes”²¹. There are also concerns about certain measures contained in Law 94/2009²², which could lead to a violation of the right of children to an education when their parents are not regularly resident in the country.

Another problem that has arisen is the **concentration** of foreign students in classes in certain geographical areas and certain types of schools. The most recent political initiatives do not, therefore, seem to have addressed the problem of integration as they have merely sought to deal with the problem of the numbers of foreign children.

Finally, there is the problem of the **school attendance** of

non-Italian students due to problems resulting from their knowledge of the Italian language and the difficulties of social integration²³. It would be useful here to **involve parents and families**, both Italian and non-Italian, and provide information and guidance.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Guarantee and protect interculturality in the learning process by providing information and guidance aimed at assisting the involvement of parents and families, both Italian and non-Italian, providing staff with specific training and making use of the professional resources of non-Italians.
2. Reactivate the Observatory for the integration of foreign students and intercultural education created in December 2006.

c) The right to an education of adopted children, children in foster care and children in communities

During the last few years Italian schools have increasingly had to deal with the presence of students with particular personal and family situations. All schools, at whatever level, should be able to assist all children in the school socialisation processes and help eliminate stereotypes, still present even in school texts, such as the depiction of family relations based exclusively on biological ties.

There is an increasing number of **children** of school age who were **adopted** abroad. In 2007-2008, 40% of children adopted abroad were aged 5-9 and in 2008 the percentage rose to 43.7%. Moreover, the percentage of these children over 10 also increased in 2008, reaching 10.6%²⁴. In addition to the problems of settling in at school, they sometimes also experience the additional learning problems typical of adopted children and it is at school where the first signs of difficulties being experienced by the child may emerge.

It has been observed that there is a tendency for teachers to underestimate this problem by associating the learning difficulties these children have at school with their poor knowledge of the Italian language and/or poor schooling beforehand. It is inconceivable, however, that schools alone can find the right solutions to the educational problems of

¹⁸ Ministerial Circular 24/2006.

¹⁹ Ministry of Public Education – General Directorate for Studies, Planning and Information Systems, *La via italiana per la scuola interculturale e l'integrazione degli alunni stranieri*, October 2007.

²⁰ See also Chapter I, section “The resources allocated for children and adolescents in Italy”.

²¹ Motion 1-00033, available at www.camera.it.

²² Law 94/2009. In particular: Art. 1, paragraph 16, which introduces the crime of entering Italy and residing there irregularly; Art. 1, paragraph 22, subparagraph g), which requires non-Italian citizens to show their residence permit to have access to any civil records or services.

²³ On average, 42.5% of foreign students are unable to make normal progress through Italian schools and their difficulties increase with age.

²⁴ See also Chapter V, section “A panorama of national and international adoptions in Italy”.



adopted children. It is essential, therefore, to create a network between all the local structures and services whose task it is to protect children's rights. Some regions have introduced systems to link the different institutions and this has resulted in the proactive involvement of schools in the planning and information procedures.

With regard to the **training of teachers**, with the sole exception of Sardinia, all the regions/autonomous provinces have provided training and information over the last two years on the question of adoptions and foster care for both psychosocial workers and teachers²⁵. These activities are "voluntary", however, so very often only those people who are already sensitive to this issue take an interest.

As far as the **right to an education of foster children** is concerned, it must be remembered that children in foster care also have their own particular past experiences, often difficult ones, to deal with²⁶. It would, therefore, be good practice to include an assessment of which school the child should attend when the foster placement begins, considering whether it is a good idea to interrupt the child's ties with his or her previous environment, which may already have been identified as negative, or whether it is better to maintain the friendships and points of reference that have been established.

As far as the **right to an education of children in communities** is concerned, it is necessary to take into consideration the length of their stay in a community, as it may be very brief and not coincide with the school timetable.

Gruppo CRC recommends that the Italian Government should:

1. Introduce compulsory training for all teaching staff on adopted children, children in foster care and children in communities.
2. Introduce common procedures to help adopted children, children in foster care and children in communities settle in at school, in collaboration with the relevant social services and the children's families as regards how and when this can best be done.

2 THE ADMINISTERING OF DRUGS AND HEALTH CARE AT SCHOOL

20-25% of the child population suffer from allergic and/or respiratory diseases²⁷. **Pollution in indoor environments**²⁸ (such as schools) is one of the most likely causes of an allergic or asthmatic attack.

Considering that infants aged from six months to six years spend up to a third of their lives **at school** and that exposure of children to environmental agents during their first years of life may cause their immune systems to have an allergic reaction, it is clear that the environmental conditions in schools must be qualitatively good, with everything possible being done to reduce the indoor concentrations of chemical pollutants and allergens.

Despite the importance attached, in theory, to the prevention of chronic diseases caused or aggravated by indoor and outdoor pollution, particularly in school environments²⁹, in practice, most school environments do not meet the required health and safety requirements³⁰.

It should also be pointed out that school staff do not necessarily have the necessary health skills or knowledge as there are no compulsory courses concerning health matters in the degree courses in Education Science. As a result, when facing a situation that requires health skills (such as administering a drug in the case of a respiratory and/or allergic attack), school staff are only required to call for assistance³¹. The continuing lack of both economic and professional resources makes it impossible to offer the necessary guarantees for children affected by allergic pathologies. This situation has led some families to take the matter to court in order to have this right respected³².

At a regional level, there is a pilot project in Lazio which, in addition to creating a protocol to deal with emergency situations involving patients with asthma or allergies, is collecting data on the assistance provided by the emergency services in all the region's schools. The aim of this study is to provide an initial assessment of the situation and to

²⁷ ISTAT, Yearbook 2008, Chapter 3. Health (data referring to 2006).

²⁸ See also Chapter VI, section "The environment and child health".

²⁹ For example: a) the 2006-2008 National Health Plan; b) the Ministerial Conference on Environment and Health of the 53 Member States of the WHO European Region held in Budapest in 2004; c) the multicentric European project "SEARCH" (*School Environment and Respiratory Health of Children*).

³⁰ See on this topic, section "The right to safety in schools".

³¹ ARES 118, Regional Administration of the Emergency Medical Services.

³² The Rome Employment Tribunal ruled that a child suffering from an acute allergic syndrome must be accompanied by a nurse while at school to administer the necessary drugs should they be required. Cf. precautionary injunction of the Rome Employment Tribunal, ruling 2779/2002.

²⁵ Pregliasco R. *Le forme e gli interventi di sostegno e accompagnamento all'aspirante famiglia adottiva modalità di cura e presa in carico*, op. cit.

²⁶ See also Chapter V, section "Foster care".



compare, in terms of costs/benefits, the present system of dealing with emergency calls from schools with the presence of “*Presidi Sanitari Scolastici*” (school infirmaries).

Gruppo CRC recommends that the Italian Government should:

1. Implement at a regional level a revised and amended “Guidelines for the prevention of indoor environmental risks factors for asthma and allergies in schools” drawn up by the Committee on Indoor Matters of the Ministry of Labour, Health and Social Policies.
2. Remove all legal, technical, organisational, administrative and financial obstacles to the implementation of the measures necessary to eliminate indoor and outdoor pollution in schools and to guarantee health care in schools.
3. Pass a framework law specifying the organisational structure and professional figures with health skills required in schools, thereby guaranteeing the right of all children with chronic and/or rare diseases, allergic or otherwise, to an education and health.

3. EARLY SCHOOL LEAVERS

CRC/C/15/Add.198, paragraph 44, subparagraphs a) and b)

Monitoring the rate of “early school leavers” does not mean merely monitoring children who leave school early, but also includes phenomena such as a slower than average progress through school, interruptions and the failure to obtain formal qualifications or have skills recognised. There has been a gradual drop in the **rate of early school leavers**³³ in Italy over the last four years. In 2009, it was 19.2%, which is, however, higher than the European average³⁴ and a long way off the European goal of 10%. 4.6% of **Italian 15-year-olds**³⁵ are not enrolled at school, with the figure rising to more than 6% in the south of Italy. The data produced by the Ministry of Education, University and Research (MIUR), as mentioned in the Third and Fourth Periodic Report to the UN Committee on the Rights of the

Child on the implementation of the CRC and related Optional Protocols (Government Report), reveals that, during the 2006/2007 school year, 2,791 students in lower secondary education and 44,664 students in upper secondary education **left school without officially communicating this fact**³⁶. The value of **this data is limited** to a certain extent, however, since, as pointed out in the Government Report, the way the educational and vocational training system is organised in Italy means that it is essential to have a true monitoring of the situation, which takes into account every aspect of a student’s educational career. **There is currently no such integrated system at a national level.**

The MIUR has created a **national student register**, which makes it possible to monitor the number of students who leave the educational system, but this register has not yet been integrated with data from non-state schools, nor with regional registers concerning apprenticeships and compulsory education, which, in any case, only exist in 10 of the 21 regions and autonomous provinces³⁷.

Finally, it must be stressed that the **phenomenon of early school leavers is often interconnected with the economic and socio-cultural problems of the children’s families**³⁸: it is 3.6 times more likely that a child whose parents have a high level of education completes his or her studies than a child whose parents have only a basic education in the EU25 and 7.7 times more likely in Italy. Early school leaving and a lack of social mobility make it less likely for young people in Italy to find work, especially of a well-paid kind³⁹.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Introduce an IT system for the national student register and connect to this register to those that have been set up at a local level.
2. Collaborate with the relevant Ministries to find sufficient resources to foster studying among children from families at a risk of social exclusion.
3. Introduce, at a regional level, local school registers, improving them where they already exist.

³³ The indicator used at a European level, which means the percentage of 18-24 year-olds who left school with at most ISCED 2 qualifications (lower secondary education) and are currently not in education or training out of the total 18-24 year-old population. ISTAT measures this indicator using surveys on the labour force. Eurostat uses a similar method, but the two values do not coincide as the limits for vocational training courses was raised from six months to 2 years.

³⁴ 16.4% in the EU 15 and 14.8% in the EU 27.

³⁵ The sample studied included 15-year-olds interviewed during a survey on the labour force (RFL) and was obtained by pooling the data for 2004, 2005 and 2006.

³⁶ Ministry of Public Education, *La dispersione scolastica. Indicatori di base, a.s. 2006/2007*, May 2008.

³⁷ The regions that have set up registers are: Piedmont, Veneto, Liguria, Emilia Romagna, Tuscany, Abruzzo, Molise, Basilicata, and the autonomous provinces of Trento and Bolzano. Source: Isfol, *Le misure per il successo formativo. Ottavo rapporto di monitoraggio del diritto-dovere*, April 2009.

³⁸ European Commission, *Social Situation Report 2007*, published in 2008, pp. 186-196.

³⁹ See also Chapter VI, section “The situation of poor children and adolescents in Italy”.



4. THE RIGHT TO SAFETY IN SCHOOLS

The number of accidental deaths in Italian schools continues to rise⁴⁰, bringing to the general public's attention the serious situation of more than half of Italy's school buildings.

A yearly survey carried out one of the association in Gruppo CRC⁴¹ has revealed that the situation is getting worse, above all in schools located in seismic areas. It should be emphasised that one in three schools is located in an area of seismic risk, the vast majority of which are in Calabria, Campania, Sicily and Abruzzo⁴².

The main dangers are due above all to a lack of building maintenance, the structural weakness of roofs and floors, the absence of certificates of fitness for use (including fire prevention, and health and safety) and a lack of training among rescue staff on how to deal with children with disabilities.

With regard to the **health and safety of the school environment**, the "Guidelines for the protection and promotion of health in closed spaces"⁴³ are not sufficiently adhered to. At the time of writing, these guidelines were being studied by the State-Regions Conference.

Associations⁴⁴, municipalities and provinces stated that 38.14% of school buildings required urgent repairs.

Only 57% of schools had a certificate of fitness for use, 13.8% of schools a certificate of health and safety, and 35.3% a certificate of fire prevention compliance. Classrooms and gyms were the most unsafe parts of schools, but toilets were not much better. One in five **classrooms** had plaster falling from the ceiling and there were other signs of disrepair in 29%. 20% of the floors were uneven, 24% of the windows were broken, 15% of the desks were damaged, and 51% of the classrooms had lockers and bookcases that were not fixed to the walls.

39% of schools did not have a gym and where there were gyms, they were generally not in very good condition. 50% had old-fashioned wiring that did not meet fire safety regulations, 42% did not have antipanic doors and 30% were in a state of disrepair or had plaster falling from the ceiling.

The cleanliness of the **toilets** was particularly worrying. 42% of the toilets did not have toilet brushes, 49% toilet paper and 70% soap.

Nothing has been done yet to rectify this situation. The Government estimates that it would cost around €13 billion to bring the 57,000 state-run and private schools up to standard⁴⁵. It is, therefore, indispensable that the Government and regions agree together not to delay any further the entry into force of Legislative Decree 81/2008 on workplace safety⁴⁶, which also includes schools.

There is a problem in using funds that have already been allocated, however, as a result of the requirement for municipalities to respect the **stability pact**⁴⁷. This has resulted in local authorities being unable to use funds that have already been transferred to them for school improvements.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Respect the Safety Pact, which, for 2007-2009, included a pledge by the Government to introduce a series of measures to improve the situation (with the necessary financing), by reviewing the current criteria as regards the stability pact in order to allow funds already available to be used more rapidly.
2. Complete and publish the results concerning the school buildings register in order to have a reliable mapping of the situation of school buildings necessary to decide on the most urgent work to be carried out.
3. Not delay the entry into force of Legislative Decree 81/2008 on workplace safety in relation to schools, so as not to provide further justifications for delaying the necessary action and investments to make schools safe, above all in highly seismic areas and in schools in the worst state of repair.

⁴⁰ 28 in San Giuliano di Puglia in 2002, 1 in Zagarolo in 2004 and 1 in Rivoli in 2008.

⁴¹ Cittadinanzattiva, *VI Rapporto su sicurezza, qualità e comfort degli edifici scolastici*, 2008.

⁴² Source: Department of Civil Protection – 2003 seismic classification.

⁴³ G.U. No. 276 of 27 November 2001, *supplemento ordinario* No. 252, Standing Conference for the relations between State, Regions and the Autonomous Provinces of Trento and Bolzano.

⁴⁴ Legambiente, *Ecosistema scuola 2009*.

⁴⁵ Source: statement made by Guido Bertolaso (head of Italy's Department of Civil Protection) to the Chamber of Deputies after a dropped ceiling gave way in a secondary school in Rivoli (TO), 25 November 2008.

⁴⁶ Legislative Decree 81/2008 "Implementation of Article 1 of the law of 3 August 2007, No. 123, concerning health and safety in the workplace".

⁴⁷ The stability pact is a way of limiting public expenditure and bringing it in line with the real financial possibilities of local government.



5. VIOLENT BEHAVIOUR AT SCHOOL

CRC/C/15/Add. 198, paragraph 44 subparagraph c)

The improper use or abuse of new technologies by the media to show scenes of violence has merely highlighted a phenomenon that already existed, but had never been tackled in Italy⁴⁸.

According to a study carried out in 2007 involving 1,200 secondary school children aged between 12-14, boys (75.6%) were more likely to witness acts of bullying, while the acts of bullying themselves were more likely to be carried out by girls (69.1%) than by boys of the same age (59.2%). Although 70% of the adolescents interviewed judged these acts of aggression negatively, 64% of them said that they would not tell their teachers or parents if they were the victims of violence⁴⁹.

Violence at school is not limited to physical violence, but also includes virtual violence (cyber bullying).

One of the associations in Gruppo CRC carried out a survey⁵⁰, distributing questionnaires in every type of secondary school all over Italy. Examining the results of the 5,418 questionnaires answered by students and the 592 questionnaires answered by teachers, one of the first findings to emerge was that 37% of students do not consider school to be a safe place⁵¹. The most common form of violence is psychological violence, followed by nasty tricks and aggressive behaviour. 51% of the students and 37% of the teachers had witnessed episodes of violence at school; and half the students had witnessed acts of vandalism, which in 41% of the cases were probably due to boredom. The **victims** of violent behaviour at school were boys (29%) rather than girls (15%), in particular the smaller boys (27%). Foreign students (16%) and students with disabilities (7%) were also victims. Other factors causing children and adolescents to be the victims of violence are their character, appearance and sexual orientation.

With regard to the **reactions** of the victims of violence, students who had witnessed acts of violence said that one third of the victims had not reacted. The data collected is

extremely important because it shows that not only do students have a **poor knowledge of the rules**⁵², but above all that these rules are virtually never applied at school. **The solutions identified by students as being most likely to stop and/or prevent violence at school** were to educate students about common rules in life (15%), get teachers more closely involved in the world of students, improve the ability of both groups to engage in dialogue, share views and listen to one another (15%), and to foster the involvement of students in the decision-making processes with regard to matters that involve them (12%).

In 2006, the Ministry of Education began a campaign to combat antisocial behaviour and delinquency among young people, also by trying to involve them in finding constructive solutions.

At a regional level, a proposal was put forward by the Ombudsman for Children in Molise for “scholastic probation” in order to combat and prevent violent behaviour at school⁵³.

Gruppo CRC recommends that the Italian Government should:

1. Carry out a national study on violent behaviour at school in order to obtain reliable data on the incidence and nature of this phenomenon, and identify best practices, which can then be used to draw up a national plan of action to combat and prevent bullying.
2. Ensure that the school rules and the Student Statute, the main instruments that govern democratic life and student participation at school, are known in all secondary schools.
3. Combat and prevent bullying and vandalism by promoting legality and student participation in order to develop among younger students basic skills and abilities, a constitutional awareness and democratic practices.

6. EDUCATIONAL GOALS: EDUCATING ABOUT HUMAN RIGHTS

CRC/C/15/Add. 198, paragraph 19, subparagraph b) and paragraph 44, subparagraph b)

Despite the undertakings Italy has given and the recommendations it has received at an international level, human rights education is still not taken seriously enough

⁴⁸ The first study, carried out by the University of Florence, dates back to 1997 and was carried out at a national level involving 5,000 students (Ada Fonzi *Il bullismo in Italia. Il fenomeno delle prepotenze a scuola dal Piemonte alla Sicilia*, Giunti Editore, 1997).

⁴⁹ Italian Society of Paediatricians, *Rapporto annuale su abitudini e stili di vita degli adolescenti – 2008, dodicesima edizione*.

⁵⁰ Cittadinanzattiva, *Prima indagine sui comportamenti violenti a scuola*, June 2008.

⁵¹ Among the areas which are considered to be least safe are the outside of the school (19%), the toilets (18%) and the playground (16%).

⁵² One in five students does not know the school regulations and one in three does not know the Student Statute.

⁵³ Annual report 2008.



by the State. No bill on this topic has been examined by Parliament in the last four years⁵⁴. The teaching of human rights is still an optional topic, left to the discretion of individual school directors and teachers, or, as mentioned in the Government Report⁵⁵, to the efforts of certain associations.

As also highlighted in the Government Report, greater attention is being paid to education concerning respect of the law through the first **National plan on education to encourage legality and fight the Mafia**. Only a few regions⁵⁶ have, as yet, actually implemented this plan, however, and are actively promoting projects in schools aimed at educating students to respect the law.

Closely linked to this issue is “Citizenship and Constitution”, a recently created topic that will be experimented with in just a few schools as of the 2009/2010 school year⁵⁷. The aim of this topic is to teach young people how to exercise democracy in respect of certain shared rules. The topic is not compulsory, however, and so individual teachers will decide on whether or not to introduce it during their lessons for a total of 33 hours. Moreover, these hours will not be added to the normal timetable, but will taken from the hours during which history and geography are normally taught. Mention should be made of the fact that no special funds were made available to organise special educational activities on the topic of human rights during the 60th anniversary of the Universal Declaration of Human Rights⁵⁸.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Promote human rights education and make it part of the curricula in every type of school, at every level, and set up training courses for school teachers and administrators aimed at promoting a human rights based pedagogical approach in all subjects taught at school.
2. Carry out a survey at a national level of good practices used in nurseries, and primary and secondary schools with regard to human rights education and the teaching of the values on which these rights are based, including the projects and activities promoted by voluntary associations.
3. Develop specific funds and programmes to follow up the “International Year of Human Rights Learning” and implement the World Programme for Human Rights Education promoted by the United Nations (resolution 59/113 of the General Assembly), also by means of a multiyear Action Plan at a national level.

⁵⁴ Parliamentary Bills A.S. 3350 and A.C. 4230 during XIV *Legislatura*; A.S. 896, A.C. 5 and A.C. 2103 during XIV *Legislatura*; and A.C. 929 and A.C. 2318 during the current Parliament.

⁵⁵ See Government Report, p. 163.

7. EDUCATIONAL, CULTURAL AND LEISURE ACTIVITIES

a) The right to play

As an activity that characterises the days of boys and girls, play was the subject of a study carried out in 2005. This study provided important data on the games children prefer to play, where they prefer to play and who they prefer to play with. The data is divided into different age groups, starting with five-year-olds⁵⁹.

There have been numerous initiatives during the last few years, promoted by both the third sector and the State, on play and the more general topic of **sustainable cities**. These initiatives have been important opportunities to exchange ideas and offer training, but they have also highlighted the lack of a global approach and the lack of coordination at a national level in this area. The recent legislation introduced in the Marche region requiring the regular planning of activities to favour the implementation of the right to play and sports⁶⁰ is an example of good practice. Unfortunately, there are also examples of bad practices. The Movement and Prize of the *Città Sostenibili Amiche delle Bambine e dei Bambini* (“Child friendly sustainable cities”) introduced in 1997 stopped being financed by the Government in 2002, and the Municipality of Rome’s “Right to Play Day” was recently suspended. As a result of the lack of a national strategy to promote “child friendly cities”, “free” play among children – without the constant supervision of adults, entertainers or educators – has virtually disappeared from Italy’s streets and squares. There are, instead, attempts all the time to ban free play (for example, in the regulations of blocks of flats, squares and even parks), with signs everywhere warning “Do not...”. Play is a fundamental right as it ensures a balanced, harmonious development and a “child’s life”, in which to learn socialising and other skills.

In the case of **children with disabilities**, greater importance is attached to rehabilitation, treatment and education than to play, despite the fact that play is one of the parameters used to assess children’s performances in the new version of the ICF⁶¹. It is important, therefore, that awareness campaigns,

⁵⁶ Sicily and Campania in the 1980s, and recently Liguria, Tuscany, Piedmont and a few other Regions in the centre and north of Italy. Source Cittadinanzattiva.

⁵⁷ Law 169/2008, Art. 1.

⁵⁸ A special fund of €1 million included by some Members of Parliament in the so-called “Maxi amendment to the 2008 Budget Law” was eliminated. See the news presented by Apcom on 30 May 2008.

⁵⁹ *L’eccezionale quotidiano – come cambia la vita dei bambini*, November 2005.

⁶⁰ The Marche, Regional Law 10/2009.

⁶¹ ICF-CY, 2007.



aimed at parents, administrators and social workers are introduced on this topic, and that play areas are created for children with special needs. There must also be public spaces where children can meet and play.

Finally, Gruppo CRC stresses the importance of the right to play of **children in hospital**, noting the need to monitor at a national level the existence of fully equipped play areas in hospitals and the play activities offered in these places.

Gruppo CRC recommends that the Italian Government should:

1. Study good practices and training with regard to play in the wider sense of the term, as described above, play in cities and children's concept of time, in addition to carrying out research at a national level in relation to the right to play of children with disabilities and children in hospital.
2. Restore the Prize and network of Città Sostenibili Amiche delle Bambine e dei Bambini, introducing any necessary changes after ten years of experience and in the light of national and international developments in the concept of Child Friendly Cities.
3. Make legislative changes to end "no playing" policies in public spaces, and participate in national and international events on play, promoting activities that make it easier for children to play in urban areas.

b) Sport and children

Around 3 million children and adolescents aged 6-18 practise sports: 22.5% of children aged 3-5, 59.5% of children aged 6-10, 65% of children aged 11-14 and 61.9% of those aged 14-17 anni⁶².

Gruppo CRC has noted, nevertheless, that as a result of a **very limited awareness of the concept of corporeity linked to movement and sport**, a purely economic approach to sport as a form of entertainment tends to be adopted, even in sports practised by children. This is shown by the impossibility for children to practice sports how and when they want because of the **registration process**. Boys and girls who practice sports competitively cannot move freely from one team to another as this has to be authorised by the club for which they are registered and the club they want to move to must agree to pay a transfer fee as a form of indemnity (calculated on the basis of specific tables) for the "coaching provided".

Another worrying phenomenon is the practice of **doping** among young athletes. The practising of a sport competitively is considered a risk factor with regard to the use of drugs⁶³. Italy ratified the International Convention against Doping in

Sport in 2007⁶⁴, and sports associations and clubs have been working for years to raise awareness among the general public about this problem⁶⁵. An example of good practice is the information and awareness campaigns devised by children on "pharmacological pollution" and doping. An impact assessment of the most recent of these initiatives⁶⁶ provided important suggestions as to how the spread of doping among young people can be tackled.

The prevailing model for sports activities for children with disabilities is still the medical model based mainly on the idea of rehabilitation⁶⁷, while the **access of foreign children to sports activities** is restricted by the regulations that sports federations have on the registration of foreign minors⁶⁸.

As far as legislative initiatives are concerned, the bill presented in Parliament under the previous Government to protect children in sport⁶⁹ has not been re-submitted. A fact-finding survey has, however, been started by the Senate on grassroots and amateur sport⁷⁰, which should result in the drafting of a reform proposal for this sector.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Guarantee the development and certification of training for sports directors and educators.
2. Set up and appoint the members of a national Observatory on sport and children, with the necessary resources to carry out a national survey on the "adultisation" of the motor activities of 14-year-olds, the phenomena of early specialisation and selection, the reasons for abandoning sports, the use of drugs and legislation concerning the registration of children in sports, and regularly produce data and analyses for a national watchdog committee with the necessary powers to discuss the related issues at the highest decision-making levels.
3. Bring Italian legislation in line with the recommendations contained in the White Paper on sport presented by the European Commission on 11 July 2007.

⁶⁴ Law 230/2007.

⁶⁵ The UISP (Italian Association of Sport for Everyone) has been carrying out an information and awareness-raising campaign since 1999.

⁶⁶ "Mamma parliamo di doping" ("Mum, let's talk about doping"), assessment report.

⁶⁷ Proceedings of the conference "Pensieri in movimento - una nuova stagione di politica sportiva", Rome, 27 January 2007.

⁶⁸ The Italian Football Association (Federazione Italiana Giuoco Calcio – FIGC) limits the registration of children from third countries with the status of "giovani di serie" (footballers who, when they reach 14 years of age, are registered by a club belonging to one of the two professional leagues). Other such Regulations are Art. 82, paragraph 2 of the Italian Tennis Federation (Federazione Italiana Tennis – FIT) and Art. 11, paragraph 2 of the Italian Swimming Federation (Federazione Italiana Nuoto – FIN).

⁶⁹ Parliamentary Bill A.C. 3261.

⁷⁰ On 14 October 2008, the VII Standing Committee on public education and cultural heritage approved the proposal for a fact-finding survey on grassroots and amateur sport.

⁶² ISTAT, *La pratica sportiva in Italia-Anno 2006*, Family and Society.

⁶³ Presidenza del Consiglio dei Ministri - Dipartimento Politiche Antidroga, *Cocaina e minori - Linee di indirizzo per le attività di prevenzione e d'identificazione dell'uso di sostanze stupefacenti*.

Chapter VIII Special protection measures

☐ not implemented
☒ implemented

Unaccompanied minors

- ☐ 46. In accordance with the principles and provisions of the Convention, especially articles 2, 3, 22 and 37, and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:
- (a) Strengthen efforts to establish enough special reception centres for unaccompanied minors, with special attention to those who have been victims of trafficking and/or sexual exploitation;
 - (b) Ensure that the stay in these centres is for the shortest time possible and that access to education and health is guaranteed during and after the stay in a reception centre;
 - (c) Adopt, as soon as possible, a harmonized procedure in the best interests of the child to deal with unaccompanied minors throughout the State party;
 - (d) Ensure that assisted repatriation is envisaged when it is in the best interests of the child and that a follow-up is guaranteed for those children.

Economic exploitation

48. The Committee recommends that the State party develop, on the basis of the recent study, a comprehensive strategy containing specific and well-targeted goals aimed at preventing and eliminating child labour through, inter alia, awareness-raising activities and detection of the factors involved.

Sexual exploitation and trafficking

- ☒ 50. The Committee recommends that the State party:
- ☒ (a) Strengthen its efforts to prevent and combat trafficking in children for sexual purposes, in accordance with the Declaration and Agenda for Action, and the Global Commitment adopted at the 1996 and 2001 World Congresses against Sexual Exploitation;
 - ☒ (b) Monitor the implementation of Act 269/98, especially as it addresses the issue of the “demand side” of sexual exploitation;
 - ☐ (c) Ensure that adequate resources, both human and financial, are allocated to policies and programmes in this area.

Protection of victims CRC/C/OPSC/ITA/CO/1 21 June 2006

- ☒ 27. The Committee recommends that the State party undertake necessary measures, including long-term public information and awareness-raising campaigns, in collaboration with tour operators and the civil society, on the growing phenomenon of sex tourism, in order to reduce and eliminate consumer demand.

Existing criminal or penal laws and regulations CRC/C/OPSC/ITA/CO/1 21 June 2006

- ☐ 19. The Committee recommends that the State party continue to ensure that legislation and procedures relevant for the Optional Protocol are being fully implemented. It further recommends that the State party define child pornography in the national legislation, which will enable it to clearly design and implement policies.



Chapter VIII

Special protection measures

Administration of juvenile justice

- **52.** The Committee recommends that the State party, within its reform of the juvenile justice system, fully integrate the provisions and principles of the Convention, in particular articles 37, 40, and 39, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System.
- **53.** In particular, the Committee recommends that the State party:
 - (a) Take all necessary measures, including through awareness-raising campaigns and adequate training of the personnel involved, to prevent and eliminate discrimination against children of foreign origin and Roma children;
 - (b) [...];
 - (c) Provide training on children's rights to those responsible for administering juvenile justice.

Children belonging to minority groups

- **55.** The Committee recommends that the State party develop, in cooperation with Roma NGOs, comprehensive proactive policies and programmes to prevent social exclusion and discrimination and to allow Roma children to enjoy fully their rights, including access to education and health care.





Special protection measures

CHILDREN IN EMERGENCY SITUATIONS

1. THE SITUATION OF FOREIGN MINORS IN ITALY: LEGISLATION AND EVERYDAY PRACTICE

CRC/C/15/Add.198 2003, paragraph 46
CRC/C/OPAC/ITA/CO/1 2006, paragraph 20

a) Unaccompanied foreign minor (EU and non-EU)

The number of **unaccompanied foreign minors** reported by the police or social services to the Foreign Children Committee is increasing¹ (from 6,426 on 30 September 2005 to 7,797 on 31 December 2008). The **figures** do not provide an accurate picture of the situation, however, as they do not include those minors who do not come into contact with the police or social services, children who have applied for asylum or children from Member States of the European Union. The Foreign Children Committee is not necessarily informed about the presence of these minors. Indeed, unaccompanied minors arriving from Romania, who on 31 December 2006 accounted for 36% of all unaccompanied minors, are no longer reported to the Foreign Children Committee, as they are EU citizens.

Morocco remains the main **country of origin**². In 2008, there was a further increase in the number of unaccompanied foreign minors arriving from Egypt (13.8% of the total), while the number of minors arriving from Palestine and Albania fell by almost 4.5% (Albania, with 12.5%, ranks third among the 78 countries from which unaccompanied foreign minors arrive).

In 2008, Sicily reported the highest **number of cases** to the Foreign Children Committee (41.4%), followed by Lombardy (12.6%), Emilia Romagna (7.3%) and Piedmont (6.8%)³. In

80% of the cases the unaccompanied foreign minors were placed in reception centres. Only 15% were looked after in non-public facilities and the remaining 3.5% (265 minors) were of no fixed abode.

The vast majority of unaccompanied foreign minors continue to be **aged** 16-17 (76.8%), while those aged 7-14 are gradually falling in numbers (10.9% in 2008).

Italian legislation contains a series of measures to protect foreign minors⁴. However, these measures are far from complete and are implemented unevenly throughout the country as a result of different interpretations of the law. Children without documents may be mistakenly identified as adults. It must be stated immediately that the use of **medical examinations to determine a child's age** is increasingly being used systematically rather than as an exceptional measure. 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**⁵ cannot be applied. In practice, a **copy of the report**, which could be of use in an appeal against the way in which the person's age was determined, is not always issued.

As far as the appointing of a guardian and the issuing of a **residence permit** are concerned, the procedures used differ enormously, even within the same region. In Sicily, for example, there are provincial police headquarters which refuse to issue unaccompanied foreign minors with any type of residence permit where there is no guardian or guardianship proceedings have not started. As a result, these minors are unable to enjoy certain fundamental rights, given that a residence permit is required in order, for example, to be issued with a national health card and to be able to choose a GP⁶.

Moreover, the **issuing of a residence permit to a person who**

¹ The Foreign Children Committee is an inter-ministerial body established by Art. 33 of Legislative Decree 286/1998 (*T.U. Immigrazione*), which currently has its offices at the Ministry of Labour, Health and Social Policies. One of the tasks of this body is to monitor the presence of unaccompanied foreign minors in Italy.

² Almost 1,200 cases (15.3% of the total).

³ In 2007, 34.4% of the reports received by the Committee were from Sicily, 14.3% from Lombardy, 8.5% from Emilia Romagna and 8.2% from Piedmont.

⁴ They cannot be expelled (Art. 19, paragraph 2, subparagraph a., *T.U. Immigrazione*), nor held in Identification and Expulsion Centres (CIE) in accordance with 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.

⁵ General Comment No. 6; Art. 19, Legislative Decree 25/2008; Art. 8, Presidential Decree 448/88; circular of the Ministry of the Interior, Prot. 17272/7, of 9 July 2007.

⁶ Save the Children Italia, *L'accoglienza dei minori in arrivo via mare – Rapporto finale di monitoraggio delle comunità alloggio per minori in Sicilia*, April 2009.



reaches majority has been made even more difficult by the introduction of a measure modifying Art. 32 of *T.U. Immigrazione*⁷. In order to be issued with a residence permit, a person reaching majority must be under a guardian or in foster care and must have been in an integration project for at least two years, have accommodation and be enrolled in a course of study, or be working or about to start working. This measure threatens to encourage minors who enter Italy after their sixteenth birthday⁸ 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 emigrate to Italy at an earlier age. Finally, with regard to “assisted repatriation”⁹, until 2005 these measures were decided on by the Foreign Children Committee using a wholly administrative procedure, without the involvement of any judicial authorities. As highlighted in the Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report)¹⁰, there were 815 assisted repatriations in 2000-2005, but the Foreign Children Committee did not use this measure at all in 2006 and 2007. In 2007, the **Central Coordination Unit (OCR)**¹¹ 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 Agreement¹², which outlined the procedures for taking care of Romanian minors. These special procedures, which are for any Romanian minors caught up in the Italian juvenile justice system¹³, are above all 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 responsibility¹⁴. We are also concerned about the introduction into Italian law of certain special procedures with regard to the repatriation of EU unaccompanied foreign minors involved in prostitution¹⁵.

⁷ Art. 1, paragraph 22, Law 94/2009, the so-called “Law and Order” Decree.

⁸ 81% of unaccompanied foreign minors present in Italy, cf. Giovannetti M., *Minori stranieri non accompagnati in Italia. Secondo rapporto*, ANCI.

⁹ Art. 32, paragraph 2, subparagraph b), *T.U. Immigrazione*.

¹⁰ See Government Report, p. 23.

¹¹ Decree of the Ministry of the Interior, 8 October 2007.

¹² Circular, prot. No. 246, 20 January 2009.

¹³ Their guardian is the Director of the Correctional Facility. There is a danger that for these minors the time spent awaiting repatriation is completely wasted.

¹⁴ Council Regulation (EC) 2201/2003; Constitutional Court ruling 105/2001 and 222/2004.

¹⁵ Art. 1, paragraph 29, Law 94/2009. See also the section “Child prostitution”.

Gruppo CRC recommends that the Italian Government should:

1. Introduce legislation to assist unaccompanied foreign minors, above all as regards their residence permit when they reach majority and assisted repatriation.
2. Adopt standard procedures to ascertain the age of unaccompanied foreign minors that respect their dignity and physical integrity.
3. Introduce legislation to regulate the procedures and decisions concerning unaccompanied Romanian minors that respect the rights enshrined in the CRC with regard to both the decision-making and implementation procedures for repatriation, and subsequently to the follow-up to see what has been done to help the reintegration of the minor upon his or her return.

b) Migrant children in nuclear families not legally resident in Italy

As mentioned in the Government Report¹⁶, there are a large number of children in Italy whose families are not legally resident in the country. It is impossible to calculate the exact number as a result of their irregular position.

In respect of the right to family unity (Art. 9 of the CRC), children are entitled to remain with their parents. As a result, they may sometimes be expelled or held in Identification and Expulsion Centres (CIE). Italian law expressly states that where a decision is to be taken that affects the right to family unity, the interests of the child must be taken into consideration¹⁷. This does not appear to happen in practice, however, especially with regard to the **expulsion** of the parents. The absence of legislation that limits **the holding of nuclear families with children in the CIE** or other holding centres for migrants appears to be in contrast with what is stated in Art. 37 of the CRC, as these centres are not suitable for hosting nuclear families and can in no way ensure that children receive the kind of treatment they require¹⁸. Families without a residence permit **have no right to social services**, except in particular circumstances¹⁹. Only children have a right to receive assistance and they are reported to the juvenile courts, which can limit or suspend parental responsibility. With regard to **access to health care**, the *T.U. Immigrazione* allows children residing irregularly in the country with their nuclear family to receive essential and urgent treatment, also of a continuous nature, but it does not allow them to register with the National

¹⁶ See Government Report, p. 22.

¹⁷ Art. 28, *T.U. Immigrazione*.

¹⁸ Cf. *Rapporto De Mistura, Criticità del sistema attuale*, pp. 21-22.

¹⁹ They can, for example, use the facilities financed by municipalities when there is a “cold emergency”.



Health Service (SSN), nor to have access to primary care paediatricians²⁰. Socially excluded groups also have limited **access to educational services** as they do not have a residence permit and cannot, therefore, obtain residency, which means, in turn, that they have no right to any subsidies provided by the local authorities.

The danger that foreign children do not enjoy their fundamental rights has increased following the introduction of the crime of entering the country and residing there illegally²¹, and the consequent duty of all public officials or people providing public services to report any cases that come to their attention of migrants staying irregularly in the country²².

Gruppo CRC recommends that the Italian Government should:

1. Introduce legislation making it illegal to hold nuclear families with children under 18 years of age in Identification and Expulsion Centres, or the other centres in which migrants are held, and also introduce measures aimed at removing the obstacles that prevent children whose families do not have a residence permit from enjoying their fundamental rights, as recognised by the Italian Constitution and the CRC.
2. Instruct provincial police headquarters to consider the best interests of minors when taking decisions on whether or not to issue, or withdraw, residence permits, to migrant adults with children under 18 years of age in accordance with Art. 28 *T.U. Immigrazione*.

c) Children seeking asylum

Italy still does not have a **framework law** on political asylum²³.

In 2008, the situation with regard to family reunification and the procedures relating to international protection was changed, for the worse, by **Legislative Decree 159/2008** and **Legislative Decree 160/2008** respectively. In particular, the changes introduced with regard to **appeals against the refusal to grant international protection**, although offering greater protection than in the previous legislation²⁴, severely limit the the right to seek legal redress.

²⁰ For further information, see Chapter VI, section "Access of non-Italian children to health care".

²¹ Art. 1, paragraph 16, Law 94/2009.

²² Criminal Code, Art. 361 & 362.

²³ Two legislative decrees were passed: Legislative Decree 251/2007 "On the granting of refugee status or international protection measures and the minimum forms of protection afforded", and Legislative Decree 25/2008 "On the procedures for the granting or evoking of international protection", which reformed and made more coherent (though not complete) Italian legislation on asylum.

²⁴ Law 189/2002 "Changes to legislation on immigration and asylum" (the so-called Bossi-Fini law).

According to the **data** provided by the Ministry of the Interior²⁵, in 2008, 573 applications were submitted for international protection by unaccompanied minors, 56 of them by girls. The largest number of applications were made by minors from Afghanistan (200), Somalia (69), Nigeria (66), Eritrea (49), Ghana (36) and the Ivory Coast (20). In the majority of cases, the Local Commissions for the Recognition of Refugee Status granted some form of international protection: refugee status (29.65%) and subsidiary protection (31.27%). In 18.6% of the cases the Local Commissions proposed issuing a residence permit for humanitarian reasons, which is not a lasting solution, however, and in more than 20% of the cases, the applications were rejected.

With regard to **child asylum seekers arriving by sea**, the media covered a number of stories at the beginning of 2009 about Afghan child asylum seekers being turned away from Italian ports along the Adriatic coast, in particular from Ancona, Venice, Bari and Brindisi, towards Greece. There have also been cases of presumed minors, subsequently confirmed as minors, asking for international protection and being expelled from the country.

Unaccompanied foreign minors seeking asylum should be placed in the Protection System for Asylum Seekers and Refugees (SPRAR)²⁶. However, for 2009-2010, the system only has 501 places for all vulnerable categories. As a result, these children are often placed in local structures intended for children generally or, even worse, they sleep rough in the streets²⁷.

Finally, there appears to be no official information available on the signing of agreements between the Ministry of the Interior and the organisations responsible for tracing the families of children seeking asylum and those granted international protection status, in violation of Legislative Decree 251/2007 and Legislative Decree 140/2005. This lengthens the time a child is separated from his or her nuclear family.

²⁵ Data supplied in July 2009 by the Inter-Ministerial Committee on Human Rights (CIDU) upon request of Gruppo CRC for the drawing up of this Report.

²⁶ In line with the directive of the Ministry of the Interior of 9 March 2007.

²⁷ In April 2009, the Railway Police in Rome reported finding 25 Afghan minors at Ostiense station, www.rainews24.rai.it/it/news.php?newsid=113376.



Gruppo CRC recommends that the Italian Government should:

1. Guarantee that children seeking asylum are allowed to enter the country, immediately ceasing to turn children away in line with the principle of *non refoulement*, and that they have access to asylum procedures.
2. Guarantee adequate resources and a suitable reception for child asylum seekers and children granted international protection status, paying special attention to those children who have been the victims of torture and/or involved in armed conflicts, and sign the necessary agreements so that the families of these children can be traced;

d) Reception at the border of migrant children arriving by sea

During the last five years, there has been an increase in the number of irregular entries in Italy. One need merely mention the **case of the island of Lampedusa**, where, in 2008, 2,646 minors arrived²⁸, accounting for 8.4% of the total number of migrants arriving on the island. Not all migrants arrive at Italy's southern borders. In 2008, 320 foreign minors arrived in Italy at border points in Bari, Brindisi, Ancona (around 70) and Venice (around 140), as revealed by a series of random checks carried out by the Border Police Service²⁹.

In 2008, the Rescue and Initial Reception Centre (CSPA) of Lampedusa was massively **overcrowded**, with at times more than 200 unaccompanied minors, when officially there are just 60 places reserved for women and children.

The **length of stay** of these minors at the Lampedusa Centre increased in 2008. During the last few months of the year, they stayed more than 20 days, on average, and sometimes for more than one month, in violation of Art. 37 of the CRC. The lack of available places in the reception communities in Sicily and the absence of procedures to transfer the children have helped create this situation. Between 2008 and 2009, around 1,900 minors from Lampedusa were placed mainly in 39 community housing facilities in Sicily, where conditions do not comply with national or international standards³⁰. More generally, it should be noted that, nationally, there appears to be no planning, based on the number of arrivals, with regard to the provision

of the necessary reception facilities for minors. Worryingly, in November and December 2008, around 200 minors were transferred from Lampedusa to **reception centres not intended for minors**, often outside of Sicily, in contrast with existing legislation, which expressly forbids the placing of unaccompanied minors in such centres³¹.

With regard to the **identification procedures upon arrival**, since February 2009 any boats intercepted off Lampedusa have been forced to go to Sicily, where there are no structure with the necessary facilities to handle large numbers of migrants as regards reception, assistance and identification procedures. Of even greater concern is the fact that since April 2009 there have been several occasions on which migrants and asylum seekers arriving at Italy's Mediterranean border have been turned away towards Libya. Although there have been no official communications from the Italian Government on the status of the people turned away, various reliable sources reported the presence of minors³², in violation of the principle of *non refoulement*³³.

Gruppo CRC recommends that the Italian Government should:

1. Cease turning migrants away to Libya and return to the earlier model of dealing with migrants arriving by sea based on their assistance, reception and identification before transferring them to the relevant structures.
2. Ensure greater coordination between national and local government, by introducing a national reception plan that makes provision for minors and accurately estimates their likely numbers.

2. TEMPORARY RECEPTION FOR UNACCOMPANIED FOREIGN MINORS AS PART OF "SOLIDARITY PROGRAMMES"

The **temporary reception of foreign minors**³⁴ is still a fairly common practice in Italy, as revealed by the **data** provided by the Foreign Children Committee. In 2008, there were **31,663** (1,481 more than in the previous year), 71.57% of whom (22,662) were from Belarus. The number of children

²⁸ Data from the Immigration Office of the Provincial Police Headquarters in Agrigento.

²⁹ Data supplied in July 2009 by the Inter-Ministerial Committee on Human Rights (CIDU) upon request of Gruppo CRC for the drawing up of this Report.

³⁰ Cf. Save the Children Italia, *L'accoglienza dei minori in arrivo via mare – Rapporto finale di monitoraggio sulle comunità alloggio per minori in Sicilia*, op.cit.

³¹ Source: Save the Children Italia.

³² UNHCR, *Interviews with asylum seekers pushed back to Libya*, 14 July 2009. It is likely that there were at least six children in each boat that was turned away based on a statistical analysis of the arrivals in 2008 carried out by Save the Children Italia.

³³ Art. 33, Geneva Convention of 1951; General Comment No. 6.

³⁴ Temporary reception was first developed after the Chernobyl disaster, but over the years it has been extended to other countries and not just for health reasons.



arriving from Ukraine and the Russian Federation fell, while those arriving from Bosnia-Herzegovina rose. The other countries of origin were Kazakhstan (161), the Republic of Serbia (153), Georgia (33) and Croatia (32).

There has been a significant increase in the number of minors placed in structures (up from 9.3% in 2007 to 49.4% in 2008). In 2005, the Foreign Children Committee drew up new **Guidelines** to regulate this phenomenon. The very general nature of these criteria has given rise to a whole **series of problems**, as highlighted by Gruppo CRC and studies carried out at both a national³⁵ and European level³⁶. Firstly, there is a very high risk that the laws on international adoptions are not respected in the case of adoption requests made by families who have looked after children in this programme; secondly, there is no pre-assessment of the suitability of the people who look after the children in these structures; and, thirdly, there is no register or list of the associations operating in this sector. Another problem is that the children who are placed in temporary reception often come from institutions and have been looked after by families in Italy for up to 90 days a year for a number of years, giving rise to expectations and illusions, followed by trauma at the moment of separation and their return to their country of origin.

Special attention needs to be paid to the **situation in the Republic of Belarus**, with whom the Italian Government signed ad hoc protocols in 2005³⁷ and 2007³⁸. The 2007 agreement specified that children, who are orphans or whose parents have had their parental responsibility removed, coming to Italy on “solidarity visits” cannot be considered as having been abandoned and, therefore, as being adoptable. There has, however, been a certain amount of criticism as it is not clear what the goal of these “solidarity programmes” is. It is stated that the aim is *risanamento* (a sort of ‘rehabilitation’), but trying to clarify the term it is stated that these programmes are also open to **children from unfavourable social circumstances, irrespective of their state of health**. The number of international adoptions between the two countries has fallen since Italy and Belarus signed the first protocol in

2005 (around 820 children were adopted between 2001-2004, while just 53 were adopted between 2006 and the first half of 2009).

Finally, it must be noted that the **Government** has failed to respect the undertakings given in the National Action Plan for Children 2002-2004 with regard to the temporary reception of minors³⁹.

Gruppo CRC reiterates the following recommendations that the Italian Government should:

1. Support alternative measures to the temporary periods of stay in Italy by helping children where they live so as to promote their right to grow up in a family environment, above all that of their biological family, and, where this is not possible, in an adoptive or foster family, depending on the situation.
2. Revise the guidelines of the Foreign Children Committee and the criteria used for the “solidarity visits”, which must include a preassessment of the suitability of the people who will look after the children and the creation of a special register of authorised associations.
3. Urgently promote and assist post-visit assessments of the impact of these visits on the children (the psychological and social repercussions) to discover the risks involved and attempt to improve the system.

CHILDREN IN THE JUVENILE JUSTICE SYSTEM

1. CHILDREN IN DETENTION OR SUBJECT TO ALTERNATIVE MEASURES

CRC/C/15/Add.198, paragraphs 52-53

No law has yet been passed on the **juvenile prison system**. The Department of Juvenile Justice (DGM) had begun a reform, as highlighted in the Government Report⁴⁰, but the proposed reform has not yet been discussed in Parliament and Gruppo CRC is concerned that this reform will not be completed. Gruppo CRC is also concerned about proposals to incorporate the DGM into other sectors of the Ministry of Justice⁴¹. It is necessary to improve the **training offered to minors**

³⁵ Istituto degli Innocenti, *Bambini dalla Bielorussia, dall'accoglienza all'adozione. Il fenomeno dell'adozione dei minori temporaneamente accolti*, publications of the International Adoptions Committee, May 2005.

³⁶ ISS/IRC, Monthly Review No. 2/2007; OSCE, *Assessment of the Adoption System in Ukraine*, June 2006.

³⁷ Protocol of collaboration between the Ministry of Public Education of the Republic of Belarus and the Italian International Adoptions Committee, Minsk, 12 December 2005.

³⁸ Agreement between the Italian Government and the Government of Belarus on the conditions of the free *risanamento* in the Italian Republic of child citizens from the Republic of Belarus, Minsk, 10 May 2007.

³⁹ The National Action Plan for Children 2002-2004 announced a review of the criteria. The possibility of carrying out support projects and international cooperation projects aimed at creating better overall living conditions in the children's country of origin and the ending of the institutionalisation of children was meant to be studied. A pre-assessment of the suitability of the host families was also meant to be carried out.

⁴⁰ See Government Report, pp. 56 – 57.

⁴¹ This would not guarantee the necessary attention for the problems of minors.



while they are in Juvenile Correctional Institutions (IPM). The training and education offered by the IPM differ from institution to institution and from year to year, depending on the economic resources made available by local and national government agencies.

The level of specialisation of the personnel working in the Juvenile Justice System appears inadequate despite the recommendations of the UN Committee on the Rights of the Child. The Government Report mentions the initiatives taken by the National School for Public Administration and the Supreme Council of the Italian Judiciary (CSM), but neither of these two bodies offers a true form of specialisation⁴².

An excessive use is made of detention for minors, in violation of articles 37 and 40 of the CRC, while the other measures available are underused. Minors held in pre-trial custody are often detained for longer than the sentences they receive. At the end of 2008, of the 470 minors being held in penal institutions, 147 had received a final sentence, 5 were on appeal, 66 filed an appeal and 252 were still awaiting the verdict of the first court of instance.⁴³ Of the 1,347 juveniles who entered the IPM in 2008, 439 were being held in pre-trial custody; 533 juveniles arrived from Initial Reception Centres (CPA) and only 73 were actually serving their sentences⁴⁴. The **transfer** of juveniles from one correctional institution to another is a fairly common practice, above all in the case of foreign minors. Migrant children, above all unaccompanied minors⁴⁵, Roma, Sinti and Italians from the deprived areas of large cities in southern Italy⁴⁶ are overrepresented in the correctional institutions.

Foreign minors are more likely than Italian minors to have criminal action taken against them, are convicted more frequently, are held in pre-trial custody for longer periods, and are less likely to receive alternative measures to custodial sentences, be pardoned or placed on pre-trial probation. This fact is also highlighted in the Government Report⁴⁷, where, however, they exclude the possibility of discrimination, failing to compare the data relating to the juvenile penal system to the data relating to the number of foreign minors in Italy. Almost all the people being held in the IPM in central and northern Italy are foreigners. At a national level, in 2008, the percentage of foreign minors present on a daily basis in the

IPM had fallen to below the levels of the early 2000s⁴⁸, a drop confirmed by the data for 2009, which is a comforting development. It does not, however, alter the fact that foreign minors are overrepresented in the IPM. The number of minors who are placed in communities has also fortunately increased, but this measure is still applied less frequently in the case of foreign minors than Italians. Of the 2,188 minors who were placed in communities in 2008, 1,364 were Italians (non-Sinti), 164 were classified as “nomads” and 664 were “non-nomad foreigners”. **Roma and Sinti** children are also overrepresented in the statistics concerning detention, above all among girls, even though there is little reliable data on these minors as they are recorded on the basis of their different nationalities.

We conclude, with the data concerning the children referred to the Social Services Offices for Children (USSM) by the courts. Between 2002 and 2007, almost 30% of were non-Italians⁴⁹ and 23% of minors subsequently dealt with by these services were non-Italians⁵⁰.

Gruppo CRC recommends, in particular, that the current Italian Government should:

1. Pass a law on the juvenile prison system, aimed at reducing the use of detention and changing the role and modus operandi of the IPM.
2. Allocate additional financial resources and skilled human resources to the juvenile prison system, social services and communities.
3. Adopt specific policies and action plans aimed at eliminating the discrimination against foreign children, Roma children and children from the south of Italy.

CHILDREN IN SITUATIONS OF EXPLOITATION

1. ECONOMIC EXPLOITATION: CHILD LABOUR IN ITALY

The analysis of Gruppo CRC in all the CRC Follow-up Reports has been limited to the issue of **illegal child labour**, with regard to their access to the labour market, namely all the activities carried out by children under 16-years of age⁵¹.

⁴² The Government Report (relating to 2003) mentions the participation in similar initiatives of 300 of the 853 prison guards. Hence our interpretation.

⁴³ http://www.giustiziaminorile.it/statistica/dati_statistici/2008/IPM_2008.pdf.

⁴⁴ *Ibid.*

⁴⁵ Cf. Belotti V., Maurizio R., Moro A.C., *Minori stranieri in carcere*, op. cit.

⁴⁶ Cf. Cavallo M., *Ragazzi senza*, Mondadori, Milan, 2002.

⁴⁷ See Government Report, pages 132 – 133.

⁴⁸ Source: Ministry of Justice, www.giustiziaminorile.it/statistica/dati_statistici/2008/IPM_2008.pdf.

⁴⁹ DGM, *La criminalità minorile. Analisi statistica secondo la nazionalità dei minori*, cit., graph 9.

⁵⁰ *Ibidem*, graph 10.

⁵¹ Law 977/1967 makes it illegal for children under the age of 15 to work. The 2007 Budget Law raises the school leaving age to 16 as of the 2007-2008 school year, thereby raising the age at which children can enter the labour market from 15 to 16.



With regard to the **monitoring of this phenomenon**, Gruppo CRC stresses the need to follow this dynamic situation from both a quantitative and qualitative point of view over time. This, of course, can only be done by the State, which has so far failed to do anything in this regard⁵², despite the recommendations contained in the *Relazione tematica sul lavoro minorile* (Report on child labour) presented in February 2009⁵³.

In order to overcome this **lack of information at a Government level**, use has already been made in previous CRC Follow-up Reports of the abundant research and studies carried out by, above all, trade unions and individual researchers⁵⁴. This material has helped highlight the existence of child labour in Italy, identifying a number of features and implications in terms of life histories, the dangers of social exclusion, and the socio-economic situations of the families and the areas in which they live. An analysis of these sources reveals that the children most likely to engage in child labour are foreign boys aged 11-14 from a single-parent family or a nuclear family with several children, living in an area with a high level of unemployment⁵⁵. This description has been confirmed by a recent study into child labour in the **metropolitan area of Rome**⁵⁶. Given this situation, which is supported by the European Commission 2008 Report⁵⁷, in which it emerges that the risk of children becoming poor in Italy is higher than the European average (24% compared with 19%)⁵⁸, we believe that it is necessary to check whether there is a **link between the risk of child poverty and child labour**.

It should be mentioned that, in 2008, the Ministry of Social Solidarity reconvened the coordinating committee between the Government and the social partners to discuss policies aimed at combating this phenomenon. This was to be achieved primarily through an updating of the Charter of Commitments for the promotion of the rights of children and adolescents and for the elimination of child labour exploitation, signed by the Government and the social

partners back in 1998. The coordinating committee has not met since then, however, and nothing is known about the outcome of the discussions with regard to the new Charter of Commitments, which was meant to have been introduced at the start of 2008.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Reactivate the coordinating committee and assign it a more strategic and operational role than it had on the few occasions that it has operated in the past.
2. Complete the updating and signing of the new Charter of Commitments for the elimination of child labour exploitation, which must also include an Action Plan to combat the worst forms of child labour in accordance with ILO Convention No. 182, with sufficient resources for the full implementation and monitoring of this plan.
3. Instruct ISTAT to monitor the situation of child labour at both a national and local level by introducing a statistical system for child labour.

2. LEGAL AND ILLEGAL PSYCHOACTIVE DRUG ABUSE

On the basis of the Espad 2007 study⁵⁹, which was also used for the Report in Parliament in 2008 and in the Government Report, Gruppo CRC notes that there has been an increase in the consumption of legal and illegal psychoactive substances among secondary school children in the last few years. The emphasis placed on this fact by the media may be a little misleading, however, as the mere fact that somebody has “tried” one of these substances does not necessarily mean that they are going to continue consuming them. The data concerning the frequent and daily use of these substances is more significant. This data shows that there is greater consumption of legal psychoactive substances.

Of particular concern is the consumption of **alcohol** as 68.1% of the children interviewed had consumed alcohol within the last 30 days. According to another study⁶⁰, children are more likely than adults to consume excessive amounts of alcohol at weekends. Gruppo CRC notes with concern that, in order to be more persuasive, the **advertising of alcoholic drinks** is increasingly associated with images of successful young people. New legislation is necessary to limit the use of such

⁵² The only survey by ISTAT dates back to 2000 and is a retrospective study of the work carried out by 15-18 year-olds before they were 15. Before that, ISTAT had not looked into the issue of child labour until 1967.

⁵³ As part of an inter-institutional initiative involving the CNEL, the Chamber of Deputies and the State Senate.

⁵⁴ Particular use has been made of the studies carried out by since the end of the 1990s.

⁵⁵ Cf. Ires, Save the Children Italia, *Minori al lavoro. Il caso dei minori migranti*, Ediesse, Rome, 2007.

⁵⁶ Cf. Municipality of Rome, Ires, Save the Children, *I lavori minorili nell'area metropolitana di Roma*, Rome, 2009.

⁵⁷ *Child poverty and well-being in the EU*, 2008, European Commission. For further details see Chapter VI, section “The situation of poor children and adolescents in Italy”.

⁵⁸ Isfol, *Rapporto nazionale sulle strategie per la protezione sociale e l'inclusione sociale 2006-2008*.

⁵⁹ Annual report to Parliament on drug addiction in Italy, 2007. Presidency of the Italian Cabinet.

⁶⁰ *Il rischio alcol in Italia. Analisi delle criticità, delle cause, degli effetti, delle differenze generazionali e di genere attraverso l'indagine “Il Pilota” dell'Osservatorio Nazionale Alcol CNESPS e l'elaborazione dei dati Multiscopo Istat*, 2009.



advertising. While companies invest €169 million a year in such advertising, the funds available for activities of alcohol prevention amount to just over €1 million⁶¹.

An example of good practice is the setting up of a **consultation committee** with the associations of the producers and distributors of alcoholic drinks, aimed at involving them in the prevention of the harm caused by alcohol abuse. The fact that discussions have begun on trying to bring in the voluntary introduction of warnings on the labels of alcoholic drinks, related above all to the dangers of drink-driving, together with improvements to the self-regulation of advertising⁶², is undoubtedly a positive development. It should also be mentioned that there is no reference in the Government Report about the consumption of **tobacco**, which is, in fact, a matter of considerable concern as just under half of the 63.3% of children who have tried smoking at least once in their lives become smokers.

Gruppo CRC notes, moreover, that tobacco and alcohol are consumed by children as young as 12 years of age. Nevertheless, only a minority of children, albeit a fairly substantial minority from an epidemiological point of view, consume alcohol, tobacco and cannabis, despite the fact that they are often depicted as a majority. Similarly, despite the general perception, the **consumption of amphetamines** is not very widespread among schoolchildren.

Gruppo CRC notes, finally, that 4,626 children, 2.7% of the total⁶³, are being treated by public services for drug addiction. Moreover, in 2008, 1,120 for children were referred to the courts⁶⁴ and, in 2006, 2,912 children were reported⁶⁵ for being found in possession of banned substances for personal use.

Gruppo CRC recommends that the Italian Government should:

1. Introduce legislation that restricts the advertising of alcohol, limiting it to a technical description of the product, and makes it easier to identify alcoholic drinks, with warnings on the labels about the risks related to driving and pregnancy.
2. Increase police controls with regard to driving while under the effect of psychoactive substances, and provide transport to and from nightspots.
3. Intensify information-educational forms of prevention, both universal and specific.

⁶¹ Ibidem.

⁶² Communication sent to the Gruppo CRC by the Ministry of Labour, Health and Social Policies for the drafting of this Report.

⁶³ *Rilevazione attività nel settore tossicodipendenze - Anno 2006*, Ministry of Labour, Health and Social Policies.

⁶⁴ *Relazione annuale antidroga 2008*. Central Directorate for Anti-Drug Services of the Ministry of the Interior.

⁶⁵ *Analisi dei mutamenti del consumo tra le persone segnalate ai prefetti per detenzione per uso personale di sostanze stupefacenti dal 1991 al 2006*, December 2007.

3. SEXUAL EXPLOITATION AND ABUSE

a) Sex tourism to the detriment of minors

CRC/C/OPSC/ITA/CO/1, June 2006, paragraph 27

Gruppo CRC expresses concern that Italy continues to be one of the European countries, whose tourists, when abroad, some habitually, the majority occasionally, pay to have sex with under-age children – a phenomenon that does not appear to be on the decline. Even more worrying is the age of these tourists (20-30 years of age). Although no one has been arrested or charged, it appears that women are becoming increasingly involved in this phenomenon⁶⁶. There is no reliable data on the phenomenon, but the information collected, mainly from NGOs and/or local operators, makes it possible to arrive at some conclusions and understand various aspects of the phenomenon⁶⁷. As highlighted in the Government Report, considerable improvements have been made during the last ten years with regard to the relevant **legislation**, with new types of crimes being introduced into Italian law. However, the absence of bilateral agreements⁶⁸ with the countries mainly visited by Italian tourists does not facilitate police investigations. As a result, the application of the principle of extraterritoriality, introduced by Law 269/1998, is not common. In general, Gruppo CRC welcomes the fact that, despite some shortcomings, since 2008 Italian **institutions** have paid greater attention to the problem. In particular, in November 2008, following the recommendation made by Gruppo CRC in the CRC Follow-up Report of the previous year, the **Department for the Development and Competitiveness of Tourism** began an awareness campaign against sex tourism involving minors. The activities carried out so far have mainly involved the media and it is hoped that they will be followed up by actions of a political nature, with the participation of interested associations, the tourism industry and other institutions that can play an active part in the prevention and combating of this phenomenon. Some of the activities already carried out have involved the active participation of the General Directorate for Inclusion and Social Rights and Corporate Social Responsibility (CSR) and the Department for the Development and Competitiveness

⁶⁶ From the centre for research and analysis of ECPAT-Italia, which can be consulted at www.ecpat.it.

⁶⁷ Cf. the website www.child-hood.org

⁶⁸ See, for example, the bilateral agreements between the United Kingdom and the Philippines, and between Australia, New Zealand and the Philippines, www.ecpat.net/WorldCongressIII/index.php.



of Tourism⁶⁹, a tour operator and associations from the sector.

Finally, there is the **tourism industry pledge**, which merely obliges companies, including those that have signed the Code of Conduct, to respect Art. 17 of Law 38/2006⁷⁰. It is important to appreciate, however, that there is little incentive for these companies to act as people who go on these types of holidays prefer a “do-it-yourself approach”, using the Internet.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Guarantee greater cooperation between Italy and the main countries of destination by signing protocols of intent that facilitate police investigations and consequently the application of the principle of extraterritoriality in accordance with Law 269/1998.
2. Focus greater attention on cooperation projects of prevention to help children at risk of sexual exploitation and projects to assist child victims.
3. Promote sex education in all schools, also involving families.

b) Paedopornography

CRC/C/OPSC/ITA/CO/1, 2006 paragraph 19

In the last few years, there has been an attempt in Italy, also as a result of what has been happening elsewhere in Europe, to take action to identify and support the victims of paedopornography. **Law 38/2006** transposes into Italian law the European framework decision on this matter⁷¹. The crime of paedopornography has not been specifically defined in Italian law for fear of undermining the investigations of the Italian police forces by limiting their sphere of action in an area that is constantly evolving. This decision goes against the recommendation of the UN Committee on the Rights of the Child in 2006. Law 38/2006 created the **Centre to combat paedopornography on the Internet** within the Ministry of the Interior's Postal and Communications Police. The work of this Centre, which was formally opened on 1 February 2008, includes collecting

reports from individuals and organisations of the presence of paedopornographic material on the Internet or episodes of the use of the Internet to distribute paedopornographic material. There is a **specialist unit for the analysis of paedopornographic material** whose task is to identify the children in any material discovered, which is extremely complicated. Law 38/2006 does not allocate additional funds for the Centre in order to ensure continuity and, as a result, better results. Gruppo CRC believes that this Centre needs **greater resources**, both financial and human.

Law 38/2006 also created the **Observatory for the Fight against Paedophilia and Child Pornography**, under the Department for Equal Opportunities⁷². The Observatory, following a recommendation of the UN Committee on the Rights of the Child in 2006, is responsible for collecting and monitoring data and information relating to the activities of every part of the public administration in order to prevent and punish the sexual abuse and exploitation of minors. However, **it is still not known who will be part of this Observatory** and it will not be an easy task to monitor its work. In particular:

- The **yearly report** on the activities carried out does not appear to have been published.
- It was not possible to obtain information on the **National plan to prevent and combat the sexual abuse and exploitation of minors**, which the Observatory is supposed to draw up.
- It was not possible to obtain additional information on the progress made with regard to the **feasibility study for the development of a data bank** to collect, using the information provided by the public administration, all the information that can be used to monitor this phenomenon. This study, which the Department for Equal Opportunities commissioned the National Childhood and Adolescence Documentation and Analysis Centre to carry out, should have been completed within five months.
- It was not possible to have any information concerning the use of funds allocated for the Observatory, which amounted to €1,500,000 for 2006, €750,000 for 2007 and 2008, and €6,000,000 in the 2008 Budget Law⁷³.
- It was not possible to obtain information concerning any activities carried out by the **inter-ministerial committee for the coordination of the fight against paedophilia** (CICLOPE) in 2008 and 2009.
- The **advisory panel of the associations**, which was formally created in 2005, has never been operational.

⁶⁹ See www.viaggidanonfare.org.

⁷⁰ Art. 17, paragraph 1, requires tour operators that organise individual or group holidays abroad to make clearly visible in all the material they give their customers, including timetables, travel documents and brochures, that child prostitution and pornography is against Italian law and carries a prison sentence, even when these crimes are committed abroad. Any tour operators that fail to include this warning can be made to pay a fine.

⁷¹ Council framework decision on combating the sexual exploitation of children and child pornography – 2004/68/JHA of 22 December 2003.

⁷² Department for Family Policy and subsequently, as a result of an organisational change, the Department for Equal Opportunities.

⁷³ Art. 1, paragraph 1, subparagraph g), Decree of 22 January 2008, cit.



It would, therefore, be important for the UN Committee on the Rights of the Child to ask the Italian Government to provide this information and the necessary clarifications. With regard to **informing and creating greater awareness among children**, Gruppo CRC notes that during the last few years various activities have been carried out by the State to encourage a safe, responsible use of the Internet. All too often, however, these measures have been unconnected and too generic. Gruppo CRC believes that here, too, the Observatory on paedophilia should have an important role once it starts functioning, also in the light of the fact that, as noted in the Government Report⁷⁴, an additional sum of €2 million was allocated to the Observatory in 2008 for educational and information initiatives. A number of **bills** have been presented during the current Parliament on these matters and it is expected that, in line with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the crime of grooming will be introduced.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Urgently appoint the members of the Observatory for the fight against paedophilia and child pornography and ensure that it is made fully operational, in particular with regard to the systematic collection of data relating to crimes of paedophilia.
2. Introduce measures to increase awareness aimed at both children, for a responsible use of new technologies, and parents and teachers, so that they can educate children to use the technologies responsibly, and encourage both children and adults to be able to deal with sensitive issues such as emotions, sexuality, paedopornography and child abuse.
3. Invest greater resources, both financial and human, in order to help the Centre to combat paedopornography on the Internet in its task of identifying the victims.

c) Child prostitution

Child prostitution has not been followed closely enough by the State in the last few years⁷⁵, and, as a result, very little has been done to prevent or combat this phenomenon and provide assistance to the victims. Above all, the State is ill-equipped to **identify the children involved** in prostitution and **provide them with the necessary specialist support**. Given

this situation, the good practices employed for some time in certain parts of the country⁷⁶ should be carefully studied.

The information collected is based mainly on studies promoted by the third sector or carried out by a few universities that are studying child prostitution or, more frequently, the trafficking in persons for enforced prostitution⁷⁷. On the basis of studies carried out since 2003, it is possible to state that **foreign female child prostitution** involves children from many countries, but above all Romania, Albania, Moldova and Nigeria, and these child prostitutes are often the victims of trafficking. The **average age** of child prostitutes appears to be falling⁷⁸. **Foreign male child prostitution** occurs mainly in medium-large cities and involves above all East European (mainly Romanian and Moldovan) and, to a lesser extent, Maghrebians⁷⁹. The boys rarely suffer the same forms of sexual exploitation as female child prostitutes. **Italian child prostitutes** are usually from one of two distinct groups: 1) children and adolescents from families living in very socially, economically and culturally disadvantaged areas; 2) adolescents who occasionally engage in prostitution of their own free will to satisfy non-primary needs⁸⁰. It is extremely serious that, at an institutional level, there is **no mechanism to monitor and report regularly** on child prostitution in Italy. The **Observatory on prostitution and related crimes**, set up by the Ministry of the Interior in 2007⁸¹, which is mentioned in the Government Report, is no longer operational.

Italian law punishes those people who induce, aid or exploit child prostitution, as well as their so-called "clients"⁸². In 2008, the Italian Government presented a bill (the so-called Carfagna bill, **A.S. 1079**) which in **Art. 1** bans prostitution in public places and places open to the public, with the danger that this activity will take place behind closed doors. Moreover, **Art. 2, paragraph 2**, calls for "faster, simplified procedures" for the assisted repatriation of unaccompanied

⁷⁶ For example, the special outreach units and the drop-in centres in many Italian cities units.

⁷⁷ Child prostitution is almost always associated with trafficking for sexual exploitation. See the section "Child trafficking".

⁷⁸ The information is collected during activities of prevention, information and support carried out by the road units, the drop-in centres and the protection programmes. These activities are financed by the local authorities and the Department of Equal Opportunities through programmes of assistance and social integration in accordance with Art. 18 of Legislative Decree 286/98 (Immigration law) and Art. 13 of Law 228/2003 (Anti-trafficking law).

⁷⁹ Cases have been reported, however, of children as young as 8-9, usually Romanians, in J. Moyersoen, *I minori vittime di tratta: un fenomeno senza frontiere*, four-monthly journal *Minori Giustizia*, Franco Angeli, No. 3/2008, 2009.

⁸⁰ National Childhood and Adolescence Documentation and Analysis Centre, *Uscire dal silenzio...* op. cit.

⁸¹ Decree of 18 January 2007.

⁸² Law 269/1998, Art. 600 *bis* and 600 *septies* of the Criminal Code.

⁷⁴ See Government Report, p. 171.

⁷⁵ There is a study published in 2009 by the National Childhood and Adolescence Documentation and Analysis Centre, based on a legal review of court decisions in 2005 and the measures adopted on child prostitution in the same year.



foreign minors who have engaged in prostitution, so that they can be returned to the care of their families or the relevant authorities in their countries of origin or the countries from which they arrived. This bill is rather worrying in that not only would it discriminate against a specific group of minors, but it would also greatly reduce the possibility of protecting them from exploitation and also from the risks of persecution, vendetta or being socially stigmatised in their country of origin.

A similar measure was included in Law 94/2009 “Measures relating to public safety” (Art. 1, paragraph 29), which came into force on 8 August 2009, requiring the repatriation of EU minors engaged in prostitution.

The restrictions with regard to the regularising of their position and to occupational and social inclusion discourage these minors from escaping from prostitution⁸³.

Gruppo CRC reiterates the following recommendations that the Italian Government should:

1. Promote continuous research and start monitoring the complex phenomenon of child prostitution in Italy and the policies and practices best able to combat it.
2. Implement a strategy of prevention that makes the necessary allowances for the situations of social deprivation and exclusion in which the children often live and the many risk factors that can lead children to engage in prostitution. It is also necessary to create an adequately funded referral system based on standard operational procedures at a national level.
3. Not tackle such a complex phenomenon solely by means of repressive measures, but focus on measures aimed at fostering the economic emancipation and social inclusion of the children involved.

4. THE KIDNAPPING, SALE AND TRAFFICKING OF CHILDREN: CHILD TRAFFICKING

The trafficking of children has been going on in Italy for many years, although there is no precise quantitative data on the phenomenon.

The information acquired until now has been of a qualitative kind and has been obtained from the children who have benefited from the programmes of assistance and social inclusion provided for by Legislative Decree 286/1998 and specific groups of children examined in research carried out in a number of Italian cities. Trafficking involves children

and adolescents of both sexes from countries with serious economic, social and political problems. The main areas in which they are exploited are: prostitution, begging, burglary, bag snatching and drug peddling.

Italy introduced a very **advanced law to protect the victims of trafficking** in 1998 (**Art. 18, Legislative Decree 286/1998**), which allows the victims to be fully protected through a comprehensive protection programme, including the issuance of a residence permit for humanitarian reasons, which can be eventually converted into a work or study residence permit in conformity with the regulations governing the presence of non-European Community nationals. According to the law, it is not mandatory to co-operate with the competent authorities in order to obtain this residence permit. There is, however, a limited use of this tool, on the one hand, because it is used almost exclusively in cases of sexual exploitation and, on the other hand, because numerous provincial police headquarters have a very restrictive interpretation of its use, requiring the victims to file a complaint against the people who have exploited them, despite the precise wording of the law and the circulars that have been issued by the Ministry of the Interior⁸⁴.

Law 228/2003 transposed into law the indications contained in the Protocol to prevent, suppress and punish the trafficking of persons, especially women and children (2000). Nevertheless, these legal tools are rarely applied as they should be. **Art. 13**, in particular, introduces a short-term programme of immediate social assistance and health care for the victims. Finally, Law 228/2003, unjustifiably, has not extended to the victims of trafficking the possibility of receiving a payment for damages from a special fund (in those cases in which they cannot obtain damages from the person who trafficked and/or exploited them), despite the fact that Art. 15 of the Council of Europe Convention of Warsaw of 2005, ratified by Italy with Law 108/2010 on 2 July, requires all States to introduce a mechanism for compensation.

There continue to be **problems** which hinder the correct functioning of the law. These include, above all:

- The lack of **disaggregated quantitative and qualitative data: there has been no implementation of a system capable of monitoring** the efficacy of the action taken and understanding whether the action taken truly meets the specific needs of the children, which requires the active and continued participation of the children.

⁸³ Particularly worrying is the introduction of more restrictive criteria with regard to the issuing of a residence permit at 18 years of age in Law 94/2009 “Measures relating to public safety”.

⁸⁴ For example, the latest circular issued by the Ministry of the Interior, No. 11050 of 28 May 2007, to underline that the social aspect must be applied as well.



- The annual budget⁸⁵ for the social protection projects has not altered greatly despite the larger geographical area covered and the increase in the types of victims being assisted by the local authorities and the NGOs involved. Moreover, the **fund to finance antitrafficking measures** announced by the Presidency of the Italian Cabinet, and welcomed by the UN committee on the Rights of the Child in 2006, **appears not to have been created**.
- **The National Action Plan** against trafficking, mentioned in the Government Report⁸⁶, at the time of writing, had still not been introduced.
- The lack of coordination at an institutional level: it would be useful if the inter-ministerial committee for the support of victims of trafficking, violence and serious exploitation involved of the Ministry of Foreign Affairs and also coordinated its activities with those of other institutions in order to make the best possible use of available resources and skills. The collaboration with the countries of origin continues to be the almost exclusive domain of the Ministry of Foreign Affairs.
- At the time of writing, the **Coordinating Committee for Government actions against the trafficking in human beings**⁸⁷, mentioned in the Government Report⁸⁸, whose not operational.

Gruppo CRC welcomes:

- The creation, in 2007, of the first institutional **Observatory on the phenomenon of trafficking in human beings**, which officially started operating in January 2009, although there is no information available on what it has achieved.
- The participation in, and in some cases the promotion of, **European projects** by certain Ministries on specific issues concerning trafficking, despite the fact that two critical elements emerge from an examination of the initiatives described in the Government Report: sustainability and the incorrect descriptions with regard to the responsibility and the length of certain European projects, which tend to provide a mistaken picture of the action actually taken by the Italian Government⁸⁹.

Reintroduce the Coordinating Committee for the actions of the Government against trafficking in human beings, and develop and implement as soon as possible a National

Action Plan against trafficking, which includes standard operational procedures to identify, assess and assist child victims of trafficking (National Referral Mechanism) and a system to monitor and assess the action taken.

Gruppo CRC, therefore, recommends that the Italian Government should:

1. Improve prevention in the trafficking of children, by encouraging activities (for example, outreach units and drop-in centres) aimed at coming into contact with potential victims in the environments in which they live and by investing more in the main countries of origin.
2. Adopt the necessary measures to ensure the correct application throughout the country of legislation concerning social protection (Art. 18, Legislative Decree 286/1998, Art. 13, Law 228/2003), without obliging the assisted trafficked persons to report the perpetrations of the crime;

CHILDREN FROM ETHNIC MINORITIES

1. ROMA, SINTI AND CAMMINANTI

CRC/C/15/Add.198 2003, paragraphs 54 and 55

The difficult social situation of Roma, Sinti and Camminanti children, already remarked upon by the UN Committee on the Rights of the Child in its Concluding Observations in 2003, continues. The political choices made in the last few years have not reduced their social exclusion or the discrimination against them.

Italy is still the country of the so-called “nomad camps”, which contribute to the social and geographical exclusion of the communities that live in these camps. The solutions considered as a “model” by the Government are totally unacceptable⁹⁰. There is a tendency to evict Roma and Sinti families from the camps in which they live, without warning and

⁸⁵ For the projects of assistance and social integration envisaged by Art. 18 of Legislative Decree 286/98; Notice 7 of 20 January 2006 (resources allocated: €3,861,400), 77 projects financed; Notice 8 of 21 February 2007 (resources allocated: €4,000,000), 42 projects financed; and Notice 9 of 4 February 2008 (resources allocated: €4,400,000), 43 projects financed.

⁸⁶ See Government Report, p. 162.

⁸⁷ Decree of 21 March 2007, registered 5 July 2007.

⁸⁸ See Government Report, p. 162.

⁸⁹ In the Government Report, op.cit., for example, the Observatory on Trafficking appears already to have been created, as part of the EU Programme Equal, by the Department for Equal Opportunities and a network of NGOs. In fact, this Observatory (www.osservatoriotrattra.it) was created in 2005 by a development partnership made up of 11 stakeholders representing NGOs, universities, research institutes, local health authorities and local government. A protocol of intent was signed with the Department for Equal Opportunities to carry out a number of initiatives during the initial phase of the project, which ended in February 2008.

⁹⁰ The Minister of the Interior stated that he intends to adopt as a housing model the camp in Voghera. The Sinti of Voghera, who used to live in an old cavalry barracks in the centre of town, were forced to move to the outskirts of town in 2006, between the bypass and the railway line, in an area without drains to take away the rainwater and with just four toilets for 70 people.



without giving them the possibility to appeal, by clearing their camps. Moreover, the constant reference to the “**nomad emergency**” makes it appear that the only way to deal with the Roma and Sinti communities is to use *exceptional* measures. Indeed, in 2008, the Government actually declared a state of emergency⁹¹ “in relation to the camps of nomad communities in Campania, Lazio and Lombardy” and ordered a **census** of the Roma and Sinti communities living in the camps.⁹² These measures were deemed to have been in the interests of public safety as the camps “were creating situations of serious social concern”. With regard to the **education** of Roma and Sinti children, the problems of attendance and early school leaving have not been resolved⁹³, especially when they are caused by objective difficulties linked to the precarious material and housing conditions of the Roma and Sinti⁹⁴. They are also the result of social exclusion and prejudice, which can be seen from the education they receive⁹⁵. The situation is not helped by inadequate policies of integration at both a national and local level. It should be noted, above all, that there are no policies aimed at educating people about the positive values of the Roma and Sinti cultures, with the involvement of suitably trained cultural mediators.

As far as the **health** of these peoples is concerned, it is the children in particular who contract diseases⁹⁶ as a result of the conditions in which many Roma and Sinti families live. The situation becomes even more serious when their camps are near polluted areas, where a worrying rise has been recorded in tumours and congenital malformations. Emphasis must also be placed on communicable diseases and the need to vaccinate the children who live in the camps⁹⁷. The

problems encountered by public health services with regard to immunisation result mainly from the precariousness of the camps and the high mobility of Roma and Sinti families, although it is also due to the failure of the institutions to tackle these situations in a more organised way.

Given the dire social conditions already described and the lack of suitable policies of integration, phenomena of **exploitation and illegality** occur, also among the children⁹⁸. In the case of begging, it should be remembered that Roma children may not be the victims of trafficking or exploitation, but may be contributing to the livelihood of their families. In these cases, the integration of the families would reduce this phenomenon, which is the result of a lack of alternative ways of obtaining a livelihood. The Government Report⁹⁹ recognises that there is no global approach with regard to the various initiatives aimed at combating the phenomenon of child beggars, mentioning as an example of good practice the approach adopted by the Municipality of Rome with its **centre to combat child begging**, opened in 2003. The Report does not mention, however, that this centre was closed down in 2008 due to a lack of funds¹⁰⁰. This centre was also identified as an example of good practice by the UN Committee on the Rights of the Child in its Concluding Observations in 2006, where it expressed the hope that this project would be repeated in other cities.

With regard to legal issues, there is great concern over the misuse of instruments such as **foster care and adoption** involving Roma and Sinti children¹⁰¹, and over the discrimination that Roma and Sinti children suffer in the juvenile justice system¹⁰².

The safeguarding of the rights of **foreign Roma children** is often hindered by the **legal status of the children and their parents**. Many Roma foreigners are unable to obtain a residence permit because they fail to meet the current legal requirements, such as having a passport, a regular job and a home that meets specific parameters¹⁰³. The situation of children born in Italy to foreign parents is also precarious as they do not acquire Italian citizenship through being born in the country¹⁰⁴. The law allows foreign minors born in Italy

⁹¹ Prime Ministerial Decree of 21 May 2008 announcing, “State of emergency with regard to the camps of the nomad communities in Campania, Lombardy and Lazio”. In 2009, the validity of this Decree was extended until 31 December 2010 and geographically to cover Veneto and Piedmont (Prime Minister’s Decree of 28 May 2009).

⁹² Campania Order No. 3673/2008; Lazio Order No. 3676/2008; and Lombardy Order No. 3677/2008.

⁹³ See the conclusions and recommendations of the United Nations Committee on the Elimination of Racial Discrimination directed at Italy in March 2008.

⁹⁴ These include their segregation in camps, which are often a long way from the schools and badly connected, the shame in sending children to school dirty because of the lack of water or badly dressed because of a lack of money, and the difficulty in studying in rundown huts.

⁹⁵ A clear example is the generalised use in official school documents of the category “children with disabilities and nomads” or “disabled children and nomads”.

⁹⁶ The children suffer principally from diseases of the respiratory system, gastroenteritis, dermatitis and physical trauma.

See: www.osservazione.org/documenti/Monasta_Tesi_Dottorato.pdf; Morrone A., Spinelli A., Geraci S., Toma L., Andreozzi S. (Eds.), *Immigrati e zingari: salute e disuguaglianze*, Rapporti ISTISAN 03/4, Rome, 2003.

⁹⁷ The vaccination campaigns are carried out mainly by associations, www.caritasroma.it/Prima%20pagina/RapportoGRIS/testo%20campagna.pdf.

⁹⁸ For further details, see the section “Child trafficking”.

⁹⁹ See Government Report, p. 140.

¹⁰⁰ Source: the association Geordie.

¹⁰¹ A study involving more than 200 cases of declared adoptability in eight juvenile courts in Italy in the period 1985-2005 revealed “the ease with which, in the different situations studied, the social protection (the local social services) and the civil protection (the courts) equated the situation of Roma children with that of ill-treated children [...]” Taken from a press conference on 10 November 2008 in Rome with Saletti Salza C. regarding his research for the University of Verona.

¹⁰² See section “Children in detention or subject to alternative measures”.

¹⁰³ Legislative Decree 286/1998, Presidential Decree 394/1999.

¹⁰⁴ Art. 1, paragraph 1, Law 91/1992.



to obtain **Italian citizenship** when they turn 18 years of age only if they have resided there legally and without interruption until their eighteenth birthday¹⁰⁵, requirements which – despite the less restrictive interpretation given by the Ministry of the Interior¹⁰⁶ – many Roma born in Italy cannot demonstrate.

Gruppo CRC therefore, recommends that the Italian Government should:

1. Recognise and respect the cultural differences of the Roma, Sinti and Camminanti people by introducing specific measures, such as recognising them as national minorities.
2. Promote the direct involvement of Roma, Sinti and Camminanti in the planning, implementing and monitoring of the policies for the social inclusion and protection of their children, including a solution to the problem of the “nomad camps” by providing suitable housing, regularising their legal status, helping them find work, promoting schooling, and facilitating their access to health and social services.

¹⁰⁵ Art. 4, paragraph 2, Law 91/1992.

¹⁰⁶ Circular No. 22 of 7 November 2007.

Chapter IX

The implementation in Italy of the Optional Protocol to the CRC on the involvement of children in armed conflicts

☐ not implemented
☒ implemented

Legislation CRC/C/OPAC/ITA/CO/1, 23 June 2006

- ☐ 11. The Committee recommends that the State party include in its legislation a definition of the concept of “direct participation” of persons under the age of 18 years in armed conflict, and of the activities it entails, which should be in line with the broad interpretation provided in the State party’s report.
- 12. In order to strengthen the national and international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State party:
 - ☒ (a) Explicitly prohibit by law the recruitment of children under the age of 15 years into armed forces/groups and their direct participation in hostilities;

Voluntary recruitment CRC/C/OPAC/ITA/CO/1, 23 June 2006

- ☒ 14. The Committee recommends that the State party consider the possibility of increasing the minimum age for voluntary recruitment to 18 years.

Voluntary recruitment CRC/C/OPAC/ITA/CO/1, 23 June 2006

- ☐ 16. The Committee invites the State party to provide, in its next report, further information on:
 - (a) [...]
 - (b) [...]
 - (c) [...]; and
 - (d) The compliance of the curricula in military schools with articles 28 and 29 of the Convention, as well as with its general comment No. 1 on the aims of education.

Protection of victims CRC/C/OPAC/ITA/CO/1, 23 June 2006

- ☐ 18. The Committee recommends that the State party review its domestic legislation with a view to prohibiting trade of small arms and light weapons with countries where persons who have not attained the age of 18 take a direct part in hostilities either as members of the armed forces or armed groups that are distinct from the armed forces of the State. In this respect, the Committee recommends that the State party indicate, in its next report, the number of sales that were halted as a result of the operation of Law No. 185/90. The Committee further recommends that the State party include, in its Criminal Code, provisions criminalizing the trade of small arms and light weapons with countries where persons below the age of 18 take part in hostilities.



Chapter IX

The implementation in Italy of the Optional Protocol to the CRC on the involvement of children in armed conflicts

Measures of recovery and social reintegration CRC/C/OPAC/ITA/CO/1 , 23 June 2006

20. The Committee recommends that the State party pay attention to the vulnerability of asylum-seeking, refugee and migrant children in Italy who may have been affected by armed conflict, by strengthening its efforts to:
- (a) Identify these children at the earliest possible stage;
 - (b) Provide them with culturally sensitive, multidisciplinary assistance for their physical and psychological recovery and their social reintegration;
 - (c) Systematically collect data on refugee, asylum-seeking and migrant children within its jurisdiction who may have been involved in hostilities in their home country; and
 - (d) Regularly train authorities working for and with asylum-seeking and migrant children who may have been involved in hostilities in their home country.





The implementation in Italy of the Optional Protocol to the CRC on the involvement of children in armed conflicts

CRC/C/OPAC/CO/ITA/1, June 2006, paragraphs 11,12,14,16,18, 20

With regard to the recommendations of the UN Committee on the Rights of the Child in 2006, it must be noted that a precise legal definition of the **concept of “direct participation”** of people under 18 years of age in an armed conflict and related activities has still not been provided. Gruppo CRC notes this legal omission with concern, also in consideration of the fact that certain Italian politicians have suggested employing minors in conflict situations with functions other than combat¹.

Secondly, even though the minimum age for voluntary enrolment in the Armed Forces was raised to 18², the Reservation entered by Italy in May 2002 when ratifying the Optional Protocol, in which it was stated that 17 was the minimum age for voluntary enrolment in the Armed Forces, has still not been withdrawn. Moreover, it is still not sufficiently clear what the implications are as regards the minimum age of enrolment of the oath that boys and girls attending **military schools** (schools run by the Armed Forces) must take on their sixteenth birthday³.

With regard to the compliance of the curricula of the military schools with Articles 28 and 29 of the CRC, “there are projects aimed at making the students aware of the basic notions of constitutional law, with special attention devoted to human and humanitarian rights”⁴. It must be pointed out, however, that since the curricula of these schools is in line with those of the upper secondary schools specialising in the classics and sciences (*liceo classico* and *liceo scientifico*), they do not

include courses on human rights⁵. With regard to the **exporting of arms**, there is still no law in Italy that prohibits the sale of small arms to countries in which people under 18 years of age take part directly in hostilities. Similarly, no law has yet been introduced in the criminal code which considers the sale of small arms to these countries a crime. Law 185/1990, mentioned in the Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report), regulates solely the export, import and transport of weapons of war to third countries. The sale of small arms and light weapons is regulated by Law 110/1975, which does not include such restrictions.

Available data shows that, **in 2008**, Italy exported small arms and light weapons to governments and private purchasers in countries in which there are child soldiers⁶: Israel (€2,586,500), the Philippines (€2,468,789), the Democratic Republic of the Congo (€48,812), Colombia (€20,932), Lebanon (€16,703), Chad (€13,455), Nepal (€8,060) and Afghanistan (€1,045)⁷.

Moreover, despite the high standards on human rights envisaged by Law 185/1990, an analysis of official data for 2007 shows that some of the clients of the Italian weapons industry are countries which carried out military actions involving civilian victims, such as Iraq (€84,000,000), Israel (€1,885,713) and the Philippines (€1,000,000)⁸.

Finally, the UN Committee on the Rights of the Child expressed concerns about the lack of information on specific **integration programmes or activities in Italy for child soldiers**, and the failure to carry out a systematic collection of data on asylum seekers under 18 years of age who were affected by armed conflict in their countries of origin. This information and data are still not available.

A further contradiction comes from the fact that Italian law does not expressly forbid Italian members of the Armed Forces to train/enrol/involve people under 18 years of age in hostilities beyond the national borders.

¹ As revealed by the Italian section of the Coalition to Stop the Use of Child Soldiers in the light of recent statements made by political leaders (in particular, Gen. Del Vecchio), in which they suggested allowing the voluntary enrolment in the Army of children from the age of 16 and that these children “could actively collaborate, making an important contribution”.

² Law 226/2004 “Early suspension of the obligation to carry out military service and the regulating of voluntary conscripts, delegating to the Government the consequent coordination required with regard to legislation in this sector”.

³ On the website of the Scuola Militare Teuliè in Milan, it states that “from a military point of view, the students, at 16 years of age, are enrolled and take an oath, becoming in every sense members of the Armed Forces”, while in the Government Report it states that this oath “relates exclusively to the completion of their selected studies”.

⁴ See Government Report, p. 190.

⁵ Cf. National curriculum directives, 2008-2009.

⁶ *Child Soldiers Global Report*, 2008.

⁷ Analysis by Giorgio Beretta of the ISTAT data for 2008, category SH93: Weapons, ammunition and associated parts (values in Euro, not constant).

⁸ www.archiviodisarmo.it e www.disarmo.org.

**Gruppo CRC recommends that the Italian Government should:**

1. Withdraw the Reservation entered when ratifying the Optional Protocol on the involvement of children in armed conflicts, in which it is stated that the minimum age for voluntary recruitment in Italy is 17.
2. Guarantee greater consistency between the pledges made in foreign policy to fight against the use of child soldiers and support their reintegration into society, and respect of the Optional Protocol, above all with regard to the sale of weapons to countries in which children and adolescents, both male and female, are used as soldiers, as well as supporting the psychological and physical rehabilitation of children who could have been involved in the armed conflicts in their countries of origin.
3. Introduce legislation to define the concept of “direct participation” of people under 18 years of age in armed conflicts or associated activities, tighten legislation on arms exports and deals (Law 185/1990), and improve the 1975 law on the export of “weapons for civilian use”.



Publications of the Italian NGO Group for the Convention on the Rights of the Child

- The Rights of Children in Italy, perspectives in the third sector. Supplementary Report to the United Nations, November 2001 (Italian version)
- The Rights of Children in Italy, perspectives in the third sector. Supplementary Report to the United Nations, October 2002 (English version)
- Monitoring of the Convention on Child's Right in Italy, Practical guide for the Third sector, December 2004
- The Rights of Children in Italy, First Follow Up Report on the Convention of Child's Right monitoring in Italy, year 2004-2005, May 2005
- Supplementary Report on the implementation of the Optional Protocols on the CRC in Italy, May 2005
- The Rights of Children in Italy, Second Follow Up Report on the Convention of Child's Right monitoring in Italy, year 2005-2006, May 2006
- The Rights of Children in Italy, Third Follow Up Report on the Convention of Child's Right monitoring in Italy, year 2006-2007, May 2007
- The Rights of Children in Italy, Fourth Follow Up Report on the Convention of Child's Right monitoring in Italy, year 2007-2008, May 2008
- The Rights of Children in Italy. Second Supplementary Report to the United Nations, November 2009 (Italian version)
- The Rights of Children in Italy. Second Supplementary Report to the United Nations, October 2010 (English version)

All the publications are available on the website www.crin.org as well as on the website of the Italian NGO Group for the CRC www.gruppocrc.net.



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Notes

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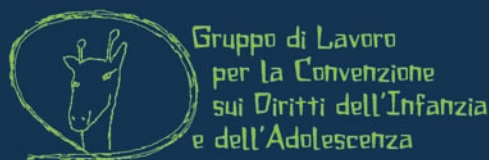


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The Italian NGO Group for the Convention of the Rights of the Child (Gruppo di Lavoro per la Convenzione sui diritti dell'infanzia e dell'adolescenza – Gruppo CRC) is a network open to any association, NGO, cooperative, foundation and any other stakeholder from the third sector dealing with the promotion and protection of children's rights in Italy.

The Italian NGO Group for the CRC was established in December 2000 with the main aim of drafting a Report on the implementation of the Convention on the Rights of the Child (CRC) in Italy, supplementary to the report presented by the Italian Government, to be submitted to the UN Committee on the Rights of the Child.

The Italian NGO Group for the CRC is committed to monitoring the implementation in Italy of the CRC, its Optional Protocols (OPAC and OPSC) and the recommendations addressed to Italy included in the Concluding Observations.

In 2001 the Italian NGO Group for the CRC (Gruppo CRC) elaborated the 1st Supplementary Report on the implementation of the CRC in Italy, which was submitted to the UN Committee on the Rights of the Child in 2002.

In the framework of the monitoring process, the Italian NGO Group for the CRC decided to produce every year a Follow-Up Report on the monitoring of the CRC in Italy, trying every year to increase its angle of observation and guarantee, at the same time, an accurate updating on the questions already considered. The Follow-Up Reports have been presented every year on 27 May, the anniversary of the ratification of the CRC in Italy.

The publication of the 2nd Supplementary Report, exactly eight years after the 1st Supplementary Report, closes the first cycle of monitoring carried out by Gruppo CRC, and demonstrates the commitment and perseverance of the network in maintaining an awareness of children's rights in Italy.