

# **The Rights of Children in Italy**

PERSPECTIVES IN THE THIRD SECTOR

Supplementary Report to the United Nations

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## Introduction

*The Working Group for the Convention on the Rights of the Child<sup>1</sup>* was established in December 2000 on the initiative of several organisations belonging to PIDIDA<sup>2</sup>. The main objective of the group was to draw up a Supplementary Report, in addition to the report submitted every 5 years to the United Nations by the Italian Government, as required by the Convention. This report is therefore a tool through which the Third Sector expresses its opinion on the implementation of the principles embodied in the Convention on the Rights of the Child (CRC). Save the Children Italy has promoted and coordinated the work and, together with the associations that supported the initiative, has set the priorities and operational goals of the Report.

The Group also includes over 40 associations from throughout Italy, involved in fields directly or indirectly related to childhood, each of which has made its own contribution based on its specific competence.

The overview of childhood depicted in this document is not intended as an exhaustive analysis of all the issues related to the protection of children and adolescents in Italy, but rather as an opportunity for the Committee to acquire deeper insight into the most critical points of our system. The Committee normally uses the content of the Third Sector's Supplementary Reports to compile the list of issues that are submitted in writing to governments in preparation for the examination of the Governmental Report.

The wording "Supplementary Report", has been preferred to that of "alternative report", as it addresses those issues of priority concern in respect of children's rights in our country. The report is the result of an important debate and dialogue within the Italian Third Sector, where for the first time, a consensus has been reached in interpreting and analysing the rights of the child. It represents a synthesis of the many contributions and perspectives offered by the organisations and associations that work with and for children in Italy. While not based on primary data, it represents the first step toward the creation of a common platform for independent monitoring of the implementation of the Convention on the Rights of the Child.

### **A NOTE ON METHODS**

This Supplementary Report has been subdivided into chapters in accordance with the guidelines produced by the Committee on the Rights of the Child. The only exception is "Child Abuse and Exploitation of Minors", which has not been included in the chapter on "Special measures for the protection of children" but has been dealt with separately in the same way as in the Governmental Report. This is to facilitate the Committee's work in undertaking a comparison between the two texts.

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<sup>1</sup>

<sup>2</sup> PIDIDA «Per i Diritti dell'Infanzia e dell'Adolescenza» is a national group of associations and organisations that act for the protection of the rights of children and adolescents

Each association, contributing to the report, was provided with a common schedule, and asked to submit a summary of the issues within its area of competence. These submissions were integrated and then revised following further comments and supplementary information submitted by other agencies. Through a qualitative and sometimes quantitative analysis, each section of the work addresses a range of specific issues, followed by a series of recommendations. These recommendations can be used by the Committee on the Rights of the Child for its dialogue with the Italian Government.

## I Implementation of the UN Convention in Italy

Ten years after ratification, the 1989 **Convention on the Rights of the Child (CRC)** is now beginning to represent a focal point in our Country in respect of debate on the conditions of children and adolescents. However, as yet, relatively few people have fully grasped its innovative spirit; similarly, only few have succeeded in translating the Convention's principles and standards into tools that can be used in everyday work. Whilst the basic concept of "best interest of the child" is gradually being acknowledged as a founding principle, its application is, nevertheless, still subject to confusion and inconsistency. Implementation remains arbitrary and discretionary, varying according to individual experience or professional discipline. One of the challenges to implementation of the Convention is the fragmentation of competencies and functions between different institutions working with and for children. This restricts the potential for creating an effective synergy across the broad-ranging rights contained in the Convention. To date, too little attention has been devoted to its holistic nature and the necessary interdependence between its principles.

**Act of Law 451/97** provided for the establishment of the **Centro di Documentazione e Analisi per l'Infanzia e l'Adolescenza** (Centre for Research and Survey on Childhood and Adolescence), with headquarters in Florence. The Centre represented a remarkable step forward in recognising the rights of the child in Italy. It is gradually becoming a prominent source of data gathering and information analysis through its surveys on childhood, now boasting over 60 publications, including single-subject journals and reviews, as well as its own web site ([www.minori.it](http://www.minori.it)). Its positive results to date indicate that the Centre will continue to be an important research resource which will be unaffected by the changes in the legislature.

Act of Law 451/97 also provided for the foundation of the **Osservatorio Nazionale sull'Infanzia** (National Council for Childhood Studies), an organisation designed to act in conjunction with local observers decentralised throughout the Italian *regions*. However, progress has been somewhat uneven. Only in a few regions have these Councils been established, while elsewhere they exist in name only or indeed have yet to be established. This lack of consistency is also reflected in the jurisdictional and management structures, which are defined differently in the Council of each region.

In spite of the considerable progress achieved, there continue to be deficiencies in **data collection**. In particular, most qualitative and quantitative data available are still obtained on the basis of a family-centred approach, rather than by considering the child as an autonomous unit, worthy of investigation in his/her own right. For instance, it has only recently been possible to determine the number of children living below the poverty threshold, as the data available referred to households as a whole.

Children are also invisible in certain aspects of public expenditure. For example, the national health budget does not specify expenditure on children, and it is not possible to determine the percentage of total



expenditure invested in protecting and providing aid and assistance for children. This lack of information is indicative of the low level attention given to the child as a subject, resulting in a lack of specific policies addressing childhood issues.

In addition, there is a **lack of qualitative and quantitative information** in respect of the more extreme violations of the rights of the child. Child prostitution, exploitative child labour, and discrimination against foreign children and gypsies in Italy are inadequately understood, with inevitable implications for the effectiveness of services designed to tackle the very serious problems experienced by such children.

Overall, Italy is characterised by a lack of a genuine **culture of childhood** grounded in a commitment to respecting children as social actors; a culture willing to take into account not only the child's vulnerability but also his/her capabilities and resources as an active subject in our society. Rather, what exists is a cultural approach that privileges protection over participation in which the adult world fails to listen to the child either in judicial, administrative and health procedures, or at school and in the family context itself. Evidence of this state of affairs is reflected in dearth of organisations created and managed autonomously by children.

The cultural confusion concerning childhood and adolescence in our country is also highlighted by the lack of a consensus on the **terminology** to be used in the definition of persons under 18 years of age. The language varies considerably according to the context in which the "minor" is involved<sup>3</sup>. The word "*fanciullo*" that was used for the official translation of the Convention is not deemed fully satisfactory by those working with children, and certainly is not acceptable either to children or to adolescents. In consequence, this term is almost always replaced with synonyms in everyday language.

**Act of Law 285/97** was a positive achievement and represents a fundamental cornerstone in renewal of the culture of childhood in Italy. It has allowed many associations to implement projects and experimental activities designed to promote the rights of children. However, questions remain over its application. Despite undeniable theoretical progress, there is still concern that principles are not easily translatable into operational activities. The lack of a "systemic planning capacity" and the pronounced discrepancies in various parts of Italy, indicate a need to identify measures promoting more effective use of available institutional resources. In addition, there is a need to develop assessment, monitoring and control systems to support the projects both during implementation and afterwards, as follow-up measures.

**The education system** is also struggling to adapt to CRC principles. Schools do not yet play a central role in promoting respect for human rights or helping children overcome the sense of disorientation and dissatisfaction they often experience. Many children, especially those from different

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<sup>3</sup> See Chapter II.

cultures or deprived backgrounds, experience schools as places where they are excluded and discriminated against. Indeed, schools can and do exacerbate rather than mitigate difference, and thereby contribute towards marginalisation and social maladjustment.

The **media** can also affect and indeed intensify the negative perceptions of certain social groups. The Convention places obligations on the Government

towards children in respect of international cooperation activities. Accordingly, the *Direzione Generale per la Cooperazione allo Sviluppo* (General Directorate for Development Cooperation) of the Ministry of Foreign Affairs (DGCS – Italian Development Cooperation) has, together with other ministries, drawn up the 1<sup>st</sup> Governmental Action Plan for Children and Adolescents (PdA) setting out trends, priorities and strategies for international cooperation. In particular, it establishes Guidelines for Italian Cooperation on issues concerning children which were approved in November 1998. These guidelines stress a specific commitment on the part of Italy towards co-operation in tackling law, policy and practice which undermine or deny respect for the fundamental rights of the child in developing countries.

However, such a commitment to children's rights is not fully shared or accepted within Italian Development Cooperation, nor does it represent a consistent cross-sectional theme in Italian multilateral and bilateral projects. Moreover, whilst the guidelines are utilised by some of the sectors and NGOs specifically involved in working for the protection of children, they are not widely considered as a priority framework for the choices, financial allocations and actions of Italian Development Cooperation.

While there has been greater focus on these issues over the last few years, the lack of a strategic global approach to childhood, permeating all action taken by Italian Cooperation, exposes inconsistency in its activities. Individual projects are conceived and funded according to a narrow focus, rather than on a vision based on medium-long term plans. Resources are too often allocated on the basis of geopolitical priorities rather than consideration of the real conditions of children in the target country. Furthermore, the Italian Development Cooperation does not operate in many of the countries where the most severe violations of children's rights arise, such as Asia and, in particular, Pakistan, Thailand, the Philippines and Cambodia.

None of these countries are currently included in priority DGCS objectives, despite evidence of the worst forms of exploitation of child labour, sexual exploitation, child trafficking, and the systematic denial of rights affecting hundreds of thousands of children. Asia is currently the recipient of only 7% of the total funds allocated by the Cooperation (1999 MAE data), none of which is targeted in favour of children.

Additional problems arise as a result of poor coordination between international agencies. More effective management of these issues would

enable Italian Cooperation Development to achieve greater effectiveness in promoting the rights of the child in the South of the world. There is also a lack of availability of human and instrumental resources for cooperation. Not only are there fewer technical staff than provided for by Act of Law 49, but the administrative procedures are slow and extremely complex: for example, the time lapse between the submission of a project and its implementation is on average 14-24 months.

And finally, the Italian Development Cooperation agency has long suffered from an identity problem, lacking a clear political orientation and any consistent and long-term global policy for the protection and promotion of children. The changes needed would require a total redefinition of the agency as a whole. The failure of the previous legislature to approve the reform of Law 49 has further aggravated the crisis, making it impossible to embark on serious debate concerning the presence and role of Italy in the international context in the face of new challenges resulting from globalisation.

*In the light of this general background, the Group makes the following recommendations:*

- . that ALL the rights stated in the Convention be guaranteed to ALL children living on the Italian territory;*
- . that a specific commitment be undertaken in collecting information regarding children and that the processing of the data consider children as a survey unit;*
- . that the Convention be increasingly considered as a priority and cross-sectional tool to be used to address and define institutional policies in our Country, emphasising the primacy of the rights of the child over any other approach, as well as focusing in particular on the most vulnerable groups of children;*
- . that response to the needs of children be a priority for International Cooperation and that target countries for action should not be selected exclusively on the basis of geopolitical interests or emergency needs, but instead be grounded on the development of a consistent and long-term policy for the protection and promotion of the rights of children.*

## **II Definition of a child in the Italian legal system (Art. 1)**

In line with Article 1 of the Convention, the Italian legal system defines all subjects who have not yet reached their 18<sup>th</sup> year of age as entitled to special protection.

But the **terminology used** is inconsistent and differs from one context to another.

In Italian, the word «**bambino**» usually refers to very young children, up to 10/12 years of age. This definition differs from that of «**ragazzo**» which is normally used to define adolescents. It should be noticed that both words are used mainly in the grammatically masculine gender.

The use of the word «**minori**» (minors) is fairly common, particularly when more formal language is used, but this wording contains the notion of «meno» (less/lesser). It is clear that the term specifically refers to the “lesser” age, less than 18 years, but the same notion can be better expressed by the word «**minorenni**» (underage), even though the latter term is mostly used in legal or criminal court contexts, where it is used by contrast with the term «**maggiorenni**» (of age, adult).

Another widely used expression is «**infanzia e adolescenza**» (childhood and adolescence), which generally describes the two main age ranges of children; however, it is not used in everyday language and, most of all, it is not used by children themselves for self-definition.

The official translation of the text of the Convention opted for the term «**fanciullo**» (child, but with a rather childish or poetic shade of meaning), which is inappropriate as it only refers to very young children. Furthermore, it is an obsolete word, generally considered as archaic<sup>4</sup> and virtually unused in everyday language. Given this lack of clarity of language, there is a need for serious debate on the real “meaning” of words, a debate that which would hopefully lead to replacing the word “fanciullo”, with a more suitable term.

The law allows for age-related progression in the acquisition of rights up to 18 years, in accordance with the child’s growth and degree of maturation. However, the different ages for the exercise of specific rights<sup>55</sup> do not follow logical criteria and they lack consistency. **Practice** shows that these standards are often disregarded.

Although age limits do exist for children’s «**consent**» in matters of legal consultation or participation in trials, as well as medical treatment, they are often only theoretically established, and as a general rule, there is no practice of “listening to children”, regardless of the level of competence of the individual child.

Act of Law 331/2000, in conjunction with Law 2/2001, provides that voluntary recruitment into the **army** can only be made once a child reaches 18 year of age. This recent provision, the result of long debates with NGOs, will be applicable for only three more years; subsequently, when the new law 331/2000 on professional military service comes into force, 17 years olds will once again be allowed to enlist in the army.

*The Group makes the following recommendations:*

*to guarantee the recognition of the state of «a child» and entitlement to all the rights established by the Convention to children living on the Italian territory;*

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<sup>4</sup> The last reform containing this term dates back to law nr. 977 dated 17-Oct-1967 on Child and Adolescent Labour Protection.

<sup>5</sup>For instance, articles 7, 10, 22, 23, 25 of law 184/1983 and article 145 of the Civil Code.

*. to assess the coherence of the laws that establish different age limits for the acquisition of specific rights, and consequently adopt the necessary amendments to guarantee consistency within the law;*  
*. to train professionals involved in the enforcement of the regulations establishing that children be listened to and that their consent be obtained, by organising refresher courses, for instance, and to provide for specific penalties in case of non compliance;*  
*. to ratify the Optional Protocol to the Convention on the Rights of the Child concerning the involvement of children in armed conflict, signed by Italy in New York on 6 June 2000, with a specific commitment not to recruit subjects under 18 years of age, even on a voluntary basis.*

### **III. Enforcement of the General Principles of the Convention**

#### **Foreword**

The Committee on the Rights of the Child has emphasized that Article 2 (Non-discrimination), Article 3 (Best Interests of the Child), Article 6 (Right to Life, Survival and Development), and Article 12 (Participation of Children) of the Convention should be considered as «general principles». They constitute the guiding values for an understanding the Convention as a whole and have been used in this report as indicators of the implementation of each individual right guaranteed by the Convention. For this reason, they are analysed «transversally» throughout the following chapters. This section of the document will therefore briefly analyse these principles, which will be further developed in the subsequent sections.

#### **1. Non-discrimination (Art.2)**

Although the principle of non-discrimination is formally and extensively recognized in our legal system, both in the Constitution<sup>6</sup> and in legislation<sup>7</sup>, its actual implementation is less consistent. In some circumstances, children suffer discrimination precisely because they are “under age”: for example, when children are not granted the opportunity to be listened to in respect of decisions that affect them directly.

The Italian Government has undertaken the commitment to respect the rights enshrined in the Convention and guarantee them to every child living under its jurisdiction, «without any distinction and regardless of any consideration of race, colour, sex, language, religion, political opinion or any other opinion of the child or of the child's parents or legal representatives, or their national, ethnic or social origin, financial situation, condition of being incapacitated, birth or any other circumstance». Yet there are still several groups of children who suffer extreme discrimination, in particular, foreigners and gypsies.

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<sup>6</sup> Art. 3.

<sup>7</sup> For example, law 205/93 and law 40/98

The evidence provided throughout this report demonstrates that a significant proportion of non-European foreign minors, particularly those from certain geographical regions, work illegally or by “moonlighting” without any protection, beg in the streets night and day<sup>8</sup>, live in unsafe conditions that adversely affect their health<sup>9</sup>, have a much higher school failure rate than their Italian classmates<sup>10</sup>. They also represent a significant proportion of those in asylum-seeker holding camps and juvenile correctional institutions, the latter partly because it is impossible to implement alternative measures than imprisonment<sup>11</sup>. The under-age prostitutes on the Italian streets are almost exclusively foreign girls. And the many **unaccompanied foreign children**<sup>12</sup> in Italy live in extremely deprived and precarious conditions, lacking appropriate protection, partly as a result of the inadequacy of the legislation.

**Gypsy children**<sup>13</sup>, most of whom are Italy-born citizens, suffer from a lack of suitable integration policies, effective schooling campaigns<sup>14</sup>, or health programmes that acknowledge the implications of their culture<sup>15</sup>. These factors all contribute to their continuing social exclusion. The rate of non-attendance at school is very high among these communities; at the same time, these children are frequently exploited for purposes of begging. There are a disproportionate number of gypsy children in juvenile prisons, although the exact number of children is not known due to the lack of disaggregated data.

Many other vulnerable groups suffer discrimination: **Italian children** who work illegally, children living in institutions and orphanages, disabled children, and HIV-positive children who are often excluded from school and extracurricular activities due to the lack of information and understanding about AIDS transmission. In this way, the **school system itself** becomes a source of discrimination, instead of serving as an agent for social integration.

Furthermore, there is evidence that children of unmarried parents are also treated differently in some regions. For example, the law that empowers Municipalities to allocate aid for all citizens (including legitimate children), also unfortunately grants the Regions the power to confer on other local authorities the welfare functions that once belonged to the Provinces with respect to children born to unmarried parents<sup>16</sup>.

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<sup>8</sup> See below Chap. VI, paragraph 2.

<sup>9</sup> See below Chap. VII, paragraph 3, letter a).

<sup>10</sup> See below Chap. VIII, paragraph 1, letter c).

<sup>11</sup> See below Chap. IX, paragraph 2.

<sup>12</sup> ) See below, Chap. IX, paragraph 1.

<sup>13</sup> See below Chap. IX, paragraph 3.

<sup>14</sup> See below Chap. VIII, paragraph 1, letter c).

<sup>15</sup> See below Chap. VII, paragraph 3, letter a).

<sup>16</sup> Law no. 328/2000 «General policy for the implementation of the integrated system of social action and services».

It is clear then that many groups of children in Italy experience discrimination and are denied appropriate respect for their rights. Article 2 of the Convention is not being adequately implemented for a significant minority of children and adolescents.

*Consequently, the Group makes the following recommendation: that special attention be devoted to these social groups, and that policies are developed to ensure the proper and effective implementation of the principle of non-discrimination.*

## **2. The best interests of the child (Art. 3)**

The principle of the best interests of the child is beginning to be widely recognised among social workers, practitioners and professionals working with children, and the most recent Italian jurisprudence is also increasingly recognising its importance.

However, the traditional *adult-centred* approach still widely prevails, and the application of the concept of the best interest of the child often simply reflects adults' interests. There is little evidence that international adoptions (including those regulated by the most recent laws that have been passed), the decision to favour *a priori* a policy of assisted repatriation for unaccompanied foreign children, or decisions to place children in institutions instead of foster care, reflect a commitment to the best interest of the child.

Foreign children should receive «additional» protection as they often do not have a “clearly traceable” family network. In such circumstances, there is a need to develop links with agencies in their countries of origin in order to undertake more effective assessments of whether a return to the family is in the child's best interests. In respect of fostering, a placement in families of relatives in the child's home country should be considered first. All placements of children should be considered on a case by case basis, with the best interests of the child the paramount consideration.

*Therefore, the Group makes the following recommendations:*  
*- the principle of the best interests of the child should underpin all policies and decisions affecting children, without allowing any approach linked to political or economic or, more generally, adults' interests to prevail.*

## **3. The right to life, survival and development (Art. 6)**

The right to life and survival is generally recognised in Italy. It is also respected for children living in developing countries, either through International Cooperation or by granting entry to Italy for health reasons. Furthermore, the incidence of suicide among young people under the age of 18, appears to be lower than in many other countries, as juvenile maladjustment is expressed in different ways<sup>17</sup>. However, there is some discrimination in the fulfilment of the right to life. More foreign girls under 18

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<sup>17</sup>See below Chapter VII, paragraph 1, letter b).

years of age have abortions compared to the rates observed for Italian girls<sup>18</sup>. In addition, perinatal mortality in children born to foreign women is greater than the rate recorded for Italian women<sup>19</sup>.

*Therefore, the Group makes the following recommendation:  
. it must be ensured that this basic right is guaranteed to all children living in Italy, whatever their nationality or citizenship.*

#### 4. Respect for the views of the child (Art. 12)

In respect of Article 12, which establishes the right of children to express their views freely on all matters of concern to them and to have those views taken seriously in accordance with their age and maturity, the Italian legal system is neither prepared nor adequate.

**The participation** of children in the life of their community is a concept that is being progressively recognised, largely as a result of increasing awareness of the Convention and many associated international developments. The principle of participation acknowledges that children have views and perspectives to contribute to decision-making and that they are entitled to participate in all proceedings in which they are involved. However, the opinions of children are rarely taken seriously even when they are listened to. This applies both within the family and at school as well as in judicial and administrative proceedings. Moreover, children are still relatively unaware of their rights to be involved in decision-making. Documents which have been designed to promote their right to exercise choice are unlikely to be effective unless they are supported by adequate policies and training/information campaigns. This problem is typified by the difficulties encountered in enforcement of the **Statute of Students** in secondary schools; its implementation has faced difficulties due to cultural resistance and the persistence of the traditional attitudes which characterise the educational system<sup>20</sup>.

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

Respect for the views of the child differs in civil and criminal proceedings. **Civil** proceedings are not regulated by a coherent discipline and the different age limits (12, 14 and 16 years) governing the right to be heard, apply in different contexts, without any logical basis. Furthermore, in most cases, the law merely requires “listening” to the child, whilst the outcome too often depends on the judge’s discretion. The child’s “consent” is only

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<sup>18</sup> See below Chapter VII, paragraph 1, letter a).

<sup>19</sup> See below Chapter VII, paragraph, letter a).

<sup>20</sup> See below Chapter VIII, paragraph 1, letter b).



required in rare occasions. Consequently, the child is “listened to only if absolutely necessary”<sup>21</sup> in situations such as separation or divorce.

The legislation governing **criminal proceedings** is more up-to-date. A new juvenile criminal code of legal proceedings has been introduced, as well as new laws on child abuse, establishing, for example, that when children testify, either as victims and/or witnesses, they are entitled to special protection, in recognition of their vulnerability.

However, this procedure is not yet consistently applied throughout Italy; thus while many courts are now seeking the support of specialised facilities in cases of abused children, others have employed methods which do not adequately protect children as required by the law.

In relation to **health**, the law requires that the «opinion» of the child is heard, but does not require his/her consent. And in practice, there is too much discretion left to individual professionals. However, there is growing awareness of the rights of the child in the health field and some positive initiatives have been undertaken, such as the «Chart of the Rights of Children in Hospital»<sup>22</sup> requiring, among the other things, that children be informed of their own health status and any necessary treatment.

In some cases, for instance when a child is diagnosed as HIV-positive, it is the parents themselves who impede the child’s access to proper information. There is a need for adequate support strategies for adults, aimed at helping families to accept the child’s situation and co-operate in sharing information with children.

There has been a significant increase in the number of opportunities for children to play an **institutional role** at local level. Law 285/97 marked a decisive step forward in the development of such initiatives by allocating funds for specific projects aimed at the promotion of children’s participation in decision-making, planning and play contexts.

In the field of education, there have been a number of significant initiatives to promote new models for the direct involvement of children, with the parallel establishment of training programmes for a wide range of adults working with children. This process is creating an increasing number of opportunities for exchange of opinions and debate on the different methodologies for promoting participation.

*In the light of the above considerations, the Group makes the following recommendations:*

- . to amend existing regulations which currently fail to respect Article 12;*
- . to raise practitioners’ and child care professionals’ awareness of the child’s right to be listened to in order to promote effective implementation;*

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<sup>21</sup> (21) Law 74/1987.

<sup>22</sup>

. to provide greater support for the participation of children in the life of their community, including direct involvement of children in decision-making processes (through referenda, consultations on issues of interest, the development of Agreements between the Town Councils and young people for the use of public spaces, etc.).

## IV. Civil rights and freedoms

### Foreword

The following paragraphs will only discuss some of the freedoms set out in the Convention. This selection does not reflect the priority of such rights, but rather, the issues of primary concern in Italy.

### 1. Freedom of thought, conscience and religion (Art. 14)

One basic principle established by the Italian Constitution is that the State must be non-confessional and ensure religious pluralism. The teaching of the Catholic religion in schools (*IRC* is the Italian acronym used) was made compulsory with the 1929 Concordat (which did include the possibility of exemption). However, it is now “optional” as a result of the new 1984 Concordat which established that this subject be taught only upon specific request by interested persons. The optional nature of *IRC* in schools has long been the object of discussion<sup>23</sup> and its inclusion in the normal school timetable has been, and still is, the source of much debate, particularly among non-Catholic communities who argue that this subject is often forced onto students, thus leading to discrimination.

No research has been carried out by official bodies of the Italian government as to the number of pupils who are not attending Catholic religion classes. The only data available comes from a survey conducted nation-wide by the *Ufficio Catechistico Nazionale* [National Catechism Office] and by *CEI* [Italian Episcopal Conference], in co-operation with the Social-Religious Observatory *Triveneto*<sup>24</sup>. At present, statutory school programmes include 60 hours of *IRC* annually in nursery schools (up to 6

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<sup>23</sup>A number of memoranda issued in 1985-86 following the agreements between the Ministry of Education (MPI) and the Italian Episcopal Conference (CEI) defined *IRC* as an optional subject in the sense that students who did not wish to attend such classes were obliged to attend an alternative activity. However, in 1987 a decision of the Regional Administrative Court (TAR) of the Region of Lazio characterised *IRC* as a subject that was optional in absolute terms, and considered it as an extra school subject added to compulsory school hours (Decision no. 1273/1987). Two years later, the Constitutional Court confirmed that students who decided not to attend Catholic religion classes were to be regarded as being in a condition of non-obligation (Decision 203/1989).

<sup>24</sup>The survey refers to the school year 1998-99 and refers to a population of about 6 million students. While the percentage of non-attenders varies significantly among the regions, it was on average 6.6%, ranging from lowest numbers in nursery and primary schools to the highest numbers in secondary schools. Students leaving the school building represented a frequent alternative, particularly in secondary schools, followed by non-assisted study, while the so-called “alternative activities” were shown to be organized only in rare cases.

years of age), 2 weekly hours in primary schools (from 6 to 10 years), and 1 weekly hour in secondary and high schools (11 to 13, and 14 to 18 years, respectively). Upon enrolment in a school, the pupils' parents or students over 14 years of age are required to fill a form in which they can specify whether they are willing to attend Catholic religion classes or not, and those who do not wish to attend such classes are presented with four alternative options – different classes or training activities, spending the same number of hours in private study, no alternative activity, or permission to be absent from the school building during the religious instruction period. However, families are not always aware of these options when they enrol their children in schools and students who decide not to attend such classes often end up waiting in corridors, watched over by the school caretakers, until the religion class is over.

The issue is particularly sensitive at present due to the increasing percentage of **foreign pupils** in Italian schools<sup>25</sup>, who often belong to different religions; the families of such children are not always familiar with the way Italian schools are organised, and may well be unaware of the possibility of opting out from Catholic religion classes upon enrolment. This problem has intensified with the most recent migratory flows, which have led to the presence of considerable numbers of children who are not fully integrated in Italian culture, especially some North-African immigrants. The numbers of Muslim pupils, although distributed unevenly in different areas of Italy, have considerably increased in the last few years and are progressively becoming a stable and long-term presence. In addition to the principle of non-interference by the State in religious education, Muslim students also face the problem of reconciling the food restrictions required by Islam with the menus served in school canteens. There is currently no *Entente* between such groups and the Italian State to facilitate dialogue with different cultures.

In practice, the option of providing alternative schooling activities is often disregarded, as it depends on the resources available at each individual school. These activities are often either not organized at all or started late in the school year, by which time students have abandoned the classroom. On the other hand, placing IRC always during **the first or last hourly period** of the school day is not always practicable and, for younger children, it is not always possible for parents to arrange their schedule to take them to school one hour later or collect them an hour earlier.

Another issue of concern is the organization of **religious events or celebrations during school hours**. These are often allowed, despite the

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<sup>25</sup>According to the Commission for immigrant integration policies, non-Italian pupils enrolled in Italian schools, from nursery to secondary schools and both state and state-recognized private schools, in the school year 2000–2001 were 140,000, corresponding to 2% out of the total number of enrolled students.

1993 TAR decision<sup>26</sup> that ruled them out, arguing that since religious rituals are an individual choice of believers, they constitute an activity that is not related to the school and its institutional purposes and therefore should not take place in school buildings and during school time.

*In consideration of the situation described above, the Group makes the following recommendations:*

*- to promote a campaign to disseminate information concerning IRC to both users and teachers, and make sure that all the families and students are informed, upon enrolment in a school, that they can choose whether or not to attend Catholic religion classes;*

*- to ensure that each individual school offers genuine alternatives, the effectiveness of which must be in line with the school's educational mission;*

*- to encourage the drawing up of agreements between the Italian government and non-Catholic communities in Italy.*

## 2. Freedom of association (Art. 15)

Although freedom of association for the young is a right guaranteed by the Italian Constitution<sup>27</sup>, it is a principle that is not incorporated into any specific legislation. Genuine opportunities for exercising this right are limited for young people, partly because its implementation is often determined by local administration.

The **difficulties** are mainly related to bureaucratic and economic factors (i.e. rentals for premises, applications to be submitted in order to gain recognition for the association), as the granting of spaces or facilities for association or group meetings free of charge is subject to numerous legal constraints. In practice, this leads young people to seek such venues and facilities within premises already run by adult associations, mainly political groups or religious organizations; these, in turn, make spaces and facilities available to young people for their meetings, but inevitably, they exercise “control” over the establishment and developments of their gatherings.

As a result, there are virtually no associations created and managed by young people themselves.

The *adult-centred* environment that dominates the world of young people inhibits the development of or even demand for their own associations. As a consequence, young people tend to gather, not in real associations, but simply in groups sharing common interests or limited and periodic needs, such as a music band and/or a sports team.

Some of the most prominent educational associations in Italy – adults' associations, *nota bene* – are experimenting with new patterns and modes of involving children and young people directly in their activities. This is partly the result of an increase in the demand for independent opportunities by the young themselves, and partly through an initiative introduced to

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<sup>26</sup>Decision of TAR Emilia Romagna no. 250 1993, not impugned by the Ministry and therefore considered as final.

<sup>27</sup>Constitution, Art. 18.

promote the growth of self-aware citizens, capable of playing an active role in society.

*In the light of the above considerations, the Group makes the following recommendations:*

*. to promote and develop appropriate conditions to facilitate the rise in demand for associations created and managed by children and young people; this should be encouraged both by reducing red-tape and constraints on accessing spaces and tools, and by introducing regulations together with the children and young people involved, thus allowing for enhanced and effective self-governance.*

### 3. Children and the media (Art. 17)

Article 17 obliges States to encourage the mass-media to broadcast information and programmes that are socially, culturally and educationally useful for children, and to promote guiding principles aimed at protecting children from information and programmes that may be detrimental to their well-being.

In order to fulfil these obligations, a number of **documents** have recently been drawn up (the Charter of Treviso, 1990; the additional handbook to the Charter of Treviso, 1995; the TV/Minors Code, 1997; the Professional Ethics Code, 1998). Furthermore, an agency has been created for the protection of the rights of children in the media (National Council of Users, 1997).

However, while these Charters reflect an increased general awareness and the will to comply with the right to information, they are primarily codes of intent, and the many infringements of their regulations highlight their ineffectiveness in the practice.

Many concerned groups<sup>28</sup> have raised the issue of recurring **violence** and vulgarity in the media, particularly in TV broadcasting. Violence includes physical and sexual, but also moral and psychological violence and offensive behaviour or actions. There is also an issue of the violence used in advertising items for children. A survey conducted by the Department of Educational Sciences of the University of Bologna<sup>29</sup> on a sample of primary school children sought their opinion on programmes, advertisements and promo/trailers broadcast during the so-called “protected” time band on the seven main television networks. Their critical responses related almost exclusively to images of explicit physical and psychological violence, including those shown during news or current events programmes. The children interviewed clearly expressed their irritation and rejection of scenes of war, furious quarrels, abuse and ridiculing of people. Similarly, they expressed their dislike of programmes where the intimacy of persons is

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<sup>28</sup>Second deliberation of 24 November 2000 the National Council of Users.

<sup>29</sup>«A week of TV programmes broadcast during the protected time band judged by 9-10 year-old children». Research Report edited by Piero Bartolini, Bologna – October 2000.

totally invaded. Despite heated debates on how these issues should be regulated, the problem remains unresolved.

A large number of children in Italy have a TV set in their bedroom and **make their own decisions as to which programmes to watch**, during daytime and in the evening. Recent research has shown<sup>30</sup> that not only is there a directly proportional relation between older age and an increase in the time spent in front of a TV screen, but also an increase in the number of very young children watching TV in the evening (including the age range from four to seven and half years). ISTAT data<sup>31</sup> have revealed that children who watch TV in the age range between 6 and 14 number more than 96%, and over 25% of these watch TV for three or more hours a day. Moreover, the number of TV networks broadcasting children's programmes in the afternoon is low. Programmes for children have also been criticized for their insistence on involving their young viewers in interactive game shows.

Analysis of the presence of children in television programmes has shown that the role of under age children has recently taken on the character of show business. Children have become the mini-stars of very successful programmes because adults are amused by their candour and naiveté. Children are called upon to answer questions about politics and current affairs, to talk about their love stories, to imitate adults' behaviours, and what captures the audience is not only their linguistic and behavioural tenderness, but most of all their gaffes and their frankness.

However, apart from the news items on crime in the broadcast and print media, **children as a social group have a low profile in the media**, especially the smallest children and children belonging to ethnic and linguistic minorities. The image of a foreign child attracts the audience's attention much more than that of an Italian child (94.2% vs. 44.5%), but the way the media represent foreign children is problematic. Non-European children are consistently depicted in situations of conflict, danger, abandonment by the family or involvement in war, and they are frequently portrayed in a misleading manner, as the victims of abuse or crime or as children in severe distress. Reports are very seldom devoted to the percentage of immigrant children in schools, the daily problems of integration, the different manner in which social integration should be encouraged or the cultural and human enrichment these children can contribute by interacting with Italian children<sup>32</sup>.

Access to the **Internet** by increasingly younger children is a growing concern. Whilst the web offers considerable opportunities for children, it also poses risks, in particular, the possibility of accessing paedophile web sites or sites designed to exploit children, be it only commercially. The scale of

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<sup>30</sup> 1997 Auditel data in «Report on the condition of children and adolescents in Italy. Not only exploited or abused». Children and adolescents of the year 2000.

<sup>31</sup> ISTAT, Aspects of daily life, 1999.

<sup>32</sup> Summary of the 2000 Censis Report, Communication and Culture, Violence and Stereotypes for minors in TV.

Telefono Arcobaleno (an emergency phone-in centre for children in danger)

paedo-pornographic materials on the Internet is evidenced by research undertaken in 1999<sup>33</sup> which found 7,650 web sites of this kind.

Finally, even though the use of computers is becoming increasingly common among children and the young, many still use it only to play and completely ignore its educational potential.

*Therefore, the Group makes the following recommendations:*

- . to enforce the regulations introduced by the different codes and charters adopted, while monitoring the compliance with, and enforcement of, their underlying principles. This should be done not merely by drawing up professional ethics codes, but rather by using these tools to promote an authentic culture of childhood supported by adequate policies within the framework of a wider social programme;*
- . to make use of the potential of television by promoting programmes targeted at underage children with the purpose of offering the latter opportunities to express themselves with dignity, by showing and enhancing positive feelings and values, such as solidarity, friendship, peace, and tolerance, or by presenting themes connected to art, science, music specifically designed for the children in order to give them opportunities for learning and play;*
- . to regulate access to the Internet, for example by devising artificial intelligence systems to protect children from potentially harmful contents that may represent a danger for their developmental potential, while simultaneously allowing them to use this means of communication to exploit the educational and information potential of the Internet;*
- . to organize training courses for journalists and reporters so that they may deal with the subjects connected to children correctly and in accordance with the rights laid down by the Convention.*

#### **4. Right not to be torture or treated or other cruel, inhuman or degrading treatment or punishment (Art. 37 a)**

The Italian legal system has not yet introduced the crime of torture and the ratification of the Convention against torture in 1984 does not resolve the problem. It is not sufficient to “cover” this crime under different headings such as those defined in Italian law as lesions, private violence or threats.

*The Group makes the following recommendations:*

- . to assess compliance of Italian legislation with the international Conventions that have been ratified and to introduce the crime of torture into the Italian criminal code, as also suggested by the Committee against Torture, by giving particular consideration to the age of the victim in determining punishments.*

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<sup>33</sup> Telefono Arcobaleno (an emergency phone-in centre for children in danger

## V. The family environment

### Introduction

The **family** has always played a central role in Italian society. It is the main reference point and social indicator for researchers, jurists and sociologists. Over the last few years, however, there have been significant changes in family life with new structures emerging: so-called *more uxorio* **common-law marriages** - unmarried couples living together - and **re-established families** - families formed after the dissolution of the previous marriage - have considerably increased in number, even though they are still a minority compared to traditional families (2.7 and 4.3% out of all couples, respectively). Furthermore, the increasing number of separations and divorces<sup>34</sup> has contributed to a considerable growth in the number of **single-parent households**, since 66% of separations and 55.4% of divorces involve at least one child<sup>35</sup>. The increasing presence of foreigners has led to an increase in so-called **mixed couples**, as well as to the spread of households entirely composed of foreign citizens, the so-called «**foreign families**» or «**migration families**»<sup>36</sup>. These families often have several members still living in their original country.

Social policies in respect of children need to reflect these changes, in order to ensure their adequate protection and identify and plan the necessary services.

Other social changes are reflected in the high percentage (72.9%) of young singles between 18 and 30 years of age still living in their original family. Parents often have “hyper-protective” attitudes which inhibit their children’s developmental stages, independence and autonomous decision-making power. In addition, cases of maltreatment, abuse and carelessness still arise in family environments<sup>37</sup>.

There is a **parenting crisis** in Italy, which, until very recently has not received adequate support in public and social services, except in a limited number of municipalities. Where support has been available, it has been provided through the provision of specific programmes such as the involvement of parents in nursery schools. Today, these initiatives have been encouraged through the provisions of law 285/97, although coverage is uneven across the country. In some areas, special premises are made available, while at other times facilities primarily designed for other purposes are used.

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<sup>34</sup> According to 1997 ISTAT data, separation and divorces in Italy have reached the numbers of 60,281 and 33,342 respectively.

<sup>35</sup> AIAF, November 2000. *Il diritto di famiglia: le riforme che vogliamo. I rapporti tra genitori e figli* (Family right: the reforms we want. Parent-children relationships), Carla Marcucci, attorney.

<sup>36</sup> «*Minori immigrati identità, bisogni, servizi*» (Immigrants under age: identity, needs, services) in “*Servizi sociali*” no.2/98, Centro Studi e Formazione Sociale Fondazione Emanuela Zancan.

<sup>37</sup> ) See below Chapter VI, paragraph 1.



There are, also, an increasing number of children without families. These include unaccompanied foreign children who often enter Italy illegally, either seeking work, or through illegal adoption, family reunification, health or humanitarian reasons, and Italian and foreign children who live in institutions or sheltered communities.

## 1. Family reunification for foreign children (Art. 10)

The current law on immigration, the Consolidated Act (*Testo Unico*) 286/98, promotes family reunification for foreign minors, which is rightly considered as an important factor in the process of integration of the immigrant family into the receiving society.

Over the past three years, 124,421 entry visas in Italy have been granted for family reunification purposes. The children involved were mainly of Moroccan, Albanian, Chinese, Philippine and Tunisian nationality<sup>38</sup>. But while family reunification is now recognized and is being implemented, many problems remain. Firstly, there are **bureaucratic barriers**, such as form-filling, complex documentation and case handling times, which make it difficult for applicants to comply with the processes and rules involved. Secondly, there are **economic difficulties** related to legal requirements for family reunion, particularly those regarding standards of housing and annual income. The law requires that housing in which the family will live, complies with certain standards in respect of hygiene and health<sup>39</sup>. Initially, there were many delays owing both to difficulties in identifying competent authorities at local level to assess the dwellings and issue housing permits, and also to the identification of suitable assessment standards to be used. While these difficulties now seem to have been overcome, this requirement remains the source of unequal treatment between immigrants: thus, not all the regional regulations establish minimum standards for state-owned residential dwellings, and this often leads the application of local criteria, which are usually less strict, rather than the criteria established by regional laws.

The other requirement relates to **income**. Foreigners, who intend to reunify a family member, are asked to demonstrate that they have an annual income equalling at least the amount of the social security payment<sup>40</sup> (old-age pension). It can be difficult to prepare the necessary evidence of annual income, requirements for which varies from one district police department (*questura*) to the other, leading to disparities in treatment<sup>41</sup>. Furthermore, there is a lack of clarity as to whether “annual income”, is defined as the annual income of the previous year or the income expected based on the current year’s income. District police departments opting for

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<sup>38</sup> Data quoted in the decree on migration flow programming dating back to March 2001.

<sup>39</sup> Art. 29, co.3 letter a of *Testo Unico* (Consolidated Act) 286/98; enforcement regulation of DR 349/99, Art. 6.

<sup>40</sup> Art. 29, 3 letter B, of Consolidated Act.

<sup>41</sup> A positive situation worth mentioning is the possibility offered by the district police departments of Florence and Catania, to depart from the ordinary provisions justified by the need to recognize the best interest of the child in the practice of family reunification.

the first interpretation effectively hinder family reunification for families who have not lived in Italy with a regular residence permit for at least one year, since they cannot show the previous year's income. This has led to the introduction of a further requirement, namely that the foreigner has had an official residence permit for at least one year, but this requirement is expressly excluded by the Consolidated Act (*Testo Unico*) 286/98. Furthermore, by linking the required income to the level of social security payments, the right of foreigners to reunify their families is automatically reduced every time the old-age pension is increased<sup>42</sup>. This problem is exacerbated in cases of reunification of more than one family member, because the income level required by the applicant is multiplied instead of being increased proportionally (i.e. to reunify 2 or 3 family members, one must show that the income is twice the amount of the social security payment).

Problems also arise in the cases of illegal entry of children who come to Italy to be with their families, whether the families have a legal residence permit or not. If the parent does not have a legal residence permit and is expelled, the regulations require that the child follow the expelled parent, without any assessment of his/her best interests. In cases where a child has been factually reunified with the parent in possession of a legal residence permit, his or her status is not clearly regulated by the law; some district police departments grant children over 14 who have been factually reunified, with a "permit for under age persons". This is not automatically convertible upon reaching the 18<sup>th</sup> year of age, so that the person who has just become of age can be expelled. It is clearly preferable to grant a "permit for family reasons", which is convertible upon reaching 18 years. Implementation of the principle of the best interest of the child would require that all children are treated according to the same yardstick as the legally reunified children.

The problem of family reunification is a hotly debated issue throughout Europe. Article 63 of the Treaty of Amsterdam and the Vienna Action Plan consider the issue of admission into the European territory for family reunification purposes as an important factor in promoting integration of foreigners in the host society, because family support is a crucial factor.

For this reason, the European Commission has suggested that the need for a Directive on family reunification establishing common principles for all the European states.

*In view of practical challenges, the different interpretations, and the disparities of treatment between different localities, the Group makes the following recommendations:*

*to identify and adopt equal, fair and reasonable criteria for family reunification and, in particular, to review housing and income requirements*

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<sup>42</sup> For example, for the reunification of one family member from 1998 to 2001 an increase of Euro 916.09 has been observed

by specifying that the annual income should be taken as the expectable income based on current income;

- to allow children to enter Italy to be reunified with their parents or foster parents residing in Italy when deemed necessary for their psychophysical development, and derogating when necessary from the provisions established for family reunification;
- to ensure that all provisions regarding children are grounded in the principle of the best interest of the child.

## 2. Illicit transfer and non-returns: international child abduction (Art. 11)

According to **data** provided by the Ministry of Foreign Affairs (MAE)<sup>43</sup>, international child abduction currently involves 207 children (there were 78 cases on 1 January 1999!) and, contrary to popular opinion, they mainly take place in the United States (26 cases) and European countries (Germany ranks among the top of the list, with 17 cases).

The recent publication of an information booklet by the MAE containing practical information and suggestions for avoiding abductions is welcome, but it is important to emphasize that successful outcomes in such cases depend on the skills and competence of the professionals involved. Therefore, action is necessary to raise awareness and competence amongst attorneys, magistrates, judges, psychologists, social workers and teachers dealing with mixed family situations, to enable them to provide appropriate support to the couples and their children and reduce the likelihood of abduction. There is also a need for better provision of information to couples entering mixed marriages, alerting them to the potential difficulties involved in the event of separation or divorce such as:

- the validity of the deed in the two countries;
- the possibility of registering the marriage deed in the foreign country;
- the existence of specific regulations regarding marriages involving two countries;
- the possibility of legal recognition of the child by the partner living in the foreign country in case of non-married parents;
- the automatic acquisition of citizenship by the foreign parent;
- the regulations on parental authority in force in the legal system of the foreign partner's country;
- the juridical tools available to formally terminate the bond, such as repudiation, separation or divorce, and whether they are recognized in Italy and in the foreign partner's country;
- the provisions on child custody.

It is important that local professionals play a preventive role, as they normally encounter these families when the problem is still at an early stage.

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<sup>43</sup> *Bambini contesi* (Children in divorce wrangles), edited by the Ministry of Foreign Affairs, 2001.

*In the light of these considerations, the Group makes the following recommendations:*

*. to develop both preventive and non-preventive measures aimed at guaranteeing compliance with the principle of the best interest of the child, such as:*

*. drawing up bilateral agreements, particularly with the countries where international child abduction is more frequently observed;*

*. organizing information campaigns targeted at mixed couples to reduce the risks of abduction and raise awareness of the possible consequences of such behaviour;*

*. informing the victim parent in such cases that he or she might be entitled to receive financial aid from the State;*

*. training professionals to handle such situations;*

*. reducing procedural times for dealing with such cases*

### **3. Children removed from their families and deprived of their family environment (Art. 20)**

Law no. 184 of 4 May 1983, recently amended by law no. 149 of 28 March 2001, regulates the foster care and adoption of children when the child is either temporarily or permanently deprived of his/her family environment. This rule stems from the right of the child to grow and be brought up within his or her own family (Art. 1).

The legislation addresses: foster care, in case of temporary unsuitability of the original family; placement in a family-like sheltered community or, if this is not available, in a public or private welfare institution; in the last resort, adoption, when the child is totally deprived of the moral and material support of his or her parents and relatives.

#### **a) Adoption and Fostering**

Foster placements are normally decided by the social-welfare services. A child without a family temporarily can be taken into care until he/she is assigned to another family that ensures his/her maintenance, upbringing, education relationships and affection he/she needs. Foster care involves many different parties: the original family, the foster care family, the social service staff, the magistrates of the juvenile Court involved, the tutelary judge and the Local Health Unit services.

The analysis of the **findings** of a survey conducted by the *Centro Nazionale di Documentazione per l'Infanzia e l'Adolescenza* (National Centre for Research on Childhood and Adolescence) showed that almost twenty years after its establishment, and in spite of the provisions set out by Law 184/83 (as confirmed by the new Law 149/01), foster care is still not a priority choice when placing a child unable to live with his or her family. Thus, the number of children placed in foster care is still lower than that of children placed in family-like sheltered communities or institutions. At present, a total

of about 10,200 children are in foster care<sup>44</sup> (0.1% of Italian minors), 6.4% of whom are foreign children. There is significant geographical disparity in practice: children are placed in foster care mostly in the north (16.4% only in Lombardy), while children are mainly placed in institutions in the south (in Sicily, 2,247 children have been placed in child-care institutions vs. 523 in foster care; in Calabria, numbers are respectively 1,387 vs. 137).

Foster care tends only to be used by administrators, judges or social workers who are confident that this is the right choice and will produce positive results. Fears and prejudices still persist towards foster care, partly due to concerns that the child might take roots in the new family and be doubly traumatised when the time comes to return to his or her original family. Similarly, many social services staff are critical of foster care placements because they are often used without a clearly defined plan or timetable for the child's future. In practice, foster care tends to be offered only after the child has spent years in sheltered communities or child-care institutions or when the original family has completely abandoned the child.

The fact that most foster care placements are made by the **Juvenile Court** (72.9% of children are placed in foster care after judicial proceedings and only 26.1% of placements are implemented on a mutual consent basis), indicates that it is still perceived - and used - as a form of punishment rather than as a valuable resource for the child and his/her family. Furthermore, it is the task of the Juvenile Court, whenever the suspension of foster care is detrimental to the child, to extend the period beyond the maximum duration established of 24 months. According to some parties, however, since this provision will necessarily transform the foster care into a judicial measure, there is the risk of introducing causes for conflict even in cooperative circumstances.

Finally, the role and value of **foster care families** is inadequately understood, despite the demands of many child care professionals for greater recognition of their value. There is a need for better training for foster parents to raise awareness of the psychological and developmental factors affecting children in care, and to help them provide appropriate support. In addition, special attention should be paid to finding and supporting foster families who are willing to face particularly challenging situations, such as having an HIV-positive child.

*The Group makes the following recommendations:*

- . that better training and support should be provided for foster parents aimed at enhancing understanding of the psychological dynamics of children;*
- . that clear individual plans should be developed for all children being placed in foster care;*
- . that appropriate support should be provided both for the original family to facilitate rehabilitation, and for the foster care family.*

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<sup>44</sup> Data as of 30 June 1999.

## **b) Alternative care in family-like sheltered communities and public or private child-care institutions**

ISTAT surveys concerning children living in child-care institutions were inexplicably suspended after 1992. However, a survey conducted by the National Centre for Research and Analysis on Childhood and Adolescence in 1998<sup>45</sup> provides a **picture of the situation of children in institutional care**. It showed that 1,802 welfare institutions (including traditional child-care institutions and family-like sheltered communities) housed 14,945 children as of 30 June 1998 ((7,995 boys and 6,950 girls), of whom 11.9% were foreign children. However, the research did not provide differentiated data distinguishing between traditional institutions and the so-called *family-houses*, i.e. family-like sheltered communities, so that it was impossible to estimate the number of children living in the latter type of facility. The survey did not include disabled children hospitalized in health facilities, nor children living in educational boarding schools. Accordingly, some organisations estimate that, in total, about 20,000 children are living in institutions.

As far as their **period of stay** in such facilities is concerned, 1,730 children appear to have been living there for over 5 years, while length of stay varied from 3 to 5 years for 2,048 children, from 2 to 3 years for 2,051, and from 1 to 2 years for 3,166 individuals. In addition, 1,946 minors have previously spent periods in another institution or community.

With regard to **contact with their own family**, 4,785 children never visited their families, 1,016 went home once every 6 months and data does not exist for about 435 children. The reasons for children being in institutional care include difficulties in establishing good family relationships (32.2%), behavioural disorders (13%), abuse or neglect (17.6% ) and sexual abuse (4% ).

As to the **causes of their being taken into care**, the reasons range from economic problems (6,410 cases, corresponding to 43.6%), the lack of a home (3,472 children, equalling 23.6%) and work-related problems of one or both parents (2,853 cases, equivalent to 19.4%). The data indicates that there is a lack of action to address the need for children coming into care, although, for some parents, difficulties in finding work relate to acute forms of personal and social maladjustment.

The questionnaire used by the Florence Centre for a survey on children living in institutions did not include findings regarding the status of the **transmission of the six-monthly lists** of institutionalised children to the tutelary judges, as prescribed by Art. 9 of law 184/1983<sup>46</sup>. Similarly, no

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<sup>45</sup> *Quaderno* no. 9 of the National Centre for Research and Analysis on Childhood and Adolescence «*I bambini e gli adolescenti fuori dalla famiglia – Indagine sulle strutture residenziali educativo-assistenziali in Italia 1998*» (Children under age outside the family – A survey on educational-welfare residential facilities in Italy).

<sup>46</sup> «Public and private welfare institutes are required to report to the competent tutelary judge on a six-monthly basis by submitting a list of all the subjects under 18 years of age who live within their facilities, also indicating specifically for each one of them the place of

information was collected on the supervision of such child-care facilities by the Regional administrations, the local health units (ASL) and the local governments. The research showed that 80.5% of these facilities have proper authorisations, while 19.5% operate without any authorization or official recognition by the Region, a phenomenon that is partly due to the fact that many regions lack legislation regulating applications for permission to operate.

Although the Government's Report stresses that these institutions are no longer all-inclusive facilities where «**schooling is provided** internally»<sup>47</sup>, 2,495 children continue to attend internal schools. This practice isolates children, and could and should be ended.

The distribution of residential institutions varies widely throughout Italy as do the numbers of **non-European citizens** in some regions. For instance, the recent trend in the Lazio region to close down these institutions in the favour of sheltered family-like communities (literally *casa famiglia*, 'family-house'), which account for over 70% of the residential facilities available to children, has led to a 10% presence of non-European citizens, 30% of whom have no residential permit or are unaccompanied. Unlike the youngest Italian children, foreign children usually remain in these family-houses until they reach 18 years of age. The difficulties they experience are therefore of a different nature, given that the mean age range between 14 and 16 years for non-European children and between 7 and 10 years for Italian children<sup>48</sup>.

The nature of **family-like communities** is extremely **varied** for two reasons: firstly, because they are managed by different agencies (i.e. they may be an independent organization of any kind, a cooperative, a public body, a religious entity), each with its specific methods of organization, and secondly because the children taken into care are sometimes selected on the basis of their age, sometimes based on gender, and at times on the nature of their needs (i.e. children with psychopathological problems, foreigners, drug addicts, children on whom correctional measures are imposed by the judicial authorities). Such communities are generally organized according to local needs. For instance, communities located in areas with a low population density are usually larger and shelter children with wider varieties of problems than similar facilities located in urban areas, where the range of family-like communities is more substantial and may be differentiated by typology of trouble or target population.

**The formula** used by law 149/01, according to which family-like communities should be «*characterized by an organization and personal relationships similar to those of a family*» is extremely vague. In addition, the definition of the minimum standards for the services and support to be

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residence of their parents, the type of relationship the children have with their families and their psychophysical conditions», Art. 9 Law 184/1983.

<sup>47</sup>Government Report, page 62.

<sup>48</sup>*Vita* (Life), 30 March 2001.

provided by such family-like communities and institutes is established by the regional administrations, and there are no deadlines for the issuing these standards. Finally, the Parliamentary Decree nr. 308 of 25/May/2001 establishing the «Minimum structural and organizational requirements for obtaining authorization to provide residential and semi-residential cycle services and facilities», enforcing Article 11 of law no. 328 of 8 November 2000, has not yet been implemented. The Regions and the self-governing Provinces of Trento and Bolzano are entitled to establish these organizational requirements based on the provisions set out by the above-mentioned decree. Whilst it is a complex process, it is, nevertheless, important to define the features and «*specific requirements*» to be met for family-like communities, as suggested by Art. 9 of the above-mentioned general policy law.

The principle establishing that appropriate standards of care for “inmates” in such institutions should be implemented by 31 December 2006, which is clearly expressed in Art. 2, paragraph 4, of Act of Law 149/2001, is unlikely to be realized as no specific programmes have been developed nor penalties introduced in the case of non-compliance by the local authorities. Indeed, there is a widespread concern the regulations and requirements to be established by the Regions will be poorly implemented and that facilities will be established that are not genuinely “family-like” situations. For example, there is the risk that even groups of 150-200 individuals organized to live in apartment blocks may be termed “*family-like communities*”.

Research has also been undertaken on the issue of **children under 21**, since they have been increasingly shown to be in need of support even after 18 years of age. School education is completed upon reaching the age of majority, and there is inadequate development of mother-child communities.

The situation of children without any family remains vulnerable and concerns have been expressed about the enforcement of recent regulatory reforms. There is a lack of specific arrangements designed to promote cooperation between welfare communities, community services and the courts. Some individual initiatives have already been started, for instance, the Juvenile Court of Rome, the municipal Social Services, the Union of Family-Like Communities and educational-welfare institutes have signed an agreement protocol whose purpose is to set essential operational guidelines for cooperation, but these services should be reorganized. Decisions on the temporary placement of children in a family, community or institution should always be made in the best interests of the child. This will involve addressing the child’s specific needs on a case by case basis, identifying the most appropriate response to be provided, and implementing the plan rapidly and in co-ordination with all the agencies involved. Wherever possible, consideration must be given to rehabilitation of the child within his or her original family

*Therefore, the Group makes the following recommendations:*  
*. that social services be reorganized in order to enable them to acquire overall planning skills to meet the needs of children, and guarantee that*



every measure is taken to protect the right of every child – including disabled or sick children – to grow up in a family, either the original family wherever possible or a foster care or an adoptive family;

- that social services take on the role of supervisors who accompany children throughout their developmental path. They should monitor the children's development based on both objective and standard criteria, and in relation to the child's individual needs and in co-operation with the communities where the children live;
- with specific reference to sheltered communities, clear guidelines should be developed concerning the affective, educational, functional and organizational features that should characterize family-like communities, lodging communities, family-houses and apartment-groups, in order to avoid creating a situation where the reform requiring the closing down of the previous institutions is merely implemented as a «label change».

#### 4. Adoption (Art. 21)

Following a procedure hastened by the imminent dissolution of Parliament in view of the elections, the Chambers approved law 149/01 to amend law 184/83. **This reform**, supported by the wave of public opinion that still sees adoption as the presumed «right» of sterile couples to have a child - rather than as a right of the child without a family to have one! – has been introduced primarily to meet the interests of adults rather than children. Professionals in the adoption field are deeply unhappy about these new regulations, which they feel leave many issues unresolved.

The decision to raise the **maximum age difference** between the adopting parents and the adoptable children from 40 to 45 years of age, with the granting of an even further extension<sup>49</sup>, has been criticized by most adoption professionals, because it increases the opportunity for couples to demand a small child, thereby increasing the already high number of adoption applications. In addition, there is widespread concern over the provision allowing the maximum age difference of 45 years to be extended «*whenever the court acknowledges that non-adoption causes a severe and unavoidable damage to the child*»<sup>50</sup>. This will apply where the child has already spent a period of time with the candidate adoptive parents and it therefore may be used by those who intend to overcome the normal procedures required by this law<sup>51</sup>.

The legislation also introduces the principle, whereby once an adopted child becomes 18, she or he can access the **identity of their biological parents**. A child is undoubtedly entitled to be informed of his/her adopted status, and it will be the task of each adoptive parent to help the child understand his/her own history. However, concerns have been felt that giving the right of the adopted child to know the identity of his/her biological parents

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<sup>49</sup>Law 149/2001, Art. 6.

<sup>50</sup>Law 184/1983, Art. 6, paragraph V.

<sup>51</sup>Based on Art. 19 (Art. 22 of law 184/1983) the task of choosing the couple that is most suitable for adoption, among all applicants, based on investigations assessing the needs of the child, is still the responsibility of the Court.

(without even requiring authorization to do so if the adoptive parents have died or can no longer be found) is an intrusive provision that undermines the role of the adoptive family, because it appears to give precedence to the indissolubility of blood ties.

Finally, alongside the publication of law 149/2001, the law decree no. 150 «*Urgent provisions concerning adoption and civil proceedings before the Juvenile Court*» (later converted into law) suspended until 1 July 2002 the enforcement of the new provisions on the definition and assessment of the adoption of children.

### **a) Intercountry adoption**

Intercountry or international adoption is an area of legislation that has recently undergone substantial changes, whose effects have not, therefore yet been fully assessed. Law 476/1998 became fully effective only after the publication of the first Register of Authorized Agencies, which took place on 31 October 2000, while the new requirements for adoptive couples were introduced at the end of April 2001 with law 149/2001.

With the ratification of the Hague Convention (1993), Italy joined the others in asserting the principle of **subsidiarity**: the signatory States have recognized the right of every child to grow up in his or her own family, thus interpreting international adoption as an opportunity offered to those children who do not find a suitable family in their own country. In order to ensure adequate protections and controls, **bilateral agreements** should be drawn up with the children's countries of origin. At present, however, such an agreement is in force only with Peru. There are significant problems associated with some Eastern European countries, from where most inter-country adoptions in Italy originate.

Law 476 has made it compulsory to apply to an **authorized agency** to acquire the necessary documents for adoption and has abolished the so-called «do-it-yourself» procedure. At present, there are 56 such agencies, each with a profoundly different history, experience and operating procedures, which makes it difficult for candidate parents when trying to choose an appropriate agency. Other concerns relate to the high **cost** of adoption which is exclusively borne by the couple. Furthermore, there are wide differences in cost - not always justifiable - between agencies. Of course, some costs are necessary in order to ensure that such organizations are staffed with the best qualified professionals to comply with the standards required by adoption legislation.

As yet, not all **authorized agencies and Local Authority Services** interested in informing and training couples during the preliminary stage of the issuing of eligibility decrees, have established operational protocols for approving prospective adoptive parents. In the Veneto region, a protocol has been undersigned; in other regions (Piedmont, Lombardy, Liguria, Emilia Romagna, Tuscany, Lazio, Abruzzo, Campania) debate is ongoing, but will take some time to resolve.

Recently, some Juvenile Courts have issued very strict **eligibility decrees**, sometimes even describing the child's age, sex and somatic features in the documents. The belief that adoptive placements should give exclusive priority to a child's somatic or cultural origins is a dangerous notion that introduces the risk of trivializing and thus devaluing adoption, both for the children involved and also for their adoptive families.

*In the light of the above considerations, the Group issues the following recommendations:*

*that the Commission for international adoption should make every effort to:*

- draw up bilateral agreements with the children's countries of origin;*
- Authorized Agencies should be monitored in order to ensure transparency of costs and correctness of procedures;*
- meetings should be organised between the bodies involved (Juvenile Courts, Local Bodies, Authorized Agencies) to promote contact, debate and exchange of opinions, experiences and actions;*
- furthermore, the Regions should be urged to promote cooperation between the Juvenile Court, the Authorized Agencies and the welfare-health services of Local Bodies in order to inform and prepare the couples, and support adoptive families, to raise awareness of potential problems and respect the diversities each child brings with him/her.*

## 5. Distance child support

The Italian Government's Report has inserted the paragraph regarding distance child support in the chapter on «The family environment». However, this form of child care falls under the category of International Development Cooperation actions, and consequently should be dealt with in this latter context.

**Distance support (SAD in Italian)**, a practice that has substantially increased in Italy since the **1990s**, is an innovative means of promoting solidarity between countries of the North and South. It is a practice that provides educational opportunities for individuals and families in Italy, as it disseminates information about the violations of fundamental rights that affect many children and adults throughout the world, denying them access to an acceptable standard of living. In addition, distance child support represents a valuable tool for development of the poorest communities in the South, respecting cultural differences according to a spirit of equal cooperation.

Continuing financial support, through these schemes, allows Italian participants to promote the growth and development of children (as well as families and communities) in their own countries and with their own families and communities. Distance support also enables partner organizations in the field to target their activities most effectively in supporting individuals and families.

The **associations** involved in these activities vary widely, including established associations, bodies recognized by a ministry, de facto groups and Catholic religious entities, although most retain a strongly religious character. They also interpret the formula of distance parenting in different ways, ranging from direct support of one individual child to support for the whole project or community related to the child. The definition of «distance support» is not universally shared by all the participating organizations.

The data included in the Government's Report on distance support indicates that an estimated 2 million people are involved, giving an annual total economic value of about 1,500 billion Italian Liras<sup>52</sup>. However, these figures do not correspond to the surveys conducted by the associations operating in this field. The data collected with the 1999 Census on behalf of the Promoting Committee of the Distance Support Forum<sup>53</sup>, updated to July-October 1999, reports 154 entities managing 293,994 support operations (SAD). This data would indicate that in 1999 about 176 billion Liras were collected (293,994 SAD for an average annual fee of ITL. 600,000) instead of the 1,500 billion (one thousand five hundred billion) Liras claimed by the Government, an amount exceeding the total allocation operated by the Ministry of Foreign Affairs for Development Cooperation as a whole. Nevertheless, there has been a substantial increase in programmes through SAD in the last few years.

The National Forum of Associations has drawn up the «Charter of Principles for Distance Child Support», undersigned by about one hundred organizations: it is a code of self-regulation that commits its signatories to behave on the basis of ethical principles and ensure that all actions are implemented in the best interests of supported children and donor citizens.

*Considering the development of SAD during the last decade and the role it is increasingly playing within the framework of commitment towards PVDs, the Group makes the following recommendations:*

- . that forms of self-regulation be extended, in order to ensure transparency and operational clarity. In addition, there should be opportunities for exchanging opinions and establishing links between different bodies and associations operating in the sector in order to develop distance support as a suitable tool for the self-development of individuals and communities, both in the South and North;*
- . to promote a study aimed at identifying the real volume of human resources invested and economic resources gathered annually by the Third Sector using the tool of distance support.*

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<sup>52</sup> Government's Report, page 71.

<sup>53</sup> «Adozione a distanza un impegno alla solidarietà» (Distance Support: a commitment to solidarity), proceedings of the first Italian Forum and national census of associations operating in the sector, edited by S. Gaiani and M. De Cassan in partnership with the Sacro Cuore University of Milan, Pimedit, Milan, 2000.

## 6. Temporary entry into Italy for holidays or health-related reasons<sup>54</sup>

The phenomenon of temporary entry of foreign children first developed in Italy following the Chernobyl disaster, in order to provide children from that area with the opportunity to live for a period in a healthier environment, away from nuclear radiation. However, the concept of temporary entry has since been expanded, as evidenced in the **number** of non-accompanied foreign children who have been granted entry in Italy: 40,891 in 1998<sup>55</sup>, costing at least 40 billion Liras<sup>56</sup>.

The circumstances of children who come to Italy for these reasons every year is complex and multifaceted, as are both the aims of the groups organizing their reception and the features of the host families. In general, such children come from **very poor areas**; they come to Italy to recover their health or for a period of respite from a fraught environment, for cultural exchanges of a religious nature or, finally, for tourism. The majority of arrivals are from Belarus, numbering 28,907 in 1998, of whom only one child was subsequently adopted. 29,000 children entered for temporary stays in 1999 and 30 children were adopted.

20% of the children come from **institutions**, and they find it most difficult to cope with the return to life at home, as they develop strong bonds with the host family. To some extent, this stems from the fact that their periods of stay are frequently extended, thus creating high expectations of permanent introduction into Italian society. Furthermore, the host families often hope they can obtain «de facto adoption» permits by skipping ordinary procedures. The **risk** involved in this practice is that it can be used to elude international adoption controls and regulations; in other words, the real purpose of the program can be misunderstood, as children entering Italy under these programs are not supposed to be abandoned children. If they were, they would be better considered for national or international adoption rather than health and educational support programs. Some applications are made to transform hosting under the scheme into foster care and then adoption, but it is difficult to establish the exact number of these applications. Such children lack adequate **juridical protection**, in spite of the provisions set out by Art. 31 of law 40/98 and Art. 1 of d.P.C. no. 535 dated 9.12.1999, which regulate situations where children are uprooted from their countries of origin.

*The Group makes the following recommendations:*

*to adopt a self-regulation code among all the groups that manage reception and hosting of these children, in order to ensure that actions are implemented in the best interest of the child. The code should address – for*

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<sup>54</sup>Zancan Review of Studies, policies and services for the person, year I no. 5-2000, monographic insights into “Temporary Reception of Foreign Minors”.

<sup>55</sup>Research carried out by the Committee for the protection of foreign minors.

<sup>56</sup>Calculated based on the average cost of out-of-pocket expenses for each children, which amount to 1 million Liras, *op. cit.*

*instance – selective criteria in the choice of families, as well as the need to prioritise periods of the year when children are not at school;*

*to ensure that these stays exclusively involve children coming from a family, and not children coming from an institution. The latter should be considered for inclusion in programs aimed at providing them with a family environment, such as adoption, whenever the necessary requirements are met.*

## VI. Child abuse and exploitation

### 1. Sexual abuse and exploitation (Art. 34)

#### a) Introduction

Regulations on sexual abuse in Italy underwent considerable change with Act of Law 66 of 1996 entitled «*Law on sexual abuse*», and Act of Law 269 of 1998 entitled «*Regulations against the exploitation of juvenile prostitution, juvenile pornography and sexual tourism to the detriment of children under 18 years of age as new forms of “slavery”*». The laws were then enshrined in the Criminal Code and Code of Criminal Procedure. A further significant **legislative measure is the** Act of Law 285/97 which promotes initiatives to prevent the phenomenon of sexual abuse, through awareness raising campaigns, training of professionals and networking among social and health care professionals.

In order for the prevention and treatment of sexually abused children to be effective, practice must be multidisciplinary and multi-sectoral. For example, sexually abused children are protected both through civil and criminal law which requires that professionals involved report any such situation to the magistrates. Psychologists, social workers and health operators need to work collaboratively within guidelines that have been defined more broadly than within their own specific discipline.

Experts in this field have a role to play in raising awareness of the damage caused by sexual abuse of children; they can also provide evidence based on their experience to help society understand this issue more fully and develop policy and practice based on the best possible knowledge in the field. This is the key to an adequate answer to the question «Can we prevent child abuse?» Prevention is possible, not only by government agencies making every effort to introduce appropriate policies, but also when society becomes aware of the dangers of sexual abuse and makes a serious and concrete commitment to marginalizing such behavior. The goal must be to ensure that those who challenge abuse no longer belong to a minority struggling to be listened to. Rather, it must be the perpetrators of abuse who are ostracized as a result of their actions. Building a culture committed to fighting child exploitation and abuse is an essential stage for the elimination of the phenomenon itself. The government has introduced new laws that facilitate this process, but there is still a long way to go. Child

abuse is still too common, and the existing public rehabilitation and family support measures are still inadequate.

Furthermore, while these new laws have led to improved efforts in tackling child sexual abuse, they are not yet equally suitable for **other forms of ill-treatment** of children, such as psychological abuse, a crime as difficult to identify as it is hard to define.

On balance, despite improvements, the Italian legislative system cannot be said to have reached satisfactory standards in general child protection. A global approach is needed, capable of addressing the wider problems of maladjustment and distress experienced by children and families.

## **b) Sexual abuse**

Monitoring numbers of sexually abused children is difficult because it is a largely hidden phenomenon. Attempts to assess its prevalence and scale are often opposed. Fears over its exposure within families derive from relational and economic dependence, family loyalty, and worries over its social and juridical repercussions. Professionals are often reluctant to accept its existence amongst their own colleagues, whilst victims often experience mental confusion, anxiety and guilt that accompany abuse, as well as the fear of losing family bonds and affective relations with the parents, even when these are the abusers.

The research that has been undertaken provides differing analyses of the problem.

Based on **reported crimes**, the judicial authorities state that on average 3,418 sexual abuse<sup>57</sup> crimes are committed on children annually in Italy. The number of reported cases of sexual abuse on children of less than 14 years of age from 1984 to 1999 has increased by 98%, with peaks in some regions (i.e. in Lombardy the increase in the number of reported cases was 318%). The highest risk regions seem to be Lombardy, Sicily and Campania.

A summary of **data** recently processed by a network of Italian centres<sup>58</sup> showed that the typical victim of sexual abuse is a girl (74%) aged between 6 to 10 years (39%), of Italian nationality, and the crime is committed within her own original family (56%). The forms of abuse committed are often severe and they mainly take the form of repeated sexual harassment acts (32%) and sexual intercourse (29%), perpetrated primarily in the home environment. The abuser is mainly the father (47%) or another close family member (60%), although abuse by mothers is increasingly common. The crime is often reported by family members (24,8%), while reporting by schools is very low (7%).

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<sup>57</sup> CISMAL source on ISTAT data CENSIS – years 1985-1998

<sup>58</sup> CISMAL (Italian Coordination of services against child abuse), a 1999 research.

As regards the provision of rehabilitation **measures**, the abused child is mainly (in almost 60% of cases) treated with clinical therapy (evaluation, support, psychotherapy) or through protection measures (21%). Corrective measures that target the family usually focus on support, whilst measures targeting the abuser normally involve monitoring. However, in as many as 73% of cases, no monitoring was carried out at all, because the support centres are unable to perform a double role due to the limitations imposed by juridical-procedural rights and by professional ethics.

Practitioners in this field stress the need for better dissemination of information on the issue and for the corrective measures being developed by agencies and services to be expanded and better co-ordinated. There is also a need for improved support for those adults within the family who are seeking to protect children and help with their emotional and psychological rehabilitation.

There is growing recognition of the need for specialist qualifications in respect of sexual abuse of children. Public (the local health units and the municipalities) and private facilities (through cooperatives and ONLUS associations) have started to investigate new ways of helping the victims of abuse, primarily by raising awareness and providing training to tackle the phenomenon of violence against children. New specialized services have been created for the treatment of abused children. Their effectiveness has been enhanced by sharing expertise and experience in order to identify new tools and methods of working<sup>59</sup>. Some specialized Centres have become valuable laboratories where new approaches can be evaluated and tested. There are significant differences in the distribution and development of public and private resources for tackling the issue of sexual abuse, as well as in the levels of cooperation between welfare and health services, magistrates and police forces.

The judicial system is based on an approach which involves proving facts in order to impose the appropriate punishment. It was not designed to take the needs of children into account. Children find difficulty in dealing with the legal system because they do not understand its processes and language. They need appropriate explanations of the role of the legal system and how it works, preferably by well-trained psychologists and social workers. Furthermore, the juridical apparatus fails to provide adequate support to the victims and witnesses of abuse. Its focus on facts, and on the truth or otherwise of accusations, and tends to disregard the powerful emotional component involved in these cases. Members of the judicial system often lack sensitivity in recognizing the extent to which, for children, the disclosure of facts is less about an act of indictment aimed at sentencing the adult, than an experience which recalls the traumatic event and often involves further suffering. The child giving evidence is often the only witness in the case, and thus becomes the focus of the conflict between lawyers. Without adequate support, he or she may experience the court case as yet another

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<sup>59</sup>See, for example, the experience of the Italian Coordination of Services against Child Abuse– CISMAL.



act of abuse. Continuous requests for repetition, explanation and details can lead the child to doubt whether s/he is believed. Accordingly, the management of court cases and guidance for all the professionals involved - magistrates, lawyers, police, social workers, health practitioners - is very important.

*Therefore, the Group makes the following recommendations:*

- . to promote the training of the professionals involved in such processes, to ensure the acquisition of competence in the field of human developmental stages, individual and family dynamics, and the nature of child abuse;*
- . to coordinate all parties involved in child abuse cases, ensure priority is given to child protection and care, and urge local practitioners to collaborate in developing guide-lines for action;*
- . to check that new regulations, primarily including protected examination of witnesses, are effectively implemented by all Courts, and to ensure that judicial procedures are understood by children. This could be achieved by guaranteeing:*
  - . that children are always supported by adequately qualified psychosocial professionals acting as intermediaries between the child and the justice system;*
  - . that the child's normal timetable and developmental stages are fully respected during judicial proceedings;*
  - . that children are not treated as once again as victims again during the trial.*
- . Prevention activities should be organized in schools and should allow for the involvement of the children themselves. Parallel initiatives are needed for adults, because child abuse is often committed within the family and can stem from parental problems (for example, alcoholism or drug abuse).*

### **c) Pornography and sexual tourism**

Availability of **pornographic (or paedo-pornographic) material regarding children** is expanding in Italy as elsewhere. Commercial or private videos showing sexual intercourse between adults and children, as if it were normal, are widespread today, and some even show very violent scenes, including the killing of children themselves (*snuff* videos). The promotion of such materials **through the Internet** is very difficult to control, despite Government commitments; there is inadequate international regulation, and it is difficult to impose restrictions on a means of communication like the Internet, which by its very nature allows unlimited access. The scale of the problem on the Internet is highlighted in a survey carried out by an Italian association in 1999 found 7,650 paedo-pornographic sites, 55% of which originated from the USA<sup>60</sup>.

An international survey conducted in 1998 called «Cathedral» led to the identification of Italian citizens involved in trafficking paedophile pornographic material through the Internet. A second national survey is

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<sup>60</sup> Telefono Arcobaleno.

presently ongoing. Italy has appointed a number of special-purpose units (eg. within the Telecommunications Police) whose task is to identify circulation networks; these units have taken over from the many Catholic and lay charitable associations which were previously monitoring the phenomenon. Furthermore, Internet providers are developing a code of ethics that will make it compulsory to register the data of their users in order to allow investigators to identify sites visited by users.

The recent **law no. 269/98** introduces a very important innovation for the Italian State, and brings it into line with crime control measures already enacted by other EU countries. This new regulation allows for the punishment of those who produce, distribute, and advertise paedo-pornographic materials<sup>61</sup>, including those who merely keep them in their possession<sup>62</sup>, and includes powers to confiscate material seized, close down trade activity and repeal the trading licenses of radio-TV broadcasting networks. Punishment for possession or exchanging paedo-pornographic material is a fundamental step in tackling its availability on the Internet, in order to reduce market demand for such materials, on which the supply and production is based.

A **fund has been established** from fines paid, as well as the value represented by the goods seized within the framework of law 269/98. Two thirds of this fund will be used for specific prevention, assistance and psychotherapeutic programs to help abused children to recover, while the residual third will be used to rehabilitate people sentenced for sexual crimes who specifically apply for such help. This programme has not yet been started because the treatment of sentenced culprits and victims has not been regulated, with the exception of a few local independent experiments (implemented in the towns of Biella and Lodi).

Law 269/98 also provides for severe punishments for those who organize tourism **abroad with the specific purpose of exploiting juvenile prostitution**<sup>63</sup>, as well as those who advertise such journeys and their clients. The legislation is based on the principle of extra-territoriality, whereby the perpetrator of a crime can be pursued even when the crime is committed abroad. No “double incrimination” is needed in Italy to enforce this principle. However, if sex tourism is to be effectively tackled, there will be a need for suitable investigation tools to help identify those who commit such crimes; the process should begin with the use of special police forces from the Ministry of Interior Affairs allocated to the countries where these crimes are committed.

Finally, a number of campaigns have been launched in the last few years to raise awareness of these issues; their aim is to fight against the phenomenon of sexual tourism involving subjects under 18 years of age. Such campaigns have mainly targeted tourists, the tourism industry and the

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<sup>61</sup> Art. 600 ter c.p.

<sup>62</sup> Art. 600 quater c.p.

<sup>63</sup> Art. 600 quinquies c.p.

mass media, and have been organized by non-profit organizations using European union funds<sup>64</sup>.

*Therefore, the Group makes the following recommendations:*

- . to abolish the limitation which restricts to three years the obligation on travel agents and tour operators to inform their clients of the existence of Act of Law 269/98. Dissemination of information to tourists is central to the fight against juvenile prostitution as is stated in the Stockholm Action Plan;*
- . to intensify controls on the telematic network in order to challenge the spread and exchange of pornographic material using children, particularly by enhancing cooperation with Providers;*
- . to ensure that during plea bargaining in trials of persons accused of possession of pornographic materials or sexual abuse crimes committed on children in exchange for money or any other economic benefit, due note is taken of the fact that the existence of such material is the main pillar of the market demand;*
- . to introduce the matter dealt with by laws 66/96 and 269/98 into courses for magistrature staff by the Superior Council of the Judiciary.*

#### **d) Juvenile prostitution and child trafficking for the purpose of prostitution**

The phenomenon of juvenile prostitution intersects with both the complex world of prostitution in general, but also with child trafficking.

In Italy, Nigerian girls started arriving at the end of the 1980s, followed in the early 1990s by large numbers of Albanian girls with extremely violent personal histories. More recently, girls began to arrive from Eastern European (from the former U.S.S.R., Moldavia, Romania, Poland, and Hungary). The different cultural backgrounds of the girls involved has necessitated different approaches and systems of communications for each individual ethnic group. However, the issue of prostitution should also be seen within the wider framework of **migration policies**; in this context, the introduction in Art. 18 of the consolidated Act (*Testo Unico*) 286/98<sup>65</sup> of residence permits to provide social protection is a genuinely important break-through for the protection of girl victims.

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<sup>64</sup> An example of such action is the spot-video «Toys» which was broadcast between 1999 and 2001 on Alitalia and Luftansa intercontinental flights, the Italian RAI and Mediaset TV channels and La 7, national cinema circuits, airports managed by SEA and Milan underground networks, as well as the web site [www.child-hood.com](http://www.child-hood.com) against sexual tourism involving children, both initiatives undertaken by *Terre des Hommes*.

<sup>65</sup> Art. 18 of the Consolidated Act of 1998 allows for the granting of a special residence permit for reasons of social protection, which is implemented whenever violent or severe exploitation situations are acknowledged to be to the detriment of a foreign person, involving serious dangers for his or her safety due to his or her attempts at abandoning criminal association environments that have exploited him or her or because the foreigner in question has disclosed important information to the Italian judicial authorities in the course of investigations. In these cases, a special residence permit is released to allow the person to escape from the violence and the exploitation by the criminal organization at the mercy of which he or she is being manipulated, and to be included in a support and social integration program.

The public perception of juvenile prostitution in Italy is informed by the presence of girls walking the streets of almost all towns. However, in addition, there is a significant problem of male child prostitution, and girls working in clubs, night clubs or private apartments, although people are generally unaware of its existence.

Compiling data on the prevalence of children engaged in prostitution on Italian streets is difficult, because it is a constantly changing phenomenon involving the whole country and high levels of mobility amongst those involved. What is evident is the higher incidence of certain **nationalities** in the streets, primarily Albanian girls, while Italian girls are seldom seen on the streets.

There is also **difficulty in establishing the real age** of immigrant girls seen in the streets. Children can easily look older than they are through elaborate use of make-up, clothes and movements. Often apparently very young girls claim to be over 18: conversely girls over 18 may claim to be under age in order to get help in leaving the streets. As a result, there are conflicting views both as to the **percentage** of girls under age in the streets and as to the **trend**. Different commentators have claimed that it is increasing, decreasing and stable<sup>66</sup>. However, young girls are increasingly popular with many clients, because they are deemed to be healthier. The only significant research undertaken estimates that the presence of foreign girls under age in the streets ranges between 16% and 30%<sup>67</sup>, while a more recent informal survey among practitioners in the field established a percentage of approximately 10%. A further survey is currently under way in the Emilia Romagna region by the Observatory on Juvenile Prostitution of Rimini.

The **mass media** often turn juvenile prostitution into a *showby* dramatizing it on television in ways which distort the realities of the experience for children.

Many different private organizations, including Catholic associations, women's movements, emergency shelter communities and grass-roots movements, are playing an important role in tackling the problem. Services being developed include support and emergency shelters, prevention and health protection, help in accessing alternative employment or assisted repatriation, although this is impracticable for many girls. There is also a strong social-political commitment by public institutions to provide effective laws and regulations for the protection of these young girls and to help them obtain residence and work permits. Finally, private social workers also act as «*antennas*» operating as a conduit between the experience on the streets and government institutions.

**Public agencies**, and the Regions, Provinces and Municipalities in particular, normally intervene at a later stage, but they play a significant role on a political level as they coordinate, monitor, validate and support projects, in addition to financing actions.

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<sup>66</sup> Source Censis –STOP Programme, European Commission, 2000

<sup>67</sup> Source Censis –STOP Programme, European Commission, 2000

In respect of regional policies, one positive example is the pilot experience of the Social Policy Department of the local government of the Region Emilia-Romagna, which approved a regional project on prostitution in 1996 and created the *Osservatorio Regionale sulla Prostituzione Minorile* (Regional Observatory on Juvenile Prostitution) with the AUSL (local health departments) of Rimini in 1999.

*In the light of the above considerations, the Group makes the following recommendations:*

- . to launch information campaigns on the criminal offence of having sexual intercourse with subjects under 18 years of age, on the existence of child trafficking for sexual purposes and on the slave-like conditions in which girls are kept. These campaigns need to be launched both in the origin countries of the trafficked girls and our own country, and need to address the question of Italian citizens both as potential clients and intermediaries;*
- . to develop contacts with the girls who are already on the streets by creating or supporting valuable alternative paths for them;*
- . to enhance the specific measures suggested by Art. 18 of Leg. Decree. 286/98 with protection, assistance and social integration projects;*
- . to take into consideration the situation of southern Italy when planning services and action;*
- . to stimulate research and action regarding child prostitution in general;*
- . to stimulate research and action on hidden child prostitution and exploitation in apartments, night clubs and private clubs, bars, casinos, etc. in general and in particular in respect of children in these environments.*

## **2. Economic exploitation: child labour (Art. 32)**

Following the adoption of ILO Convention no. 182, regulation of exploitative child labour in Italy is being addressed<sup>68</sup>. However, its effectiveness is limited by inadequacy of enforcement measures to counter breaches of the law. The problem is compounded by a lack of quantitative and qualitative knowledge of the phenomenon.

The worst forms of exploitation, as codified by Convention 182, are all forms of slavery or similar practices, including coerced or compulsory recruitment of children for use in armed conflicts; the use, engagement or offer of children for purposes of prostitution<sup>69</sup>, production of pornographic materials or shows<sup>70</sup>; the use, engagement or offer of children for unlawful activities such as drug production or trafficking; any other sort of working activity which, by its very nature or due to the specific circumstances of its practice, involves any risk of damaging the health, safety or morality of minors<sup>71</sup>.

While, on the one hand, Legislative Decree no. 345 of 1999 extends some labour rights for children (i.e. concerning rest times and the prohibition of

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<sup>68</sup> The ILO 182 Convention concerns the prohibition of the worst forms of exploitation of child labour and immediate action for their elimination

<sup>69</sup> See Chapter VI, paragraph d).

<sup>70</sup> See Chapter VI, paragraph c).

<sup>71</sup> Art. 3 Convention OIL 182.

night work), on the other hand it leaves most administrative sanctions unchanged and downgrades some penalties from the criminal to the administrative field.

It is not easy to identify the precise **number** of child workers because they operate in a hidden and unstable world. Attempts to estimate the phenomenon have produced widely contradictory results: according to the ILO, child workers whose age ranges between 10 and 14 years are thought to number about 12,000 (0.4%) in Italy, while according to CENSIS, the number of unlawfully employed minors is 230,000, and the survey conducted by CGIL estimated a presence of about 360,000 child workers between 10 and 14 years of age.

There are also a significant number of **foreign children** working unlawfully in Italy, who mainly come from Northern Africa, the Philippines, Albania and China. Estimates indicate that as many as 30,000 Chinese children are working in the area around Florence alone<sup>72</sup>. The practice of **begging**, which is also acknowledged as one of the worst forms of exploitative child labour, is widespread amongst gypsy and East European children at traffic lights. Unfortunately, the criminal code is rarely used to prohibit of the use of children for begging. Some commentators argue that<sup>73</sup> that there is an adult network systematically organizing these children to make money for members of families during periods of unemployment, but opinions are divided on the issue. No detailed data are available on the numbers of child beggars and the borderline between begging and **huckstering** is poorly defined. The lifestyle of these children involves living in the streets from morning to evening, including in the winter, eating erratically and not attending school. The response of the relevant authorities to date has been weak, partly because it is not possible to prosecute the exploiter if no charges are being pressed by the child concerned. In addition, tackling street labour by trying to re-direct such children's activities has proved difficult for social workers, and the risk that the child may instead turn to criminal activities like drug dealing is high.

The law on "child labour" protects all children between 15 and 18 years of age from forms of exploitation, while labour is totally prohibited for children under 15 years of age, excluding only show business and sport. However, there is evidence that changes in the nature of child work are taking place, with growing participation in sectors such as show business or sports, home care for the elderly and the ill, street labour in big cities or manual work in northern Italy factories. These changes have made it even harder to access **consistent figures on child labour**.

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<sup>72</sup> International movement of the Global March against Child Labour, Annual Report, 2000.

<sup>73</sup> A. Lostia and C. Tagliacozzo in «Il lavoro servile e le forme di sfruttamento paraschiavistico: il caso di Torino» (Servile work and quasi-slavish forms of exploitation: the case of Turin), in Lelio Basso International Foundation, «Il lavoro servile e le forme di sfruttamento paraschiavistico», a research published by the Commission for immigrant integration policies, Department of Social Affairs – Council of Ministers, working paper 19, 2000.

There are many different reasons leading to children working. In the past, it was thought to be a localized phenomenon in the south of Italy. However, recent surveys demonstrate that this is not the case. In general, it is clear that child labour essentially involves small and very small businesses who are less likely to have illegal employment practices exposed, due to very rare inspections and the reduced presence of trade unions. While children mainly work in very small family-run businesses in central and northern regions, in the south their employment is usually managed by third parties. Children do not have qualifications to offer in the labour market, and, in general the work they do does not in any way provide them with any additional qualifications. Rather, they tend to be involved in repetitive, mechanical, menial and unskilled labour. Children are perceived as useful workers for unskilled tasks and impose no consequent obligations for employers to provide professional growth or training; this, of course, adversely affects their future as adult workers.

There have been limited **inquiries** into unlawful child labour, using qualitative methodologies. These have found that material poverty is usually associated with and exceeded by **cultural poverty**. Working children tend to follow their parents' or social environment's behavioural models which prioritise work over school training. At the root of child labour there is a problem not so much of absolute poverty, but rather the rooted culture of work as a normal path for the child, even as an alternative to school. Growing consumer pressure seems to be a further factor driving children to enter the labour market early in their lives. There does not appear to be a link between child labour and school non-attendance because working activities cover a time band of the day that does not necessarily overlap with school hours. However, many young workers do experience school as an irrelevant and unhelpful institution. And the more significant the role of work for a child, the more likely s/he is to experience difficulties with the school system. This is manifested in low school performance levels, failure, non-attendance and reprimands. Even when they do not drop out of school, under age workers perceive school as a secondary activity compared to work. School is viewed simply as necessary obtaining the minimum compulsory school-leaving certificate (in Italy after 8 years of basic schooling).

However, young **workers under 18 years of age** experience other types of difficulties: they are likely to lack the skills to meet their future aspirations of a decent lifestyle or personal fulfillment. They also lack developmental opportunities such as companionship at school, spare time and family relationships, because work is often a time-consuming experience and leaves little time for other activities. Child workers are meeting immediate needs, without building a comprehensive life project.

Recent school reforms have introduced mandatory training until 18 years of age. If this regulation were enforced effectively, it would help children plan for their future professional and personal life. The reforms should be accompanied by the appointment of a *tutor* from the Employment Centre to support children who do not intend to continue their studies and help them

to obtain a professional qualification which will enhance their career opportunities in the labour market.

Another issue of concern is the exploitation of child labour in large factories with **plants in developing countries**. In order to address this problem, some associations<sup>74</sup> have suggested the adoption of legislation requiring compliance with basic social standards, to be applied to activities carried out in Italy as well. The aim is to attempt to raise the awareness and responsibility of consumers and encourage them to make ethical consumer choices, thus forcing corporations to make a greater commitment to improving child protection and adopting a better selection of suppliers.

*The Group makes the following recommendations:*

- . to design educational and development policies for families and children in order to remove the incentives to early school leaving and to develop professional and vocational training;*
- . to reinforce and coordinate the tasks and action to be carried out by the Labour Inspection Agencies and the sanctioning system, as well as school inspection services;*
- . to effectively implement Convention No. 182 by means of provisions aimed at tackling and immediately eliminating the worst forms of child labour exploitation in Italy (eg. begging, international child trafficking, the exploitation of children in criminal activities and prostitution), by also providing for the rehabilitation and reintegration of exploited children;*
- . to promote measures designed to ensure access to free and high-quality education for all children, as a fundamental means of ending exploitation.*

## VII. Health and welfare

### 1. Right to life, health and well-being (Art. 6)

#### a) Voluntary interruption of pregnancy for young women

The number of voluntary abortions has become stable in the last few years, around 138,000-140,000 per year. The rate of abortions among girls under 18 years of age was 3.9 per thousand in 1998<sup>75</sup>, while for young women between 15 and 19 years it was 6.6 per thousand. Girls under 15 years of age resorting to abortion only represent 4.5% of the total number of children. This confirms that the highest figures are observed in central age ranges (between 25 and 34 years), even though recent trends draw Italy closer to the other industrialized western countries where the highest rates concern the age range under 25 years.

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<sup>74</sup> «Acquisti trasparenti» (“Truth in Purchasing”) Campaign promoted by *Mani Tese*, AIFO, Amnesty International, CTM Altromercato, Centro Nuovo Modello di Sviluppo.

<sup>75</sup> Ministry of Health, Report on the enforcement of Law 194/78.



Accurate assessment of this issue requires consideration of the incidence of abortion amongst **women of foreign nationality**<sup>76</sup>. Foreign women's abortion rates have been estimated to be three times higher than those of Italian women and the data indicate that foreign women are the youngest women resorting to abortion. Clearly, therefore, policies and information campaigns need to be addressed particularly to very young foreign girls living in Italy.

Law 194/78 establishes that **pregnant girls under 28 years of age** are able to exercise the choice as to whether to proceed their pregnancy or not, with the consent of either parents or the courts. In 1998, consent to abortion was given by parents in 70% of cases and by the judge in 28.9%, although geographical distribution varied. The ratio in northern Italy was 77.2% of consent by the parents versus 22% from the tutelary judge. In central Italy, the ratio was 58.2% vs 38.8%, with extreme peaks in the region Lazio where the difference was reversed with 44.3% vs 51.1% respectively. In southern Italy, the ratio was 65.1% vs 34.6%.

These data also show that increasing **school** levels correspond to decreasing abortion rates, so the women who decide to abort their children have mainly (49% in 1998) completed only the eighth year of compulsory school.

According to 1998 data, girls sought help at **family advice bureaus** only in 27.2% of cases, with lower percentages in southern Italy and the islands. Family advice bureaus could play a much more prominent role in informing and limiting abortion rates, particularly in view of the fact that the youngest and less educated girls are the ones who most often seek help at these centres.

*Therefore, the Group makes the following recommendations:*

- . to improve the role of family advice bureaus, as suggested in the National Health Plan 1998-2000, by combining the work of health staff and psychosocial and social welfare staff into joint efforts, as well as by re-qualifying and enhancing family advice bureaus with specific skills;*
- . to launch information and political campaigns for the support of foreign women, particularly the youngest.*

#### **b) Socially rooted disorders: bullying, bulimia and anorexia, drug abuse**

*Bullying*, bulimia and anorexia amongst very young children, and increasingly frequent use of new drugs are all the symptoms of a growing pre-adolescence and adolescent malaise in Italy. The issue has only recently started to receive attention because public opinion been roused following high profile reporting in the press.

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<sup>76</sup> The number of abortions practiced by foreign girls passed from 8,967 in 1995 (the year when ISTAT started to collect the data examined) to 13,826 in 1998, corresponding to 10.1 of national data. It is not surprising to learn that the majority of these girls come from Eastern European countries, followed by Africa, Central and South America, and Asia.

The spreading of school *bullying* has not traditionally been taken seriously, but recent research<sup>77</sup> conducted in a number of Italian regions involving students of the elementary and post-elementary (up to 13 years of age) schools revealed its prevalence. The results highlighted the existence of aggressive behaviour among many young people throughout the Italy, although patterns of aggression varied in different areas. Bullying is a complex phenomenon arising from multiple causes. The most worrying finding is its widespread existence. The most serious experience of bullying is found amongst the “**highest-risk**” **social and cultural groups**, where it is often deeply rooted in cultural patterns and is tolerated as part of the cultural heritage. For example, in the town of Naples the percentage of subjects who have admitted that they have been either a “victim” or a “tough guy” is greater than the average, and the percentage of “tough” girls does not significantly differ from boys. As to the type of behaviour, over 30% of the victims say they have also been robbed at school. The most serious fear is that certain children may remain in their roles of victim or tough guy/girl and continue these patterns of violent behaviour throughout their lives. Those who most often victimize their schoolmates lack understanding of the implications of their actions and tend to belittle the consequences of their behaviour or seek to justify it.

**Food habit disorders** during childhood and adolescence are becoming more and more of a social phenomenon. The most worrying data in recent years is the significant involvement of very small children. It is not rare today to see food habit disorders in 10-11 year-olds. Rejecting food, eating and vomiting, eating up to obesity are all behaviours whose purpose is to fill an empty space, express a protest, indicate depression and the need for attention. Such children and adolescents express their feelings by altering their attitude to food.

No **epidemiological studies** have been carried out in Italy to assess the incidence of these disorders in the age range under 18 years, but research conducted on limited samples showed that the phenomenon is certainly widespread. 8-10% of girls between 12 and 25 years seem to be suffering from these disorders, while about 25% of children with a normal psycho-physical development may have a food disorder. Peaks of onset of anorexia are estimated to be between 14 and 18 years, but the age range seems to extend even down to 9-10 year-olds. A survey carried out by the Ministerial Commission to study ways of supporting patients suffering from nervous anorexia and bulimia, showed that the national **care services** available for patients suffering from food habit disorders are generally very poor, especially in southern Italy, and characterized by extremely divergent practices. There is a lack of **specialized centres**, and patients turn to a wide variety of different facilities (eg. psychological or psychiatric therapy, internist-nutritional facilities, social welfare facilities). In most northern regions, there is a relatively high level of awareness of the problem, and

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<sup>77</sup> Fonzi Ada (edited by), *Il bullismo in Italia*, Giunti, Firenze 1997. Fonzi A., Genta M.L., Menesini E., Bacchini D., Bonino S., Costabile A. (1999), Italy.

knowledge of the pathology and health care services, but the same cannot be said for central and southern regions where the health care and information network is still very poorly organized.

The Italian situation is therefore inconsistent and varied. The effectiveness of interventions depends on individual facilities and, in general, there is too little attention paid to the problem. Food habit disorders are serious problems with profound physical and psychological problems, and with a high risk of becoming chronic. Support and psychotherapeutic help to children who suffer from these disorders is vital, as is the participation of the family. Information campaigns in schools are also needed.

**The use of drugs and alcohol** amongst children is widespread in Italy. In recent years “**getting high**” has become a fashionable activity, attracting adolescents coping with the typical insecurities of the age. Unfortunately, among adolescents there is a growing attraction for drugs which produce stimulating effects, enhance *performance* and overcome inhibitions.

The 1998 Annual Report to the Parliament on the state of drug addiction reported that **cocaine** is increasingly being sold on the market and also to the very young. Another emerging trend is the **combination of different substances** (multiple drug taking), which explains the increase in psychiatric troubles connected to personality disorders and severe mood alterations.

Confiscation of ecstasy by police forces has increased by about 400% from 1996 to 1998, and juvenile justice services processed 1,418 cases of drug abuse in 1998: about 78% of those on drugs were in the 14-17 age range, with 97% male and, unexpectedly, Italian (81.4%). 63.9% of these young people smoke cannabis, 17.1% are on heroin, and 17.1% take cocaine.

*Therefore, in the light of these worrying considerations, the Group makes the following recommendations:*

*. as regards bullying: to develop preventive programmes in schools, giving primary attention to those areas of the Country most at risk and by actively involving the students in these programmes; to discourage such behaviour; to enhance understanding of the experience of victimized students, while building on children's own capacity to resolve their problems;*

*. as regards food habit disorders: to promote prevention and consciousness-raising campaigns addressed to adolescents, children and adults, to promote information campaigns in schools, for example by designing leaflets for children and adolescents, and organizing conferences; to create a capillary network with specific services for these children and adolescents and to publicize their existence;*

*. as regards the use of drugs: to work with young people in their usual meeting places (eg. discos) in order to inform them about the effects of the substances they are taking, particularly as regards the so-called “new drugs” and alcohol. Information campaigns and social publicity are tools to be used to promote these actions.*

### c) The environment and children

With 62 out of 100 persons possessing a car, about 10 square meters of green areas per person, limited traffic-free areas and only 841 kilometers of cycle tracks in the whole of the national territory, Italian towns are still far from having found a solution to their environmental problems.

However, local authorities are increasingly willing to design policies that take children and their needs into consideration, even entrusting them with active roles in the solution of problems whenever possible. Such projects can be financed through Law 285/97. Only 6%<sup>78</sup> of administrations have created **specific departments** (or town councillorships) for children. More commonly, children's issues are dealt with by public education or social policy departments. However, 64% of towns have established a parallel body, an **Office for Children**. In 49% of towns these facilities are responsible for a wide range of services ranging from nursery schools to services for recreation and spare time, from support to the families to children's rights.

There is a lack of facilities specifically devoted to children. However, a number of administrations (equalling about 15%) opened an Office for Children expressly devoted to the development of programmes launched by public or private subjects (the networks *Città dei bambini* - Children's Town, *Città sane* – Healthy Towns, and the international network of *Città educative* – Educational Towns) to favour active participation of children as citizens. The **towns** that have made strong commitments towards young people are primarily located in the north-eastern area of the country.

The most widespread **methods of participation** include direct opportunities, such as the "adoption" of monuments (34%) or the "adoption" of certain areas of the locality (24%) – practices that have been introduced by more than half the municipalities - or surveillance experiences or environmental volunteering (11%). There are also initiatives linked to the notion of «participation by representation», which include the towns where a Town Council of Children has been established, some with an independent expense budget (8%), some without (24%), and some with a Juvenile Council (22%).

**Law 285/97** seems to have had a positive impact on the attitude of large towns towards children, even though the implementation of measures is still very slow. Local governments need to be encouraged to introduce projects in which children play an active part, have autonomy, and live in a healthier and pleasanter environment. In other words, they need to be "kick-started". Some of the most innovative initiatives which are likely to improve the quality of the urban environment (35%) or promote children's participation in the development of the environment (23%), are often unfortunately the least implemented.

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<sup>78</sup> The arguments set forth below are drawn from the Child Ecosystem Report 2001 presented by *Legambiente*.

*In the light of these data, the Group makes the following recommendations:*

- to develop a system for assessing municipal initiatives in promoting participation with children and adolescents;*
- to develop technical and economic resources to increase these forms of participation of children and adolescents in civic life.*

## 2. The condition of disabled children (Art. 23)

The situation of disabled children has generally improved in the last two decades as a result of better opportunities for social integration, such as support and aid to the families and the effectiveness of the legislation. The most serious problems they face derive not from the absence of regulations, but rather from their inconsistent interpretation and implementation.

The Government's Report states that the **relevant law** for the protection of disabled children is law 104, passed in 1992, entitled «Framework law for the support, integration into society and rights of disabled persons<sup>79</sup>», which gives disabled children the same rights to the respect for human dignity, maximum independence, participation and social rehabilitation as those held by disabled adults. This law has been supplemented with regional and state provisions that regulate the implementation of the relevant services.

The key problems relate to the way in which **services are provided**. Disabled children should have the right to benefit from all treatment free of charge: prostheses, pharmaceutical supplies, specialist examinations, and medical treatments abroad are all part of ASL (the local health units) services and the Regional administrations. However, **expenditure on health services** varies according to the region involved; the Government's Report only mentions the total amount of the funds allocated, based on the framework law and the number of disabled children entitled to receive indemnities<sup>80</sup>. A second problem is **rehabilitation**: intensive rehabilitation programmes are provided with a maximum limit of 120 days, while extensive rehabilitation may last up to 240 days. This limit is acceptable for adults, but is not sufficient for children, although the Regions welcome it because it reduces expenditure. Furthermore, families do not always enjoy a real right of **choice between different health services**, partly due to the unequal geographical distribution of the services and partly due to the prejudices of some professionals in the public sector who distrust the work carried out by private welfare institutes.

Finally, disabled children are also often denied the opportunity to give informed consent to medical treatment and lack protection of their privacy. In addition, children without an adequate family environment, like all children living in dysfunctional family situations, are at risk of having to live in institutional care.

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<sup>79</sup> Italian Government's Report: Chapter VI, par. III, «The rights of disabled children in the Italian legislation».

<sup>80</sup> Government's Report, Chapter I, par. 7.

**Some foreign disabled children** whose disability cannot be treated in their countries of origin come to Italy for medical treatments. There is no coverage of the costs involved in medical treatments provided in these cases.

*Therefore, the Group makes the following recommendations:  
to monitor the implementation of regulations at local level, particularly in respect of health and welfare services, so as to eliminate all forms of discrimination affecting disabled children.*

### 3. Health and health services (Art. 24)

#### a) Access to health services for foreign and gypsy children

Little specific research has been conducted into the use of National Health Services by foreign minors living in Italy. There are two categories of foreign children, each with different health-related needs. The first are **children of recently arrived immigrants**, who often lack a regular residence permit and live as outsiders both economically and socially. For example, a study carried out by the *Istituto Superiore di Sanità* in the Rome area showed that 42.5% of women immigrants had no medical checks during the first three months of pregnancy versus 10.7% for Italian women. As a consequence, it is hardly surprising that the **pathologies** most frequently observed in newborns and children are premature birth, low body weight and perinatal mortality (the Roman sample showed a significant difference between perinatal mortality in children born to women from Central Africa, with 21.9 per thousand, versus 8.3 for Italian women). A study carried out by the Hospital *Santa Maria Nuova* of Reggio Emilia in the 1980–1995 period showed that a remarkable percentage of immigrant women were hospitalized for miscarriages ((31%).<sup>81</sup> These findings can be explained by the hardships that characterize the life of most immigrants living in Italy today. Similarly, it is difficult to encourage child breastfeeding because these women often have to return to work immediately after delivery, leaving their children with other people.

The second category are the **children of foreign couples who are well established in Italy** and are economically integrated. In this case, difficulties stem from the need to reconcile different cultural patterns between the immigrant family and those of Italian society. This is a sensitive issue which has only recently begun to be addressed; unfortunately, as evident from studies conducted in countries with a longer immigration experience, these cultural conflicts can degenerate into deviant behaviours or psychic pathologies.

In the case of **gypsy children**, access to the National Health Service (NHS) is difficult partly due to their cultural resistance and partly through lack of

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<sup>81</sup> «Approcci transculturali per la promozione della salute» (Transcultural approaches to health protection). *Argomenti di medicina delle migrazioni* (migration medicine issues), Salvatore Geraci. Caritas, Rome.

sensitivity to gypsy cultures on the part of health professionals. However, there is a growing awareness of the problem, which has led to the creation of specific medical-welfare work teams: the development of new strategies and initiatives for working within gypsy camps has promoted more constructive relationships between gypsies and the community.

Studies carried out in several Italian towns showed that the relationship between gypsy children and the NHS is characterized by a high number of calls to the **First Aid unit**. This pattern of use is explained both by the typical lifestyle of these children – accidents are frequent in gypsy camps – and by fear on the part of gypsies that they will be misunderstood by health professionals, and therefore a reluctance to use normal health services, except in emergencies. In addition, behaviours are observed today that were not common in the past, such as abortion by gypsy women, a result of poor living conditions and the consequent difficulties in bringing up children.

The **health-related concerns** most frequently observed during hospitalization and/or visit to the camps are: malnutrition amongst many children (19.5% of children have low birth weight), because gypsy women often have frequent pregnancies, resulting in neglect of older children in favour of newborns; poor knowledge of nutrition; diseases due to cold, pathologies connected to poor hygiene habits (mycosis, diarrhoea, impetigo) and accidents in the camp (burns, cuts, poisoning).

The use of **Mobile Medical Units** operating inside the camps has proved to be very valuable: their purpose is to become familiar with the gypsy population, thus improving relationships with health services, and to prevent and respond to risk situations more effectively. These Units have also worked with gypsies to appoint **cultural intermediaries**, to enhance understanding of gypsy cultures, attract children into the school system, but also provide them with education on health issues.

*In the light of the above considerations, the Group makes the following recommendations:*

*mother-child services should be re-focused to meet the needs more effectively, drawing on the experience of Mobile Units in gypsy camps;  
The role of volunteering organizations and private welfare institutes should be recognised;  
more information should be provided to health professionals  
the development of cooperation with cultural intermediaries should be extended.*

## **b) The rights of children in hospital**

The rate of hospitalization in 1998 was 124 per thousand children living in Italy, with a lower frequency in the North of the country than the South. The most frequent causes of hospitalization amongst children are respiratory diseases, pathological conditions arising during the perinatal period, traumas and poisoning, and pathologies of the digestive system.

The problems characterizing **hospital care** are mainly connected with the lack of spaces available for paediatric facilities. The opportunity for 24-hour admission of parents, provision of areas devoted to schooling activities, availability of space for play are rarely possible given the current facilities in hospital departments, which are often housed in obsolete buildings.

Continuity of treatment backed up by **home care** is important for the well-being of children. In this respect, the first experiment being conducted with home care for children suffering from terminal cancer at the paediatric Hospital Bambin Gesù of Rome is yielding positive results. Chronically ill patients are discharged from hospital to continue their treatment at home, but once they have been discharged, they pass into the authority of the local health unit; here, the lack of funds and personnel, as well as the geographic dispersal of patients, make it very difficult to provide adequate treatment, so that the services are often of a poor quality.

Finally, it is important to note the adoption of the **Charter of the Rights of the Child in Hospital** by the four main Italian paediatric hospitals<sup>82</sup>. This innovative document not only states the rights of children to be assured the best possible state of health and receive the best possible level of care and support, but also seeks to lay the foundations for the meaningful application of some of the principles expressed in the Convention. It includes principles that are not widely known in Italy, such as respect for the identity of the child, his or her religious faith, the right to be informed and freely express his or her opinion. One of the most important features of the document is the monitoring of health facilities: each unit is required to fill a self-assessment check-list and then cross-inspections will be organized to evaluate compliance of individual departments with the principles in the Charter.

*The Group makes the following recommendations:*

- . to allocate funds for the creation of facilities consistent with the new paediatric care principles;*
- . to boost day-care options and home care whenever possible;*
- . to disseminate the Charter of the Rights of the Child in Hospital and the relevant monitoring activities in all the existing health facilities.*

### **c) Harmful traditional practices affecting the health of children**

It is estimated that there are around 38,000 women and girls in Italy who come from countries where female genital mutilation is a common practice<sup>83</sup>. To date, only two cases have been formally reported to the Italian judicial authorities, and they refer to practices have taken place abroad<sup>84</sup>.

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<sup>82</sup> paediatric hospitals *Bambin Gesù* (Roma), *Burlo Garofolo* (Trieste), *Meyr* (Florence), and *Gaslini* (Genoa).

<sup>83</sup> «*Le mutilazioni genitali femminili*» (Female genital mutilation), AAVV, *Riv. Ital Pediat*, 2000, 26.

<sup>84</sup> «*La legislazione e le mutilazioni genitali femminili in Italia*» (Legislation and female genital mutilation in Italy), M. Livio, S. Ahmed, *Riv. Ital Pediat*, 1999, 25.



Preventive campaigns are essential in order to raise awareness of the risks, as is the training of welfare and health professionals to address the complex problems involved. Programmes to address the issue are particularly important as there is no legislation prohibiting female genital mutilation, although issue has been raised many times in Parliamentary question-time and bills have been presented designed to punish this practice.

*The Group makes the following recommendations:*

*. to raise the awareness of professionals of the dangers inherent in female genital mutilation practices and to organize preventive awareness-raising campaigns to inform girls potentially at risk.*

#### **d) Children and AIDS**

Thanks to new therapies, cases of HIV transmission from mother to child have been dramatically reduced in Italy to 1% (data only regarding Italian mothers). According to the data published by the *Istituto Superiore della Sanità*, only 1.5% of the 47,503 persons who contracted AIDS from 1982 to 2000 were under 13 years of age.

The problems connected with this disease are mainly related to the difficulties faced by **sick adolescents** in coming to terms with their illness, with the consequent high risk of developing psychopathological disorders. These problems are exacerbated by the fact that **public support services** for HIV-infected people lack appropriate training and facilities for HIV-positive children; unfortunately, this often results in children feeling marginalized and rejected.

Difficulties also arise at school, where teachers often lack training in how to handle the complex situation of an HIV-positive child; similar problems are seen in the world of sports or recreational environments, where there is an evident lack of information about transmission risks. HIV-positive subjects are often denied access to family-houses for children. These findings highlight the need for clear and accessible information on this issue, and for appropriate support for the families affected. It is families that play the key role in supporting an HIV-infected child, yet they are often among the first to reject the disease, thus diminishing their capacity to support their children and promote better understanding.

*In the light of these considerations, the Group makes the following recommendations:*

*. to provide advice and support outside the family and the school, in order to prevent psychological distress and help HIV-infected children, as well as to promote the formation of groups of trained children who can act as points of reference, support and accurate peer exchange of information.*

## 5. Standard of living and quality of life: issues and emergency areas regarding economic security (Art. 26, 27)

Until recently, it was impossible to determine the exact number of children living in poverty on the basis of the **official statistics** provided by the Public Administration<sup>85</sup>. The only data available referred to the incidence of poverty among families with one or more child under 18. However, even with this inadequate data, it was clear that the scale of child poverty was significant. In November 2001, the Commission for investigation on social exclusion, based in the Council of Ministers' Presidential Office, estimated a total number of 1,704 million children living in poverty in 2000, representing 16.9% of all children<sup>86</sup>. Poverty affects 27.4% of children in the south and the islands, as against 7.4% in the north and 11.3% in central Italy. Taking the family as a unit, 12.8% of families with one child under 18 lived below the poverty line in 2000. The risk of becoming poor increased along with the number of children in the families: 16.4% of families with two children under 18 and 25.5% of families with 3 or more children under 18 lived below the poverty line (one out of four families with 3 or more children under age lives below the poverty line). From 1999 to 2000, the incidence of poverty among families with at least one child under age showed a 1.2% increase.

In Italy, **economic poverty is assessed** through the International Standard Poverty Line (ISPL) system, which defines a poor family as at least two persons living together, whose monthly expenses for consumption are lower than the average pro-capita consumption expenditure in the country. In order to calculate the poverty line for families of more than two members, ISTAT uses an equivalence scale that has been strongly criticized because it fails to take into consideration the ages of the family members and the differences in cost of living among the various Italian regions. Other methods available for calculation of poverty (eg. the method used by the OECD for international comparisons and that used in the U.K. by the Department of Social Security) have introduced new equivalence scales which also consider the ages of family members. Overall, the absence of a single unified standard for the assessment of economic poverty has led to a lack of accurate data; a comparative analysis of the data from different statistical sources immediately shows wide discrepancies in the quantitative estimates of poverty. However, a study conducted by the Bank of Italy to investigate the economic conditions of Italian children under 18<sup>87</sup> by applying different systems for calculating poverty, did confirm that the presence of a child under 18 in a family is an important risk factor.

No official statistics are available in respect of poverty amongst **foreign families**, since ISTAT's system of calculation is based on the consumption of Italian families. It therefore cannot provide accurate information on the poverty of children living in non-European or gypsy families. A specific study is needed in this field, as well as the introduction of a permanent monitoring system.

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<sup>85</sup> Istat, July 2001.

<sup>86</sup> Commission for the investigation of social exclusion, Annual Report on policies against poverty and social exclusion. Year 2001, Rome, 14 November 2001, press drafts.

<sup>87</sup> Cannari, Franco 1997.

Contrary to expectations, a survey carried out on a sample<sup>88</sup> of 1,052 family units using drop-in support centres showed that the presence of children in troubled families is higher in families resident in the islands and in Italian families, and that troubled families with two or more children under 18 are predominantly localized in the north (38.4%).

No official studies have been carried out on the subject of the **general quality of life** of children in Italy, although there are studies undertaken by a range of agencies on the economic circumstances of children or their original families (based on income or family consumption data), on social safety, health conditions and access to health services, etc. The introduction of law 285/97 represents a considerable step forward because it represents, for the first time in Italy, the application of *welfare* approach, that takes into consideration different aspects of children's lives.

*The Group makes the following recommendations:*

- . that ISTAT introduce a system for calculating poverty, which takes into account family members of different ages and which also assesses children under 18 in detail, as well as a specific study capable of indicating the poverty level of non-European and nomad children;*
- . to introduce priority access to social protection opportunities for families with children that are considered at higher risk of poverty.*

## VIII. Education, leisure and cultural activities

### 1. The educational system (Art. 28 and 29)

#### a) Reform of the school system

In the last few years, Italy has seen a number of successive legislative **reforms**, aimed at a complete overhaul of the schooling system. Further changes are still in progress at present, due to the recent change of government. The key changes concern the independence of schools, raising the duration of compulsory school attendance and the reform of the so-called educational cycles, which has been frozen by the Ministry of Public Education.

Law no. 59 of 1997 provides for the **independence** of schools, giving them greater autonomy over financial, administrative, technical-educational and organizational matters. As regards **independence of taught content and teaching approach**, the Ministry of Public Education has merely set the objectives and minimum cognitive standards, while each individual school is required to draw up its own Training Offer Plan, by establishing content of education and the school hours. This method of regulating the school

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<sup>88</sup> The census, conducted by *Caritas Italiana*, involved 14 support centres for persons and families in trouble: over a three-month period, a total number of 1,052 family units were registered, 39.8% of which were of Italian nationality, 52.8% were foreign families and 7.4% were "mixed" families.

system is intended to enable it to respond as far as possible to the training needs of its users. Schools are encouraged to strengthen their links with local communities, including the Third Sector, which will have the opportunity to contribute towards the school plans. It is intended that this will promote the introduction of innovative educational and training activities in school programmes. These will hopefully contribute to better education for children, teaching them about the values of democratic coexistence and active citizenship. The reforms are important, but as yet they are not fully implemented across Italy.

The **Charter of Services** was introduced in schools in 1995. It provides list of commitments undertaken by schools towards its pupils. However, according to a study conducted between 2000 and 2001 of a sample of 87 secondary schools, the Charter was found to be disregarded in most schools (60%)<sup>89</sup>.

Law nr. 9 of 1999 establishes that the **duration of compulsory school attendance** should be 9 years (instead of the past 8), with the option for further training for teenagers until they reach their 18<sup>th</sup> year of age. Law nr. 144 of 1999 establishes that the local governments have responsibility for guaranteeing that children over 15, who do not intend to continue their studies, can follow alternative training paths to introduce them into the world of work. But to date, the planned monitoring agencies have not yet been created.

*As the much debated school reform has not yet been fully implemented, it would be premature to express a judgement; however, the Group issues the following recommendations:*

*that the responsible authorities undertake the commitment to provide schools with a stable and renewed structure.*

## **b) The aims of education and children's participation**

In the past, basic ethical values were implicitly incorporated into the culture and teaching of the school. But now, there is a demand for a more explicit role for schools in promoting values, in collaboration with other training or educational agencies. Thus the school system is intended to contribute towards helping overcome the widespread malaise and loss of values common amongst young people.

Education for human rights, the environment, development, loving and caring relationships, the coexistence of cultures, peace studies, education to values, ethics, civic education have not been addressed in traditional *curricula*, except by individual teachers with a particular interest in the issues. Recent **educational developments** are seeking to overcome the barriers separating school from real life. They aim to motivate students and encourage them to participate more actively as citizens, helping them

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<sup>89</sup> Research conducted by *Cittadinanzattiva* between September 2000 and April 2001 in 40 Italian towns in 87 secondary schools

develop high ethical and intellectual standards. It is fundamentally important that children understand the values and rights associated with living in a civilised society. Schools have a role to play in inspiring curiosity and the capacity to learn in order to manage their lives. This is the primary function of an educational institution.

Participation in distance support projects, particularly widespread in nursery, elementary and primary schools, is a valuable means of promoting multicultural activities and education for development, peaceful coexistence and solidarity among peoples. Some organisations are actively cooperating with schools in supplementing these training packages.

An interesting example is provided by the programmes of **Education for lawfulness** developed by some local authorities. They involve a commitment to challenging passive acceptance of unlawful behaviour, and to promoting an anti-mafia culture, particularly in those areas heavily affected by this phenomenon. The term "lawfulness" is associated, not so much with court rooms, but rather with behaviour in many aspects of daily life, since Italian society has tended to tolerate minor illegal acts as acceptable or as evidence of shrewdness. Meetings with magistrates and experts in the classroom or in public events have been organized to emphasize the Italian school system's commitment to challenging the mafia and its culture, including the prevention of the rise of a mafia-like mentality amongst young people.

On the other hand, every year, roughly **2,000 crimes are committed in school classrooms**, mainly thefts, particularly of mobile phones, and small or large acts of violence and intimidation. Extortion is also widely practised, although it is difficult to detect and quantify because parents usually only discover it when the amounts start to be substantial. The age range of children involved in these offences is between 11 and 18 years, and span all social classes.

Schools can take on a strategic role in the **prevention of child abuse**, through training programmes for teachers and information campaigns for the students. At present, however, only 7%<sup>90</sup> of abuse cases are reported through schools.

School can also play a key role in promoting a culture of dialogue on diversity, thereby helping to challenge prejudice and xenophobia, and offer young immigrants the opportunity to participate fully in the social and cultural life of the host country.

As regards **children's participation**, the Statute of Students of the secondary school, approved in 1998, was intended to allow children to play a more active part in the running of their schools. Unfortunately, implementation has been delayed, mainly as a result of resistance on the part of teachers to changing the traditional roles of teachers and children. Research on 87 secondary schools<sup>91</sup> of 40 Italian towns between

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<sup>90</sup> Source CISMAI (Italian action of services against child abuse), a study conducted in 1999.

<sup>91</sup> Research conducted by *Cittadinanzattiva*.

September 2000 and April 2001 revealed that the level of knowledge in schools, let alone implementation of the legislation, was very low. In 60% of those schools, there was no teacher or administrator of the school with lead responsibility for implementing the Statute, and in the few cases when information about it was available, it was only as a result of the personal decision of a single individual. Only 33% of the schools asked students for their views on the school and the way it was run. A worrying picture also emerged with regard to the development of associations of students: there is no association of students in half of the schools, and there is no procedure for the recognition of students' associations. This means that experiences of participation are more linked to formal than to substantial mechanisms, and are not common among the young. Furthermore, only adults monitor the participation processes which do exist. Students should be offered the opportunity to assess their teachers' work, teaching methods and the services provided by the school. However, such quality control systems have not been introduced among the reforms to date.

*In view of the important role schools could play in promoting positive ethical values, the Group issues the following recommendations:*

- to update and improve the educational system, to address the current needs of children by introducing subjects reflecting new educational trends;*
- to promote the development of active participation of children in schools.*

### **c) School for children living in particularly difficult conditions: the case of disabled, foreign and gypsy children**

There are an increasingly high number of **foreign students** in schools today. In the school year 1999–2000, 119,679 students of foreign nationality attended Italian schools, most of whom were in elementary schools (52,973)<sup>92</sup>. This development has created, and is still creating, a number of problems, partly due to the very recent nature of immigration, and partly due to uneven distribution of migration across the country. The Commission for Immigration Policies states that the percentage of foreign students in Lombardy is 24.53% versus 2.81% in the region Friuli Venezia Giulia. Furthermore, migrating children derive from very **different experiences**; some are «second generation children», born in Italy, but to foreign parents, others arrived only recently, either alone or with their families, and others have come to join their family here.

One of the greatest problems lies in their **poor educational background**, as a result of social disadvantage. According to some sources, the rate of educational backwardness among immigrant children is about 30% in the elementary school and 56% in the *scuola media* [middle school: age group 11-14]<sup>93</sup>. Mother-tongue cultural intermediaries to help children learn Italian are not yet widely available and their existence depends on the resources

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<sup>92</sup> Report of the Commission for the Immigrant Integration Policies

<sup>93</sup> *Save the Children Italia's* Report on Racial Discrimination in Italy.

available and commitment of the local authority. The number of children and adolescents from the gypsy community in the compulsory school age is around 30,000, 19,000 of whom should be attending primary school, while 11,000 should be attending the *scuola media*. However, although Roma and Sinti children are Italian citizens in all respects, only about 5,100 of them go to primary school and about 1,700<sup>94</sup> go to middle schools. The data provided by the Ministry of Public Education confirm that the rate of **school truancy or non-attendance** is very high, 73.2% for elementary schools and 84.6% for middle schools. The decision to introduce gypsy children into mainstream classes (implemented during the school year 1965-66) has not resolved the problems, as has evidenced by their sporadic attendance rate and **low school performance**. Life in nomadic camps cannot be easily fitted around schooling. Children are reluctant to go to school partly because they fear they may lose their cultural identity and partly because they do not recognise the usefulness of school, as theirs is essentially an oral culture. In consequence, the Italian school system is not currently capable of providing an effective education for these children who are often defined as “too lively” and sometimes do not speak good Italian. **Supportive initiatives** are still limited, in spite of the C.M. no. 207 of 1986 that introduced mandatory education for gypsy children. Furthermore, given the hostility of the school environment, their poor results and the fear of failing, these children develop an attitude of mistrust of both teachers and other children in schools.

Integration into schools for **disabled children** is still hindered by **architectural and other physical barriers**, particularly in the South, in spite of the provisions contained in law 118/71<sup>95</sup> to eliminate them and provide access to the **public transport** system. For instance, a study<sup>96</sup> of physical education teachers in 418 elementary and primary schools showed that only one school in four had actually removed the barriers limiting access to the gym, and 50% of teachers stated they were completely unprepared for teaching disabled pupils because they had not received any specialised training. Some practitioners and organisations have argued that there have been problems with the training of **support teachers** over the last few years; in addition, there have been recent cuts in expenditure for such staff, further exacerbating the difficulties. For example, the last nationwide open-competition for teachers failed to give any consideration to the key role played by support teachers in contributing to the achievements of the whole school.

School is too often perceived by children as an “unfriendly” environment, especially for children in the most vulnerable social groups. Recent cross-referenced data, relating to the relationship between family background and school success, found that school attendance is directly linked with social class, defined by the education level and employment status of their parents. Young people from culturally and materially privileged families are

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<sup>94</sup> Data of the Ministry of Public Education, October 2000, in *Opera Nomadi*, Notes on surveys on the students coming from the Rom community.

<sup>95</sup> ) Art. 27 Law 118/71.

<sup>96</sup> The study was carried out by *La Fabbrica*, an institute that operated for the promotion of educational services, in *Italia Oggi*, 19.06.2001.

more likely to succeed at school and achieve better qualifications. School has not succeeded in compensating for social and economic differences between families<sup>97</sup>.

*Therefore, the Group makes the following recommendations:*

- . to ensure that the educational system actively promotes integration of foreign children by providing special resources and implementing appropriate programmes;*
- . to ensure gypsy children have the opportunity to participate fully and effectively in school by developing support and action plans which take account of their culture;*
- . to promote genuine inclusion of disabled children in school, particularly by removing the architectural barriers that still exist in school buildings.*

## **2. Non-school training opportunities (Art. 31)**

Current rigid structural definitions of school training and non-school or extra-mural training systems are inadequate and restrictive, failing to reflect the actual life experiences –school, family, spare time – of adolescents. Many Italian associations are involved in organizing recreational activities for children and adolescents, including support for young people in trouble, summer campuses, laboratories, a wide range of courses and sports activities.

Children's spare time is important for their development and the creation of inter-personal relationships. Unfortunately, children's opportunities for **spare time**, in the sense of unorganised and autonomous activity, is being progressively reduced today, particularly in urban areas. It is increasingly being replaced by "programmed" time, often organised without the active participation of children. The fears relating to children's safety in cities, the fact that both parents are out at work, or the difficulty of obtaining support from family or friendship networks, all lead parents to look for "protected" solutions in which children are safe and appropriately looked after. This not only results in extended school hours, but more frequently means children's lives are highly structured and organised. Their 'spare time' is dominated by classes and formal activities, ranging from language courses to sport and recreational activities. The educational outcome of this "scheduled spare time" is that children have progressively less time to spend with their friends, as they spend more time with educators or trainers or coaches or other adult figures. Furthermore, the implicit message they receive is that towns and cities are not a suitable place for them, but rather a dangerous and alien place.

Genuine leisure time tends to be increasingly achieved as children grow older and reject more formal and organised activities. The most recent

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<sup>97</sup> Giancarlo Gasperoni, «L'esperienza scolastica: scelte, percorsi, giudizi (School: choices, paths, opinions). In «Giovani verso il Duemila. Quarto Rapporto IARD sulla condizione giovanile in Italia» (Fourth IARD Report on the condition of the young in Italy) edited by Carlo Buzzi, Alessandro Cavalli and Antonio Cavalli, Il Mulino, 1997



data<sup>98</sup> reveals that in the 6-19 age range, only 1,5% attended environment protection associations, 8.5% cultural associations, 7.3% volunteering associations and 3.2% non volunteering associations. There is a need to rediscover the value of the Integrated Educational System at community level which encourages young people to establish positive relationships with schools, family, local institutions, media and other associations. Children and adolescents need opportunities that provide support to their families, whilst taking into consideration their right to play, discovery, social interaction with friends and the growth of self-awareness. Their lives should not be planned for them, but rather, there is a need to build a system where a range of different options is offered for children and adolescents to be able to express themselves.

Two key developments have been introduced to address the changing educational needs of children in recent years. Firstly, greater attention has been devoted to promoting a new culture for children and adolescents through the National Plans for Children adopted by the Parliament, backed up by law 285/97 to ensure its implementation nationally. Secondly, schools have been granted greater independence, particularly through the Educational Offer Plans, a mandatory tool to be used by all schools, and which promote the development of extra-mural educational and training resources within the local community. While these initiatives are producing positive results, there are some contradictions between the legislation, policy and practice.

As regards **law 285/97**, initiatives are often tied to annual financing which lack integration into a comprehensive framework of services for children: they tend to be isolated or dislocated events rather than activities leading towards a consolidated practice. As regards the **school self-government**, links between schools and the other educational and training activities within the community is still lacking, although the development of collaborative initiatives is now starting. The increasing independence of the school should facilitate the introduction of educational resources targeted at meeting the needs of the local communities. However, these developments are still in their infancy and, as yet, there is no research into their impact.

*Therefore, the Group makes the following recommendations:*

*. to develop action lines, both locally and nationally, to promote integration between educational and socialization agencies (eg. by including them in National Childhood Plans, in the schools' training programmes, promoting research on a country-wide basis, monitoring the follow-up of the processes, etc.);*

*. to introduce the notion of integrated educational and training action (with mechanisms for liaising between the school, the family, spare time, the media, non-governmental organizations, etc.) into the framework laws that are redesigning the spectrum of welfare projects, such as law 328/00;*

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<sup>98</sup> «I numeri Italiani» (The Italian figures), from the series : *Quaderni del Centro Nazionale di documentazione ed analisi per l'infanzia e l'adolescenza*, 2000. The data reported refer to the year 1997.

. to encourage towns and local communities to develop action aimed at allowing children and adolescents to self-organize their «spare time», (eg. by improving general safety conditions, accessibility to public transport, the enjoyment of artistic and cultural events, the opportunity for young people to organize events and initiatives themselves, the opportunity to continue any positive experiences such as those linked to sustainable child-friendly towns, ecology days, the experience with «Educational Towns», etc.).

## IX. Special measures for the protection of children

### 1. Asylum-seeking and unaccompanied foreign children (Art. 22)

Italy is experiencing a continuing increase in the presence of foreign non-accompanied children, as shown in the data produced by the *Comitato Minori Stranieri* (Foreign Children Committee): 8,307 children had entered Italy as of 31 December 2000, 88% of whom were male and 87% age over 15 years.

However, unlike other European countries, Italy is not receiving **requests for asylum** from these foreign unaccompanied children, even when grounds for such a request exist. This lack of requests probably stems from inadequate knowledge on the part of authorities dealing with these cases, different interpretation of the regulations in force on immigration, asylum and child rights (there is no consistent law on asylum at present), as well as from the lack of training for personnel working in fields related to child protection and support. What often happens in practice is that no action is taken in respect of unaccompanied asylum-seeking adolescents, either by the Juvenile Court, which is supposed to make decisions on cases of child abandonment, or by the Tutelary Judge, who should appoint a tutor.

**The issue in Italy is characterized** by a strong prevalence of male adolescents coming from Morocco, Albania and Eastern Europe, driven by expectations of finding a job and better chances for their future. Their parents have usually consented to their travel, and may have paid for them to come, incurring debts in the hope that the child will be able to send money back home. These boys are usually well-informed about the procedures they will encounter on arrival. Many migrants enter Italy illegally, rendering their *status* particularly uncertain. The issue is regulated partly by laws governing immigration in general, partly by the regulations regarding children, partly through ministerial memorandums and internal guidelines of the Committee for Foreign Minors, and finally by the discretion of individual District Police Departments (*Questure*) and Courts involved. Unaccompanied foreign children who come to Italy must be reported to the **Committee for Foreign Minors**; this Committee will undertake an investigation of the child in his/her country of origin and decide whether to

**repatriate** the child or not<sup>99</sup>. The present policy of the Committee tends to consider repatriation as the most appropriate solution to meet the child's interests. However, it is often applied without reference to the views of the child or his or her family, and without assessing the economic and social conditions, or whether opportunities exist for study, training, work and support in their country of origin.

Concern about the Committee's approach has been intensified by its use of repatriation as a deterrent to further illegal immigration. Instead, the key criterion which should be used in deciding whether to repatriate the child or allow him/her to remain in Italy, should be his/her best interests, and should be evaluated on a case by case basis in the light of all relevant evidence.

While a decision is being made, the child receives a "residence permit for under age subjects" or, if the magistrates of the juvenile court or the local social services find a placement for the child, a "permit for residence in foster care"<sup>100</sup>. In practice, there are many problems arising during this period. Firstly, investigations take a long time, due to practical difficulties and inadequate resources for launching investigations in the child's country of origin. Investigations should start within 60 days from report<sup>101</sup>, but no term is set for the conclusion of the proceedings. Obviously, the waiting and uncertainty about their future has a negative impact on children who, in the meantime, live in reception facilities where they are socially isolated.

Secondly, the law requires that the social services of the municipality where these children are living, must seek the child's own views on their situation<sup>102</sup>: as these services want to avoid the economic burden of receiving these children, they often fail to offer them reception. Finally, if repatriation is ordered against the child's and his/her family's wishes, there is no legal provision establishing which agency is responsible for enforcing repatriation. Similarly, if a child escapes repatriation, their subsequent status is not at all clear. In the past, forced repatriations have been carried out by the police, and there are signs today that this will happen again in the future.

The concept of «**residence permit for under age subjects** »<sup>103</sup> has been harshly criticized by organisations in this field, because a memorandum of the Ministry of Internal Affairs established that this permit did not entitle the child to work and could not be extended upon reaching the age of 18. As a consequence, children will no longer have the opportunity to be included in integration programmes that would allow them to enrol in professional training courses for possible future employment, even though these practices have been successful in past years. In addition, those who have just reached the age of 18 will be deprived of their residence permit and become liable for expulsion.

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<sup>99</sup> *Testo Unico* (Consolidated Act) 286/98, art. 33, DPCM 535/99.

<sup>100</sup> Memorandum of the Ministry of Internal Affairs 9.4.2001.

<sup>101</sup> Memorandum of the Ministry of Internal Affairs 9.4.2001.

<sup>102</sup> DPCM 535/99, art. 7; Memorandum of the Ministry of Internal Affairs 9.4.2001; Guidelines issued by the Committee for Foreign Minors 11.1.2001.

<sup>103</sup> DPR 394/99, art. 28; Memorandum of the Ministry of Internal Affairs 13.11.2000; Memorandum of the Ministry of Internal Affairs 9.4.2001.

As regards the «**permit for residence in foster care**», here again regulations are confusing. Firstly, it is not clear whether foster care (which falls under the competence of the juvenile magistrates and the local social services)<sup>104</sup> should be ordered upon the decision of the Committee for Foreign Children regarding the child's stay in Italy, or whether the provision for placement should affect a decision regarding repatriation. Furthermore, considerable inconsistencies are seen throughout Italy as regards the Juvenile Courts' decisions, since some Courts order placement in foster care for all unaccompanied minors, while others do the same only for children under 14; still others do not allow any placements for unaccompanied children, maintaining – contrary to the Italian law regulating placement in foster care - that this decision falls under the competence of the Committee for Foreign Minors.

The major concern felt amongst practitioners is that, should assisted repatriation policies become systematic, there would be an inevitable increase in clandestine residence cases.

*Considering scale of the problem and that unaccompanied foreign minors are first of all children, entitled to enjoy all the rights ratified by the Convention, the Group makes the following recommendations:*

- . to draft coherent legislation regarding asylum, in which the competence of each juvenile justice body and legal representative or tutor is expressly defined, so as to ensure the adoption of provisions that effectively protect the best interests of unaccompanied asylum-seeking children;*
- . to clarify all the regulatory aspects of law and practice regarding unaccompanied foreign minors, by eliminating the many contradictions and filling the gaps still found in our system, so as to protect unaccompanied foreign children from the policies for control of clandestine immigration that may limit recognition of their rights, and so as to ensure consistency of treatment of these children on a national basis;*
- . to ensure that the choice between hosting a child in Italy and repatriating him/her to his/her country of origin:*
  - . is not affected by the purpose of controlling clandestine immigration, but rather is based on assessment of the «Best Interests of the Child», according to predefined standards and with due regard for the opinion of the child and his/her family, as well as for the economic and social conditions of their country of origin;*
  - . is made with such procedures as to allow for the effective participation of the child, including the appointment of a tutor;*
  - . is made within as short a period of time as possible;*
  - . to favour the process of integration of foreign children in Italy, while simultaneously allowing children who are already in possession of a residence permit «for underage subjects » to carry out working activities and to be able to convert their permit, upon reaching 18 years of age, provided that the necessary conditions exist, for work or study reasons;*

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<sup>104</sup> Law 184/83, artt. 2, 4, 37 bis

. to support cooperation projects for development of the areas and countries of origin of foreign children living in Italy, so as to significantly improve the standard of living and quality of life of the children and their families.

## 2. Children in the juvenile justice system (Art. 40)

### a) The reform of the juvenile penal trial

The statistics on offences committed by children aged 14 years and over, reported to the Public Prosecutor's Office, show a disturbingly high percentage of **foreign children**. Over the 42,107 filings involving children in Italy in 1998, 25.9% (10,926) were foreign children, 5,881 of whom came from the regions of former Yugoslavia, 1,660 from Morocco, and 1,305 from Albania. The most common crimes are theft, by children from former Yugoslavia and Albania, and drug dealing and production by children from Morocco and the Magreb area in general<sup>105</sup>.

The risk of unaccompanied foreign children or those without family support being picked up by criminal networks upon their arrival in Italy is very high. They then develop bonds with the criminals, who often become their only contact with Italian society. These children become accustomed to living an independent life, often on the streets, and are reluctant to establish contact with welfare authorities and social workers for fear of being forcedly repatriated.

The 1988 **reform of the juvenile criminal system**<sup>106</sup> introduced the principle of the "residuality of imprisonment", and established the Emergency Reception Centre (*Centri di prima accoglienza -CPA*), a system of suspension of trials and a period of probation. . However, this principle was effectively applied only in the case of Italian children, while it is applied only rarely with foreign children, whose most common destination is the Juvenile Penal Institute (JPI). In Italy, there are 17 Juvenile Penal Institutes throughout the regions, but only four of them<sup>107</sup> include a female section. Some of these institutes have begun experimenting with new patterns of open treatment of children, as opposed to the more traditional closed institutional environment. The statistics on number of children in penal institutions exist only in respect of the *entries* and not the *exits*. Accordingly, children who have entered the institute more than once over the last year are counted for each exit and not as one individual. In 2000, over a total of 1,886 entered a penal institute, 779 were Italian and 1,107 foreign minors. The difference between the two sexes is striking. In respect of Italian children, girls accounted for only 3% of entries in 2000, while foreign girls, over the same year, accounted for 32%. In Turin, for instance, 49.8% over the total of 219 entries in the JPI in 1999 were foreign children, 32.4% were gypsies and only 17.8% Italians. The situation is similar in all the other

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<sup>105</sup> «Relazione sull'Infanzia e sull'Adolescenza in Italia-6 aprile 2001» (Report on Children and Adolescents in Italy – 6 April 2001) by the Council of Ministers' Presidential Office, Department of Social Affairs, Observatory on Childhood and Adolescence.

<sup>106</sup> DPR 448/88

<sup>107</sup> Milan, Turin, Rome and Nisida.

institutes of central-northern Italy, while the largest percentage of Italian children is found only in southern Italian JPIs and in the islands, including Palermo and Naples.

The **Emergency Reception Centre**<sup>108</sup> (ERC) is often the only opportunity for a direct contact between children and the authorities: immediately after being taken into custody or arrested, the child is held at one of these centres for a maximum period of 96 hours, during which time as much information as possible will be obtained on him/her. The **function** of the ERC should be to investigate the situation of each child, in coordination with the other services operating in the area. Unfortunately, however, it is only the less serious cases that are dealt with, while the problems facing foreign children are disregarded. Emergency Reception Centres received 4,222 children under 18 in 1998, 1,917 of whom were Italian and 2,305 foreigners. The data shows that on leaving the ERC, 38% of children transferred into preventive custody. However, it should be highlighted that 59% of children in preventive custody in 1998 were foreign children.

The provisions of **forcible return to the family home and placement in a child-care community** are mainly applied in the case of Italian children, because foreign children often do not have a family to return to. When they are placed in a sheltered community, foreign children often run away to go “underground”, and re-enter the criminal environment. There is a high rate of recidivism. A survey conducted by a group working at the USSM in the Piedmont area showed that between January 1998 and December 1999, successful outcomes for foreign children placed in a child-care community were achieved in less than 15% of cases.

An innovative measure introduced by the reform is the **suspension of the trial and a period of probation**<sup>109</sup>. The rationale of this procedure is to allow the judge to assess whether the child can be re-educated and re-integrated into their community. The enforcement decree<sup>110</sup> of the DPR 448/1988 establishes that the trial can be suspended where there is an action plan designed by the judicial services to help the child understand the implications of their offence and to develop their sense of responsibility. The child must give his/her consent for the adoption of this measure. Data obtained by the Central Office for Juvenile Justice<sup>111</sup> shows that 96% of the

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<sup>108</sup> ) Art. 18 of DPR 448/88 establishes that, once s/he has been informed of the holding or arrest of the child, the Public Prosecutor arranges for the child's immediate accompaniment to an Emergency Reception Centre or a public or authorized child-care community.

<sup>109</sup> Art. 28 of D.P.R. no. 448 dated 22 September 1988 states that the Judge can order the suspension of the trial and put the child on probation when s/he thinks that the child's personality needs to be evaluated after a testing period. The Judge passes the minor into the hands of the special services of the justice administration that are devoted to children under 18 so that the child may be supported, observed and treated. The Judge can also order measures aimed at remedying the consequences of the crime committed and promote the reconciliation of the minor with the person offended by the crime. The measure of suspension may be applied either during the preliminary hearing or during the trial.

<sup>110</sup> Legislative Decree no. 272 dated 28 July 1989.

<sup>111</sup> Statistics and research service, in <http://www.giustizia.it/studierapporti/Minorile/monitoraggi/art. 28.>

1,249 “suspension and probation” provisions granted in 1998 were granted to Italian minors and only 4% to **foreign children**. This is partly because it requires the presence and consent of the child, and partly because the complex nature of the measure tends to limit its application only to the children most likely to benefit successfully from this programme.

Experiments with **mediation in the juvenile penal system**<sup>112 113</sup> have been started in a few Italian towns, including Turin, Bari, Milan, Cagliari, Sassari, Catanzaro and Trento. Mediation is seen as the most suitable means to ensure a rapid penal trial for the child, but it cannot be used with foreign children as easily. Language and cultural barriers make it difficult to build a relationship of trust, which will enable preventive rehabilitation work to be developed as an alternative to detention. There is a need for well-trained staff with professional skills from the same cultural, ethnic and linguistic background as the foreign children, in order to promote communication and integration.

Foreign children are seriously discriminated against, compared to Italian minors. Justice seems to operate on a dual track: alternative measures and opportunities for Italian children, detention for foreign children. The trial of foreign children is often like a ritual celebrated in front of ghosts, a bureaucratic and costly procedure, in which the child is absent, having gone underground. Any sentence imposed, therefore, is usually totally ineffective.

The situation of **gypsy children** is very similar to that of foreign children, even though Sinti and Roma children are Italian citizens. No national statistics are available to document the number of gypsy children in juvenile penal institutes.

*The Group makes the following recommendations:*

- . to provide foreign and gypsy children with the opportunity to benefit from the alternative measures to Juvenile Penal Institutes;*
- . to develop programmes through partnerships with the local agencies in order to establish contact with foreign children at risk of deviance for the purpose of preventing them from ending up in a criminal milieu.*

## **b) Physical and psychological rehabilitation**

There is a severe lack of specialist personnel in welfare institutes and **social services**. Social services often are highly bureaucratised, and the handling of sensitive issues, such as the rehabilitation and reintegration into society of children, is often left to the initiative and common sense of individuals. Although it is recognised that penal systems, which are totally

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<sup>112</sup> Penal mediation is to be intended as the activity undertaken by a neutral third in order to redress the conflict between the parties by righting the wrong done or reconciling the victim with the author of the crime

<sup>113</sup> See *Mediazione e giustizia riparatoria nel sistema penale italiano* (Mediation and reparative justice in the Italian penal system), edited by the Ministry of Justice, in <http://www.giustizia.it/studierapporti/mediazione.htm>

detached from the society are an outdated and ineffective approach, the reality is that many children leave penal institutes without any support for their reintegration into society

For instance, in Turin's JPI in 1998, 53 out of 69 minors exiting the institute were not supported by a project, and among the remaining 16, only 6 had been included in a joint project scheduled by USSM and other local services<sup>114</sup>. However, 56% of entrances into the JPI of Turin came from other areas, which considerably reduced the opportunities for the staff to plan alternatives to prison.

Over the last few years, there has been growing recognition of the importance of providing more adequate responses to the needs and educational requirements of children charged with offences, while also ensuring protection of their rights to rehabilitation. In addition to formal education and professional training, it is also very important to provide **cultural, sports and recreational activities**, which play a significant educational and socializing role. These activities may be implemented through joint local initiatives; some of these experimental projects, undertaken through an agreement protocol with the Central Office for Juvenile Justice of 29 July 1997<sup>115</sup>, have achieved very positive results with children who had previously failed in school and at home. These findings indicate that the process of offering damaged children opportunities for sports and care for the environment has been a valuable pedagogic tool.

However, for foreign children, the first experience with authorities is the penal system, followed by the ERC and the JPI. In other words, educators working in the field, mother-tongue workers and cultural mediators have failed to intercept these children sufficiently soon after their arrival in Italy. If the contact takes place earlier, for instance when the children are selling objects in the streets or working illegally as car-park attendants or window-washers, the possibilities of success are greater.

From the point of view of the protection of children, the issue of **mothers behind bars** is also becoming increasingly important, as the children are forced to live in prison because there are few, if any, alternative solutions. Motherhood in prison can have extremely adverse effects on the social, civil and cultural life of these children because they are actually denied either freedom or a fundamental natural relationship with their mother. According to **data** from 1998, women with at least one child constitute 53.7% of the total female population of the prison. Up to 30 June 1998, there were 15 nurseries operating inside Italian prisons, jailed mothers numbered 44, children living inside the prison were 49 and pregnant inmates numbered 7<sup>116</sup>. Law 40/2001 regulates this issue, but it has not yet resolved the

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<sup>114</sup> Joint Commission Ministry of Justice– Municipality of Turin.

<sup>115</sup> L'Ape in gioco, UISP and WWF.

<sup>116</sup> *Maternità in carcere. Aspetti problematici e prospettive alternative* (Maternity in prisons: problems and alternative perspectives), Daniela Farano, La Rivista di Servizio Sociale, A.40, n.3, Sept. 2000.



problems linked to this worrying situation. Some experiments are being introduced, such as one in Genoa<sup>117</sup>, which organizes meetings between the children and their parents, either fathers or mother in prison, in order to protect their right to have a family relationship. It is a practice that is spreading, but there is no systematic development of programmes: they are dependent on individual initiatives.

*The Group makes the following recommendations:*

*to invest more effectively in the rehabilitation of children both in terms of human resources and in terms of personalized projects, supporting the child from the moment of his/her first contact with the criminal justice system.*

### 3. Children belonging to minorities (art. 30): gypsy children in Italy

Although surveys have not been carried out on a nation-wide basis providing comprehensive statistics, estimates have established that the number of **gypsies living in Italy** ranges from 110 to 120,000 units, with about 60% of children under age. Sample investigations indicate that gypsy children are subdivided into the following age ranges: about 22,000 from 0 to 5 years, about 30,000 from 6 to 14 years, and about 14,000 from 15 to 18 years<sup>118</sup>.

It is a large community, including **several ethnic groups**, many of whom have been in Italy for a long time and have Italian nationality (about 70,000). Others have arrived more recently, like the last flow coming from Eastern Europe (about 45,000, of whom at least one third were born in Italy), and particularly from Kosovo, Macedonia, Bosnia, Montenegro, Serbia, and some from Croatia and Slovenia.

However, their numbers have been underestimated by the Italian Government, which has not provided for any appropriate integration policy, support to the families, schooling, professional training or employment. The Italian Government's Report only marginally addresses the problems connected with discrimination against gypsy children, by highlighting the difficulties sometimes encountered in registering them at birth<sup>119</sup>, the use of minors for begging activities<sup>120</sup>, and the substantial presence of gypsy children in prisons<sup>121</sup>.

The lack of integration policies has relegated many groups of gypsies, particularly those who come from the Balkans, to the status of outsiders economically, socially and culturally. Their rate of **unemployment** is very

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<sup>117</sup> Consorzio Sociale Agorà (Genoa), «*Servizi educativi e carcere*» (Educational services and the prison) project.

<sup>118</sup> These data, like those regarding the children's schooling levels, were provided by the Ministry of Public Education and updated as of October 2000.

<sup>119</sup> Chapter III, par. «Nome e nazionalità» (Name and nationality), p. 38.

<sup>120</sup> Chapter V, par. «Lo sfruttamento economico» (Economic exploitation), p. 86.

<sup>121</sup> Chapter VIII, par.2 «I bambini nel sistema della giustizia minorile» (Children in the juvenile justice system), pages 132-133

high, primarily because it has proved difficult to transform the Romas' traditional activities, for example, into professions useful in a dynamic and modern society. Most Romas and Sintis work only occasionally and sometimes live on begging or through micro-criminal activities (bag-snatching and theft are the most common crimes).

There is a lack of any concrete proposals to support gypsy cultures; they have not even been recognized as a linguistic minority, and are therefore excluded from any protection and benefit provided for by law no. 482 of 15 December 1999. Most gypsies, mainly in southern Italy, live in the outskirts of towns in illegal or authorized «**nomad camps**» which have been designed as transit zones, but are now, in fact settled populations. These areas are usually devoid of any infrastructures (water piping, sewer systems), so that the hygiene and health conditions in which they live are seriously substandard. This life style adversely affects **health**<sup>122</sup>, and particularly that of children. They experience high levels of accidents, while the most frequent diseases involve the respiratory system, pathologies connected to bad hygiene conditions and child malnutrition. In order to address these problems, some towns have developed initiatives where volunteers cooperate with public bodies to provide prevention services through ambulances or Mobile Medical Units equipped with medical teams and anthropologists within the camps themselves.

Some research reveals a negative attitude towards gypsy populations. For instance, in Rome hospitals, gypsy mothers are discharged before obtaining the birth certificate of their children, as would be required by the law<sup>123</sup>. The issue of **schooling**<sup>124</sup> is even more complex. Roma and Sinti children, who are of compulsory school age, number about 30,000, but there is a very high rate of absenteeism. Gypsy families are reluctant to send their children to school because they do not see any value in it and they prefer their children to contribute economically to the family. In addition, their reluctance stems from that fact that school is often a place where children experience discrimination and inadequate teaching strategies. Although the Ministerial Memorandum no. 207 of 1986 makes education for gypsy children compulsory, and therefore commits the State to developing the facilities necessary for them to attend school, only a few schools are really capable of providing an appropriate environment. Initiatives aimed at training and raising the teachers' awareness are limited, with cultural mediators being also very rarely used.

One direct consequence of truancy is the use of small children in **begging** - «*menghel*», which, in gypsy cultures, is not perceived as negative. Older

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<sup>122</sup> See also Chapter VII, paragraph 3, letter a.

<sup>123</sup> M. Mazzonis in *Popolazioni zingare e sfruttamento dei minori a Roma* (Gypsy populations and child exploitation in Rome), in Lelio Basso International Foundation, «Il lavoro servile e le forme di sfruttamento para-schiavistico» (Servile work and the forms of quasi-slavish exploitation), a study published by the Commission for immigrant integration policies, Department for Social Affairs– Council of Ministers Presidential Office, working paper 19, 2000.

<sup>124</sup> See also Chapter VIII, paragraph 1, letter b.

children are progressively marginalized, so they often end up by adopting deviating behaviours.

Although there is no disaggregated data available, it is recognised that the percentage of nomad children living in **detention** facilities is higher than that of their Italian aged-matched group. This is not only due to their deviant behaviours, but also to the difficulty in obtaining alternative measures to prison linked to the families' life style.

Even though there is little research available, social workers report the onset of new behaviours in adolescents, which were not seen in the past and are linked to the lack of career opportunities, such as prostitution, drug pushing and drug abuse.

*Therefore, the Group makes the following recommendations:*

*. to enhance the role of cultural mediators, as persons capable of facilitating relationships with the Local Authorities and Local Health facilities (ASL) through linguistic translation services and mediation between different cultural customs;*

*. to promote the access and integration of gypsy children and adolescents in schools, by arranging specific transport services from the camps to the schools, supplying appropriate teaching and using cultural operators of Roma and Sinti origin;*

*. to regulate the complex issue of the presence of nomad populations by taking into consideration the distinct cultures of each community, so as to ensure consistent treatment throughout the country.*

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