Italy: New law to better protect unaccompanied children

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Protecting all children in migration: The European Commission outlines priority actions

During 2015 and 2016, 36% of migrants arriving to Europe were children. Unfortunately, this figure is expected to increase throughout 2017. Aware of the pressure exercised by those arrivals on national systems, and in addition to the 2017 EU Guidelines for the Promotion and Protection of the Rights of the Child, based among others on the Sustainable Development Goals and General Comment No. 6 (2005) of the Committee on the Rights of the Child, the European Commission has recently directed 'actions to reinforce the protection of all migrant children at all stages of the process', both at European institutions and its Member States. To this end, five priority areas have been identified: 1) swift identification and protection upon arrival (e.g. child protection officers in each hotspot); 2) adequate reception conditions for children (e.g. provision of foster and family-based care); 3) swift status determination and effective guardianship (e.g. establishment of a European guardianship network); 4) durable solutions and early integration measures (e.g. family tracing and reunification procedures); and 5) addressing root causes and protecting children along migrant routes outside the EU (e.g. preventing trafficking). Transversally, while recalling that the child’s best interests must be the primary consideration in all decisions concerning children, a specific attention is dedicated to the need for child-adequate treatment and trained professionals. In this context, the European Commission has highlighted the wealth of knowledge and good practices existing across Member States that should be shared, of which some may be found in this issue of the Monthly Review. As a final point, the Communication calls for determined, concerted and coordinated follow up at all levels between EU, national, regional and local entities, civil society and international organisations in the implementation of the pinpointed measures.


‘The integration of these children into our societies depends on how fast they can go back to a more stable life.’

Vera Jourova

LEGISLATION

Italy: New law to better protect unaccompanied children

In this article, the ISS/IRC offers a brief analysis of Law No. 1658, recently adopted in Italy to reform the reception and protection system for unaccompanied children with concrete measures aimed at the latter’s protection and integration.

On 28 March 2017, the Italian Parliament approved the new Law No. 1658, aimed at strengthening the current domestic legal framework in terms of adequate support and protection measures for foreign unaccompanied children (UAC). Faced with important numbers of UAC reaching its territory (approx. 26,000 in 2016), Italy deemed it necessary to adopt concrete responses and solutions for this particular vulnerable profile of children on the move. Therefore, the law foresees specific protection measures and provides targeted measures intended to facilitate UAC’s integration, accompanied with concrete actions for their implementation.

Special protection measures

First of all, Italy assumes its responsibilities towards UAC by prohibiting their ‘refoulement’ (Art. 3) or any return that may cause them harm. Based on individual care plans, the law introduces specific mechanisms for the identification (Art. 5), monitoring and follow-up (Art. 9) of situations through the intervention of well-trained multidisciplinary professionals. The purpose of these harmonised and improved procedures is twofold: (a) ascertaining the relevant information about the child’s family background as well as the child’s age (child-sensitive age assessments within 10 days); and (b) ensuring that the child’s welfare
remains unharmed. It is, for instance, foreseen that every UAC will be assigned an individual guardian, by resorting to qualified volunteers, who have been trained by the regional child and youth agencies. In addition, the Law emphasises the importance of ensuring the child’s right to be heard throughout all administrative and judicial proceedings (Art. 16), and rolls out the use of qualified cultural mediators able to communicate/interpret a child/adolescent’s needs. Likewise, the child will be guaranteed a meeting with a development-age psychologist. After the identification and assessment procedures, the UAC will be placed in the Protection System for Refugees and Asylum Seekers (SPRAR), whose structures must be intended only for children.

Furthermore, in its Article 17, the Law gives special attention to children victims of trafficking, by providing full legal, social and psychosocial assistance. In terms of alternative care, the Law intends to reduce the time UAC spend in first-line reception centres (from 60 to 30 days), to align all reception facilities with minimum standards, and to promote foster care and host families (Art. 7).

Measures to foster integration
Care assistance must be ensured by competent authorities, and may also be exercised by civil society associations working in the field.

Furthermore, Article 14 of the Law promotes the access to education and medical services (tutela sociali e sanitarie). The registration of the child, even temporary, in the National Health Care Service (Servizio sanitario nazionale) will be obligatory for a parent, the person to whom parental responsibility has been granted, or for the competent care authority.

In addition, the law addresses the “aging out” issue by including, in certain cases, middle and long-term measures, beyond the majority age.

Towards concrete actions
The Law foresees the creation of a database of UAC at the competent Ministry and a system of information-sharing between local and central competent judicial and administrative authorities (cartella sociale). Furthermore, a registry of guardians willing to assist and accompany one or more UAC (in the case of siblings) will be established at the Juvenile Court.

Finally, additional budgetary provisions, in addition to the public financial funds assigned by the government to municipalities, associations and caregivers in 2016 (€ 600 million), are included in the legal provisions. In particular, for children victims of trafficking, € 771,470 annually are allocated for the assistance of these particularly vulnerable children.

The ISS/IRC welcomes the adoption of this Law that ensures the concrete implementation of unaccompanied children’s fundamental rights, and addresses sensitive issues, such as the ‘aging-out’ process or the trafficking and exploitation of children. As stated by UNICEF and the European Council on Refugees and Exiles, the law has potential to influence reforms in other European countries.

References:
3 Ministero del Lavoro e delle Politiche sociali.
4 Ministero, Regioni, Comuni e Procura della Repubblica / Tribunal per i minorenni.

‘While across Europe we have seen fences going up, children detained and pledges unmet, the Italian parliamentarians have shown their compassion and duty to young refugees and migrants.’ Afshan Khan, UNICEF Regional Director and Special Coordinator for the Refugee and Migrant Crisis in Europe.