

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

UPR Submission on Children's Rights in Italy

Contribution to the Universal Periodic Review Mechanism
34th Session of the Working Group of the Universal Periodic Review (UPR)
UPR Joint Submission by the Italian Working Group for the Convention on the Rights of the
Child (Gruppo CRC)

Edited by:
Gruppo CRC
c/o Save the Children Italia Onlus,
Via Volturmo 58, 00185 Rome
E-mail: info@gruppocrc.net
Website: www.gruppocrc.net

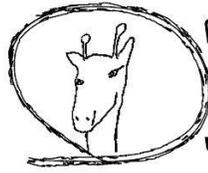
Brief presentation

The **Italian Working Group for the Convention on the Rights of the Child** (Gruppo CRC) was set up in December 2000 with the main aim of drafting a supplementary report to the Convention on the Rights of the Child (CRC) to be submitted to the UN Committee on the Rights of the Child. In order to promote the effective implementation of the CRC in Italy, the Gruppo CRC created an **independent, permanent, up-to-date monitoring system** on the implementation of the CRC, with the full approval of all its members. To date, the Network has elaborated nine **annual Follow-Up Reports** on the monitoring of the Convention on the Rights of the Child in Italy and three **Supplementary Reports** on the implementation of the CRC in the country. Moreover, in 2009 and 2014 the NGO Group for the CRC sent to the UN its **contribute to the Universal Periodic Review** (UPR), with the objective to evaluate Italy's achievements in the field of protection and promotion of children's rights.

With the present contribution, the Gruppo CRC calls to your attention the key issues on which we ask the mission to put forward questions and recommendations during Italy's examination under its **3rd Universal Periodic Review**.

This **submission** will provide an in-depth overview of the situation and legal framework of children's rights in Italy through the examination of the level of implementation of a number of recommendations made by UN member states during Italy's UPR 2nd Cycle – 20th session, specifically referring to children and adolescents. For each thematic area, recommendations to the Italian Government on how to improve the situation of children's rights in Italy will be advanced.

The submission builds on the Third Supplementary Report to the UN Committee on the rights of the child, monitoring the application of the UN Convention on the Rights of the Child in Italy, prepared and approved by the **96 associations** that make up the Network.



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Joint Submission of Information

As per UPR of Italy, 2nd Cycle – 20th session - A/HRC/28/4/Add.1

Theme: A12 Acceptance of international norms

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.13-14

The Third Optional Protocol to the CRC was transposed into Italian law by **Law 199/2015**, which came into force on 18 December 2015.¹ So far little has been done to disseminate the Third Protocol and make it widely known in accordance with Article 17 of the Protocol.

Theme: B31 Equality & non-discrimination

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.91-92

As highlighted in the final report of the Italian Parliament's "Jo Cox Committee on hate, intolerance, xenophobia and racism"² adopted in July 2017, there is evidence of high levels of prejudice and misinformation in Italy, with widespread forms of **intolerance and discrimination** based on grounds such as ethnic origin, religion, sexual orientation and gender identity. The report reveals a "pyramid of hate" in which stereotypes and misrepresentation constitute the elements that lead first to discrimination, then hate speech, before escalating into hate crimes.

Children of foreign origin are still greatly discriminated against, even when born and brought up in Italy, as current legislation makes it difficult for them to obtain citizenship. Other children who are victims of discrimination include unaccompanied foreign minors, children belonging to ethnic, linguistic and religious

¹ Law 199/2015 "Ratifica ed esecuzione del Protocollo opzionale alla Convenzione sui diritti del fanciullo che stabilisce una procedura di presentazione di comunicazioni, adottato dall'Assemblea generale delle Nazioni Unite il 19 dicembre 2011". Available at: <https://www.gazzettaufficiale.it/eli/gu/2015/12/17/293/sg/pdf>

² The committee, made up of one Member of Parliament representing each political group, together with independent experts and representatives of international governmental and non-governmental organizations, was chaired by the former Speaker of the Italian Chamber of Deputies Laura Boldrini, Deputy Secretary General Gabriella Battaini Dragoni and a member of the secretariats of both ECRI and the Parliamentary Assembly represented the Council of Europe within the Committee.



minorities (such as the Roma, Sinti and Camminanti), children with imprisoned parents³, children with disabilities and/or in hospital, and children with a minority sexual orientation or gender identity, or who are presumed to be so by the reference population. Many others are also discriminated against because of the part of Italy they come from, owing to the differences in the standard of living and opportunities that exist between different Regions.

A strong, positive **cultural action against discrimination based on sexual orientation and gender identity** is still necessary in both society at large and at school. The "National plan for education for respect" and the Memorandum of Understanding between the Ministry of Health and the Ministry of Education "For the protection of the Right to Health, Education and Inclusion", which introduced affectivity and sexuality as a curricular subject, has yet to be implemented. Children living in families with lesbian, gay, bisexual are not legally recognized. Law 76/2016, which legally recognized civil unions between same-sex couples, does not deal with the issues of children born into such civil unions or children who become part of these unions.

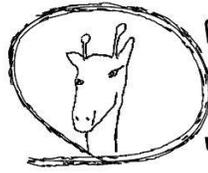
Very recently, a group of 13 UN experts wrote to the Italian Government, voicing concern at the public discourse fuelled by politicians embracing "racist and xenophobic anti-immigrant and antiforeigner rhetoric" and highlighting how "this climate of intolerance could not be separated from the escalation in Italy in hate incidents against groups and individuals, including children, based on their actual or perceived ethnicity, skin colour, race and/or immigration status"⁴.

The CRC Group, therefore, recommends that:

1. **The Government** promote an awareness-raising campaign and specific programmes to educate people about equal opportunities and respect for sexual orientation and gender identity;
2. **The Government** implement the National Action Plan against Racism, Xenophobia and Intolerance, including by allocation of the necessary financial and human resources.

³ The Italian Memorandum of understanding (2014). "The Charter of Right of Children of Imprisoned Parents", followed by the Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States, concerning children with imprisoned parents.

⁴ UN Office of the High Commissioner for Human Rights (2018). *Legal changes and climate of hatred threaten migrants' rights in Italy, say UN experts*. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E>



Theme: D26 Conditions of detention

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.104

A number of important changes have been made to the Juvenile Justice System in recent years.

The entry into force of the Ministry of Justice's regulations on the reorganisation and reduction in the number of administrative offices and staff employed (Prime Ministerial Decree 84/2015) has resulted in the creation of the new **Department of Juvenile and Community Justice**, which replaced the Department of Juvenile Justice. There is a risk, however, that greater attention will be focused on community justice than juvenile justice.

Law 117/2014 extended the competency of juvenile justice services to include persons up to 25 years of age who committed a crime while juveniles. This reform has had a considerable impact on the juvenile justice system. Suffice to mention that 10,658 of the people the children's social service office assumed responsibility for in 2018 (up to 15 December) were young adults, while the number of minors was 10,418.⁵ Moreover, young adults currently account for more than half of the detainees in juvenile prisons (IPM).⁶ This change (and we totally agree with the principles on which it is based) needs to be handled very carefully. In many of the IPM, for example, it is not possible to separate adult detainees from minors, creating problems linked to the different characteristics of the two groups.⁷

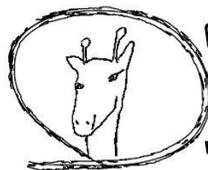
The CRC Group, therefore, recommends that:

1. **The Government** pay careful attention in implementing the "Ministry of Justice's Regulation for the organisation and reduction in the number of administrative offices and administrative staff", above all as regards the need for specialisation within the juvenile sector, while ensuring sufficient human and financial resources;
2. **The Government** monitor the situation of "young male adults" and "young female adults" detained in IPM in the care of children's social services.

⁵ Cf. Ministry of Justice data: https://www.giustizia.it/resources/cms/documents/quindicinale_15.12.2018.pdf.

⁶ There were a total of 277 young adult detainees in the IPM as of 15 December 2018 out of a total of 453 detainees. Cf. Ministry of Justice data: https://www.giustizia.it/resources/cms/documents/quindicinale_15.12.2018.pdf.

⁷ This can result in a breach of Articles 37 and 40 of the CRC. See on this point the 2017 annual report of the national ombudsman for detainees, p. 48.



Theme: D27 Prohibition of slavery, trafficking

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.124-125

According to surveys carried out by the Department of Equal Opportunities, 1,172 victims of trafficking were placed under protection in 2016, including 111 children, 84% of whom were girls. 50.45% of the children were victims of sexual exploitation, 0.9% forced marriages, 3.6% forced begging and 5.41% exploitative labour, while 9.91% were used in illegal activities, such as drug dealing. More than half of the victims of trafficking were Nigerians (59.5% of the total and 67% of the children)⁸.

In Italy, **unaccompanied foreign minors** are particularly exposed to **sexual exploitation** upon leaving reception facilities, as put forward by Europol⁹ and confirmed by several journalistic investigations¹⁰.

In 2017, the number of children victims of trafficking and exploitation put under protection increased to 200 (196 girls and 4 boys). As regards the emerged cases, 46% of minors were sexually exploited: 93.5% of whom were Nigerian girls aged 16-17¹¹.

From a monitoring intervention realized by a network of organizations under the National Platform Against Trafficking¹², it has emerged that in October 2017 the victims of trafficking exploited on the streets in just one night were 5.005, 211 of whom were children. A recent OIM's investigation highlighted that in the period 2014-2016, the number of potential victims of trafficking for sexual exploitation arrived by sea in Italy increased by 600%.

Legislative Decree 4 March 2014 no. 24 transposed Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, albeit with a delay of almost one year and a number of shortcomings¹³. Despite introducing the necessity of individual evaluation of the victim in the light of her/his specific situation of vulnerability, Article 2 does not include specific reference to the fact that where a child is concerned, no kind of consent can ever be considered valid.

⁸ Save the Children (2017). *Piccoli schiavi invisibili. I minori stranieri vittime di tratta e sfruttamento in Italia*. Available at: <https://s3.savethechildren.it/public/files/uploads/pubblicazioni/piccoli-schiavi-invisibili-2017.pdf>.

⁹ Holly Yan and Radina Gigova (2 February 2016). "10,000 unaccompanied migrant children may be missing, Europol says". CNN. Available at: <http://edition.cnn.com/2016/02/01/world/europe-missing-migrant-children/index.html>; BBC (31 January 2016). "Migrant crisis: more than 10,000 children 'missing'". BBC News. Available at: <http://www.bbc.com/news/world-europe-35453589>; RT (31 January 2016). "10.000 kids missing in EU as criminals 'exploit' migrant flow – Europol chief of staff". RT. Available at: <https://www.rt.com/news/330746-children-eu-missing-refugees/>.

¹⁰ Floriana Bulfon. *Noi, i ragazzi dello zoo di Roma*. L'Espresso.

¹¹ Save the Children (2018). *Piccoli schiavi invisibili. I minori stranieri vittime di tratta e sfruttamento in Italia*. Available at: https://s3.savethechildren.it/public/files/uploads/pubblicazioni/piccoli-schiavi-invisibili-2018_2.pdf.

¹² Data provided to Save the Children Italia by the National Anti-Trafficking Platform.

¹³ Nicodemi Francesca. *Osservazioni al decreto legislativo 4 marzo 2014 n. 24 di attuazione della direttiva 2011/36UE relativa alla prevenzione e la repressione della tratta di esseri umani e la protezione delle vittime e che sostituisce la decisione quadro del Consiglio 2002/629/GAI*.



In general, there is still **a lack of any kind of systematic planning, at either national or local level, of strategies to prevent the sexual abuse and exploitation of children.**

A positive development has been introduced by **Law 47/2017** on the system of protection of unaccompanied foreign minors, which devotes **art. 17** to minors victims of trafficking, requiring long-term adequate conditions for accommodation and specific programmes of psycho-social, health and legal assistance, even beyond the age of majority.

On 26th February 2016, the first biennial **National Action Plan against trafficking in persons (Piano Nazionale Anti-tratta)** was adopted with the aim of preventing and combating trafficking and providing protection to victims. The plan defined a comprehensive system of protection, sensitive to the vulnerabilities of minors victims of trafficking and able to offer a multidisciplinary approach.

The CRC Group, therefore, recommends that:

1. **The Government** ensure the continuity of the programme of identification, assistance and social integration (Programma Unico) approved in 2016, together with the relevant helpline and local operational units, and strengthen its ability to fully assist all child victims of trafficking and exploitation by fully adopting art. 17 of Law 47/2017 and adopting long-term plans;
2. **The Government** coordinate a national in-depth fact-finding study, providing both quantitative and qualitative data, to reveal the true extent of child trafficking and exploitation.

Theme: F13 Violence against women

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.105-107, 111, 113-115

A **National strategy to combat and prevent violence against children** is still lacking.

As regards the collecting of data, a study carried out by the National Ombudsman for Children¹⁴ could provide the starting point for the creation of the national system of monitoring as there is still **no national system to monitor and collect data on violence.**

It is also necessary to provide a specific legal definition of **witnessed violence**. Moreover, there is a need to urgently invest in protection, recovery and rehabilitation services. Similarly, specific attention must be paid – as a health problem – to the increasingly frequent **conflictual separations**, in which a couple's children are inevitably involved.

It is essential, therefore, to invest in **systematic prevention, awareness and information campaigns** to improve the assistance provided to children who are victims of violence and to discover such abuse. The

¹⁴ National Authority for Children and Adolescents, Italian Network of Agencies against Child Abuse (CISMAI) and Terre des Hommes Italy (2015). *National survey on the maltreatment of children in Italy*. Available at: <https://terredeshommes.it/wp-content/uploads/2015/05/Abstract-inglese.pdf>



initiatives aimed at health workers and teachers need to be implemented nationally, but they currently appear to be just local initiatives.

The **National Plan to Prevent and Combat the Sexual Abuse and Exploitation of Children 2015-2017** lists a series of interventions that would have improved the situation of children, however, the plan has not been followed-up.

As regards **sexual abuse**, it is necessary to highlight the importance of **primary prevention**, which involves, above all, affective and sexual education. Secondary prevention initiatives are also important, as is the re-education of people who have committed sexual offences against children, including offenders who are themselves minors, for an effective rehabilitation approach aimed at preventing these people from becoming repeat offenders.

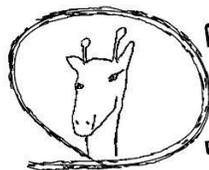
Moreover, the databank called for by the law creating the **Observatory to Counter Paedophilia and Child Pornography** has never been fully functional, nor have any data or studies on the phenomenon been made public.

Finally, it is necessary to highlight an important shortcoming in the **initiatives to protect particularly vulnerable groups**, such as children with disabilities (recent studies show they are 3.7 times more likely to be the victims of abuse).¹⁵

The CRC Group, therefore, recommends that:

1. **The Government** create a centralised system to monitor, collect and analyse data on violence against children;
2. **The Government** provide training for health workers, social service workers, teachers and legal professionals who can potentially come into contact with victims of abuse and neglect;
3. **The Parliament** draw up a specific legal definition of violence against children;
4. **The Government and the Regions** ensure the implementation of the National Plan to Prevent and Combat the Sexual Abuse and Exploitation of Children, also at a local level;
5. **The Government** guarantee specialist, multidimensional treatment and rehabilitation programmes for the victims of sexual abuse and exploitation, but also for sexual offenders so as to reduce the risk of them re-offending.

¹⁵ UNICEF (May 2013). *La Condizione dell'infanzia nel mondo 2013 - Bambini e disabilità*. Available at: <https://www.unicef.it/Allegati/Rapporto%20UNICEF%202013.pdf>



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Theme: F31 Children: definition; general principles; protection

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.54, 126-128

Italy is not among the list of countries that have banned physical and humiliating punishment in all settings, including the home, as there is no explicit ban on the use of corporal punishment in the home in Italian law.¹⁶ Despite the recommendation of the UN Committee on the Rights of the Child, the Government's failure to adopt the UPR's recommendation and several statements it has issued on the matter would appear to indicate that the Government feels there is no need to introduce specific legislation as corporal punishment is already forbidden by existing legislation and the 1996 Supreme Court ruling. Many children in Italy still suffer corporal punishment as the violent punishment of children is still socially and culturally accepted. We regret to note that there have been no awareness campaigns regarding the use of non-violent educational methods or to promote positive parenting.

The CRC Group, therefore, recommends that:

1. **The Parliament** introduce a reform that explicitly bans corporal punishment and other humiliating and degrading punishments of children, including in the home;
2. **The Government** promote an awareness campaign in favour of positive parenting and against corporal and humiliating punishments as a means of education.

Theme: G1 Members of minorities and E51 Right to education – General

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.149, 152-156, 158

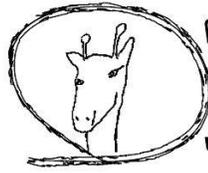
According to the Council of Europe's fact-finding report on the situation of the Roma, Sinti and Caminanti populations in Italy, **60% are under 18 years of age**.¹⁷

Seven years after the adoption of the **National Strategy for the Inclusion of the Roma, Sinti and Caminanti 2012-2020 (SNIR)**,¹⁸ there is growing agreement about the need to urgently implement truly inclusive policies and, above all, finally end the so-called "Nomad camp" approach. In the last years a large number of Roma families living in informal camps have been forcibly evicted, often without any proper

¹⁶ Global Initiative to End all Corporal Punishment of Children (March 2019). *Corporal punishment of children in Italy*. Available at: <http://www.endcorporalpunishment.org/wp-content/uploads/country-reports/Italy.pdf>

¹⁷ Cf. the Italian Senate's special committee for the protection and promotion of human rights, *Rapporto Conclusivo dell'indagine sulla condizione di Rom, Sinti e Caminanti in Italia*, 9 February 2011, pp. 19 and 45.

¹⁸ Cf. SNIR: http://ec.europa.eu/justice/discrimination/files/roma_italy_strategy_it.pdf.



procedural safeguards nor prior notification and without providing adequate alternative accommodation nor forms of compensation. In September 2018, the Ministry of Interior adopted an administrative Circular on “arbitrary occupation of property”¹⁹ with the declared aim of “preventing it and give proper procedural indications to those who must proceed with forced evictions”, without identifying previously alternative housing solutions and proper inclusion paths for children, families with minors and/or other vulnerable persons. Consequently, there continue to be **forced evictions** of Roma communities from the informal camps in which they live.²⁰ Children continue to suffer the most evident consequences of these forced evictions, above all in terms of the impact on their education and social inclusion.²¹

In terms of **school attendance**, data highlight a worrying situation with just 23,360 students belonging to Rom and Sinti communities enrolled at school during the 2015/2016 school year: more than half attended elementary schools (53.7%), one third was enrolled in middle schools (29.7%), 14.5% in pre-schools and just 2.2% in high schools²².

Given that the Roma and Sinti populations are estimated to a total between 120,000 and 180,000 and that more than half are children,²³ the data on school enrolments merely quantifies the number of Roma children living in formal and informal camps.²⁴

A variety of regulations, guidelines, laws and resources have been introduced during the last few years to guarantee the right to education of foreign children, who totalled 826,091 during the 2016/2017 school year (9.4% of the student population).²⁵ From the data on these students' school careers, there are clearly problems as to their **integration**. While around 10.0% of Italian students are behind with their studies, the figure is 31.3% for foreign students. According to the latest EUROSTAT data, in 2017 the share of early

¹⁹ Ministry of Interior (September 2018). Circular « Occupazione arbitraria di immobili ». Available at : http://www.interno.gov.it/sites/default/files/circolare_2018_0059445.pdf

²⁰ Cf. Associazione 21 luglio, *Rapporto Annuale 2017*, pp. 34-42. Available at: http://www.21luglio.org/21luglio/wp-content/uploads/2018/04/Rapporto_Annuale-2017_web.pdf.

²¹ See also: CESCR, *Osservazioni Conclusive sul quinto Rapporto Periodico dell'Italia*, October 2015.

²² MIUR, *Gli alunni stranieri nel sistema scolastico italiano*, October 2015.

²³ Cf. Italian Senate's special committee for the protection and promotion of human rights, *Rapporto Conclusivo dell'indagine sulla condizione di Rom, Sinti e Caminanti in Italia*, *op. cit.*, pp. 19 and 45.

²⁴ According to Associazione 21 luglio, there are 28,000 Roma and Sinti people living in emergency housing in Italy. See: *Rapporto Annuale 2016*.

²⁵ Data on foreign students from: MIUR (March 2018). *Gli alunni con cittadinanza non italiana - a.s. 2016/2017*, in *Statistica e Studi*, Available at: https://www.miur.gov.it/documents/20182/0/FOCUS+16-17_Studenti+non+italiani/be4e2dc4-d81d-4621-9e5a-848f1f8609b3?version=1.0; Demaio, G. (2016), *La formazione scolastica e universitaria degli studenti con cittadinanza straniera in Italia*, in Centro Studi e Ricerche IDOS together with Confronti, *Dossier Statistico Immigrazione 2016*, Edizioni IDOS, Rome, pp. 203-210.



leavers from education and training (aged 18-24) in Italy was estimated at 14%²⁶. Early school leaving was much more significant among foreigners than Italians (33.1% against 12.1%)²⁷.

Although in recent years early childhood education enrolment increased, early drop outs remain a problem with a growing proportion of young Roma who are not in education, employment or training (NEET).

The CRC Group, therefore, recommends that:

1. **The Parliament and the Government** increase funding for the education of foreign children and adopt permanent strategies and tools that can be employed in all schools throughout the country. Moreover, the level of schooling of children from Roma, Sinti and Camminanti ethnic minorities is still a worrying phenomenon. It is, therefore, essential to recommend that the **Government** improve and monitor the implementation of the “National Strategy for the Inclusion of the Roma, Sinti and Caminanti 2012-2020” to boost the enrolment and scholastic success of these;
2. **The Government** demand a speedy and effective implementation of the National Strategy of Inclusion, through the introduction of effective measures at a local level, in particular by promoting the housing desegregation of Roma and Sinti communities, and immediately end forced evictions throughout the country;
3. **The Government** ban the use of different ethnic-based assessment criteria, promoting inclusive policies also by improving the training given to school teachers and other school staff.

Themes: G4 Migrants and G5 Refugees & asylum seekers

UPR Recommendations to Italy (2nd Cycle – 20th session) n. 145.169, 174-175, 179-181

Between 1 January 2011 and 31 December 2017, 103,274 minors arrived in Italy by sea, 78,451 of whom (76%) were unaccompanied. In absolute terms, there was a six-fold increase in the number of unaccompanied minors (UAMs) arriving²⁸. There were 17,373 UAMs present in reception facilities in 2016, while a further 6,561 UAMs had disappeared²⁹. Despite a decline in arrivals in the last two years, the

²⁶ Eurostat (Data extracted in June 2018). *Early leavers from education and training*. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Early_leavers_from_education_and_training

²⁷ Istat (July 2018). *Educational attainment and labour market outcomes: main indicators*. Available at: https://www.istat.it/it/files//2018/07/EN_educational-attainment.pdf

²⁸ Italian NGO Group for the Convention on the Rights of the Child - CRC Group (February 2018). *The rights of children and adolescents in Italy. 3rd Supplementary Report on the implementation of the Convention on the Rights of the Child in Italy*. Available at: https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/ITA/INT_CRC_NGO_ITA_33354_E.pdf

²⁹ *Ibidem*.



number of foreign unaccompanied minors is still significant: in 2018, 3,536 UAMs reached Italy, equaling 15% of all landings, the highest incidence of the last five years³⁰. The trend is also confirmed from January and February 2019: out of 262 about 17% are UAMs³¹.

Italy has made significant progress in the attempt to make the national legislative framework on the reception and protection of migrant children compliant with International standards, in particular through the adoption of **Law 47/2017** containing “Provisions concerning protection measures of foreign unaccompanied minors” (UAMs)³² and affirming that “unaccompanied foreign minors are holders of the rights concerning children’s protection and enjoy equal treatment with minors of Italian or European citizenship”.

The passing of Law 47/2017 was undoubtedly a positive development. This act includes a comprehensive set of guarantees for unaccompanied migrant minors and incorporates important CRC principles in the applicable national law, such as the prevailing consideration of the best interest of the child and the right to children’s participation in administrative and judicial procedures relevant to these minors, e.g. identification, age assessment, decision on “assisted return”. The law confirms the prohibition of forced deportation and detention of unaccompanied minors and clearly forbids the rejection at the border. It also sets out their rights to education and health and clarifies rules on the release of permits of stay.

Moreover, the Law has established **a new guardianship system for unaccompanied children**, thus producing significant improvements³³ in speeding up the registration of the asylum claims of unaccompanied children, shortening UAM’s stay in Italian hotspots and reducing the risk of experiencing violence³³.

In the past years there have been practical concerns regarding in particular the serious shortage of adequate shelters for unaccompanied children in the reception system. Faced by more than 17,000 UAMs in December 2016, there were just 2,000 available places in Government initial reception centres and SPRAR centres.³⁴ This shortage of available places means that responsibility for providing assistance to these

³⁰ European Union Agency for Fundamental Rights (February 2019). *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy*. FRA Opinion – 3/2019. Luxembourg: Publications Office of the European Union, 2019 doi:10.2811/340270. Available at: <https://fra.europa.eu/en/opinion/2019/migration-hotspots-update>

³¹ Ministry of Interior – Department of civil liberties and immigration. *Cruscotto statistico giornaliero*. Available at: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_28-02-2019_0.pdf

³² Law 47/2017. *Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati*. Official translation <https://www.garanteinfanzia.org/sites/default/files/law-no-47-of-2017-on-uams-en.pdf>

³³ European Union Agency for Fundamental Rights (February 2019). *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy*. FRA Opinion – 3/2019. Luxembourg: Publications Office of the European Union, 2019 doi:10.2811/340270. Available at: <https://fra.europa.eu/en/opinion/2019/migration-hotspots-update>

³⁴ Parliamentary committee of inquiry on the reception system. *Relazione sul sistema di protezione e di accoglienza dei minori stranieri non accompagnati in Italia, op. cit.*, pp. 51-52.



minors has been borne by the Municipalities and Prefectures where they were located. This mechanism has also given rise to a disproportionate **concentration of reception facilities in the Regions in which these minors land**.³⁵ This situation is evolving due to both the decrease in arrivals and to the reform of the former SPRAR reception system, now only addressed to unaccompanied minors and people recognised international protection (see below). Nevertheless, the conditions in the dedicated areas inside the hotspots are inadequate and the requirements for the new call for tender for services (adequate housing, education, and healthcare) in the hotspots may result in lowering the level of services, affecting also children³⁶. As regards separated children, despite a first assessment upon arrival, there are no adequate procedures to monitor if a separated child is at risk of abuse or neglect during his/her stay in Italy³⁷.

An important new element introduced by Law 47/2017 was the standardisation of the **identification and age assessment processes for UAMs, involving a multidisciplinary approach**³⁸. However, these regulations are frequently disregarded³⁹. Also, despite the speeding up of registration of asylum applications by unaccompanied minors, asylum procedure itself remains protracted⁴⁰.

Unfortunately, after Law 47/2017 was passed, **the Government has still not issued the necessary Decree to implement the law**, even though the law itself requires this. This gap leaves some aspects of the implementation of Law 47/2017 unclear. Moreover, the repercussions that the administrative and legislative measures recently introduced regarding the reception of persons applying for asylum of those bearing humanitarian protection may have on minors, above all those who are most vulnerable, put at risk some of the Law 47/2017 achievements.

The reference is above all to the recent Decree Law 113/2018 (**Decree Law on Immigration and Security**), which came into force on 5 October and was converted into Law 132/2018, after a number of

³⁵ Directorate General of the Ministry of Labour and Social Policies responsible for immigration. *Report mensile minori stranieri non accompagnati (MSNA) in Italia* (data as at 31 December 2018). Available at: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-Monitor-MSNA-DEF-aggiornato-al-31122018-completo-12022019.PDF>

³⁶ European Union Agency for Fundamental Rights (February 2019). *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy*. FRA Opinion – 3/2019. Luxembourg: Publications Office of the European Union, 2019 doi:10.2811/340270. Available at: <https://fra.europa.eu/en/opinion/2019/migration-hotspots-update>

³⁷ *Ibidem*.

³⁸ Italian NGO Group for the Convention on the Rights of the Child - CRC Group (February 2018). *The rights of children and adolescents in Italy. 3rd Supplementary Report on the implementation of the Convention on the Rights of the Child in Italy*. Available at: https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/ITA/INT_CRC_NGO_ITA_33354_E.pdf

³⁹ *Ibidem*.

⁴⁰ European Union Agency for Fundamental Rights (February 2019). *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy*. FRA Opinion – 3/2019. Luxembourg: Publications Office of the European Union, 2019 doi:10.2811/340270. Available at: <https://fra.europa.eu/en/opinion/2019/migration-hotspots-update>



changes had been made, on 28 November. This law abolishes the measure of “humanitarian protection” replacing it with temporary forms of protection (called “special protection”) and radically changes the current protection system for asylum seekers and refugees (the SPRAR system, now called SIPROIMI – *Sistema di accoglienza per i titolari di protezione internazionale e i minori non accompagnati*), which is now only available to people who have already been granted international protection and for all unaccompanied children, with important consequences for those who reached the age of majority, and also for nuclear families with children.

As highlighted in a letter addressed to the Italian Government on 21st November by 13 UN Human Rights Experts,⁴¹ the above-mentioned Decree Law – in particular provisions such as the abolition of humanitarian protection status and the exclusion of asylum seekers from access to the SPRAR – undermines “international human rights principles, and will certainly lead to violations of international human rights law.”

The CRC Group, therefore, recommends that:

1. **The Government** ensure that Law 47/2017 is fully implemented in order to grant the protection of UAMs and guarantee their rights are respected throughout their stay in Italy, as well as promoting their social inclusion;
2. **The Government** enact the Decrees on the implementation of Law 47/2017;
3. **The Government** ensure that specific safeguards are explicitly provided for children to be exempted from measures foreseen by the Law Decree no. 113;
4. **The Government** introduce and properly regulate best interests procedures by law and/or implementing regulations, ensuring that the best interests of the child is a primary consideration in every decision or action pertaining to her/him;
5. **The Government** ensure that dedicated child reception system, criteria and standards, as well as identification of children and proper age assessment as provided by law are fully implemented and consolidated further.

Rome, 27th March 2019

Gruppo CRC
c/o Save the Children Italia Onlus,
Via Volturmo 58, 00185 Rome
E-mail: info@gruppocrc.net
Website: www.gruppocrc.net

⁴¹ UN Office of the High Commissioner for Human Rights (2018). *Legal changes and climate of hatred threaten migrants' rights in Italy, say UN experts*. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E>