

Unaccompanied Foreign Minors in Italy: Procedures and Practices

Marco Accorinti¹

Abstract

According to the Decree of the President of the Council of Ministers No 535/1999, Article 1, laying down the "Regulation on the tasks of the Committee for Foreign Minor, in conformity with Articles 33(2) and (2-bis) of the Legislative Decree No 286 of 25 July 1998", in Italy unaccompanied foreign minor (in brief UAM) refers to "a minor who does not have Italian or other EU citizenship, has not applied for asylum and is, for any reason, within the territory of the State without care or representation by their parents or other adults who are legally responsible for them under existing Italian laws". This provision was defined as the solution to a social phenomenon that became particularly significant number-wise in the Country in the 1990s. Despite the attention of the Government, the actual number of UAMs within the territory of the State is difficult to define, since most of them do not fulfil residence regulations and move a lot within Italian territory. Over the past seven years, the number of UAMs has remained stable with an average of 7/8,000 per year, and a peak of 8,461 in 2013. This figure will be greatly exceeded in 2014. The paper analyzes the evolution of UAM's presences in Italy, the UAM characteristics, the migratory projects and some aspects of the procedures and the social practices regarding UAMs in Italy.

Keywords: Minors, Migrant, Italy, Social Procedures

1. Introduction

According to the Decree of the President of the Council of Ministers No 535/1999, Article 1, laying down the "Regulation on the tasks of the Committee for Foreign Minor, in conformity with Articles 33(2) and (2-bis) of the Legislative Decree No 286 of 25 July 1998", in Italy unaccompanied foreign minor (in brief UAM) refers to "a minor who does not have Italian or other EU citizenship, has not applied for asylum and is, for any reason, within the territory of the State without care or representation by their parents or other adults who are legally responsible for them under existing Italian laws". This provision was defined as the solution to a social phenomenon that became particularly significant number-wise in the Country in the 1990s. According to Campani and Salimbeni [1] the phenomenon of the presence of UAMs in Italy developed in at least four phases. The first phase occurred during the 1950s and 1960s, following the arrival of groups of asylum seekers - a few dozen minors - from Hungary and Czechoslovakia. In the early 1960, the second phase saw the arrival of Vietnamese and Cambodian minors, mostly orphans and abandoned children, entrusted to religious organizations; and in the second part of the decade, some refugee minors from the Horn of Africa. In the third phase, in the 1980s, there were Eritrean, Tigrinya and Ethiopian groups, minors coming from Somalia (mainly Mogadishu) and Sudan, and later from the Maghreb area (Morocco and Tunisia in particular) and Algeria. At the end of the 1980s, following the Chernobyl nuclear accident, Italy started receiving minors aged between 7 and 14 from the regions of Belarus that were hit by the disaster, for temporary periods or even permanently (41,000 minors in 1995; 21,914, that is, almost half the number, in 2009; and 13,095 in 2013. Source: Ministry of Labour). Apart from the last case, the first three phases concerned children who had fled war zones, alone or with no adults accompanying them.

¹ Institute for Research on Population and Social Policies (CNR-Irpps) Rome, Italy. Email: m.accorinti@irpps.cnr.it

So, in order to regulate the reception of Belarusian and Albanian children, and following Italy's ratification of the New York Convention on the Rights of the Child of 1989 (by Law No 176/1991), in 1994 the Italian Government decided to set up the Committee for Foreign Minors (in brief CMS). The CMS is responsible for monitoring solidarity interventions proposed by public and private entities, within international solidarity programmes aimed at UAMs, allowing them to stay with Italian families, usually for no longer than 90 days; and then with the entry into force of Legislative Decree n. 113/1999, aimed at all UAMs, in accordance with the provisions of the New York Convention. At the end of 2010, there was a fifth and more recent phase, following the events linked to the so-called "Arab Spring" and involving countries such as Egypt, Tunisia and later Syria (North Africa, but also the Middle East), with a sudden increase of migration flows between Mediterranean shores (the Sicilian coast in particular), leading the Government to declare a state of national emergency (18 February 2011). The CMS was also responsible for making a survey of UAMs in Italy and provide information on their presence over the past fifteen year. According to CMS analyses, in the early 2000s, minors came from Eastern Europe and the Balkans (Rumania, Albania and, later, Serbia and Moldavia) for a total number of 8,307 in 2000 and 8.146 in 2001. Between 2006 (6,543) and 2008 (7,343) the number dropped slightly - 6,100 minors in 2009 and 4,866 in 2010 - with prevailing flows from Sub-Saharan African countries (Egypt, Tunisia, Eritrea, and Somalia) and Asia (the Middle East-Afghanistan, Palestine, Iraq and also Bangladesh). From 2010, migration flows began increasing again, reaching 7,750 minors in 2011; 7,575 in 2012; 8,461 at the end of 2013; and 11,010 as of 31 August 2014, with a distinction between those who are present and those who are considered to be "unfindable".

According to Campani et al [2] with reference to the past five years, they may be in Italy:

- i) Unaccompanied adolescents who are either asylum seekers or who may benefit from measures of temporary protection for humanitarian reasons (which may be specific to the country of origin);
- ii) UAMs who come to Italy to join their parents, who might not fulfil the requirements to start reunification procedures (the so-called "partially UAM");
- iii) UAMs exploited by criminal organizations (with ties to prostitution, begging, child labour or drug pushing) who are often abducted or who come with the consent of their families of origin; or
- iv) UAMs, who reach Italy illegally, through trafficking channels run by organized crime or who arrive, just like adults, with a specific economic migratory project; they often have to help their families pay for the debt incurred for their leaving.

Besides specific studies carried out by experts in this topic and by migration experts, data from different sources and specific reports on UAMs have been produced over the years. It is worthwhile mentioning the following: data produced by the CMS, which in 2012 was merged into the Directorate General of Immigration and Integration Policies - Ministry of Labour and Social Policies (Ministerial Directorate), it prepares a national report every two months; the System of Protection for Asylum Seekers and Refugees (SPRAR), compiles an annual report every year; since 2009 ANCI – National Association of Italian Municipalities, through Cittalia-Fondazione Anci Ricerche, has published five Reports on UAMs in Italy; and the Ministerial Directorate published a Report in June 2014 entitled "Foreign Minors. The Phenomenon of Temporary Reception in Italy in 2013" [3].

Despite the attention of the Government, the actual number of UAMs within the territory of the State is difficult to define [5], since most of them do not fulfil residence regulations and move a lot within Italian territory. The CMS, by virtue of Article 5 of the Decree of the President of the Council of Ministers No 535/1999, requires public officials, civil servants and public organizations providing health and care services to immediately inform the CMS if they are aware of the entry/presence of a UAM within the territory of the State. Yet, the data that have been regularly collected and published, however significant, are by no means complete. In fact, not all competent Authorities within the territory of the State systematically report the presence of UAMs. Suffice it to think that many of them are the victims of trafficking, and are therefore "hidden"; some are facing criminal proceedings, and some are "accompanied" by adults, who are not able, in fact, to take care of them. By the same token, not all UAMs who enter Italy come into contact with the institutions, nor are they necessarily intercepted by Law Enforcement Authorities [4]. CMS data do not include UAMs who applied for asylum. They are, in fact, surveyed by the National Asylum Commission and by SPRAR. Over the past seven years, the number of UAMs has remained stable with an average of 7/8,000 per year, and a peak of 8,461 in 2013. This figure will be greatly exceeded in 2014 .

When it comes to the minors' nationalities, the most significant change compared to the past concerns Romanian minors. Their number increased six folds in seven years and exponentially in the years just before 1 January 2007, when Rumania, together with Bulgaria, joined the European Union, and the provisions contained in the Consolidated Text on Immigration, Legislative Decree No. 286/1998, (hereinafter Immigration Law) ceased to be applicable. Over the years, there have been a gradual but increasing presence of Albanians and then Moroccans, and lately Egyptians and Syrians. The majority of reported UAMs are boys, while girls account for about 15-20% (mostly from Moldavia and Albania). As regards age, more than 80% belongs to the 15-17 age group, so they are teenagers; however, the presence of UAMs aged 11-12 and even 7 has been recorded very recently. According to the ANCI Report, the Regions that have the highest presence of UAMs are Lombardy and Lazio, followed by Piedmont, Emilia-Romagna and Friuli Venezia Giulia. The traditional trend is that the phenomenon is mainly concentrated in the central-northern regions, even if the minors may have arrived by sea. In conclusion, most UAMs present in Italy come from Morocco, Egypt, Albania and other North- African and Middle- Easter countries, where the social and economic difficulties and/or political problems of these countries may be the main reason why they look for opportunities elsewhere. Some authors [4] argue that the social and economic conditions of the minors' families of origin directly affect their migratory choice; this causes a phenomenon of "adultization of children", either to improve the economic conditions of their families, or due to their leaving family ties behind. Besides wars, it is poverty, associated with low social and educational statuses and poor employment opportunities, which drives minors to migrate. They hope to find a better situation in Italy, towards Europe.

Analyses suggest that UAMs do not have structured migratory projects with pre-defined expectations. When minors see migration as a way to flee conflicts and persecution, their arrival in Italy is often accidental and determined by external factors. Or their arrival may be the result of progressive adjustments to the opportunities that arise during their journey from time to time. Only at a later stage, do they usually apply for international. In the following parts we will analyze some aspects of the procedures and the social practices regarding UAMs in Italy. The practices of entry into Italy, as in other European countries, are governed by a series of laws and regulations, but above all provisions it is the general principle of the "best interests of the child". According to this principle Italian or foreign minors are protected by the Italian State and assisted in every need and necessity, especially children who are in the country without adult that accompany them. About the practices in use in Italy for unaccompanied minors are analyzed the following procedures: for entry and assessment (paragraph 2), at the borders (paragraph 3), for assessing the age (paragraph 4), legal guardianship (paragraph 5), reception and care arrangements (paragraph 6), arrangements and when turning 18 years of age (paragraph 7). Some conclusions and reflections on social work are contained in paragraph 8.

2. Entry and Assessment Procedures

Like for adults entering or staying in or in transit in the Schengen Area, to enter Italy foreigners need to have a passport or other travel document recognized as valid by all Schengen States. However, all UAMs are entitled – simply by virtue of their being underage (and thus non-removable) - to obtain a "residence permit for minors", even if they do not have official documents, on the basis of their declarations. At the same time of the residence permit application, under Article 343 of the Civil Code requires that a "Public Guardianship" case must be opened within 30 days for all UAMs. A minor who has a residence permit for minors can convert it into a "residence permit for foster care" if, following the decision "not to repatriate the minor" by the Ministerial Directorate, he/she is placed in foster care directly by a decision of the Juvenile Court, or upon the initiative of the Social Services, made enforceable by the Guardianship Court. A residence permit for foster care allows a UAM to work in all the cases in which the Italian law permits minors to work. It can be converted into a residence permit for study or work reasons when he/she turns 18. If a UAM has a residence permit for foster care (due to a decision not to repatriate the minor and a foster care decision taken by the Juvenile Court or the Social Services and made enforceable by the Guardianship Court), he/she can immediately access the labour market – in compliance with the regulation on child labour - and the permit is converted into a residence permit for study or work reasons when he/she turns 18. A minor who is fostered by a third-country national regularly staying in Italy and who lives with him/her, is registered in the foster parent's residence permit as long as he/she is under 14; and is given a residence permit for family reasons when turning 14. A UAM who might suffer persecution in his/her country, for reasons of race, religion, nationality, political beliefs or belonging to a social group, is entitled to apply for asylum through his/her guardian.

The asylum application is examined by the Local Commission for the Recognition of Refugee Status. If the minor is granted refugee status, he/she receives a residence permit for asylum reasons. If the asylum application is rejected, the Commission can still invite the Questore (Provincial Chief of Police) to issue a residence permit for humanitarian reasons, if the repatriation of the minor may be dangerous or inappropriate. Anyhow, the minor is entitled – through his/her guardian - to lodge an appeal against the Commission's decision before an ordinary Court. Generally, the Questore does grant a "residence permit for humanitarian reasons", allowing the UAM to stay in the country legally since his/her turning 18. In the case of adolescents who have no valid documents and declare that they are underage but their age is doubtful; or who are caught committing a crime for which it must be assessed if they are under fourteen; or who declare they are of age but their age is doubtful (e.g. some underage victims of the exploitation of prostitution claim they are of age), the process provides for age assessment and never removal or refusal of entry. According to the Italian law, age assessment procedures must be undertaken fully respecting the minor's rights, health and dignity; they must be carried out in the least invasive way possible, and never forcibly. Age assessment procedures must be undertaken by independent and properly trained professionals.

3. National Rules and Procedures at the Borders

A UAM arriving at a land/sea border of the Italian State must be preliminarily identified by Police Authorities, also following a report by a public official. According to the law, Police Authorities must undertake an initial age assessment and should report the presence of the minor to the Ministerial Directorate, the Public Prosecutor's Office at the Juvenile Court, and the Guardianship Court. Police Authorities check the availability of reception facilities within that district. If there is no availability, they immediately inform the Public Prosecutor's Office at the Juvenile Court, and request the Ministerial Directorate to indicate which facilities they may contact for prompt reception. These reception facilities, called "bridge facilities", are located all over Italy, and take care of the initial phase of reception only. The minors are later transferred to reception facilities that will host them until they come of age. Bridge facilities provide and an immediate and safe placement of the minors; and at the same time they make it possible to carry out the necessary background checks to define the following integration process in the best interest of the child. Once the Police Authorities have been instructed on which bridge facility to use, they transfer the minor and report his/her name to the local Social Services of the Municipality in which the bridge facility is located, to the Public Prosecutor's Office at the Juvenile Court and to the Guardianship Court. As soon as possible, the Mayor, or a representative of the Mayor, takes the following action at the bridge facility:

- i) requests the Police Authorities to fully identify the child and to ascertain that he/she is actually underage;
- ii) checks his/her unaccompanied status;
- iii) acquires information on parents (if any) present in Italy;
- iv) informs the minor on the possibility to apply for international protection; and
- v) makes sure that a health check-up is arranged, which may be done in local health-care facilities, in order to protect both the minor and the community.

Then, the Mayor, or one of his/her representative, reports the minor to the Ministerial Directorate. The Ministerial Directorate indicates the Municipalities in which there are reception facilities that have availabilities and best respond to the protection needs of the minor. The bridge facility will take care of the transfer, agreeing on the specifics (when and how) with the Municipality of destination. As soon as the minor arrives within the territory of the Municipality of destination, he/she is taken care of by the local Social Services. They initiate the procedures provided for by the law (request to the Guardianship Court to open a public guardianship case, application for a residence permit for minors, etc.) and update the Ministerial Directorate, the Public Prosecutor's Office at the Juvenile Court and the Guardianship Court.

If an official from a local authority identifies a UAM, he/she has to notify:

- The Public Prosecutor's Office at the Juvenile Court, which takes the relevant measures if the minor is in the state of abandonment and, usually, is below fourteen years of age;
- The Guardianship Court, which opens a legal guardianship case;
- The Ministerial Directorate, which uses the information for survey purposes, starts a family tracing investigation, and monitors the situation of the child, or to the SPRAR if the minor has already lodged an asylum application

- The diplomatic mission/consular post of the minor's country of origin, to provide information on the protection measures that have been adopted (except for asylum-seeking UAMs, since this information may entail risks of persecution).

The notifications must be made as soon as possible, irrespective of whether or not the minor has been previously identified, has received a residence permit, and his/her identity has been cleared up (if he/she has given false personal particulars to different authorities). Notification must be made in a way to protect confidentiality. The same reporting obligations to the Public Prosecutor's Office at the Juvenile Court and to the Ministerial Directorate lie upon the Police and other public officials, civil servants and providers of essential public services who trace a UAM. If a minor shows up spontaneously at an Initial Reception Centre, the Centre must immediately notify the Social Services of the relevant local authority and the Questura (Provincial Police Headquarters) within 48 hours. It also has to lodge a request at the Guardianship Court for a Guardian to be appointed within 30 days from receiving the child. In practice, the Centre contacts the Social Services of the local authority. There are no differences in the event that the age of the child is uncertain or doubtful.

3.1 Asylum-Seeking Unaccompanied Minors

In Italy, the definition of "asylum-seeking unaccompanied minors" (under Legislative Decree No. 85/2003, in brief "asylum-seeking UAMs") refers to non EU-country nationals or stateless persons below 18 years of age who enter the national territory without being accompanied by an adult and who apply for international protection. Notification of the asylum application is given to the competent Juvenile Court for adoption of the relevant measures. Current regulation strengthens the responsibilities given to the institutions towards minors. Article 1 establishes that on arrival the minor is given all necessary information on his/her rights and the existing legal options. After the involvement of the Guardianship Court, the minor is immediately entrusted to the SPRAR, which allocates a certain number of places to asylum-seeking UAMs every year. The asylum application is examined by the Commission for the Recognition of Refugee Status, which hears the minor and his/her guardian during the proceeding. If the Commission grants refugee status to the minor, he/she will receive a residence permit for asylum reasons. Or else, the minor may be granted "subsidiary protection" or "humanitarian protection". This type of protection is regulated by the Immigration Law and is granted when, according to the Local Commission, there are serious humanitarian reasons justifying the presence of the asylum-seeking UAM in Italy. This type of protection gives the opportunity to convert the "residence permit for humanitarian reasons" even after he/she has reached the age of 18. Anyhow, through his/her guardian or family members, the minor is entitled to lodge an appeal against the Commission's decision before an ordinary Court. At present, very few asylum-seeking UAMs submit an asylum application, even when they would be entitled to be granted refugee status. This is likely to be due to a lack of information. Moreover, those who apply do so on arrival or at the time of their identification.

4. The Procedure for Assessing the Age

Despite the reference to many principles sanctioned internationally, Italian regulation lacks organic unity when it comes to UAMs' age assessment. Principles and procedural protections are regulated by sources of different nature, mostly secondary sources, and have a limited scope. Some principles refer, in fact, only to criminal offences or to international protection, and, as such, are not directly applicable to all age assessment procedures for presumed UAMs. Other principles are referred to only in secondary sources, such as Ministerial Circulars and Guidelines. Moreover, some protections are not provided for or expressly regulated to date, in particular the multidisciplinary approach, the use of more invasive method only as a last resort, the use of qualified and independent staff, the presence of a qualified and independent legal representative and the obligation to indicate the error margin in the age assessment expertise. Considering the general principles in the relevant regulation, like in all administrative and jurisdictional proceedings concerning minors, the principle of "the best interest" of the child applies to age assessment too. If there is uncertainty or doubt about the age, the presumed minor may undergo an anthropometric or other assessments provided for by law. The law states that the assessment is undertaken with the consent of the minor or his/her legal representative, after the minor has been informed on the possibility that his/her age is assessed through a medical examination, specifying the kind of medical examination and its possible consequences, and on the fact that his/her refusal to be medically examined does not constitute an impediment to the acceptance and examination of his/her asylum application. However, in practice, in doubtful cases, the verification is made automatically. The assessment is undertaken with methods that are non-invasive and safe and that respects the health, dignity, physical integrity, age and gender of the minor.

The exposure to ionizing radiation in a medical-legal context - with no direct benefit on health - must be specifically justified (principle of justification) and it must be assured that the radiation dose is kept at the lowest level that can be reasonably reached. Age assessment is undertaken preferably in public health-care establishments with paediatric wards. If age assessment does not allow for an accurate definition of the age and there are still doubts, the benefit of the doubt is guaranteed and the minor age is presumed for all effects. This principle must be respected even while awaiting the age assessment: the widest safeguard of rights and all the provisions on minors' protection must be applied. The Circular of the Ministry of the Interior points out that «age assessment does not generally provide exact results», but only «an age group compatible with obtained results», specifying that, faced with an error margin in the expertise, the favor minoris (most favourable to the child) principle must be applied. Finally, 2007 CMS Guidelines suggest that if a minor has a valid document indicating only the year of birth, attributing 31 December of that year as the date of birth is considered as best practice. An attempt to introduce more safeguards in age assessment procedures was made with the "Protocol for the age assessment of minors according to the multidimensional approach model" (so-called Ascone Protocol) compiled in 2009 by an inter-institutional Technical Group set up at the Ministry of Labour, Health and Social Policies, keeping into account the opinion of the Higher Health Council of 25 February 2009.

This health protocol refers to some fundamental principles that are not currently included in regulations, in particular: i) the need to introduce the same age assessment procedure at a national level, integrating data from the x-rays of the hand and wrist skeletal development (based on the Greulich and Pyle method) and from a physical examination made by a paediatrician (anthropometric measurements, inspection of the signs of sexual maturity, with identification of development disorders, if any, definition of dentition stage, use of axiological tables from different/the nearest countries); ii) the need to indicate the error margin in any age assessment expertise; iii) a multidisciplinary and multidimensional approach, combining medical examinations with an interview and a psychological assessment; iv) the role of the Judicial Authority, which orders an investigation in the case of UAMs, if parents/legal representatives cannot be found; v) the importance of a cultural mediator; and vi) the need to identify public facilities with specialized staff with specific and multidisciplinary skills, to whom regular training and refresher courses are provided. Unfortunately, the fragmentation of the Italian regulatory framework tends to result in a lack of homogeneity in national and local practices, and in a partial application of principles and safeguards when it comes to age assessment.

The most widespread practice is to undertake the age assessment through one medical examination only, mainly an x-ray of the left wrist. This examination may be supplemented with or replaced by a general check-up, an examination of the dental arch or of pubertal development. Assessments are generally made in public hospitals by on duty staff, who are not necessarily specialized. However, some specialized facilities do make age assessments with multidisciplinary methods, including a complete paediatric examination of the personal and family history, an age assessment of the skeleton and of the dental arch, and a number of interviews to assess psychological development. The assessments are made by specialized staff. An age assessment expertise is then prepared by the whole team; it contains an opinion on a possible age, specifying an error margin with the reasons for that error margin. In addition, age assessment is fundamental to determine criminal responsibility, the jurisdiction of the Judicial authority if the UAM commits a criminal offence, and whether jurisdiction lies with the Juvenile Court or a regular court (if the crime is committed by a legal adult, i.e., over 18). The Department for Juvenile Justice is competent for enforcing the decisions taken by the Juvenile Court for minors aged 14-10 who have committed a crime. If the minor is assessed to be fewer than fourteen, he/she is not considered criminally responsible under the Italian legal system. However, considering specific elements such as the seriousness of the crime and the social dangerousness of the minor, the court may impose a security measure, entrusting him/her to the Social Services of the local authority where he/she lives (if this is not already the case). Determining the age of the minor with certainty is therefore necessary in order to apply all the benefits provided for by the regulation and, hence, fully protecting the minor' subjective rights.

5. Guardianship

According to current Italian regulation a minor is not considered able to exercise his/her rights, ("unable to act"), and this applies to anyone under 18 years of age.

If we consider that besides the age factor, the concerned person is an unaccompanied foreigner, the law provides for the appointment of a guardian, who will guarantee the protection of the minor and the exercise of his/her rights, pursuant to Article 343 of the Civil Code. The legal guardian is appointed by the Guardianship Court; the general procedure is to appoint the Mayor of the place where the minor is received. The Mayor then usually delegates the local Social Services, even though there are no specific provisions in this regard. In some cities, given the high number of guardianship cases, public guardianship offices have been set up, usually within the Social Services Directorate. The law states that every year the guardian has to submit a report to the court on the conditions and has to take care of him/her on a regular basis. In Rome, there are sixteen guardians from the local authority, who are required to report to the Public Prosecutor's Office every six months on the 3,500 UAMs placed in reception facilities. The guardian must – personally or through others (for instance the staff of the Reception Centres) - apply for a residence permit at the Questura, register the minor with the National Health-Care Service and give consent to the medical treatments that may be needed, and enroll the minor at school, recreational activities and working activities, as the case may be. The guardian is also required to legally represent the minor when needed or if the minor is involved in a criminal case, and assist him/her if he/she intends to contest the rejection of the international protection application. Also, the guardian has to accompany the asylum-seeking UAMs to the interview with the Commission for the Recognition of Refugee Status. Finally, the guardian has to manage the minor's assets reliably and conscientiously. The guardian's proxy is however temporary: all these duties have to be performed only until the minor comes of age. In the unfortunate case that a guardian turns out to be unsuited to his role, he/she may be suspended and removed from his office by the Guardianship Court. A guardian may accept more than one assignment and be responsible for a number of minors at the same time. A guardian is on call at all times, since his/her consent may be needed any time in an emergency that, as such, is unpredictable. The guardian's assignment implies a long-term commitment and a number of responsibilities, but no remuneration.

It has been observed several times that «mismatches between procedures and the interpretations of regulation in different local contexts is a crucial issue in Italy, due to which the right of an unaccompanied minor to have a guardian is not always adequately respected» [6]. The opening of a guardianship case – pursuant to Article 343 of the Civil Code - is not required in all Municipalities; a case may be submitted to the Juvenile Court that provides for adoption, foster care or other measures, in accordance to Articles 9 and 10 of Law 184/1983 [7]. In addition, it may take a long time for the guardianship case to be opened, which is perhaps even more serious; in Rome it may take up to twelve months in some cases. Another major issue has to do with the appointment of guardians. It has already been said that the mayor is usually appointed; the mayor, in turn, delegates a social assistant, a psychologist or a professional educator from the Social Services. However, it has been questioned whether it makes sense to have guardianship exercised as a bureaucratic task by a civil servant, or as an additional burden on top of educational tasks in the reception facility (moreover, the law forbids to appoint people who are in charge of reception facilities). As a result, in Regions like Emilia-Romagna, Lazio, Veneto, and others, an increasing number of guardians have been appointed who do not have other duties and who are willing to perform this role full time. Finally, the Closing a Protection Gap Project should be mentioned, within a European initiative for defining the standards of UAMs' protection. A lack of guidelines and protection models has been identified in Italy. According to the preliminary findings of the research carried out in 2012 by Defence for Children – Italy, the figure of the guardian is not always clearly defined, is not independent and lacks skills and training tools.

6. Reception and Care Arrangements

UAMs are subject to the rules laid down by the Italian law on the care and protection of children. In particular, the following rules apply: when a child is found in a state of abandonment, the local authority (usually, the municipality) places the minor in a safe place; a guardianship case is opened for a child whose parents cannot objectively exercise their parental authority; and the child, temporarily deprived of a suitable family environment, is assigned to a foster family or a community or community centre, pursuant to article 403 of the Civil Code. A UAM arriving to Italy by sea or land must be first identified by the Police, even when a report has been submitted by a public official. According to the law, the Police shall assess the minor's age and report their presence to the Ministerial Directorate, Public Prosecutor's Office at the Juvenile Court and to the Guardianship Court. The Police authority must check the availability of a suitable facility in the relevant district; if no facility is available, after promptly informing the Public Prosecutor's Office at the Juvenile Court, they request the Ministerial Directorate to list the reception facilities available. Such facilities, called "bridge facilities", are located across the country; they take care of the first stage of reception only, while minors wait to be transferred to the facilities where they stay until they become of age.

The bridge facilities immediately receive minors in a safe place; at the same time, more details on the child are collected, in "the minor's best interest", to facilitate their subsequent integration. The Police, as soon as they know what bridge facility to use, transfer minors and send their names to the local social services of the Municipality where the facility is located as well as to the Public Prosecutor's Office at the Juvenile Court and to the Guardianship Court. At the bridge facility, the Mayor or his/her proxy promptly do the following: ask the Police to finally identify the child and verify the minor's age; check the actual status of UAM; gather information on any siblings already present in Italy; inform the minor on the possibility to ask for international protection; a health screening is performed at the local healthcare facilities, in the minor's and community's best interest. Then, the Mayor or his proxy report minors to the Ministerial Directorate, which in turn tells the Municipality what reception communities are available, to best respond to the minor's protection interest. The minor leaves the bridge facility when and how agreed upon with the destination Municipality. As soon as a minor arrives at their final (destination) municipality, they are taken care of by local social services. These latter initiate every statutory procedure (request the Guardianship Court to open a public guardianship case, apply for the residence permit granted to minors, etc.), update the Ministerial Directorate, as well as the local Public Prosecutor's Office at the Juvenile Court and Guardianship Court.

When a local body official identifies a UAM, it must report the minor to the Public Prosecutor's Office at the Juvenile Court, the Guardianship Court, the Ministerial Directorate, and The diplomatic-consular office of the minor's country of origin, as we saw in section 2. Reports must be filed as soon as possible regardless of whether the child has been previously identified, has received a residence permit, or his/her identity has been ascertained (i.e. a child who has given different names to different Authorities). Any such communications must guarantee both protection and confidentiality. The same reporting requirements to the Public Prosecutor's Office at the Juvenile Court and the Ministerial Directorate apply to the police and other public officials, public servants and public service operators who trace a UAM. In the event a minor has shown up spontaneously to a reception community, this latter must immediately report the minor to the local social services of reference and inform the Police within 48 hours, as well as apply to the Guardianship Court for the appointment of a guardian within 30 days; in practice, it is the Community to contact the local social services. The same applies when the child's age is uncertain or doubtful; the actual age must be determined according to the procedures described above. The only difference for asylum seekers is the following: in addition to the Ministerial Directorate, it is SPRAR to be in charge (and responsible for reception); in other words, such cases fall outside the care process provided by the Ministerial Directorate, throughout the inquiry subsequent to the asylum application.

The responsibility for care and management of UAMs is up to the local social services, by virtue of the principle introduced by article 23 letter c) of Presidential Decree n. 616 of 1977, which attributed to local authorities a number of functions, including care activities related to any minor (Italians and foreigners) present in the area. This principle was also confirmed by article 13 of Legislative Decree No 267/2000 (Law on Local Bodies). Foreign children who are traced locally, or who spontaneously show up, are placed in a safe place (article 403 of the Civil Code), and taken care of by the Mayor of the local jurisdiction which activates the Social Services. The local authority must initiate the procedures provided for by the Italian law, such as the opening of public protection, foster care, the start of an integration process and the application for a residence permit (the so-called "taking charge of the child"). To achieve similar objectives, in 2007 the Ministry of Labour and Social Affairs launched the "National Programme for the protection of UAMs", in agreement with ANCI, to test a national system to take charge of and integrate UAMs, coordinate local interventions and ensure monitoring. The programme objective was to develop and disseminate standardized procedures, test innovative instruments and promote the knowledge and use of family custody for UAMs; however, the programme was never financed.

As to minors who request international protection, once a public guardianship case has been initiated, social protection measures are provided for asylum seekers in accordance with Article 1-sexies of Decree-Law 416/1989 ("Martelli Law"), which provides for and governs SPRAR, and Legislative Decree 140/2005 (Article 8(4), establishing the reception of UAMs, according to the decision of the Juvenile Court, by the local authority; within the framework of SPRAR services, local authorities may provide specific reception programmes reserved to UAMs, asylum seekers and refugees; such subjects are the addressees of the National Fund for Asylum Policies and Services). Therefore, the reception of a minor by a community or another suitable facility falls under the responsibility of the Local Authority (Municipality).

In most cases, although it depends on the local welfare system, it entrusts the reception management to a non-profit organisation, usually with a direct procedure, while maintaining the responsibility of taking care of the minor. The Ministerial Directorate and SPRAR (for asylum seeking unaccompanied minors) provide funds to the local authorities so as to cover nearly every expense, even if the local authorities are increasingly supplementing the funds of the ministerial bodies through their own budget. Within community/reception centres, UAMs go through an integration project defined by the Social Services of the Municipality, on education, health and leisure facilities; in addition, their juridical-legal position is defined. Whenever the minor's age is doubtful, the so-called minor should be treated as such and should receive the necessary protection and assistance until it is assessed that he/she is actually of age. In the event a child leaves the reception centre without being authorised, the community manager must report their absence to the Social Service of reference and to the competent Judicial Authority (Juvenile and/or Guardianship Court). The Social Services report the child's absence to the Public Prosecutor's Office at the Juvenile Court, Guardianship Court and Ministerial Directorate. A bill has been submitted to the Parliament; it provides for the establishment of a National System for the reception of unaccompanied minors in order to reach a long-term solution in the child's best interest. In particular, the system should identify the most appropriate reception facility in cases where no family foster care is possible or the child must be entrusted to a family-type community or a care institution. The system is based on the consultation of an electronic system of the accredited reception communities for minors, to determine which places are available nationwide.

On the other hand, the system should ensure placement in the community/facilities more quickly than the current one; at present, minors stay for too long in the bridge facilities, partly due to recent migratory pressure. Also, it would be necessary to define the terms and characteristics of facility accreditation on a national basis; at present, it is up to the Regions to establish specific organizational requirements for communities that accommodate UAMs, including cultural mediation services and free legal support. In addition, at the time of selecting the available facility, account should be taken of the issues raised during the interview with the child. If, at that time, there is a reasonable doubt on the classification of the child as a victim of trafficking or applicant for international protection, the UAM is placed in one of the facilities that operate within the framework of SPRAR services or structures, as provided by the assistance programme for victims of trafficking pursuant to Article 13 of Law 228/2003. A national reception system would relieve the local authorities from such burden, with respect to the reception of minors and the definition of their personal action plan.

7. Arrangements when Turning 18 Years of Age

All UAMs seeking asylum, who are entrusted to reception centres/facilities when they are still minors, and are issued a "permit for asylum application" (acknowledged as refugees) and then get a "permit for asylum", "international protection", "subsidiary protection", or "humanitarian reasons" have such permit renewable after the age of 18. Moreover, the humanitarian permit can be converted into a "permit for study purposes" and "access to employment" or permit for "paid employment", upon their coming of age, following an approval by the Ministerial Directorate. SPRAR envisages protection measures until reaching the age of 18 years and 6 months. Under the terms of the Immigration Law and the case-law of the Constitutional Court and the Council of State, minors holding a permit for minor's integration, foster care, family reasons or minor age, should be granted a residence permit for study, access to employment, employment or self-employment, upon turning 18 years of age, under the following conditions:

1) Minors who have lived in Italy for 3 years and have gone through an integration project for 2 years:

UAMs who fulfil the following requirements can obtain a permit for study, access to employment, employment or self-employment, upon turning 18 years of age:

- they have not been subject to any measure by the Ministerial Directorate;
- they have been in Italy for at least 3 years before, i.e. before turning 15;
- they have taken part in a social and civil integration project run by a public or private body for at least 2 years (only national projects listed in the registry provided for by Article 52, Presidential Decree 394/99);
- they attend school classes, or are engaged in paid employment in the forms and in the manner required by the Italian law, or hold an employment contract even they have not started working yet;
- have a place to live; the fulfilment of such requirements must be duly proven by means of relevant documents

2) Fostered minors:

- a) Children with a permit for foster care and decision against repatriation taken by the Ministerial Directorate, at age 18, a permit for study, access to employment, employment or self-employment, or for health or treatment reasons can be granted to minors who, after receiving the decision against repatriation by the Ministerial Directorate and after being given in foster care under Law 184/83, received a residence permit for foster care before the age of 18;
- b) Minors under foster care, under Law 184/83, at age 18, minors under foster care under Article 2 of Law 184/83 on adoptions can obtain a permit to study, access to employment, employment or self-employment, or for health or treatment reasons;
- c) Minors under protection and minors under "de facto" foster care by relatives up to the fourth degree.

The judgment of the Constitutional Court No 198/2003 stated that minors under protection and those under "de facto" foster care by a relative up to the fourth degree are equivalent to minors under foster care according to Article 2 of Law 184/83, for the purpose of issuing a residence permit at age 18. There is no standard measure. Local authorities should put in place measures to support those who have just come of age and who received assistance as UAMs, to help them during this delicate phase of transition, avoiding sudden discontinuation of all support. In particular, it is essential that local authorities support and assist those who have just come of age: i) in obtaining a residence permit for study, access to employment or work; ii) by providing housing young people can live for a certain period of time after coming of age and by supporting them to gain access to the private market; and iii) in finding a job. Currently, however, local authorities have limited resources to invest to help 18 years old youth to gain their quasi-independence. Hence, there is a terrible divide between before and after turning 18 years of age.

8. Conclusions and Social Work

The description of the procedures for the reception of UAMs and asylum-seeking UAMs most likely does not fully reflect the impact of this social phenomenon on each welfare service provider at a local level. As a matter of fact, Italy is characterized by an extremely varied reception models for UAMs. At the same time, we can identify a common intervention process, where reception is the main protection and security measure, followed by integration policies, with a special focus on training and employment, until minors turn 18 years of age. In Italy, the social policies adopted by local authorities are mainly concentrated on two types of intervention, integration and housing. These policies unfold and develop differently according to the local context, local resources, the role played by the Mayor in defining and managing this phenomenon, and the level of involvement and interaction among local social stakeholders. According to the information gathered, it is clear that the management and care of UAMs are based on a welfare mix, where an extremely important role is played by Third Sector organizations (NGO) in agreement with Local Authorities. Other than presenting a varied landscape, in this final section we will try to recommend some ways to help define a plan of action addressed to UAMs and asylum-seeking UAMs. First of all, it is necessary to strengthen any child de-institutionalisation experience, since foster families are very few nationwide. For the purposes of a child's successful integration in Italy, it is essential to start procedures for regularizing the minor, recognizing international protection and speeding up the opening of a public guardianship case.

According to the available information available, there are pronounced differences at a local level with regard to the issuance of the residence permit or the guardianship process, with significant variations depending on where the child is received. An analysis of relations among the subjects appointed to take charge of UAM, shows that it is necessary to strengthen and formalize inter-institutional relationships among the various entities; most importantly, it is necessary to ensure that adequate financial resources are allocated to the Local Authorities for such interventions and for adapting the facilities, so as to increase the number of places available for UAMs reception. Local Authorities seem to be fundamental to the coordination of institutional interventions; they can help solve an issue that does not originate locally, but elsewhere; this is why many have been asking for a national intervention framework to support complex processes aimed at taking charge of minors. One critical issue in the protection of UAMs is the regulatory framework. This has not been fully systematized yet, with very heterogeneous practices from one city to another. UAM migration projects are highly diverse, and local welfare institutions need to pay attention to individual cases in order to define practices which best protect the child's interest. Migration flows evolve continuously, while adolescent minors present unique characteristics, and this makes continuous demands to local policies.

Fragmented interventions should be replaced by more effective operational protocols: local authority operators feel they are alone, with no power to coordinate interventions, in the absence of a coherent national policy. According to research reports, the following ten recommendations seem to be especially important to design any future interventions.

A - Informal network of support

Although the legal definition of UAM is clear and unambiguous, it is believed that the concept of "unaccompanied" contains significant subtleties: indeed, the network of countrymen or relatives without a legal residence permit exerts a strong influence on UAMs' lives. Direct sources (staff, operators) confirm that a significant proportion of children for whom a guardianship case for UAM is opened have, in fact, been present within the territory of the State for a long time. It is necessary to understand with whom, for how long, doing what and why they decide to rely on institutional guardianship at a given moment. Even though it can be assumed that, to a certain extent and particularly for some nationalities, minors enter the guardianship system only when they are close to turning 18 for the specific purpose of getting a regular residence permit, as they are pushed and encouraged by their fellow countrymen.

B - Need to Provide Consistent Rules

Our analysis shows that regulations on UAMs as holders of a residence permit when they are still minors are quite incomplete and contradictory. Given the existence of an uncoordinated and inconsistent set of rules on UAMs, inevitably, the Police make arbitrary decisions. A unified legislation would consolidate all rules governing the matter, in a consistent and coordinated fashion. This approach would contribute to permanently separate the legislation on foreign minors from immigration legislation in general, and from controlled flow policies, as is actually the case when these subjects turn 18. At the same time, a general principle should be affirmed: in case of delays by public administration or by a Foreign Authority in taking measures to safeguard the legitimate interests of the child, appropriate arrangements should be put in place to prevent the child from suffering any harm. For example, a specific provision should be made on the effects of the Administration failing to take action in sensitive cases such as the opening of guardianship case, the issuing of residence permits, etc. As to the arrangement of administrative and judicial offices, it would be desirable to encourage training of specialized professionals with an expertise on the issues and rights of UAMs and asylum-seeking UAMs. These professionals should work permanently for the entities which are involved in different ways and capacities in the management of this issue. A close synergy should be promoted to ensure the effective protection of the child's interest. Moreover, the rules governing the powers of the Guardianship Court, Juvenile Court and Ordinary Courts should be amended in order to establish collaboration between these authorities. For example, one jurisdiction, such as the Juvenile Court, could be given different competences, for instance, to initiate the procedure for an assisted return to the country of origin.

C - Local authorities as guarantors of UAMs' rights

The Mayor of the city where a child without adults is identified has the task of enforcing the rights that the law grants to minors, on behalf and under the supervision of the Guardianship Court, even though this supervision is more theoretical than real. An analysis of procedures shows a dual function played by the Mayor in terms of local welfare. On one hand, the Mayor reports to and is informed by institutions that take decisions concerning the minor, such as age identification and assessment by the Police, recognition of refugee status by the Territorial Committees, issue of the residence permit by the Questura, foster care by relatives as decided by the Guardianship Court, repatriation agreed upon by the Ministerial Directorate and IOM, recognition of certificates and diplomas with the Embassies, etc. An analysis of these procedures has highlighted the need to introduce operational protocols to make the integration of competences effective and timely. On the other hand, the Mayor plays a crucial role in setting the local network of welfare services in motion; he/she acts as an intermediary for minors to full benefit from the public services they are entitled to. At times, their rights are not implemented because of difficulties in using such services: for instance, healthcare services to protect mental health (where no cultural mediation is provided) or integration into compulsory education, or job placement services, or other leisure time and socialization services. There is unanimous consensus on rights such as health, training or leisure time. Still, this turns into a complex task on a local level, with many institutions hardly keeping up with the new needs of a dynamic intercultural society. UAMs constitute a particularly hard test, due to a number of reasons: cultural barriers, their age (adolescents) and their history of discomfort.

D – Central role of the educational project

Within the framework of local welfare, an individualized educational project seems to be the fundamental tool to make measures aimed at minors, more consistent and harmonious. Social workers claim that they work on an emergency basis, with their job being based on providing assistance in most cases. However difficult, it is necessary to shift from an approach based on assistance to education and promotion, i.e. from emergency to regular actions, even when such actions result from contingent situations. This effort entails a number of firm beliefs as well as concrete methods and strategies. A national in-depth study suggests that the child should be first and foremost considered as the holder of rights and not just a recipient of varied interventions: the real task consists in supporting, guiding, accompanying, helping and verifying the child's development process. In this perspective, interventions aimed at training and job placement are not sufficient; the growth of children should be approached holistically, offering ongoing, coordinated interventions while monitoring their effectiveness, whatever goal they pursue, even after eighteen years of age. The educational approach goes beyond the emergency and assistance. It is focused on the child as a person; it tries to grasp his/her potential and resources and get him/her interested in a different type of future. Also, it stimulates the child's desire and boosts his/her confidence in outcomes that can be reached with the child's personal commitment, which is supported and monitored.

E – Relationship with street minors and fight the problem of missing children

In addition to improving and upgrading the local system for the protection of children, it is necessary to meet any emerging needs through targeted interventions which address existing criticalities, such as the fight against the issue of missing children, through an outreach educational programme. In the field of social interventions, it is a common practice to report the presence of children in the street who avoid any contact with the social services. They are part of circuits of exploitation that which are hard to counter. These minors often flee the initial reception centre after a very short time. Involving street children in the fight against the problem of missing children is one of the most critical areas, where reception policies seem to have forgotten the dimension of prevention and community development.

F – Education and training

Training and employment seem to be crucial tools for the integration of UAMs into the Italian society. In our answers, we have tried to show the widespread recognition of the right to education for all children, especially to primary schooling, while highlighting some difficulties in terms of inclusion into secondary education or other forms of training. The so-called Permanent Territorial Centres play a key role in teaching basic Italian and obtaining a high school diploma. This highlights the importance of system actions offering students aged 15-18 the possibility to attend courses conducive to this diploma or qualification. However, the recognition of the school titles obtained in the countries of origin seems difficult due to lengthy and complex bureaucratic procedures.

G – Cultural mediation and peer education

Multicultural and multidisciplinary teams seem to be an appropriate way to work with UAMs. These teams often avail themselves of cultural mediators, especially during the initial interview with minors and at the time of getting in touch with the families (or Territorial Committees, in the case of refugees). The nature of interventions, professionalism and skills of mediators varies with the context, especially because there is no clear national legislation in this area. Locally conducted analyses show that these professionals are involved mainly in emergency situations, instead of working with project teams on a regular basis. This is mostly due to a lack of resources and proposals for staff training.

I – Coming of age, a true challenge

The path to protect UAMs on the part of local authorities is put to the test during the transition to adulthood, when many rights are lost. Job placement is fundamental to successfully address two important aspects: the residence permit (as an adult) and an independent living arrangement.

L – Girls are more vulnerable

First of all, UAMs are mostly boy; in all variables we have considered (timeliness of the care provided to UAMs, job placement, independent living arrangement, etc.), the “gender” variable clearly indicates that girls are more vulnerable in their integration process. This evidence should provide food for thought for the operators at the different levels of local welfare systems. They should give greater attention to female UAMs; girls should be helped remove any obstacles they may encounter during the integration process due to mere fact of being female (besides being alone and being migrants). This extra effort should also aim at protecting them against the risk of being victims of the trafficking of human being and prostitution, and the risks connected to being alone asylum-seeking girls in their teens. Aside from the above mentioned social policies, more remarks can be made. First of all, there is a need to contribute to the definition of standardized procedures; these latter should be sure and shared among the European, national, local and inter-institutional levels; in this way, local authorities could design and implement sustainable quality protection measures, also from a financial perspective. Secondly, a circular, timely and appropriate information exchange should be promoted between the European, national, local and inter-institutional levels. The aim is to encourage a synergistic approach where competences and roles of the various stakeholders are geared toward common goals. In particular, an improved and practical identification procedure for minors should be applied. Finally, planning efforts should enable to put together an improved network of services, to be defined through multilevel governance involving every local welfare stakeholder, for a more effective response to such a dynamic, moving target.

Acknowledgements

I'm very grateful to Dr. Lluís Francesc Peris Cancio for his appropriate and constructive suggestions to improve my research. This article is a part of a study completed by the Italian National Contact Point of European Migration Network (EMN) which is financially supported by the European Union and the Italian Ministry of Interior. The EMN has been established via Council Decision 2008/381/EC. The article reflects the personal views of the author and does not involve the EMN nor the Ministry of Interior.

References

- Campani, G., Salimbeni O., (edit by), 2006, *La fortezza e i ragazzini*, Franco Angeli, Milano.
- Campani G., Lapov Z., Carchedi F., (edit by), 2002, *Le esperienze ignorate*, Franco Angeli, Milano.
- ANCI – Cittalia, 2012, *I minori stranieri non accompagnati in Italia - IV Rapporto Anci Cittalia*, Anci, Roma.
- Giovannetti M., 2007, *Storie minori. Percorsi di inclusione ed esclusione dei minori stranieri non accompagnati*, Quaderno 36, Cesvot, Firenze.
- Bertozzi R, 2005, *Le politiche sociali per i minori stranieri non accompagnati*, Franco Angeli, Milano.
- Moyersoen J., Tarzia G., 2002, *L'evoluzione della normativa sui minori stranieri non accompagnati*, in *Cittadini in Crescita*, n. 3-4/2002, pp. 7-22.
- Tarzia G., 2008, *Il minore straniero non accompagnato: quale tutela nel sistema legislativo italiano?*, in *Minori Giustizia*, n. 3, year 2008.