



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Periodic reports of States parties due in 1998**

**ITALY\***

[21 March 2000]

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\* For the initial report submitted by the Government of Italy, see CRC/C/8/Add.18, for its consideration by the Committee, see documents CRC/C/SR.235-238 and for the concluding observations, see CRC/C/15.Add.41.

The attachments referred to in the report are available for consultation at the Office of the High Commissioner for Human Rights.

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## I. IMPLEMENTATION OF THE CONVENTION IN ITALY\*

### A. Introduction

1. With Law No. 176 of 27 May 1991 Italy ratified and brought the Convention on the Rights of the Child of 1989 into force in its entirety. This means that domestic legislation which was incompatible with the rules contained in the Convention was automatically abrogated, and that, consequently, all those rules in the Convention which have the value of precepts took immediate effect. Moreover, existing domestic laws which already conformed to the principles of the Convention were reinforced, in that they could no longer be amended in such a way as to run counter to the principles of the Convention. Finally, the interpretation of laws currently in force must now refer back mainly to the principles of the Convention which have become an integral part of the Italian legal system.

2. For this reason, the Italian Government believes that it can rely on a legal system which conforms to the Convention of 1989. No doubt, it may still be necessary or advisable to make a few more changes to the laws, in keeping with the spirit of the Charter of the United Nations, in order to extend the protection of children in Italy even further, and to defend the rights of the individual. There do not, however, seem to be any outstanding conflicts between areas in Italian legislation and the principles of the Convention, nor could there be, given that any Italian laws which ran counter to the principles of the Convention would have been automatically abrogated, and any gaps in our legislation would have automatically been filled by the measures contained in the Convention.

3. The provisions of the Convention are not, however, just theoretically applicable, but they have already been applied in real situations which have affected the lives of children. This fact is revealed by the increasingly frequent use that the Italian judicial system is making of them.

4. The Italian Constitutional Court, for example, in a decision of 9-16 May 1994 expressed the view that the preamble to the Convention favoured placing an abandoned child with an adoptive family rather than with single parents for the purpose of guaranteeing that the child will have a family environment. Recently, the Italian Supreme Court, in two separate cases, made explicit reference to the Convention: in the first case (Decision No. 6899 of 23 July 1997), it directly applied articles 8 and 9 of the Convention and inferred from these articles that the child who was under the age of 12 and whose adoption had been declared without having been heard directly by the judges, had the right to maintain his or her own identity and family relations and that he or she could not be separated from his or her parents if this were not in his or her interests. In the second case, which involved the question of offspring following upon termination of the civil effects of marriage (Decision No. 317 of 15 January 1998), the Court decided the issue on the basis of principles sanctioned by the New York Convention of 20 November 1989, ratified by Law No. 176 of 1991. The Criminal Division of the Italian Supreme Court, for its part, held that, also "in the light" of the New York Convention, violence is not admissible for the purposes of education (Supreme Court, Div. VI, 16 May 1996). Other

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\* This section will respond to queries relating to articles 4, 42 and 44, paragraph 6, of the Convention to which paragraphs 11 to 23 of the general guidelines for periodic reports refer.

courts as well have made frequent reference to the Convention: for example the Court of Catania (17 April 1997) recognized the rights of children, on the basis of the United Nations Convention, to make choices which affect their own lives (acknowledgement of natural children) when they have shown an adequate level of maturity.

5. And because, as we have already said, the Convention has become the law of the land everyone may take legal action to defend their rights and legitimate interests as guaranteed by the Convention before either ordinary or administrative courts.

6. It should also be pointed out that, in some sectors, the Italian legal system actually guarantees better protection than the Convention itself: for example, voluntary enrolment in the armed forces in Italy is only admissible after 17 years of age, while only those over the age of 18 may be drafted (Law No. 958 of 24 December 1986); likewise, an adopted child becomes the legitimate offspring of the adopting family (Law No. 184 of 4 May 1983); similarly, in the cases of criminal proceedings against a child, Italian law requires that the proceedings have an educational value and that the possibility of incarceration should be reduced to a minimum with as many as four alternatives which do not end in imprisonment (acquittal for reasons of immaturity, judicial pardon, irrelevance of the fact, acquittal on the evidence), and penalties themselves which substitute incarceration (parole, semi-detention).

7. The Italian Government, nevertheless, feels that it is not enough that the national legal system should be in substantial harmony with the provisions of the Convention. To improve the protection and care of children the fact that our laws do not clash with the principles of the Convention is only a necessary precondition; this must be followed by further efforts to make sure that our laws correspond to the ideas expressed by the international community.

8. The Italian Government is well aware that it cannot just limit itself to a formal adoption of legal principles: a complex system of protection, support and promotion has to be set up in order to ensure, if only potentially, that all children can have their most essential needs taken care of, needs which the 1989 Convention transformed into rights.

9. The Convention cannot just be reduced to a dry code of legally enforceable rights for minor-aged citizens. The Convention speaks about a wide range of needs for those who are growing up, needs which must be met not only by means of judicial decisions, but also through specifically targeted political, social and cultural programmes whose aim must be the real interests of the growing generations and the construction of a mature identity. What the Convention is proposing is a new pedagogy for human development, and the Italian Government intends to promote this and develop it both at home and in Europe.

## **B. The protection of the rights of the child**

10. It can hardly be denied that if we want to safeguard the rights of children we need legislation which recognizes all such rights and identifies the best way we can help those in possession of those rights to enjoy them. But, today, we must also realize that the best laws by themselves will not be enough to meet the most basic needs of human growth.

11. The law may point to the best way to behave and sanction improper behaviour, and it may organize support programmes, but laws by themselves cannot be counted on to create positively structured relations; and this is what children most need when they are growing up. And the intervention of the courts alone does not appear to be enough to ensure that those fundamental needs of children which we conceive of as rights will be met. The courts may punish certain behaviour which infringes fundamental human rights; they may order monetary compensation for any damages suffered; they may remove from authority any person who has abused his or her powers or neglected his or her duties; they may establish how to behave in relation to someone in trouble; they may check to see that support efforts do not end up by manipulating the weaker parties; but court decisions by themselves cannot perform the task of structuring interpersonal relationships or performing real support functions. They may assist the development of the one and the implementation of the other but not directly produce the fulfilment of profound needs. For this the legal order must make sure that it enables people to take on more immediate duties towards others and develop closer social solidarity and that it provides a network of services for the support and promotion of the individual.

12. The Italian Government recognizes the importance of the challenge it faces; and this is essentially that it must reform its welfare system by orienting it towards the nurturing of future generations, by supporting the job of parenting, by creating a net of solidarity which will help integrate the genders, ethnic groups and generations. The Italian Government recognizes the interconnection between human development, environmental protection and social and economic development, and, as we shall see in this report, it has taken positive action on behalf of children.

### **C. Childhood in Italy**

13. By and large, Italian legislation for minor-age citizens appears to be satisfactory. But in spite of this fact, it cannot be said that the situation for children and adolescents is entirely without dark sides, or that we can allow ourselves to declare triumphantly that there is not much left to do to ensure decent conditions for human development. Rights which may be recognized in theory are not always rights which people actually enjoy; the needs of children growing up are not always being met; the process of creating a personal sense of identity is not always made easier or respected.

14. If we look at the real conditions of children and adolescents in Italy we are forced to face up to the fact that we still have:

- Children deprived of decent conditions for development;
- Children who have been abused or who are victims of violence sometimes originating from the institutions themselves;
- Children who are sexually exploited or exploited as child labour;
- Children who are not adequately protected or respected because of insufficient services;



- Children who risk losing contact with institutions: children of gypsies and immigrants, children of poor families who are not able to stay in school or within the professional training system.

15. We must also recognize that nationwide conditions are not the same; the problems affecting children from the North are very different from the problems of children from the South; children from rural areas and children growing up in big cities; children living in city centres and children living in decayed suburban areas.

16. An awareness of this situation is what has directed the efforts of the Government, the Regions, the Municipalities and large segments of Italian society to deal with these situations. Indignation is not enough. Decisive action must be taken to prevent hazardous situations from arising, and to restore those areas which have deteriorated the most and where the most cases of violence and exploitation occur.

17. It must also be said that while people are right to be concerned, these situations have ended up by receiving too much attention. Arising from a few disturbing incidents a general alarm has sounded which may bring with it many risks, not so much because an emphasis on macro-violence draws less attention to the phenomenon of micro-violence which, because it so frequently happens, destroys so many persons who are growing up, but chiefly because the grim view that childhood is a dangerous period may create a suffocating overly protective system. In order to defend their children from a society which they consider to be dangerous, hostile or even bad, many parents might well be tempted to isolate them in protected areas, separating the children from society and society from children with the result that society will become even more barbarous than it already is and young people who are starting out in life will end up becoming shy and insecure; they will be forever looking for help, either too dependent or too aggressive.

18. Certainly, it is necessary to keep an eye out for potential situations of abuse and the attendant consequences, but we should not focus all our attention on pathological situations while neglecting the normal. Only attention to what is normal will make it possible to ensure effective prevention of the pathological. Policies directed at children must not be merely policies designed to deal with emergencies or assistance or protection.

#### **D. A strategy to protect the rights of the child**

19. In order to effectively defend the rights of the child, the Italian Government, the Parliament and all the local institutions have in recent years attempted to come up with a general policy on children and adolescents.

20. It is believed that this strategy must be based on the following principles:

(a) Significant policies for children cannot be adopted without more general policies aimed at improving the social and political conditions for the entire Italian community: policies related to the war on poverty, efforts to reduce unemployment, to foster a sense of solidarity within society against all the various egotistical interests of individuals or groups, to recognize wider citizenship rights, to open up participation in the social and political life of the country to

wider groups of people, to ensure that there exists equal opportunity for women, to spread culture and education all over the country, to improve the health of the community, and this means not just curing or preventing diseases but fostering a real state of well-being; none of these policies should be considered separately from policies aimed at the new generations; policies which deal with children must come under a whole range of policies on behalf of the entire community;

(b) Effective policies for children cannot be developed if problem areas are dealt with only when they reach the crisis stage (drug addiction, juvenile delinquency, paedophilia), by means of Band-Aid measures or ad hoc solutions adopted without there being any overview of the background situation and the real conditions of children and adolescents. A suitable plan needs much more than just reliable information on what the situation is for children in Italy, or detailed study on preventative measures for existing problems, but it also requires a general set of strategies which can be adopted gradually, allowing for coordination at all levels, releasing the energies of both institutions and individuals acting together; it must make sure that periodic surveys take place in order to see that the work which has been performed is indeed effective and that adaptations be made wherever necessary;

(c) Effective policies for children cannot depend entirely on laws even if good laws are a necessary condition. Laws have to be enforced in such a way that they really make a difference. Legislation should be accompanied by an administration which pays attention to the needs of children and is respectful of their personalities and interests; action should be taken throughout the country not only to protect children but also to help them develop, and this should be done by combining the use of public funds with private contributions in such a way that both sources can actively work together; children should be encouraged to take part in the life of the community of citizens in order to overcome their marginalization;

(d) Policies to prevent problems from occurring. Prevention is the key word here. Efforts to heal those who have already suffered are not always enough because wounds often leave lasting scars; the policies must not be limited to identifying risk situations or taking action so that the risk does not actually turn into damage. They must be designed to create the conditions which will encourage healthy growth and not oppose it; the child's original identity must be cherished and respected; intervention should be positive and it should supply structural support: this means forming a community which is truly "educational", a community which can help the boy or girl go about the task of creating a personality for themselves in the spirit of the ideals proclaimed in the Convention, above all in the spirit of peace, dignity, tolerance, freedom, equality, and solidarity (the introduction to the Convention). This educational task is not something which can be left to the family or to the school alone: all the educational agencies, even those which are informal, must assume responsibility for this task; all the adults who have contact with young people, whether in a professional capacity or not, must take their part in fostering the maturation process of those who are starting out in life. And policies have to be there to encourage this commitment.

### **E. Policies aimed at implementing the rights of the child in Italy**

21. In the past four years policies concerned with children's rights have been adopted along various lines in keeping with the principles mentioned above. What follows is a brief summary of the actions which have been taken:

(a) Efforts were made to find out what the real condition of children and adolescents is in Italy by founding a National Documentation and Analysis Centre for Children and Adolescents which would select, process and analyse all data to do with various aspects of children's lives by using a standard set of criteria. A database was created which contains all the statistics as well as national and regional laws; proposed legislation under examination by Parliament; case law on the subject of children; all the international resolutions passed on this subject by the European Union, the United Nations, UNICEF, UNESCO, WHO, and ILO; the actions taken by various ministries in the field of children; the most important experiences of local governing bodies; actions taken by non-governmental organizations; periodicals and books which deal with children's issues. This imposing quantity of material has been made available to the public by means of telephone, fax and a web site on the Internet, (<http://www.minori.it>). It has attracted the interest of a great number of users with more than 6,000 visitors per month. In addition to this, the Centre publishes a periodical which makes the information it has gathered available to all those working in the field. But the National Centre does not just collect and publish information; it also carries out detailed studies as well. In 1996 a voluminous report was published (420 pages) on the condition of children in Italy (Title: *Diritto di crescere e disagio* [Right to Grow Up and Disadvantage]) in which many problem situations were analysed. Particular attention was devoted to the differences between the North and South and to the strategies that should be adopted to combat these disturbing phenomena. In 1997 another report was published (424 pages) which attempted to identify the way in which children's personal and social identities were created. Particular attention was placed on gender, territorial and ethnic identities. (Title: *Un volto, una maschera?* [A Face, A Mask?]). Obviously, the idea behind this was to determine how best to encourage young people's development. These reports have been widely distributed throughout Italy (30,000 copies) and they have set off a considerable amount of debate and study in the schools, in the public services and among the voluntary sector. The Centre also regularly publishes issues of a bulletin devoted to single questions in order to get a better understanding of the problems arising, problems which require special action on the part of lawmakers: one particular issue was devoted to the sexual abuse of children; another issue discussed the separation of parents and the effects this has on children; and another was devoted to child labour. The Centre also publishes a series of laws (for example, a collection of regional laws concerning children was published) and a statistical yearbook. The Centre was founded by a decree of the Department for Social Affairs and its mandate is contained in a special piece of legislation (Law No. 451 of 23 December 1997);

(b) In order to come up with more effective and more comprehensive policies, a special Parliamentary Commission on Children was set up (with the passage of Law No. 451 of 1997). Twenty senators and twenty deputies sit on the Commission and their task is to direct and implement international agreements and Italian legislation concerning children. More specifically, the Commission is expected to make an annual report to the Chambers on the results of its activities, to propose legislation in this area, as well as to approve a National Plan of Action for Children;

(c) The same law also declared the National Day on the Rights of the Child and the Adolescent which is to be celebrated each year on 20 November marking the occasion of the signing of the Convention. This day is supposed to encourage the community to think about the principles of the Convention in Italy with the hope that everyone will work together so that these principles will be reflected not just through the passage of legislation, but also in the life of the community;

(d) Law No. 451 of 1997 also set up a National Observatory on Children as part of the Council of Ministers, Department of Social Affairs, which is headed by the Minister for Social Solidarity; the Observatory is composed not only of experts, but also of representatives from other ministries which are concerned with children, representatives from local authorities (Regions and Municipalities), private associations, volunteer organizations, and groups engaged in monitoring and defending children's rights. Every two years the Observatory prepares a special Plan of Action which includes proposals to improve the condition of children in Italy and throughout the world, it suggests measures for coordinated efforts to be taken by the Public Administration and local bodies, and also how to finance these efforts. The Observatory also prepares a special report, every two years, on the condition of children in Italy and how their rights are being implemented; and it also prepares an outline of the United Nations report - to be adopted by the Government - in accordance with article 44 of the Convention. In order to make it easier for the State and the Regions to work together, special coordinating measures have been planned as regards the collection and processing of data on the psychological, cultural, economic, social and health conditions of children and adolescents, the allocation of financial resources and the areas where they will be allocated, a map of the services available in Italy, and resources spent by private groups;

(e) In order to prevent programmes from being isolated to particular sectors and not subject to a overall plan - and so as to ensure that effective coordination can take place between the State, Regions, Municipalities and the resources of non-profit organizations - an initial Plan of Action for Children and Adolescents was drafted by the Italian Government in April of 1997 which was solemnly presented to the Italian Parliament by the President of the Council of Ministers; by June 1999 a second Plan will be prepared for the years 1999 and 2000. For the first time ever, a work programme was adopted by all the organs of the State and local bodies to deal with the issues of children and adolescents in a non-haphazard and organized fashion. It is very significant that Law No. 451 of 1997 recognized that effective policies can only be implemented within the context of comprehensive plans: thus, the law requires that, every two years, the Government should approve the Plan of Action which the Observatory has prepared. The first Plan set as its main goals the promotion of awareness of childhood through more information about children in Italy, through the spread of information regarding the Convention and also through creation of agreements of intent with the professional orders to implement the terms of the Convention; another goal was the elimination of unequal opportunities based on geographic area, socio-economic origin, nationality and other forms of variance; the plan also intends to come up with policies, not just laws, which can implement rights, foster the respect of persons who are still growing up, help children grow up harmoniously with the support of the family; other goals are to struggle against every form of exploitation; to increase levels of international cooperation on behalf of children; to encourage children and the disabled to join associations and make an educational use of their spare time. The Plan calls for intervention in the area of public education, the health-care system, the legal system, the environment, spare

time, the world of work and international cooperation. To attain these goals the Plan has identified a set of actions to be taken both in terms of legislation and through administrative efforts. These actions will involve a coordination of institutions, services, and resources from the private sphere. We shall refer to the specific initiatives in the chapters which follow in this report;

(f) In recognition of the results of the first report on the condition of children in Italy the Department of Social Affairs within the Council of Ministers drafted a law which was approved by Parliament as Law No. 285 of 28 August 1997 containing "Provisions on the Promotion of Rights and Opportunities for Children and Adolescents". It should be noted that on the basis of this piece of legislation 800 billion lire are to be invested over three years on behalf of children (the original sum was 900 billion lire and the reduction of 100 billion was made necessary in order to finance humanitarian aid for Albanian women and children and foreign children). This is the largest amount of money which has ever been allocated by Italy to the field of children. Moreover, we should bear in mind that this sum was allocated during a period when the Italian Government was making a series of spending cuts to meet the parameters of the Maastricht Treaty. The law set up a National Fund to be administered by the Council of Ministers to encourage rights and opportunities for children: the money is to be divided among the Regions and Autonomous Provinces and also among the cities, where children face a greater number of problems. The Fund is to be distributed on the basis of criteria which take into account the lack of structures for very young children, the number of children residing in the social assistance districts, the percentage of families with children beneath the poverty line, juvenile crime rates.

The Fund is intended to finance projects which have the following aims:

- The creation of support services for parents, to combat the effects of poverty and violence, and provide alternatives to the institutionalization of children;
- Innovation and experimentation of social-educational services for very young children;
- The creation of recreational and educational services for spare time activities;
- Positive action for the promotion of rights and their exercise, which encourage a better use of the environment and produce a better quality of life respecting gender, cultural and ethnic differences; actions in favour of services or economic support of natural families or foster families who have disabled children;

(g) Many laws are currently being drafted in Italy which are intended to safeguard the rights of children more effectively. In this regard, Parliament has recently approved a law on sexual exploitation of children (Law No. 269 of 3 August 1998) entitled "Law against the Exploitation of Prostitution, Pornography, and Sexual Tourism to the Detriment of Minors: The New Forms of Slavery" in completion of Italian criminal laws on sexual liberty in clear compliance with the commitments imposed by the Convention. Moreover, Parliament also approved a draft law on 31 December 1998 - Law No. 476, which ratifies the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption: this

legislation was first submitted by the Government on 20 June 1997 and it connected the practice of adoption with the activities of the international development aid and cooperation. Also important is the effort the Italian Government is making to verify the possibility of signing bilateral agreements with countries which have not yet ratified the Convention. While we intend to review the new laws which have been approved later on in this report, in this introductory section we would like to offer a brief summary of the proposals and draft bills submitted to Parliament by the various sectors involved in the area of children's rights in an attempt by means of legislative reform to improve the system of protection for children. This is the best proof of the Government's and Parliament's acute concern for these issues. As many as 250 draft bills regarding the family, children and their rights were submitted to the Chamber of Deputies and the Senate and these are currently being examined by the Parliamentary Committees:

- A large portion of these proposed legislation concerns the family, cohabitation, support and assistance for the nuclear family, incentives for those who wish to start a new family, new regulations on divorce and separation as regards child custody, alternatives to incarceration for convicted women with children, time in the family and time in the city, aid for pregnant women;
- A number of proposals specifically concern children: regulations have been proposed to defend the general rights of children, to protect them from sexual abuse and mistreatment, to safeguard their privacy, to protect them from violence broadcast on television and in the media, to care for premature babies through aid to mothers, to oblige adults to report the disappearance of a child to the police, to protect 16 year olds from being exploited by athletic clubs;
- New and more effective instruments have also been proposed to help children. The proposal has been made to set up a special family and children's court as well as create special sections in the ordinary courts for children. A proposal has also been made to nominate a special spokesperson for children in cases of divorce or separation; to create a public defence lawyer for children and a Data Protection Commissioner; a school psychologist to support children in school; to institute the practice of mediation on the part of the courts in trials of children; to create special Centres for Children's Rights in school districts;
- A great many projects are concerned with the full enforcement of the right to education, educational reform, the elevation of the compulsory school age, the teaching of foreign languages, local history, health and sexual education;
- Other projects involve the area of health: post-natal assistance, vaccinations, protection from pesticides;
- There are also several different proposals in the area of artificial insemination and the guardianship of embryos; projects having to do with aid for the disabled, aid for linguistic minorities and gypsies; the reform of the laws on adoption and foster care; day-care centres and assistance and support of persons;

(h) Agreements between the Government and the social partners for a better implementation of the rules. In the knowledge that the law itself is not always the only way to fully guarantee behaviour which conforms to the principles of the Convention - and that it is often necessary to directly involve those working with young people in order to obtain results - efforts were made on the part of both the Government and the social partners to render the laws more incisive for better protecting children and adolescents. A code of conduct was compiled which concerns the relationship between TV and children and a charter was signed promising to eliminate the exploitation of children. In accordance with the terms of the code all public and private television companies promised to improve the quality of their programming for children and take into account young people's real needs; they promised to help families and the schools teach children how to make correct use of television to avoid problems of TV addiction or imitation of role models, and how to select programmes critically; they pledged to make the public aware of the problems of disabled people and children in difficulty; they also said they would inform the personnel working in the television industry about children's issues; and in the case where children participate in programmes they promised to avoid broadcasting images of children involved in crime (either as perpetrators, witnesses or victims) or affected by serious pathologies, or in crisis situations to protect the image and dignity of the children. The companies have also promised not to broadcast images of violence during those times of day when most children are watching (from 7 a.m. to 10 p.m.), unless these are strictly necessary to the comprehension of the news, as this could harm children's psychological and emotional development. The television companies promised to inform parents whether the programmes they are broadcasting are suitable for children, and to ensure that television commercials do not damage the image of children or attempt to sell products which are harmful to them; nevertheless, the companies have been slow to put these promises into practice. In the Charter of Pledges against child labour the Government and the social partners (both employers' organizations and the trade unions) have promised to take action to support ILO Convention No. 182 on child labour, to put pressure on countries which do not respect the convention, to again launch the role of NGOs in the struggle against child labour, within the EU to promote an adequate regulation of the system of generalized preferences, to combat sexual tourism by means of legislation and inform travel agencies about the problem. The Charter also binds the Italian Government to monitor the school drop-out rates and to discourage this phenomenon from occurring; to take action against child poverty and child labour; to combat the plague of black market labour and the hidden economy;

(i) Support and evaluation in the enforcement of the laws. Aware that the interests and protection of children are not achieved just by drafting laws, but that laws must also be supported in their implementation phase and that the results of laws must be checked, the Government has begun to adopt a law-making policy which has precisely this aim in mind. Thus, in Law No. 285/97 it was established that the National Research Centre for Children and Adolescents should monitor how the law is being enforced and assume a support role in the planning activity of local governing bodies - it should also prepare a manual illustrating the laws which have been passed and actions being taken as well as the results obtained, and it should train staff working in the field and personnel from the local bodies. The Centre will provide technical support for the planning and implementation of initiatives and make an estimate of how efficiently money has been spent, as well as prepare an annual report to the Parliament for the Minister on the current state of the implementation of the law;

(j) Legislative activity of the Regions. An impressive number of measures have also been passed by the Regions in the field of children's rights. In Italy, regulatory authority does not just rest with the central State but also with the Regions in specific areas. The Regions' activities are very numerous in the field of social protection and human rights: in fact, social rights are, to a large extent, the responsibility of the Regions, that is, those rights which make it possible for an individual to go about the task of forming his or her personality and to effectively enjoy the rights of freedom (health, assistance, environment and cultural development, recreation). For this reason, activities aimed at young people fall mainly to the local bodies which are also much closer to the citizens themselves who are more likely to perceive needs and employ resources where they will be best used. As we are not able to mention here all the regional laws which have been passed we shall limit ourselves to providing an overview:

- As regards education and socialization during the period of early childhood a great number of laws regulate the institution of the nursery school, various types of resources (free books and didactic material, transportation services, school canteens, bursaries and grants, contributions to study expenses for boarders, social psychological and medical assistance) so as to ensure that the right to education is respected;
- At the level of social assistance special laws have been passed to set up support services for young people and couples and aid them in responsible procreation, to help young couples take effective care of their children, in maternity assistance, assistance for children in terms of economic aid and re-education;
- Besides the family counselling clinics, many Regions also provide social and economic assistance to families as well as support for foster parents;
- In the area of health, many Regions have undertaken specific initiatives on behalf of children and families as part of the regional health plans;
- In the area of spare time many Regions have passed laws regarding vacations for children and in order to develop cultural and recreational activities;
- To combat the danger of social marginalization many Regions have passed laws to defend the dignity of disabled persons, children in hospital, children of immigrants, emigrants and gypsies;

(k) Local support structures for children. Overall the Italian community - especially local bodies - has set up a considerable number of support structures which defend the interests of young people. We are well aware that there are glaring inequalities between services available to children in different regions of Italy (above all between the North and the South); that the training of personnel in this field is not always sufficient; the fact that there are so many types of services offered makes it difficult to arrive at a specific understanding of problems connected with children (there are difficulties when it comes to activities for adolescents and pre-adolescents in serious trouble or with deviant symptoms); that it is not always possible to create effective coordination between the various services using a network style system. A great deal certainly remains to be done throughout Italy to optimize services for children and



adolescents: but it would not be intellectually honest of us if we failed to recognize that much has already been done, and that we are by no means at the beginning stages; that in some areas of the country the range of services is already adequate; that the question of training for operators is one which has been taken very seriously; that Law No. 285 has provided a great stimulus for innovation in services and the realization of projects: that the Regions are working together to bring services to a uniform standard (see the agreement between the Regions and the Istituto degli Innocenti for training programmes within the sphere of the implementation of Law No. 285);

(l) Support structures for children within the community. Citizen's groups have made a significant contribution to support activities for children's rights. Various non-governmental associations have arisen which have been working actively to promote a new awareness of children's issues, to spread knowledge about children's rights and the respect which is due to them from adults, to recognize that children and adolescents have subjective needs. These associations have worked to make it possible for children to take an active part in the life of society and not be merely passive; they have promoted better pathways towards the construction of identity for young people, they provide support in situations of particular difficulty and aid in overcoming troubles originating in the family and social milieu.

22. It is certainly not possible in this report to provide a picture of the wealth of initiatives that have been undertaken in Italy: but we should mention that the role played by community organizations has been impressive in ensuring that children and adolescents have a better quality of life.

23. Structures which have been organized for children in trouble by private associations have had a remarkable impact. For example family-style communities, according to one study number approximately 800 and they accommodate some 5,000 children and employ 2,000-2,200 educators in the sector. Italian volunteer organizations have set up 2,322 support structures for children of which 1,316 are for both children and adolescents, 534 only for children and 472 only for adolescents. A total of 73,433 volunteers are currently working in this sector (43,878 in structures for children and adolescents, 15,691 in structures only for children and 13,864 in structures intended only for adolescents).

24. It should be emphasized how efforts have been made to arrive at cooperation between institutions and private groups, cooperation which respects the autonomy and function of both parties, but which is no less effective. Because it is only by coordinating efforts that intervention can be carried out within the context of a network, and that is the only way to solve the serious problems some children have. The need for a similar type of integration found explicit approval in Law No. 285 which we have mentioned already several times: article 2 requires that the local authorities prepare territorial plans of action in implementation of the law, and that not only the various institutions (health districts, juvenile justice centres, education inspectorate) but also charitable non-profit organizations should take part in the preparation of these plans.

## **F. Plans for future action**

25. The Government's 1997-1998 Plan of Action for children and adolescents has in part been implemented, but it must still be brought to completion or further developed. Obviously the Government is firmly committed to realizing the plan in its entirety.

26. For the following two-year period the National Observatory on Children based on Law No. 451 of 1997 will be working on a new national Plan which must be drafted by June 1999. This new Plan, as an instrument of transition for Italian policies in the new millennium, will have to be highly innovative and realistic; it will be expected to determine the action to be taken on behalf of children's rights, to intensify efforts at international cooperation and to determine the best ways to finance and coordinate action of the Public Administration, Regions and local authorities. During the inaugural session of the Observatory eight commissions were set up whose task will be to prepare a document containing an outline of pledges to be assumed in the Plan of Action. These commissions were subdivided into subject areas (the coordinating round table on child labour and the coordinating committee remain unchanged as per Law No. 269/98): new services for children and planning liveable and safe urban spaces; legal reform in compliance with the Convention on the Rights of the Child; educational and cultural systems; television and the mass media; preadolescents, adolescents, and support for parents; international solidarity and international adoption. The Plan will be adopted by the Government after hearing the Parliamentary Commission on Children.

27. Based on studies which are already under way, we might hazard to say that policies on children will be concentrated on the following objectives:

- Legislation to redefine and regulate day care and remove this from the labyrinth of social assistance services by including day care in the social educational services aimed at relations which tie parents to their children of this age group (0-3 years);
- Legislation to reorganize services for persons as part of general framework laws which rationalize and make more efficient action to support weaker members of society;
- Legislation to reform the legal system for children in order to bring about a greater degree of specialization in judicial institutions which deal with children, the elimination of overlapping of judicial responsibilities between various offices in which an individual or family may be subject to contradictory orders, a better distribution of judicial institutions nationwide so that access to judges for children is made easier, and that judges be closer to the lives of children themselves, more connected to the services in their territory;
- Legislation establishing an office for a Commissioner for Data Protection looking after children and their rights. This institution is to be created not just as an answer to international pressure but also because of the acknowledged shortcomings in our own legal system when it comes to adequate protection;

- Legislation which overhauls the penal system for children and not just certain sectors of it, so as to better guarantee the physical and sexual safety of children, the integrity of their personalities and identity;
- Reform of Law No. 216/91 to improve preventative action for preadolescents who risk delinquency and also to improve efforts to cure cases of maladjustment.

28. Moreover, as part of its administrative Plan of Action the Government's main priority will be aimed at:

- The prevention of abuse and the treatment of victims also by means of rehabilitation projects in areas which are particularly degraded;
- The gradual abolition of institutionalization of children in favour of adoption and foster care;
- The reception and integration of foreign children living in Italy;
- Alleviation of situations of poverty;
- The struggle against black market labour and the phenomenon of school dropouts;
- The creation of a better environment for children both by making the cities more in tune with the needs of children, and also by continuing policies which are aimed at creating housing and revitalizing urban areas (neighbourhood contracts by the Ministry of Public Works);
- International cooperation with particular attention to support for children and adolescents.

29. Finally it should be pointed out that a draft law is currently being prepared by the Government (Department of Social Affairs) in favour of the new generations; the intention behind this law is to guarantee to the country coordination in the implementation of policies for young people; to set up a representative organization for children which takes into account all of their many differences; to carry out plans of action which are aimed at the empowerment of young people, equal opportunity, social and political participation; the creation of a fund for these actions.

### **G. The dissemination of the Convention in Italy**

30. Furthermore, it should be stressed that the dissemination of the Convention in Italy among children, but also among adults, was not irrelevant.

31. Various books have been published in Italy illustrating and commenting on the United Nations Convention of 1989, and the text of the Convention has been distributed in the schools and among adults in a great many copies, thanks also to non-governmental organizations (Italian Committee for UNICEF, Telefono Azzurro, Arciragazzi).

32. In recent years articles have appeared in magazines commenting on the entire Convention or specific points of it.

33. The schools have been making intense efforts to inform children on the themes of the Convention: for example in Friuli Venezia-Giulia a video cassette was produced which discusses the question of children's rights and this video is shown in the schools serving as a discussion topic for pupils; the UNICEF Committee involved 15,000 schools of every level and type in a campaign to raise awareness; UNICEF also sponsored an Italian Youth Movement for UNICEF to get young people involved in the promotion of the Convention.

34. In many universities too (Palermo, Catania, Cosenza, Lecce, Bari, Nuoro, Benevento, Naples, Rome, Viterbo, Perugia, L'Aquila, Urbino, Siena, Genoa, Turin, Pavia, Milan, Padua, Verona, Venice and Trieste joined in 1998/99 by Pisa, Udine and Trento) multidisciplinary courses were organized in conjunction with the UNICEF Committee on education for development about the Convention. Every year the programme involves 400 teachers and experts and 5,000 students who may actively participate. In addition to this, some universities have prepared courses about children's rights both within the established degree programmes and special extracurricular courses. This is the case for the University of Campobasso which organized an intensive course as part of the Erasmus project on this topic as well as a workshop entitled "Measuring and Monitoring the State of Children Beyond Survival"; or the University of Urbino which set up a research centre for the family and which has performed didactic and research activities on topics related to children and their rights.

35. The RAI (State television) too has been engaged in this sector and has produced five commercials on the rights of the child: the right to express themselves; the right to non-violence (also within the family); the right to health; the right to live in a multi-ethnic society; the right to play.

36. The Journalists' Association held a seminar to raise awareness among those working in the press about "the rights of the child and information".

37. The Department of Social Affairs was directly involved in spreading information about the Convention. In 1997, together with a very extensive campaign for foster families, another equally large campaign was organized on children's rights as they are enshrined in the Convention. In 1998 three small publications were widely distributed which illustrated children's rights recognized by the Convention by means of different communications systems depending on which group they were destined for: one was for parents and will be distributed by the municipalities at the time their child is born, one is for children in the elementary schools and one is for children in the middle schools.

38. In addition to this, on the occasion of Universal Children's Day, 20 November, the Government, acting on a proposal made by the Department of Social Affairs and the Ministry for Education (Ministerial Circular No. 423 of 19 October 1998), launched an essay competition which involved all the inspectorates for children in the elementary, middle and high schools.

The competition was to be about rights for children (teachers would have to prepare their students on the subject beforehand). The deadline was 20 November 1998. The awards ceremony was held in Rome on 16 April 1998 for the best essays. Altogether 20 schools received prizes for the 10 best posters or drawings from the over 400 entries coming from elementary schools, the 5 winners chosen from the approximately 200 entries from the middle schools, and 5 videos from 30 high school entries.

## **H. Economic resources employed for children**

39. In Italy, there has been no pressing need felt to have analytical data on spending flows, especially in the field of social assistance: this means that what little information is available is gathered in different ways, by different organizations, and therefore it is not always comparable. Moreover, the main source of information about local expenditures, the Municipalities' Final Balance Sheet Certificate, is now outdated and not able to reveal any useful flows in relation to social programmes; even the National Statistics Institute (ISTAT) while waiting for changes to be made to the Certificate is studying alternative ways to collect data on local expenditures.

40. Given this state of affairs, and in order to provide a description of spending on matters related to children, we can only proceed by means of an interpretation of the available data, data which do not appear to be exhaustive and above all do not specifically refer to programmes for children and adolescents. If we look at the case of social assistance spending by the Regions: in 1994, the last year in which the Regions made data available for processing of their budgets by the Institute of Social Research (IRS), only 39 per cent of social assistance spending was traceable to its beneficiaries. This means that all the data for regional spending must be considered as purely indicative.

41. In Italy, social spending including health care and social security transfers amounted to 24.6 per cent of GDP in 1993 as against an EU average of 26.9 per cent; according to 1994 data, which is still provisional, social spending in Italy was 25.3 per cent of GDP so still far from the levels of the most industrialized countries in Europe.

42. The following year, in 1995, health spending absorbed 22.2 per cent of all social spending, pensions 70.8 per cent, while social programmes accounted for only 7.2 per cent of resources allocated.

43. In 1994 total social assistance spending was 75,588 billion lire, or equal to 4.16 per cent of GDP: of this sum only 12 per cent, or 8,802 billion, went to social programmes while 88 per cent were direct cash transfers to families.

44. Most of the social spending in Italy is directed to the elderly population: approximately 62.7 per cent as opposed to an average of 40 per cent for other European countries (1995). Funds destined for families and children totalled an estimated 3.4 per cent which is considerably lower than in the rest of Europe.<sup>1</sup>

45. A recent study compared aid packages for children in the different countries of the European Union in 1996.<sup>2</sup> Comparisons were made for various types of families: couples with

one pre-school child, and one or two or three school-age children, for five levels of income. When taking into consideration monetary contributions and tax deductions Italy was one of the countries which offers the least for children, 51 per cent below the EU average. When taking into account benefits in kind offered by various countries, Italy ranked second to last with a value of 111 per cent less than the average for countries of the European Union.

### **Spending on children**

46. Spending for children in Italy may be divided into five broad categories:

- (a) Social security spending and tax deductions;
- (b) Social assistance spending;
- (c) Health-care spending;
- (d) Spending on education;
- (e) Spending on the juvenile justice system.

#### **(a) Social security spending and tax deductions**

47. In the first type we may include family allowance cheques and tax deductions for dependent children.

48. The size of the family allowance cheques varies in relation to the family income and the number of family members and the presence of invalids. The family is limited to the spouses, minor children and adult children who are totally unfit for work. In this sense, we can say that this is a benefit which is mainly destined for the improvement of the quality of life of children through financial support of the family nucleus.

49. The amount of the family allowance spending has grown constantly over the past years: in 1995 this was 5,662 billion lire, in 1996 this rose to 6,623 billion and in 1997, 7,237 billion lire.<sup>3</sup> The recent Law No. 450/97 has called for a further increase over the following years: by 595 billion in 1998, another 618 billion in 1999 and the same amount for the year 2000.

50. In the case of tax deductions for dependants Legislative Decree No. 446/97 amended the rules for dependent children allowing a deduction of 336,000 lire for each dependent child; compared to the previous rule which made a distinction between children and other dependants, allowing a deduction of 94,437 lire; this is a change which will tend to reduce the disadvantages suffered by families with many children.

**(b) Social assistance spending**

51. Centralized social assistance spending is not broken down into user categories: it is therefore impossible to determine how much money is spent on protection or aid to children.

52. The most recent measure aimed specifically at children is Law No. 285/1997 which set up a "National Fund for Children and Adolescents", and to which 117 billion lire were allocated for 1997.

53. Law No. 449/1997, as part of the 1998 budget, set up a fund for social programmes which is directed to supporting the priority goals in social spending. This fund will receive 28 billion lire in 1998, 115 billion in 1999, and 143 billion for 2000. Starting in 1998 money will flow into this fund which had been allocated to other spending programmes. The fund with the largest allocation of money is the National Fund for Children and Adolescents mentioned above which in 1998 is expected to amount to 312 billion lire.

54. A few further indications may be gathered from Regional and local budgets - bearing in mind the limits illustrated above.

55. In 1994 regional assistance spending in the area of maternity and childhood was the equivalent of 167.6 billion lire or 9.7 per cent of the total. If we take into account also expenditures specifically aimed at children, 92 billion lire, then the total sum of money destined for children came to 15 per cent of overall social assistance spending.<sup>4</sup>

56. The latest data available on social spending by the provinces indicate that in 1994, 116 billion lire were spent specifically on children, which amounted to 31 per cent of total social assistance spending by the provinces and 1.6 per cent of the provinces' total current expenditures.

57. Spending on the part of the municipalities, at 4,860 billion lire, was considerably higher. Municipal spending for aid to children and day care was 1,376 billion lire in 1993 of which 999 billion went to salaries and social costs relating to employment.<sup>5</sup>

58. Welfare spending by the municipalities has remained by and large unchanged: from 1988 to 1994 total sums spent followed the rate of inflation.

59. Almost all the municipal social assistance expenditures were made up by current expenditures: in 1994 current expenditures accounted for 4,726 billion lire as opposed to 132 billion in capital accounts. In 1993 capital accounts expenditures for children and day care was 38 billion lire. Construction spending for day care meant that local authorities in 1997 could count on loans totalling 6 billion lire, as opposed to 17 billion lire in 1996.

60. The differences between per capita social assistance current expenditures between various regions is enormous: from a maximum of 229,273 lire per capita in Valle d'Aosta to 21,468 lire per capita spent by municipalities in Calabria (1994).<sup>6</sup>

61. Tables 1 and 2 contain values for spending on child and day care obtained from the 1993 Municipalities' Final Balance Sheet Certificate. This was the last year in which this breakdown of expenditure by municipality existed.

**Table 1**  
**Current expenditure of the municipalities, by province,**  
**year 1993 (payments) (in millions of lire)**

Province	Expenditure for children and day care	Expenditure for welfare - IRS definition	% Expenditure for children in the IRS expenditure
Piedmont	120 697	426 654	28.29
Valle d'Aosta	2 954	27 109	10.90
Lombardy	316 758	976 311	32.44
A.P. Bolzano	3 887	18 047	21.54
A.P. Trento	17 359	57 885	29.99
Veneto	91 134	404 943	22.51
Friuli V.G.	24 344	189 342	12.86
Liguria	47 940	154 530	31.02
Emilia Romagna	188 885	488 514	38.67
Tuscany	103 282	308 082	33.52
Umbria	24 557	49 335	49.78
Marche	34 415	108 562	31.70
Lazio	157 327	384 989	40.87
Abruzzo	25 634	50 132	51.13
Molise	2 746	11 294	24.31
Campania	32 304	195 222	16.55
Abulia	56 584	152 643	37.07
Basilicata	8 846	13 647	64.82
Calabria	9 415	44 645	21.09
Sicily	81 752	308 483	26.50
Sardinia	25 544	197 226	12.95
ITALY	1 376 364	4 567 595	30.13

Source: IRS processing of ISTAT data. For the IRS definition of Welfare Expenditure see, *La spesa pubblica per l'assistenza in Italia* (Public Spending on Welfare in Italy), op. cit.



**Table 2**  
**Current per capita expenditure of the municipalities, by province,**  
**year 1993 (payments) (in lire)**

Province	Expenditure for children and day care	Expenditure for welfare - IRS definition
Piedmont	28 026	99 071
Valle d'Aosta	24 983	229 273
Lombardy	35 587	109 685
A.P. Bolzano	8 703	40 408
A.P. Trento	37 987	126 669
Veneto	20 640	91 713
Friuli V.G.	20 402	158 682
Liguria	28 833	92 942
Emilia Romagna	48 132	124 483
Tuscany	29 273	87 319
Umbria	29 978	60 225
Marche	23 929	75 483
Lazio	30 341	74 246
Abruzzo	20 297	39 694
Molise	8 271	34 019
Campania	5 659	34 198
Abulia	13 918	37 545
Basilicata	14 474	22 330
Calabria	4 527	21 468
Sicily	16 268	61 386
Sardinia	15 412	118 999
ITALY	24 088	21 468

Source: IRS processing of ISTAT data. For the IRS definition of Welfare Expenditure see, *La spesa pubblica per l'assistenza in Italia* (Public Spending on Welfare in Italy), op. cit.

62. In the case of municipalities it is possible to identify several specific types of intervention. Spending on day care in 1994 was approximately 1,324 billion lire and is one of the most important components of municipal budgets. In 1994 per capita spending for day care was the equivalent of 23,000 lire. Spending for day-care centres rose from 1988 to 1994 by

approximately 60 per cent in real terms or a little less than 10 per cent when accounting for inflation. User fees in 1993 varied from a minimum of 132,000 lire for public day-care centres to three or four times that much for private ones; no reliable data are available for the most recent years but the trend is to align user fees for public centres with those for private services and vary fees according to family income.

63. As an example we can cite the data for the city of Milan which are particularly significant in terms of the total amount of social assistance spending: of the 214.7 billion lire spent on social services 13.5 per cent or 29 billion were related to children: of these some 20 billion were employed for residential services.<sup>7</sup>

64. There are no spending breakdowns available for disabled children, and it is only possible to determine the number of disabled children per age group by means of the number of persons receiving disability allowances. In 1997, 3,728 disability allowances were paid for children under the age of 4, 11,990 for children between the ages of 5 and 9 and 15,391 to children between the ages of 10 and 14.<sup>8</sup>

65. Law No. 104/97 dealing with persons suffering from disabilities allocated 120 billion lire in 1992 and 150 billion lire in 1993 of which approximately 50 per cent was destined for children or pre-adolescent children. The most recent study on the nature of intervention undertaken by the Regions gives a rather diversified picture: in 1997 investments in Lombardy amounted to 320 billion lire while in Basilicata this figure came to only 850 million.

66. Data provided by the Regions to the Ministry for Social Solidarity identifies intervention directed to children in only eight cases: in six Regions spending destined for children amounted to 30 per cent of the total, in the other two Regions spending on children was residual with respect to total expenditures. The figures for Lombardy are significant: at 105 billion lire Lombardy was the Region which spent the most money for disabled children.<sup>9</sup>

67. In the absence of specific data for the municipalities we may take Milan as an example; Milan spent 20.5 billion lire for education and community centres for adolescents and pre-adolescents out of a total expenditure of 34.8 billion.<sup>10</sup>

**(c) Health-care spending**

68. At present no data are available on health-care expenditures specifically destined for children. The way the data have been broken down does not permit us to make this distinction.

69. If we look at general trends in health care related to children, we can identify two significant aspects:

- The National Health Service provides free preventative treatment to children: thus vaccinations during early childhood or for children of school age are free;

- As regards the “Sanitometro”, a system which is still being studied and which takes into consideration family income in determining the size of payment for services, this system is expected to contain a compensation formula for every child under the age of 6. Theoretically speaking, the system ought to indirectly guarantee better health-care coverage for children living in low income families.

**(d) Spending on education**

70. Data from the Ministry of Education show that in 1996 total spending on education was 59,271 billion lire; of these 14,177 went for primary education and 13,419 for lower secondary education. In terms of per capita costs every pupil enrolled in elementary school cost around 5.4 million lire, while every middle school pupil cost 7.3 million lire. Spending per capita was up by 30 per cent over the previous year.<sup>11</sup>

**(e) Spending on the juvenile justice system**

71. In 1996 expenditures on juvenile justice amounted to approximately 135.5 billion lire: of these some 16.5 billion were spent on programmes and treatment for children and 10 billion on projects which were part of Law No. 216/91 entitled “Initial Intervention on Behalf of Children at Risk of Involvement in Criminal Activity”.

72. In 1997 total spending in this sector was 155.7 billion lire which was an increase of 15 per cent. The share of money allocated to the categories mentioned above remained by and large the same: the most significant increase concerned personnel costs. Spending forecasts for 1998 are set at 231.3 billion lire to be divided in roughly the same proportion between programmes/treatment and projects, while there is expected to be a considerable increase in investments, from 9.4 billion to 32.1 billion. In any case, the significant increase over 1997 is largely attributable to the fact that the heading of personnel expenditures will be included; previously this was managed by other Directorates General of the Ministry.

**I. Cooperation with developing countries**

73. International development aid and cooperation from the Ministry of Foreign Affairs has planned action which is aimed at children who risk social exclusion. These interventions are part of sectoral programmes as well as of those for human development and the struggle against poverty. In implementing the Convention programmes specifically aimed at children regarded:

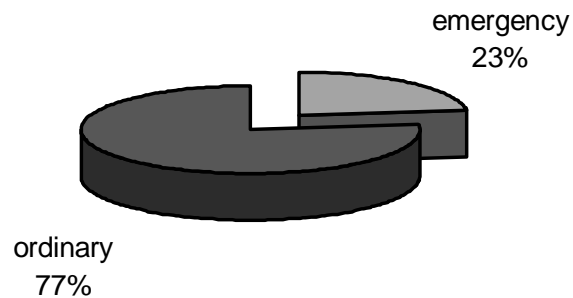
- The promotion of rights;
- Bilateral initiatives in favour of street children in Ethiopia;
- Training programme on the rights of children and adolescents in Albania;
- Bilateral support programme to improve the quality of life for children in Uruguay;

- The bilateral programme “Sistema mínimo de oportunidades - pibes unidos” aimed at children and adolescents in Argentina;
- The right to education;
- Basic education projects in the Palestinian territories;
- Activities in Angola and Mozambique aimed at recovering children who are victims of war;
- The right to health;
- Socio-health initiatives for mothers and children and school health programmes in Albania, Egypt, the Palestinian Territories, China, the Philippines, Viet Nam, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Colombia, Jamaica, Uruguay, Djibouti, Niger, Uganda, South Africa;
- The right to inherit and share a cultural and environmental heritage which remains unaltered;
- A water and sanitation programme in poor areas of Manila and elsewhere in the Philippines;
- A programme aimed at bringing drinking water into nursery schools and including environmental education in the Gaza Strip;
- The right to social integration;
- Bilateral initiatives both in the area of integrating disabled children in Cuba and the treatment of children who are underweight at birth;
- Actions aimed at supporting physical rehabilitation services for children in Colombia;
- A project to aid brain-damaged children in Uganda;
- A rehabilitation centre for children with disabilities in Albania;
- An atlas of decentralized cooperation aimed at encouraging the participation of public institutions, associations, families and students in the educational process in Bosnia and Herzegovina;
- Children’s rights in conflict and post-conflict situations;
- A project for psycho-physical recovery of children with disabilities or children who have suffered from the effects of the war in Bosnia;

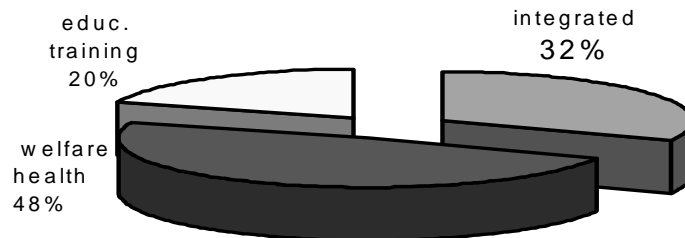
- Projects for street children in cities where armed conflict has taken place in developing countries;
- The right to protection from any form of exploitation;
- Financial subsidies for Italian joint ventures with businesses from developing countries are subject to a declaration that child labour will not be used. This rule has already been applied to two projects in China.

74. Below are tables which indicate aid and development activities carried out by the Ministry for Foreign Affairs on behalf of children.

### BREAKDOWN OF ACTIVITIES BY CHARACTERISTICS



### BREAKDOWN BY TYPE OF INTERVENTION



75. The Government's Plan of Action indicates future activities to be undertaken in the field of international aid and development. Among other things there is a promise to design programmes which will take into account the different needs of boys and girls; programmes which will emphasize the growth of institutions in developing countries; projects which benefit families' culture and society in countries torn by conflict; specific financial allocations to bring about the acceptance of the Convention on the Rights of the Child, specifically concerning the recent "omnibus resolution" adopted by the Commission on Human Rights (protection of children involved in armed conflict, refugees, the elimination of all forms of discrimination, especially against girls, the prevention and abolition of the sale of children, prostitution and child pornography, child labour and street children).

## **J. Comments on the previous report and action taken**

76. Finally, mention should be made of the actions Italy took on the basis of observations made by the Committee on the Rights of the Child on Italy's previous report.

77. When the first report was made public the Committee made several recommendations and suggestions which influenced the policies which have been adopted over the last four years.

(a) The observation that our Criminal Code does not guarantee sufficient protection to children against physical or sexual abuse within the family is only partly founded. The Italian Criminal Code already included heavy penalties in the case of mistreatment or sexual abuse of children within the family: this is more a problem of enforcing the legislation than amending it, in the sense that silence on the part of adults and the inability of children to express their difficulties mean that a great number of cases never come to light. In any case, as regards sexual abuse, two new laws were passed (Law No. 66 of 15 February 1996 and Law No. 269 of 3 August 1998) which tend to improve the protection of victims' interests: these laws are referred to in the section of this report devoted to sexual violence against children;

(b) The recommendation made to change the laws for children born out of wedlock in order to guarantee them equal treatment has already been implemented: Italian law recognizes equal rights for legitimate and illegitimate children, in terms of status, rights to child support, education and inheritance, as well as in their relation to family members. If a child born out of wedlock is not acknowledged by either of his or her parents, then he or she will be immediately entrusted to a family for adoption, becoming the legitimate child of those parents. In any case, at the local level, support programmes have been enhanced to aid young unwed mothers;

(c) The recommendation that measures be taken to encourage responsible fatherhood or motherhood have already been met by the activities of the family counselling clinics which were established with this end in mind;

(d) The recommendation that more attention should be paid in our national legislation to preventing and prohibiting torture and other cruel or degrading forms of punishment is already present in the Italian legal system. These prohibitions are enshrined in the highest law of the land, namely the Constitution;

(e) The Committee pointed out that there was little coordination between the various government bodies at the national, regional and municipal levels. It also stressed the need to create a network for the collection of data on the Convention which take into consideration all the children living in Italy. In answer to these needs, which the Committee quite rightly pointed out, Law 451 of 23 December 1997 established a National Observatory for the problems of children and a National Centre for the protection of children as well as a Plan of Action to come up with policies for children;

(f) The Committee also observed the considerable economic and social gap between the North and South of the country which is having a negative impact on the lives of children. Precisely with a view to rectifying this distorted situation, the 1996 report specifically analysed in detail this phenomenon. Out of this came Law No. 285 which is aimed at overcoming the imbalance by allocating funds and developing programmes which will favour disadvantaged areas;

(g) The Committee also pointed out the importance of taking measures to assist children within vulnerable or disadvantaged groups (children of poor families, or children with single parents, children of immigrants and gypsies, children born out of wedlock). The 1996 report paid particular attention to these disadvantaged groups and Law No. 285 calls for particular action to be taken in these sectors;

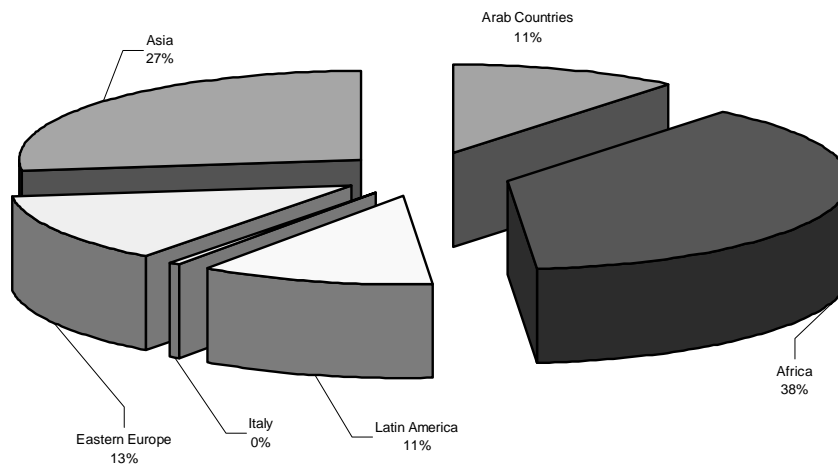
(h) The Committee also asked that Italy incorporate within its legislation the principle of listening to the children: on 25 January of this year, Italy signed the European Convention on the Exercise of Children's Rights which was adopted by the Council of Europe on 11 September 1995. It should, however, also be pointed out that in the implementation of the rule outlined in the Convention, our legislation not only provides the possibility to listen to the child's wishes but also to respect these wishes whenever the child's maturity is superior to his or her real age (Juvenile Court of Catania, 17 April 1997 in *Il Diritto della Famiglia e delle Persone*, 1997 p. 1468);

(i) It was observed that there were not enough measures being taken for the psycho-physical rehabilitation and treatment of children who have been victims of abuse, and that not enough is being done to combat the phenomenon of school dropouts or juvenile delinquency: it should be mentioned that during these years a number of programmes have been started to help children who have been abused and these are illustrated at length in the National Centre's first issue of the bulletin (Naples's Network Project for the Prevention of Mistreatment and Abuse of Children; Marghera Centre; Centre for Abused Children in Milan; Numero Blu in Cagliari; services of the Hospital Bambini Gesù in Rome; Community Project in Sasso Marconi). In addition to this a nationwide coordinating bureau was set up which includes 41 organizations, treatment centres and prevention services. At the Ministry for Social Solidarity, Department of Social Affairs, a commission was established to study the problems of mistreatment and violence against children, the results of which will appear later in this report.

78. As regards the phenomenon of school dropouts, we shall refer to this question below in the section of this report devoted to education.

79. As regards preventing children from getting involved with organized crime, we refer to the general preventative actions adopted as part of the implementation of Law No. 285 as well as specific intervention to prevent risk situations from arising. Of this we intend to speak later in the section devoted to the exploitation of children by adult criminals.

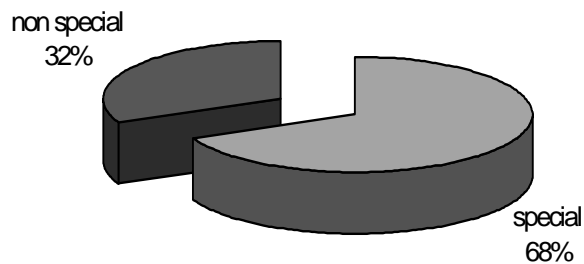
### BREAKDOWN BY GEOGRAPHICAL AREA



### EXPENDITURES BY TERRITORY IN 1997

Arab Countries	9 339 789 580
Latin America	9 447 217 500
Italy	398 439 000
Eastern Europe	11 000 000 000
Asia	23 187 763 706
Africa	32 450 949 451
<b>Total</b>	<b>85 824 159 237</b>

### PERCENTAGE BREAKDOWN BY SPECIAL AND NON-SPECIAL INITIATIVES





### **K. The preparation and dissemination of the report**

80. In order to mobilize and sensitize non-governmental agencies as well as young people themselves about the themes of the Convention, we made efforts to involve them in the preparation of the report.

81. For this reason, representatives of various professional and volunteer associations which deal with the problem of children were interviewed, not only to find out about their activities but rather to have an opportunity to hear their views on children's problems and what proposals they might have to improve things.

82. Twenty-four NGOs were contacted: Telefono Azzurro (Blue Telephone), Caritas Italiana, BICE (International Catholic Child Bureau), CNCM Coordinamento Nazionale Comunità Minori (National Coordination of Children's Homes), Coordinamento Nazionale "Dalla parte dei bambini", (National Coordination "On Behalf of Children"), "Ciai - Centro Italiano Adozione Internazionale which is going to take the name Centro Italiano Aiuti per l'Infanzia (Italian Centre for Aid to Children), AiBi - Associazione Amici dei Bambini (Association of Friends of Children), CNCA - Coordinamento Nazionale Comunità di Accoglienza (National Coordination of Children's Shelters), Aizo - Associazione Italiana Zingari Oggi (Italian Association Gypsies Today), Opera Nomadi (Nomad Action), World Wide Fund for Nature, WWF, Lega Ambiente (Environmental League), Coni - Comitato Olimpico Nazionale Italiano (Italian National Olympic Committee), Agisci (Scouts), ACLI - Associazione Cattolica Lavoratori Italiani (Italian Association of Catholic Workers), ACP - Associazione Culturale Pediatri (Cultural Association of Pediatricians), Società Italiana di Pediatria (Italian Society of Pediatricians), Coordinamento nazionale dei Centri e dei Servizi di prevenzione e trattamento dell'abuso a danno di minori (National Coordination of Centres and Services for the Prevention and Treatment of Child Abuse), Comitato Italiano UNICEF (Italian Committee for UNICEF), Movi - Movimento Volontariato Italiano (Volunteers in Italy), Arciragazzi, Tribunale per i diritti del malato (Tribunal for the Rights of the Sick), Movimento Federativo Democratico (Democratic Federal Group), Terres des Hommes. Once the outline for the report has been approved by the Council of Ministers, we intend to involve the children themselves by organizing seminars in the schools which will discuss the implementation of the rights recognized in the Convention.

### **L. The attention of society to the rights of the child**

83. In examining the previous report, the Committee complained of the scant attention Italian society pays to children's rights, the absence of participation of citizens in issues that regard children, as well as an adequate professional preparation on these problems.

84. This observation is certainly well founded, and at present it is the main preoccupation of the Italian Government. While legislative and administrative action are indeed necessary, they alone are not enough to deal with children's problems without the participation of the community as a whole. The Government, local institutions and volunteer organizations are particularly sensitive to the problems of the weaker members of society and they are doing much to bring about public awareness and familiarity of issues involving children in Italy: the publications of the National Centre, the distribution of the two Reports on the Condition of

Children and Adolescents in Italy, the establishment of the National Observatory including the presence of representatives from the professions and the collaboration of several professional associations (such as the Order of Journalists, the Cultural Association of Paediatricians) to raise the public's awareness, the designation of a Day of the Child, activities to spread information about the Convention in the schools, promotional campaigns on television and the opening of special offices to listen to matters concerning foster care and child labour, innumerable cultural initiatives on the situation of children organized by local authorities to inform families and workers of every type who are involved with children about children's problems; these activities show what efforts have been made to draw new attention to children's rights and the respect of those rights.

85. But all of this does not authorize us to be overly confident that a new awareness of childhood is developing in Italy. Besides the extremely encouraging elements there are also a number of areas of great concern.

86. As shall be seen in this report, there has never been so much attention devoted to the needs of children and the tendency to respect their autonomy and identity. Unlike in the recent past many fathers today take an active role in the care of their children, not just in meeting their material needs but also their personal development; the function of education is not understood as a form of manipulation or colonization, but rather as support and guidance through the process of constructing a personality; many forms of authoritarianism have been banished not only from the family but also from the schools and services; families and schools have a greater ability to listen to children; the entire community is looking for ways to encourage their participation and not shunt them off to the margins of society. And it is also true that today, as never before, a great number of families are showing solidarity towards children in trouble by declaring their readiness to adopt or perform the very difficult social service of foster parenting.

87. But alongside these encouraging elements, we cannot ignore that there are also very ambiguous attitudes in society towards children. These are troubling signs that must not be neglected. One cannot fail to notice:

- Certain attitudes of desire-repulsion, attraction-worry, love-fear in relation to children;
- Attention directed to children not as individuals needing help in developing but rather as resources which adults expect to receive gratification from;
- More strident claims for “adults’ rights to have children and rights over children” without the recognition that whatever rights we might attribute to parents are really “rights of the children”;
- Gradual loss of the sense that childhood is an autonomous and essential period in itself in the process of growing up, a path or route along which successive stages have to be covered to carry the child peacefully into adulthood; pressure that children become adults too soon depriving them of the chance to metabolize experiences and develop gradually;

- Continuation of many prejudices and stereotypes about childhood which risk being disastrous for a correct process of development: the stereotype of childhood as a happy carefree period when in reality the process of development is often complex, demanding and sometimes traumatic; the stereotype that children are rather malleable, easily formed and open to infinite number of manipulations; the stereotype that the only important period is early childhood, and that once the initial efforts of education have been made parents can tranquilly withdraw, when the reality is that also during the following stages, and especially in the period of pre-adolescence children need support, guidance and affection; the stereotype that education is synonymous with manipulation, while leading another out of a state of inadequacy (in Latin *educere*) means helping to overcome many forms of conditioning and illusory feelings of infantile omnipotence to reach the real though limited capacity of an adult. There are also many gender- (in the case of girls) and ethnic-related prejudices circulating in our society.

88. The Government is well aware that it must face these emerging realities and that defending the interests of children will require serious efforts in promoting knowledge about children's issues.

89. Here there remains much to be done: we must promote a real understanding and respect of children, we must support the needs of individuals who are growing up, pay attention to and listen to their silent requests, not just to prevent abuse or neglect but in order to improve the quality of life for a group of persons who otherwise might risk falling by the wayside.

## **II. THE DEFINITION OF THE CHILD AND THE IMPLEMENTATION OF THE GENERAL PRINCIPLES OF THE CONVENTION\***

### **A. Who is the child as defined by Italian law? (guideline 24)**

90. In the Italian legal system, the legal persons considered to deserve particular protection due to the fact that they are in a formative phase, and because they have not yet reached full maturity, are those within the age range 0-18 years. Naturally, within this category, regarding the exercise of individual rights, there are differentiations. While for the infant, no right which can be exercised directly is recognized (the rights are exercised through a legal representative: the parent, or where there is no parent, the guardian), with the progression of age, the regulations attribute also to the minor the possibility of exercising some rights directly.

91. According to Italian legislation, the age of majority - by which one acquires the capacity to accomplish all the acts for which no different age limit has been established - is fixed at the attainment of 18 years (art. 2, Civil Code). The various provisions of the law normally define as "*minorenne*" or "*minore di età*" or "*minore*" those who have not

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\* This section will respond to queries relating to articles 1, 2, 3, 6 and 12 of the Convention to which paragraphs 24 to 47 of the general guidelines for periodic reports refer.

yet reached the age of 18 years, giving significant equivalence to the word "*fanciullo*" which appears in the official Italian version of the Convention on the Rights of the Child.

92. In some documents, as in the regulations on the protection of employment (Law No. 977 of 17 September 1967) "*fanciulli*" are taken to mean minors who have not reached the age of 15 and "*adolescenti*" minors between 15 and 18 years, but also in this case there is the coincidence with the same age range of the Convention on the Rights of the Child.

93. In order to acquire certain rights - and responding to some specific queries posed in the guidelines - the Italian regulations fix the following age limits:

(a) Medical or legal consultation in the absence of parental consent: No minimum age for medical consultation is given in the regulations. It should be noted, however, that whatever the age - and therefore also before the age of 14 - the minor may consult a health centre and the local health services for the voluntary termination of pregnancy, without the consent of the parents or of the guardian and without informing the same, when such consent may be denied or there are serious reasons which discourage consulting the persons exercising parental authority or guardianship (art. 12, Law No. 194 of 22 May 1978). The age at which a minor may make use of legal counselling without the consent of his or her parents coincides with the ability of the minor to enforce his or her own rights. He or she is entitled (art. 2, Civil Code) to exercise the rights and actions which flow from an employment contract; therefore, from the age of 14 years, when he or she can carry out light work, a minor can consult a lawyer. In the case that he or she has to undergo a criminal trial, responsibility for which begins at the age of 14 years, he or she can consult, at that age, a lawyer in alternative or in addition to any lawyer appointed by his or her parents. From this doctrine, it can be deduced that the general principle is that, at least from the age of 14, a minor can undoubtedly, and without the consent of the parents, avail him or herself of legal counselling;

(b) Medical treatment or surgery without parental consent: The Italian regulations require the consent of the party to medical treatment or surgery but it does not specify whether, for the minor, consent must be given by the minor him- or herself, or by his or her legal representatives. Prevailing opinion is, that for small children, consent must be given by the natural protector (parents or by other near relatives) while in the case of pre-adolescents or adolescents, given that it relates to rights of a most personal nature, proper informed consent to treatment must be given by the interested party him- or herself. It is not possible to indicate a precise age above which consent must be given by the minor him- or herself. In this regard, account must be taken case by case on the effective maturity of the child. In this way, case law recognizes that an adolescent who does not wish to undergo a particular health treatment need not do so, even in the case of a vaccination which is held to be compulsory;

(c) End of compulsory education: Elementary education, carried out for at least eight years, is compulsory (article 34 of the Constitution). Given that school begins at 6 years, education is now compulsory until the age of 14 years. However, the length of compulsory schooling, beginning from the school year 1999/2000 will be raised from 8 to 10 years (art. 1, para. 1, Law No. 9 of 20 January 1999) and therefore it will continue

normally until 16 years of age. These provisions on the years of compulsory education are applied also to foreign minors living in Italy (art. 36, para. 1, Law No. 40 of 6 March 1998);

(d) Entry into employment or work including hazardous work, part-time work, full-time work and apprenticeship: The minimum ages for admission to work are established by Law No. 977 of 17 October 1967:

- At 14 years in agriculture and in work for the family, or in light, non-industrial work, provided that it is compatible with the needs of child health protection and does not involve transgression of compulsory schooling;
- At 15 years in the ordinary way, and for apprentices;
- At 16 years for itinerant occupations;
- At 16 years for males and at 18 years for females for hazardous, laborious or unhealthy jobs, also for cleaning and servicing of engines and transmission parts of working machines;
- At 18 years for underground work in quarries, mines, bogs and tunnels, and lifting weights and transport of goods on wheelbarrows and on two-wheeled hand-carts, when such work is carried out in conditions of special discomfort and danger, for open-cast mining in quarries, mines and bogs, for work loading and unloading sulphur ovens, for work in cinematographic halls and in the preparation of theatrical performances, in the manoeuvring and towing of mine carts, and in the retail supply of alcoholic drinks.

Article 6, Law No. 196/1997 amends the law relating to apprenticeship which concerns:

- The field of application, extending the ability to enter into an apprenticeship contract in all sectors including agriculture;
- The minimum and maximum age limits fixed for entering into an apprenticeship contract (16 years and 24 years);
- The duration of not less than 18 months and not longer than 4 years;
- The obligation of training outside the company as a condition for benefiting from tax relief;

(e) Marriage: Minors cannot contract marriage, but, where psychological and physical maturity has been ascertained and given serious motives, the Juvenile Court may allow the marriage of those - either boys or girls - who have reached the age of 16 years (art. 84, Civil Code);

(f) Sexual consent : A minor - boy or girl - can consent to sexual activity at the age of 14 years. This age limit is taken from the criminal law (art. 609 (4), Criminal Code) which prohibits sexual acts committed with minors of less than 14 years. This age limit is reduced to 13 years in the case in which consent has been given for a sexual encounter with a minor who is not more than 3 years older. Further, the minor may never validly give his or her consent to incest (punished within the limits set down by article 564, Criminal Code) and until the age of 16 years may not consent to sexual acts with his or her guardian, or with a person who has been in a position of care and control over him or her for reasons of education, supervision or custody;

(g) Voluntary enlistment in the armed forces: For voluntary enlistment in the armed forces the minimum age limit is 17 years (art. 35, Law No. 958 of 24 December 1986) while there is no conscription for national service for people under the age of majority;

(h) Taking part in hostilities: The minor who has voluntarily enlisted may be used to participate in hostilities, but under Law No. 762 of 11 December 1985, concerning the protection of young enlisted persons, it seems possible to infer that precedence should be given to military personnel over the age of 18 years in direct participation in armed hostilities;

(i) Criminal responsibility: The minor is not legally responsible for crimes committed up to the age of 14, presuming that until that age, for whatever crime, he or she is not sufficiently capable of forming the necessary criminal intent (art. 97, Criminal Code). Between the ages of 14 and 18 years each case must be decided individually as to whether the minor, at the time of committing the crime, had the capacity of understanding or the intention and therefore whether he or she was legally criminally responsible for his or her actions (art. 98, Criminal Code). He or she cannot be subjected to administrative sanctions, unless, at the moment in which he or she committed an indictable administrative offence, he or she had reached the age of 18 years (art. 2, Law No. 689 of 24 November 1981), with the exception of administrative sanctions inflicted by the Prefect concerning the use of narcotic substances. No minimum age is provided for imposing such sanctions (article 75 of Decree of the President of the Republic No. 309 of 9 October 1990);

(j) Deprivation of freedom due to arrest, detention and imprisonment, among other things, in the areas of the administration of justice, asylum-seeking, and the placement of children in welfare and health institutions: Precautionary measures or detention can be applied commencing from the age of 14 years. With regard to children under the age of 14 who commit serious crimes or who are considered to be effectively dangerous, the security measure of placing them in a judicial reformatory can be applied (art. 224, Criminal Code) without a minimum age limit. No deprivation of liberty is provided on an application for asylum, which can be submitted irrespective of the age of

the applicant. At frontier posts, reception services are provided for the purpose of furnishing information and assistance to foreigners who intend to apply for asylum (art. 9, para. 5, Law No. 40 of 6 March 1998). The placing of children in welfare and health institutions does not involve deprivation of liberty and takes place without the provision of minimum age limits;

(k) Capital punishment and life imprisonment: Italian law does not provide for the death penalty, either in time of peace or in wartime, even for people who have reached the age of majority. For crimes committed as a minor, the sentence of life imprisonment is not applicable;

(l) Giving evidence in court, in civil and criminal cases: In a criminal trial, all persons have the capacity to testify, irrespective of age (art. 196, para. 1, Code of Criminal Procedure), but during the proceedings a child under 14 years of age does not swear to tell the truth and the content of his or her testimony is not imputable. The same doctrine that all persons have the capacity to testify also holds for a civil trial, following the decision of the Constitutional Court (No. 139 of 11 June 1975) which declared unconstitutional - not recognizing a reason for a different doctrine between criminal and civil trials - the law which provided that minors under the age of 14 could be heard in civil trials only when their testimony was made necessary by particular circumstances;

(m) Lodging complaints and seeking redress before a court or other competent authorities without parental consent: The minimum age at which a minor can lodge a complaint for a criminal procedure, with or without parental consent, is 14 years (art. 125, Criminal Code). A minor has the capacity to personally bring civil proceedings to exercise the rights (including compensation for damages) which flow from the employment contract, starting from the age at which he or she can undertake certain employment (see above on the age of employment) (art. 2, para. 2, Civil Code). In all other cases, until the attainment of the age of majority, it is the legal representative who, in the minor's name, can begin civil proceedings to enforce a right;

(n) Participating in administrative and judicial proceedings affecting the child: Article 12, paragraph 2, of the Convention on the Rights of the Child, which provides that the child can be heard in any judicial and administrative proceedings which affect him or her, irrespective of his or her age, is held to be immediately effective. However, for the time being, there are no specific means provided by which the child can ask to participate in proceedings and be heard, when the presiding judge of the court in administrative or judicial proceedings decides not to let him or her be heard;

(o) Giving consent to change of identity, including change of name, modification of family relations, adoption, guardianship: The young person:

- Must give his or her consent to adoption from the age of 14 years (art. 22, para. 4, and art. 45, para. 2, Law No. 184 of 4 May 1983);

- Need not give his or her consent for the appointment of a guardian (article 348, paragraph 3, Civil Code, provides only that a young person who has reached the age of 16 years must be heard before the appointment of a guardian);
- Is not called upon to express his or her consent to a correction or a change of surname which does not derive from a change of status (articles 153-178 of Royal Decree No. 1238 of 9 July 1939);
- Is called upon to give his or her consent to a change of status - which results in a change of surname - only from the age of 16 years in the case of marriage authorized by the Juvenile Court with the acquisition, if a woman, of the surname of the husband (art. 143 bis, Civil Code) and in the case of parental recognition (art. 250, para. 2, Civil Code) which may involve the change of surname (art. 262, Civil Code);

(p) Having access to information concerning the biological family: The child can have access at any age to information about his or her own biological family, with the sole exception of the adopted child to whom no right to have information on the identity of the biological parents is recognized;

(q) Legal capacity to inherit and to conduct property transactions: All those who were born or conceived at the time of the death from which the inheritance derives are capable of inheriting (art. 456, Civil Code). A minor may not conduct property transactions, because until the attainment of the age of majority, acts relating to property, excluding small items of expenditure, are made on his or her behalf by his or her parents or guardian (arts. 320, 374-376, Civil Code);

(r) Creating or joining associations: There is no age limit for a child to create or join associations;

(s) Choosing a religion or attending classes on religion at school: The child can choose a religion when, in actual fact, he or she has sufficient maturity and capacity of discernment, without a minimum age having been fixed by law. The right regarding whether to attend a course of religious instruction at school is limited to secondary or senior high school students (art. 1, Law No. 281 of 18 July 1986) and therefore normally applies to students from the age of 14-15 years. Children who attend the eight years of compulsory elementary education, whatever their age, do not have freedom of choice because such choice is made by their legal representatives;

(t) Consumption of alcohol and other controlled substances: It is absolutely prohibited to sell or supply:

- To those under the age of 14 years, tobacco (art. 730, para. 2, Criminal Code);



- To those under the age of 16 years, poisonous substances (art. 730, para. 1, Criminal Code);
- To minors of any age, narcotic or psychotropic substances or preparations (art. 44, Decree of the President of the Republic No. 309 of 9 October 1990).

Proprietors of public houses and those who sell drinks in public places are prohibited from selling alcoholic beverages to minors under the age of 16 years (art. 689, Criminal Code): apart from this, there is no age limit at which the minor may receive or consume alcoholic substances, with the exception of the evaluation of the conduct of the parent who consents to abuse with consequent damage to health as a poor exercise of authority;

(u) Entry into a job or work in relation to the age laid down for the completion of compulsory schooling: Compulsory schooling is fulfilled with the attainment of the middle-school leaving certificate and those who have not achieved such a leaving certificate are released from the obligation on the attainment of the age of 15 years, having demonstrated that, for at least eight years, they have complied with the laws on compulsory education (art. 8, para. 2, Law No. 1859 of 31 December 1962). In accordance with this law on compulsory education, a minor who has not reached the age of 15 years (the age at which at present the obligation to attend school ends, in any case, after at least eight years of attendance) cannot enter into employment, with the exception of work in agriculture and in the service of the family - allowed only when it does not involve non-compliance with the obligation of compulsory schooling (and, therefore, the young person has already attained the middle-school leaving certificate) (arts. 3 and 4, Law No. 977 of 17 October 1967);

(v) Differences between boys and girls: There are no differences in the treatment of the sexes, not even to the effect of an anticipation of rights regarding sexuality or marriage, save that which is mentioned above on the differences in minimum age for work between boys and girls. The criterion of puberty is never used, and there is no difference between boys and girls in the enforcement of criminal law.

94. It must be pointed out that attributing directly the exercise of rights is not always based on logical and comprehensible criteria. The impression is that, in reality, the criterion on the basis of which the law attributes or denies capacity, assures or denies protection, if it exists, is extremely random. It is, for example, incomprehensible why the right to decide on the termination of pregnancy is attributed without an age limit while it is prohibited under the age of 16 to recognize the parenthood of the child and, before the age of 18, to contract marriage. It is incomprehensible why it is prohibited to donate blood under the age of 18 but the minor of any age is allowed to decide, autonomously and secretly, on diagnostics and rehabilitation in the case of drug addiction. It seems, therefore, that a revision of the current laws is necessary in order to base them on more rational and uniform criteria.

**B. Non-discrimination**  
(guidelines 25-32)

95. The principle of non-discrimination is not provided for in our legal system with specific reference to minors but, by constituting a general principle of law at constitutional level (article 3, paragraph 2, of the Constitution), it does not permit derogation and, therefore, also fully protects citizens who have not reached the age of majority.

96. Moreover, Italy has ratified and made executive the International Convention on the Elimination of All Forms of Racial Discrimination adopted at New York on 7 March 1966 (Law No. 654/1975) and has enacted - following the increasingly numerous episodes of racism and xenophobia in Italy - Law No. 205/1993 which provides urgent measures in relation to racial, ethnic and religious discrimination. It is also to be noted that the Convention on the Rights of the Child has become part of domestic law whereby the principle of non-discrimination contained therein is fully operative.

97. The issue of the fight against discrimination has also been taken up again in the new law - Law No. 40 of 6 March 1998 (Regulation of Immigration and Rules on the Condition of the Foreigner) which, under article 41, paragraph 1, lays down that "discrimination is constituted by all behaviour which, directly or indirectly, involves a distinction, exclusion, restriction or preference based on race, colour, ancestry or national origin or ethnicity, convictions and religious practices, and that has as its aim, or effect, the destruction or compromise of the recognition, the enjoyment or the exercise in equal conditions, of the human rights and fundamental freedoms in the political, economic, social and cultural fields and in every other sector of life".

98. Moreover, the measures taken to combat discrimination adopted by the law are also applicable to xenophobic, racist or discriminatory acts carried out against Italian citizens, stateless persons, and citizens of other member States of the European Union present in Italy. In order to ensure that the principle of non-discrimination is operating effectively, article 42 of the Law is also of particular importance. It provides for a specific judicial civil action against discrimination, allowing a person who feels discriminated against to present him- or herself personally before the court to ask for an order for the termination of the discriminatory acts. Furthermore, the same article provides for the setting up of Observation Centres, offering information and legal assistance to the victims of discrimination based on racial, ethnic, national or religious motives. Such centres could become an important source of monitoring of situations relative to discrimination.

99. At present, there are several Observatories on discrimination in operation (such as the National Observatory on Xenophobia; the Observatory of the Piedmont Region on the manifestations of Racism, anti-Semitism and Xenophobia in Italy; or the experiment conducted by the Municipality of Bologna on racial incidents in that city) and it has become evident that, rather than the need to spread these Centres, it is indispensable to improve their coordination and, above all, to more carefully define the situation in question.

100. With regard to this, mention should be made of the project promoted by UNICEF-International Child Development Centre (ICDC) and the Istituto degli Innocenti of Florence for the activation of a specific Observatory against discrimination towards foreign minors and minors of foreign origin. This project has as its objective an increased scientific attention to the phenomenon, and has as its own point of reference monitoring the implementation of Law No. 176/1991. It is a unique experience in Italy, and seeks to become a link-up point to other centres and research programmes which could be instituted subsequently.

101. The problem of the prohibition of discrimination is, however, certainly not resolved by way of the not insignificant legislation adopted and the eventual judicial protection provided. Initiatives for integration and support for the ethnic and cultural identity of foreign children are, therefore, being developed, at the level of local authorities, of schools and the private and voluntary sectors. Of particular interest is the experience, by now common in some large cities, of cultural coordinators and street social workers who speak the same language and are of the same nationality as the young foreign people they want to reach.

102. Particular attention has been given over the last few years to gender discrimination and how to overcome it. A Department of Equal Opportunities has been set up within the Prime Minister's Office, chaired by a minister, which is carrying out very intense work in this field. The 1997 Report on the Condition of Young People in Italy, edited by the National Centre for Children and supervised personally by the Minister for Social Solidarity, is primarily dedicated to the protection and construction of the female identity.

### **C. The best interests of the child** (guidelines 33-39)

103. The principle of the interests of the child which are privileged in respect to other interests does not appear in the Italian Constitution, but is present in numerous legislative provisions. It is enshrined in various regulations in the fact that - in a possible conflict of interests between adults and minors - it is necessary to take into particular consideration, and to protect in a preferential way, that which appears to be the best interests of the weaker party and who is at the beginning of life. In the interests of the child, the law makes reference to the case of late recognition by the parents (art. 250 (4), Civil Code), the case of parental recognition of a child conceived by incest on the part of parents in good faith (art. 251 (2)), the case of the insertion of the child born out of wedlock into the legitimate family of the natural parent (art. 252), the case of the legitimization of the child born out of wedlock by judicial action (art. 284), the case of the giving of custody to one parent when there is a separation of the spouses (art. 155), and so on.

104. The Constitutional Court has also held this principle to be so significant - and fundamental for the protection of the personality of the child whose "emotional balance, educational and social placement" must not be prejudiced - that it has used it as a criterion for evaluation of the constitutionality of the law. In that sense, with Decision No. 341 of 20 July 1990, it held that an action in terms of article 274 of the Civil Code for a judicial declaration of paternity is admissible only if the judge considers that this also corresponds

with the best interests of the child; with Decision No. 303 of 24 July 1996, it held that the judge must derogate from the rigid criteria of the difference in age between the person who wishes to adopt and the child available for adoption when placement in that specific family responds to the best interests of the child. The judges have consequently taken from article 2 (respect and development of the human being) and article 31 (protection of young people) of the Constitution the principle which has become the constitutional rule of the best interests of the child.

105. In administrative actions, the criterion of the best interests of the child is at the basis of social policy and of actions carried out by local authorities to whom supportive and promotional functions are attributed. In the Plan of Action of the Government, among the fundamental objectives to be followed, it is emphasized that it should guarantee, not only on a legislative level but also on that of regular operative procedures, that the personality of a child in his or her formative years is to be respected and that the interests of the child are privileged in respect to other interests. The best interests of the child constitute a criterion of evaluation in deliberations - both administrative and judicial - relating to the family and are used, in particular, in deciding whether it is more opportune in situations of prejudice or abandonment of the child to help parents in difficulty by way of social or educational aid or to order the removal of the child or his or her adoption; for socio-economic action regarding scholastic assistance and protection of the right to education; for the development of foster care and the reduction of institutionalization; for the integration of foreign children; for the fight against under-age child labour; for prolonging compulsory education and so on.

106. Despite the attention of the Government to the best interests of the child, it cannot be said that all the problems have been resolved. In the institutional sphere, there remain attitudes which tend to privilege the interests of the adult, so that it is not unusual that these interests are smuggled in as the interests of the children when they are in fact the interests of the adults, and that organizational and financial problems (for example, in relation to welfare assistance and placement in particular institutions) prevail over fundamental needs during the formative years. It is necessary, therefore, to develop, together with a more adequate attitude of respect for those who are in their formative years and their rights, also a better system of protection of these interests. It is also indispensable to reform the juvenile justice system, revising the jurisdiction and providing specialized judges for all minors. Moreover, it is necessary to enhance the training system for social workers and teachers regarding the needs, difficulties and demands of children and adolescents, and also ensure a better level of understanding on the part of health professionals of problems inherent not only to the physical health but also to the psychological and emotional development of children in their formative years. It is necessary to create a system of services for the protection of children which is, in spirit, homogenous throughout the nation, overcoming historical inequalities.

**D. The right to life, survival and development**  
(guidelines 40-41)

107. For the answers to the queries referred to in paragraphs 40-41 of the guidelines, see the part of this report relative to health and assistance, as it seems opportune to cover the problems relating to health and the right to life, development and survival as a whole, given the strict interconnection which exists between these matters.

**E. Respect for the views of the child**  
(guidelines 42-47)

108. The Italian Constitution provides, in a general way, that all persons have the right to express freely their views by way of speech, writing and in any other method of dissemination: even if there is no specific reference to the minor, the use of the all-encompassing term “all persons” must also include the child.

109. In the family sphere, the duty to listen to the child and to take his or her opinions into consideration is not expressly declared but it can be clearly inferred from the rule which provides that parents have the obligation to carry out their own educative function taking account of the capacity, the natural inclinations and aspirations of their children (art. 147, Civil Code). Violation on the part of parents of this duty can involve intervention which limits or removes their authority. On the basis of this legal rule, the Juvenile Court in Bologna held that parental authority “does not include the right to impede, also by means of personal restrictions, the ideological-cultural choices of the child but must be exercised with respect to fundamental freedoms and inviolable human rights” (26 October 1973).

110. In the scholastic sphere, the statute for students in secondary school has been recently approved (Decree of the President of the Republic of 29 May 1998) in which various rules uphold the right of the minor to be heard: article 1 states that the life of the scholastic community is based on freedom of expression, of thought, of conscience and of religion; article 2, paragraph 1, that the school shall enhance the personal capabilities of the students by way of providing adequate information, the possibility to formulate requests and to carry out autonomous initiatives; that, under section 4, the students have the right to active and responsible participation in the life of the school and, under section 6, to a choice in curricular activities. On the disciplinary front, the same rules state (under art. 4) that no one shall be subject to disciplinary sanctions without having been first invited to explain their reasons and that, in no case, can they be punished, either directly or indirectly, for having freely expressed their views in a reasonable manner and without harm to others.

111. It is not, however, expressly provided that the young person must always be heard nor that he or she can express his or her opinion prior to his or her placement in a welfare institution or community or in a foster home. There has, however, developed in some of the judges who are more aware of these issues, the conviction that, before separating a child from his or her family, it is always necessary to allow the child to express his or her opinion and to explain to him or her the significance of the measures that will be taken.

112. In jurisdictional procedures, some rules have been laid down relating to the hearing of the child. As already stated, it is necessary, however, to recognize that the regulations regarding the hearing of children are very fragmentary, incoherent and, at times, contradictory and, therefore, it is not possible to find clear guidelines from the legislators.

113. In civil proceedings, the rule is that in some cases not only the hearing of the minor is necessary but the wishes of the minor are also considered binding: parental recognition of the 16-year-old cannot take place without his or her consent; the placement of a child born out of wedlock into the legitimate family cannot take place without the consent of the legitimate children who have reached the age of 16 years; in various stages of the adoption procedure the wishes of the 14-year-old minor are considered decisive. In other cases, however, it is provided only that the minor must obligatorily be heard if he or she has reached a certain age: 12 years for the various stages of the adoption procedure and that of fostering. On the other hand, the hearing of the child is not mentioned in the case of the separation of the parents, whether it be consensual or judicial, or when changes are made to the conditions of the separation. It should be emphasized that, when confronted with a legislative approach which appears oriented towards the recognition of a growing need to hear the minor in judicial proceedings, the most recent provisions (Law No. 74/1987) on divorce establish that the judge should hear the minor only if strictly necessary, retaining, therefore, less ample space for discretion than established in this matter ("if opportune") in the previous law (Law No. 898 of 1970).

114. It is also to be revealed that different rules exist for similar situations: children over 14 years of age must be heard by the judge if there is a disagreement between the parents on questions of particular importance which affect them (art. 316, Civil Code) while no provision is made when the disagreement has become so relevant as to involve the separation of the parents and the giving of custody of the child to one of them, or possibly to third parties, or when there is controversy over the exercise of the parental authority. It is provided that the children of a legitimate family must give their consent to bringing a child born out of wedlock into the family unit, but that in the case of the legitimization by judicial measures the children must only be heard, and for the adoption of another child on the part of parents with children, the hearing of the legitimate children of the adopting couple or of the fostering couple is not even requested, while it appears evident that it is advisable that they be involved in a decision which will have notable impact on their future life. And also the fixing of different ages for being heard (12, 14, 16 years) does not seem connected to the peculiar nature of the situations, but appears completely random.

115. It would seem, therefore, indispensable to have a single legislative provision which - leaving aside some specific cases that require the consent of the child, on the basis of their relevance to his or her life - establishes, in all judicial and administrative procedures affecting a minor who has reached the age of 12 years, and when advisable also at a younger age, that he or she be heard in ways and forms which permit the perception of his or her real opinion and do not cause him or her to be seriously upset.

116. The legislation with regard to juvenile criminal proceedings is more organic in that it provides, at every phase of the trial, for the hearing of the accused minor with the assistance of the social services and the parents or other suitable persons nominated by the minor. It is also required that the hearing of the minor becomes a constructive dialogue: the new code of juvenile

criminal procedure requires that the judge explains to the accused the meaning of the procedures taking place in his or her presence, and also the content and ethical and social reasons for the decision (article 1, Decree of the President of the Republic No. 448 of 22 September 1988).

117. In the criminal trial of an adult, in which minors are involved as victims or witnesses to crimes, a series of provisions have been enacted to guarantee the due hearing of the child and the protection of his or her personality. The regulations have tried to protect the privacy of the minor, providing the possibility for proceedings to be held in chambers for the hearing of the child and forbidding the press to publish details and photographs of minor witnesses and people who are offended or damaged by the crime until they have reached the age of majority (art. 114, para. 6, Code of Criminal Procedure). Attempts have also been made to protect the personality of the minor providing, in article 498, paragraph 4, that the examination in the courtroom is conducted only by the presiding judge of the court on questions and cross-examination proposed by the parties and that, in the examination, the presiding judge may be assisted by a family member of the child or an expert in child psychology. An important innovation has been introduced by the law on sexual violence (Law No. 66 of 1996) providing, under article 13, that it is possible for the public prosecutor, or the person undergoing investigation, to ask that evidence be taken in the pre-trial phase and, under article 14, that the hearing may also take place in a different place from the court, even at the home of the child.

118. However, in administrative and judicial proceedings, the child is able to begin proceedings through his or her representative (usually the parent or the guardian but also a special representative in the case of conflict of interests). It is to be noted that under our legal system, on the attainment of the age of 14 years, a child can obtain an autonomous residence permit valid until his or her eighteenth year and that the child him or herself is able to present an application regarding the right to asylum: the Juvenile Court must, however, be informed so it can nominate someone to represent his or her interests.

119. The right of children to create associations in the school is provided by the aforementioned statute of the rights of the student; the right to elect their own representatives in the collegial council of the secondary school is provided by Decree of the President of the Republic No. 416 of 31 May 1974.

120. Many cities are developing Municipal Children's Councils. The Councils perform their activities through confrontation and mediation with adult administrators; the activities are supported by a steering committee formed by adults (a teacher or a coordinator); and the Councils operate within the municipal territory which coincides with an area that the children know; have control of a budget which allows them to gain experience and carry out small projects; plan projects for the transformation of urban spaces, for the environment, for sports and free time activities and for cultural activities.

### III. CIVIL RIGHTS AND FREEDOMS\*

#### A. Introduction

121. The Italian legal system recognizes, also at the constitutional level, the civil rights and liberties of all persons irrespective of age. Naturally, the possibility of exercising such rights can vary in relation to the capacity - full rights or minority rights - of the individual during his or her maturing process: the exercise of rights and freedoms as an adolescent is one thing and the exercise of rights and freedoms as a child is another. The construction of the identity of the individual in his or her formative years is brought about by way of a dual process of continuity and growth in which he or she must constantly renegotiate his or her own need to belong to his or her own family with the need to make him- or herself autonomous and responsible, and his or her own need for dependence with the exercise of freedom. The fulfilment of authoritative relations on the part of the parents and officials, which balance liberties and directive intervention and guiding regulations, support and self-determination, constitute a important factor in the development of identity, encouraging personal development towards autonomy and excluding egocentric individualization and introversion. If, in the educational sphere, it is necessary to contrast autonomy and dependence by way of dynamic and constructive dialectics, in the sphere of the law it is also necessary to have an adequate balance between the two positions and an overall and consistent vision.

122. This implies, on the one hand, the acknowledgement that rights and freedoms, so far as they are basic human rights, cannot be made substantially irrelevant by giving the parents an absolute right over the child and, on the other hand, that if autonomy is functional to the construction of the identity of the child, in regard to a person whose maturity is not yet complete, the exercise of authoritative guidance on the part of the parents who oversee his or her formative itinerary, both in the interests of the child and of the community, is also necessary.

123. The legal system has not dealt with - at least not in an explicit way - the problems relative to the relationship between the educational functions of the parent and the rights and freedoms of the child. It is, however, to be noted that the affirmation found in article 147 of the Civil Code - according to which parental activity regarding the education of a child must respect the capabilities, the natural inclinations and the aspirations of the child - has placed, in a general way, a prime, fundamental limit on parental power, which cannot be exercised in such a way as to violate the moral personality of the child rather than educate him or her to freedom, which only favours development and helps the child to become an adult person who is conscious and responsible. The constitutional recognition of the fundamental human rights and the precise applications which emerge from the Convention on the Rights of the Child constitute a further interpretative criterion when there is conflict between the rights and freedoms of the child and the educational rights of the parents.

124. It emerges, however, from the legal system that if the right of the parent is not absolute, and can and must be checked, the rights and freedoms of the child also cannot be considered absolute because they must be functional to a real process of growth, autonomy and becoming a

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\* This section responds to queries relating to articles 7, 8, and 13-17 of the Convention to which paragraphs 48 to 61 of the general guidelines for periodic reports refer.



responsible person. The rights and freedoms of the child find a limit in the necessity to assure him or her a global and harmonious development which intervenes in the case of choices that may be damaging for his or her own growth. That does not mean that the rights and freedoms of the child must be substantially denied or set aside, but that it must be carefully evaluated - firstly by the parent and then, possibly, by the judicial body for the protection of children - whether the child in his or her formative years has reached sufficient maturity to allow him or her an authentic free choice which responds to his or her development needs, an adequate and constructive direction of his or her own life and an awareness of the consequences implicated in the effective choice.

**B. Name and nationality**  
(guidelines 49-53)

125. The registration of birth must be made to the Registrar of the State in the 10 days following the birth (article 67 of Royal Decree No. 1238 of 9 July 1939). The registration procedure has been reviewed recently under Law No. 127 of 15 May 1997 on administrative simplification which, in amending article 70 of the said Royal Decree No. 1238/1939, established that when the child is born in a hospital or in a clinic, the registration of birth is carried out directly within such an institution and whoever registers the birth (one of the parents or their lawyer, a person who has assisted at the birth or the person delegated by the hospital where the birth took place) must respect the wishes of the mother not to be named. Since the obligation of registration is incumbent on a large number of people and since almost all children are born in a hospital or clinic where the registration of birth is, in any case, done automatically, and because assistance for the birth of the public hospital structure is also available to female foreign illegal immigrants the possibility that a birth is not registered or that it is registered late is very remote.

126. The consequence is that, with the registration of birth, a child born in Italy immediately acquires an identity constituted by a surname (of the father, of the natural mother who alone has acknowledged the child, or given by the registrar if the father is unknown and the mother has asked not to be named on the Register of Births), by a first name (indicated by one of the parents or by the Registrar for the child of unknown parents) and by citizenship (Italian, if, by article 1 of Law No. 91 of 5 February 1992, at least one of the parents is Italian, if the parents are unknown or are displaced persons, if the child does not take the citizenship of his or her foreign parents according to the law of the State to which they belong; otherwise the foreign citizenship of one of the parents).

127. By way of registering the birth, if the parents have accepted to be named as such by acknowledging the child, the parents become titleholders to all the rights and duties of parents and the child has the right to know them and to be brought up by them. If, on the other hand, the natural parents have not acknowledged the child, and neither paternity nor maternity has been judicially declared, the Juvenile Court (possibly after a waiting period to give one of the parents time to decide whether to acknowledge the child) declares the child to be adoptable (article 11 of Law No. 184 of 4 May 1983) and therefore proceeds to place the child in adoptive care in a family which shall become "his or her" family and in which he or she will be brought up and educated.

128. The failure to register a birth has been encountered in some cases of nomad children of families coming from the former Yugoslavia and, in these cases, provision has been made to give the child an identity by way of a procedure of late registration of birth (articles 68-69, Royal Decree No. 1238 of 9 July 1939). In some cases, the parents have hidden the birth in order to give the child to another couple who have registered the child as their own, committing an offence of forgery (art. 483, Criminal Code) punishable by imprisonment for up to two years. In any event, the child immediately receives an identity even if it does not correspond to his or her biological family or to his or her status as an unacknowledged child.

129. To avoid any form of stigmatization or discrimination against the child who does not have parents, or who is the child of only one acknowledged parent, the extracts of the Register of Births must be released only in summary form (except when the Public Prosecutor of the Republic authorizes the release of a full copy), omitting any indication which shows that the paternity or maternity is not known and indicating only the name of the parent or parents who have acknowledged or adopted the child (article 186 of Royal Decree No. 1238 of 9 July 1939).

130. Specific measures have not been adopted aimed at informing the parents that the child has the right to know them and to be brought up by them. This right of the child is obvious and characterizes all of the legislation, and, in particular, is expressly upheld by article 1 of Law No. 184 of 4 May 1983 ("The child has the right to be brought up within his or her own family"), and social policies and the judicial approach have always been aimed at bringing this about, including in the form of educational support, economic support and housing allocation to parents.

131. In particular, it is held to be poor exercise of parental authority for the parents to delegate the bringing up of the child, except in cases of temporary force majeure, to other persons or communities or welfare institutions, to the extent that when such cases are discovered the Juvenile Court intervenes by taking measures or, in cases of material and moral abandonment, by declaring the child available for adoption.

132. On the basis of Law No. 91 of 5 February 1992 on Citizenship, a child cannot remain without nationality because:

- The child born in Italy who does not take the citizenship of the parents according to the law of the State to which the parents belong is an Italian citizen;
- The child of unknown parents found in the territory of the Republic, if he or she is shown to possess no other citizenship is considered to be an Italian citizen by birth;
- The foreign child adopted by an Italian citizen acquires Italian citizenship; in the case of the revocation of adoption by the adopted child, he or she loses citizenship if he or she is in possession of another citizenship or he or she reacquires the same;
- The minor child living with his or her parent who acquires, or reacquires, Italian citizenship, acquires Italian citizenship;

- Italian citizenship may be conceded to a stateless child born outside Italy or a refugee child (born in Italy or outside Italy) who has resided legally in the territory of the Republic for at least five years;
- Italian citizenship may be conceded to a foreign child, born in Italy or abroad, who has resided legally in the territory of the Republic for at least 10 years (this period is reduced to 4 years if the child is a citizen of a member State of the European Union).

133. There is no difference as regards citizenship between a child born in or out of wedlock, and for children applying for political asylum or refugee status the above-stated applies.

134. The child born to parents of different nationalities may acquire and maintain the nationality of both parents, the obligation to choose having been abrogated and the principle of plurality of nationality being in force, at least until the child renounces Italian citizenship when he or she transfers residence abroad.

### **C. Preservation of identity** (guideline 54)

135. The principle of preservation of the identity of the child, constituted by name, family relationship and nationality, encounters an important exception in the adoption of the child, which creates a new status by which the child, keeping only his or her original forename, acquires the surnames, the family relationship and nationality (or the nationalities) of the new parents (article 27, paragraph 1, Law No. 184 of 4 May 1983). In this case, the child who has reached the age of 14 years can keep his or her own identity by denying his or her consent to adoption and, if he or she is under age, can express his or her opposition (article 22, paragraph 4, Law No. 184 of 4 May 1983).

136. The law attributes a triple significance to the surname, as a sign of personal identification, indication of belonging to a family group, and the nature of the status in family relations. Given these characteristics, there is a tendentious principle of permanency of the surname of the child, a permanency which has exceptions only in the following cases:

- Acknowledgement of the child born out of wedlock after the completion of the birth certificate of an unacknowledged child (article 262, paragraph 1, Civil Code: the surname originally given by the Registrar, being a fictitious name, is substituted by that of the acknowledging parents, or the surname of the father if the acknowledgement is carried out contemporaneously by father and mother);
- Paternal acknowledgement subsequent to that of the mother (art. 262, para. 3, Civil Code): the Juvenile Court decides for the child whether to substitute the initial surname of the mother with the surname of the father, or to add the surname of the father to that of the mother;
- Non-legitimizing adoption (article 55, Law No.184/1983 and article 299 Civil Code): the adopted person assumes the surname of the person adopting and adds it to his or her own;

- Legitimization of the child born out of wedlock by subsequent marriage or by the father (articles 280 et seq., Civil Code: the child who had the surname of the mother acquires that of the father);
- Subsequent legitimization on the part of the mother of the child whom only the father had acknowledged (inferred from article 290, Civil Code, the original paternal surname is substituted by that of the mother);
- Upholding the action of dis-acknowledgement of legitimate paternity (arts. 244 et seq., Civil Code): loss of status as a legitimate child, with maintenance of the status of a child acknowledged only by the mother from whom he or she acquires the surname;
- Annulment of parental acknowledgement of a child born out of wedlock (arts. 263-268, Civil Code): with the removal of the paternal surname the child is given the maternal surname if the child was acknowledged by the mother, or another surname if there was no maternal acknowledgement;
- Change of surname for well-founded reasons by decree of the President of the Republic (art. 6, para. 3, Civil Code and art. 153 of Royal Decree No. 1238/1939);
- Rectification of a surname given in error (art. 165 of Royal Decree No. 1238/1939).

137. Intervening nevertheless to evaluate the constitutionality of one of these provisions by which the child can have his or her surname changed and therefore also his or her identity, the Constitutional Court, in Decision No. 13 of 4 February 1994, has upheld the non-obligatory nature of such modification and the possibility to maintain the original surname where this has become part of the personal identity of the person in question. This is a principle which stands, therefore, in any one of these situations, for the protection of the child.

138. A change in family relationships in the interests of the child takes place when there is an adoption, legitimization, or acknowledgement of the child born out of wedlock. Such change comes about, however, with a painful loss of elements of identity in the case of annulment of acknowledgement and in actions for dis-acknowledgement of legitimate paternity. At this time, it is highly debatable whether a father who has consented to the assisted pregnancy of his wife by way of artificial insemination by donor can then refuse to acknowledge paternity of the child, thereby causing the child to lose both his or her status as legitimate and the surname by which he or she was known in social relationships.

139. Conduct which illegally deprives the child of the constitutive elements of his or her identity, or some of these, for example, declaring another surname or other parents, is punished as a crime (arts. 494, 495 and 496, Criminal Code).

**D. Freedom of expression**  
(guideline 55)

140. Article 21 of the Constitution establishes that “all persons have the right to express freely their own opinion in speech, writing and any other means of dissemination”. And this provision applies to everyone, citizens and foreigners, adults and children.

141. There are no restrictions on the freedom of expression for children or adolescents that are different or greater than for adults. From the formal point of view, the names of the printer and the author must be indicated in order to publish non-periodical printed material and periodicals require registration, while television or radio broadcasts by other than public broadcasters must be licensed. As far as content is concerned, freedom of expression is limited in the case of that which is contrary to public decency and the expression of words or pictures which constitute a crime.

**E. Freedom of thought, conscience and religion**  
(guidelines 56-57)

142. The Italian State guarantees fully, for the child as for the adult, the right to freedom of thought, conscience and religion.

143. The rights and freedoms of thought and of conscience, both of individuals and of social groups, are among the fundamental human rights which the Republic recognizes and guarantees (art. 2 of the Constitution). And article 19 of the Constitution provides that all persons have the right to profess freely their religious faith in whatever form, individually and in association, to issue propaganda and to perform their rites in private or public, provided that they are not contrary to public decency.

144. There is, therefore, no doubt that the child has these rights in full, without limit outside his or her own family, save those relating to public order and public decency. The problem which is posed, however, is whether the child has the right to express opinions which are different from those of his or her parents, to express them outside the family against their wishes, to profess a religious faith different from that of his or her parents, or, within the faith of his or her parents to make choices for his or her life different from the wishes of his or her parents or to stop practising any religious faith. With regard to the law, taking account of the age and of the maturity of the child and of the intensity of his or her feelings, it is held that choices which do not damage either him- or herself or others, and expression of thought which springs from a sincere and reasonable conviction, must be respected and parental conduct that impedes the child who is already sufficiently mature to exercise these very personal rights, or to force him or her to behave in a way which does not correspond with his or her present inclinations, is inappropriate.

145. The young person taking part in a religious minority or indigenous group has full rights to freedom of conscience and to express his or her religion or belief, without limitations except those protecting public decency.

146. The problem of respect for the freedom of the young person to manifest his or her religion or belief is also posed with respect to participation in religious instruction taught by

teachers appointed by the Catholic Church (which in Italy is by far the most important religion) in the weekly hour of religious instruction which takes place in public schools. The solution provided is that of optional religious instruction. Before the commencement of the school year the parents, as representatives of the children (for the elementary or middle schools) or the students themselves (those who have already reached the age of 14 years, for the secondary schools), choose whether to avail themselves of the teaching of the Catholic religion. When the decision is not to take part, the student can choose whether, in that hour of the week dedicated to the Catholic religion, he or she will attend a different subject of study, devote him- or herself to self-study, or leave the school building.

147. The problem remains for the nursery schools (which take care of children from 3 to 6 years of age) and the elementary schools in which there is widespread teaching of the Catholic religion for two hours per week. This makes it more difficult for children who belong to minorities to abstain from these lessons without suffering periods of marginalization. A general solution was found in nursery schools where there are children who belong to religious minorities: religious teaching be of a non-confessional kind.

148. For the young person who finds him- or herself in a community or a hospital affiliated with a faith other than the child's, there is a normal ecumenical practice by which the intervention of the minister of the religion of the child is allowed or requested or the child is otherwise allowed to practise his or her own religion.

149. Finally, it is to be noted that the recent law on conscientious objection with regard to military service (Law No. 230 of 8 July 1998, New Regulations in regard to Conscientious Objection) has brought profound innovations with regard to the previous laws on the subject: objection to military service ceases to be a benevolent concession by the State, and becomes the expression of a subjective right and therefore of the freedom of thought, conscience and religion.

#### **F. Freedom of peaceful association** (guideline 58)

150. Every citizen, adult or child, has the right to freely associate, without authorization, for purposes which are not in themselves prohibited by the criminal law, which prohibits secret associations and organizations of a military character (article 18 of the Constitution). Therefore, the child can create and join associations without the need to apply for or obtain authorization.

151. Citizens, adults and children, have the right to assemble peacefully without arms and for meetings which take place both in private or are open to the public, without the need for authorization or prior notice (article 17 of the Constitution). Only for meetings which take place in public places must the organizers, adults or children, give prior notice to the authorities to enable them if necessary to prohibit the meetings for demonstrated motives of public security or safety.

152. Law No. 40 of 6 March 1998, which constitutes the charter of rights and duties of the foreign citizen, lays down, under article 2, that the foreign citizen who has regular permission to stay in Italy enjoys the civil rights attributed to the Italian citizen, subject to any contrary provisions. And, therefore, the rights of association and of assembly, exercised according to the conditions outlined above, are also applicable to a foreign child who has legal permission to stay.

153. Current Italian law, therefore, corresponds fully to what is established by article 15 of the Convention on the Rights of the Child.

### **G. Protection of privacy** (guideline 59)

154. The question of the protection of the privacy of the child is taken into consideration under many headings.

155. Firstly, the activity of the parents or guardian who, in exercising educational vigilance, concern themselves with his or her life and also are aware of the content of his or her correspondence or his or her diary, is not held to be arbitrary or illegal interference in the private life of the child; only the abuse of such vigilance in ways which do not respect the identity and the psychological privacy of the child may constitute poor exercise of parental authority and can involve the intervention of the Juvenile Court.

156. The right to privacy of the child with respect to interference external to the family is protected in the general ways provided for all persons (the reading and revelation of the contents of correspondence addressed to others is punished by articles 616 and 618 of the Criminal Code; the residence is inviolable in accordance with article 614, Criminal Code; it is a crime punished by article 615 bis of the Criminal Code to use surveillance equipment, whether visual or sound, to record images or sounds in the private home of another; according to law, it constitutes, a civil wrong - on the basis of article 2 of the Constitution which upholds inviolable human principles - to reveal by way of the media specific information on the particulars of someone's private life and image outside of a situation of public-social relevance; Law No. 675 of 31 December 1996 on privacy protects individuals against interference in their private life due to the processing of personal data, including so-called sensitive data which can reveal racial and ethnic origin, philosophical, religious or other convictions, membership of political parties, unions, associations, health or sexual orientation).

157. In addition to these general measures, specific measures are laid down for the protection of the privacy of the child. To prevent potentially damaging consequences of publicity for a child who participates in a criminal trial and, in particular, to prevent premature identification of the child who is accused or is the victim of a crime, publishing details about or the photograph of the child is prohibited until he/she has reached the age of majority, save with the authorization of the child who is over the age of 16 years or of the Juvenile Court (art. 114, para. 6, Code of Criminal Procedure). Furthermore, the publication and the divulging, by whatever means, of details or images capable of enabling the child in any way involved in criminal proceedings to be identified are prohibited (article 13, Decree of the President of the Republic No. 448 of 22 September 1998) except at the request of the accused who is over 16 years that the proceedings be public. Finally, in order to shield the child victim from the curiosity of the public

which may compromise the rehabilitation of his or her personality, criminal proceedings against an adult accused are held in chambers when the testimony of a child victim of the crime may be heard (art. 472, Criminal Code).

158. In turn, the law, holding that with regard to children, in the balance between the right to privacy and the right to information in the presence of a socially relevant fact, the former has priority, is now oriented towards prohibiting the widespread publication and uncontrolled divulging of the image of a minor, including outside criminal proceedings, when the consent of the minor over the age of 16 years or of his or her legal representative has not been given.

159. Whether the parents, representing the child and custodians of his or her right to privacy, can in his or her name allow the publication of his or her photographs and sell the rights to reproduce the same - outside criminal proceedings where it would, in any case, be prohibited - has been questioned; it has been held that, having attained the age of 16 years, only the child him- or herself, and not his or her legal representatives, can cede the right to his/her image.

160. Italian journalists of the press and television have given themselves a code of conduct, the so-called Charter of Treviso of 5 November 1990, which binds them to maintain the anonymity of children who are accused of or are victims of crime by refraining from publishing elements which, even indirectly, can lead to his or her identification and to the violation of the protection of the child as a person of formative years who could be very disturbed by publicity, including in relation to facts which do not constitute crimes (suicides, matters relevant to adoption and fostering, children of people in prison, etc.). Moreover, in cases where personal data and photographs are necessary (for example, kidnappings or children who have disappeared) the Charter invites journalists to obtain prior consent of the parents and the tutelary judge. This document, updated in 1995 with a Handbook, has become domestic law (Official Gazette of 2 August 1998).

161. Moreover, on 29 July 1998, the Commissioner for Data Protection launched the Code of Conduct on Privacy (in implementation of Law No. 675 of 31 December 1996) prepared by the National Council of the Order of Journalists. Some cases of violation of the rules have taken place in the last three or four years and disciplinary proceedings have been undertaken, according to four procedural methods: a warning, for violations of a mild nature; censure, for matters of grave importance; suspension from work (from two months to one year), in cases of conduct which has damaged the dignity of the profession; expulsion from the Order of Journalists, if the dignity of the profession has been seriously compromised. Seventy-four disciplinary orders had issued, as of April 1997: 62 warnings, 5 censures, 6 suspensions and 1 expulsion. The following table offers a regional breakdown of the sanctions applied:



**Table 3**

**Disciplinary proceedings against journalists, by region and type of sanction**

Region	Expulsion	Warning	Censure	Suspension
Trentino Alto Adige	-	3	1	-
Piedmont V. Aosta	-	2	3	-
Lombardy	-	15	-	-
Veneto	-	3	-	-
Tuscany	-	4	-	-
Emilia Romagna	-	2	-	1
Marche	-	3	-	-
Umbria	-	1	-	-
Lazio e Molise	1	13	1	5
Apulia	-	23	-	-
Basilicata	-	1	-	-
Sicily	-	2	-	-
Total	1	62	5	6

Source: Journal of the National Council of the Order of Journalists, *Og-Informazione*, April 1997.

162. Besides the above-mentioned, attacks on the honour and reputation of a child, as for an adult person, committed with the use of the mass media or by the spoken or written word, constitute punishable offences on complaints brought on behalf of the child under the age of 14 years by his or her parents or guardian; for children between the ages of 14 and 18 years, complaints can also be brought by the child him- or herself.

163. There are no specific measures relating to the privacy of children who have been placed in children's homes. The respect for the life and for the dignity, in all its aspects, of the child held in an institution is guaranteed by criminal penalties (abuse of methods of correction or discipline, or maltreatment, articles 571-572 Criminal Code), by administrative supervision (entrusted to local authorities) and by judicial controls on the specific conditions of each child (periodic inspections by the presiding judge; article 9, paragraphs. 4 and 5, Law No. 184 of 4 May 1983).

**H. Access to appropriate information**  
(guideline 60)

164. The mass media are free, and it does not appear possible, given the great variety of the productions aimed at a young public, for the State to promote editorial choices and specific dissemination according to evaluations of social and cultural worth. It is the school which above all deals with the initiation of, and the education in, the reading of books and newspapers; also, of a daily newspaper for reading in class and common discussions on some of its contents is available at a favourable price from the publisher.

165. A significant experiment with the dissemination of literature has been carried out by means of some important literary prize competitions (the Pavan prize, in the Venice region, the Grinzane-Cavour prize in the Piedmont region), in which children are the judges of the books in competition.

166. The problem of teaching, books and information in their original language interests some indigenous minorities and groups of recent immigrants. Taking account of these situations, the Italian Parliament is about to approve a general law which also allows the schools to carry out collateral teaching of minority languages and cultures, with probably similar arrangements also for the production and broadcasting through the mass media in the same languages. And article 36, paragraphs 2 and 3, of Law No. 40 of 6 March 1998 on the rights and duties of the foreigner, in addition to providing courses of Italian language teaching for foreign children, specifies that “the school community welcomes linguistic and cultural differences as the basis of reciprocal respect, of the exchange between the cultures and of tolerance; to that end it promotes and encourages initiatives aimed at welcoming and protecting the original culture and language and at implementing common intercultural activities”. More clarification will be given in the part of the report relating to minority languages.

### **I. The right to express one’s own thoughts** (guideline 60)

167. According to the Constitution (art. 23), everyone has the right to express freely his or her own thoughts in words, writing, and any other mode of communication; and the right to freedom of expression obviously includes also that of receiving expressions of thought. All this also applies to children and adolescents. In relation to this freedom, there are some problems.

168. The first problem is how to make the right of the child to express and receive information and ideas effective, furnishing him or her with appropriate opportunities and instruments to transmit his or her thoughts. The school system, as regards the theme of democracy of thought, has undertaken since 1974 (Legislative Decree No. 416/1974) to recognize, for the upper schools (for students from about 14 years), student assemblies and student elections for their representatives in the school structure and the participation of those representatives in deliberations on matters of the school together with representatives of the parents and teachers.

169. At the level of educating children to express their thoughts, the initiative of some daily newspapers to invite schoolchildren to write to their newspaper, featuring the best articles submitted on special pages, should be noted. And there are now many school newspapers edited by the students.

170. The second problem is how to assert the common responsibility of parents or the guardian concerning the education of the young person, combining it with the freedom of the child to express and receive expressions of thought. It is recognized that the real exercise of rights on the part of the child is correlated with the age and educational needs and that, in any case, when he or she has reached a sufficient level of maturity, he or she can enjoy all the expressions of thought which are not in conflict with educational needs, for example in the field of religious, cultural or political choice, save that parental education must take place “taking

into account the capacity, the natural inclinations and aspirations of the child” (art. 147 Civil Code). As a consequence, the limitation by the parents of the freedom of the child to express and receive expressions of thought would constitute poor exercise of authority.

171. The legal system and the civil society can, in the name of other values, place limits on the freedom of expression of young people. The law places on the freedom of expression of children the limits provided for the freedom of expression of every person and only these: the expression of thought must not harm the reputation of others, morality, public order or national security.

**J. The protection of children from harmful information addressed to them**  
(guideline 60)

172. To duly protect individuals of a formative age from messages which could disturb the normal process of development and interfere seriously with the process of acquisition of identity, Italian law lays down some rules on protection. Therefore, a child under the age of 14 years, or of 18 years, is not allowed to see films and theatrical works which may be considered unsuitable for them given the particular sensitivity of their age and because of the need for their moral protection (Law No. 161 of 21 April 1962); the marketing and distribution of publications destined for young people and adolescents when, by reason of the sensitivity and impressionability of the young people, these publications are capable of offending in any way their moral sentiments or constitute an incitement to corruption, to crime or to suicide, is punished as an offence (art. 14 of Law No. 47 of 8 February 1948); designs, images, photographs or figurative objects in any way destined for the public which offend modesty or public decency, or represent scenes of violence, judged according to the particular sensibilities of the child and the needs of his or her moral protection cannot be affixed and exhibited to the public (Law No. 1591 of 12 December 1960); and, on the subject of the particular sensibility of the child, it should be noted that there is also a law which governs the prohibition and the timing of television programmes (Law No. 203/1995). Finally, to limit the damage which the media may cause to children and adolescents, a Code of Conduct governing the relationship between television and children has been launched by the Decree of the President of the Council of Ministers of 5 February 1997.

173. Some television stations have taken the initiative in marking the transmissions not suitable for children with a coloured symbol, but this choice has been very much contested because of the consideration that it might, instead, constitute an invitation to watch.

174. The problem of prolonged exposure of children to television entertainment programmes is also clearly present in the Italian culture. This brings the disadvantage that passive reception extinguishes creativity and also in this case the development of a better culture of information and better opportunities for the child to use his or her free time are involved.

**K. The right not to be subjected to torture or to cruel,  
inhuman or degrading treatment or punishment**  
(guideline 61)

175. The Italian Constitution establishes that punishment cannot consist of treatment contrary to the sense of humanity and must be aimed at the re-education of the offender. In application of this principle, while the death penalty, already abolished in peacetime, has been abolished in general also for the criminal code applicable in wartime (Law No. 589/1994), the penalty of life imprisonment has been declared unconstitutional, and therefore abolished, for children by the Constitutional Court with its Decision No. 168 of 27 April 1994.

176. Since punishment must be aimed at re-education, the punishments provided for children are, in ascending order of gravity: binding over for good behaviour; the obligation to stay at home; placement in a community; and protective custody for a limited period (and never for life) in prison. Minors are criminally responsible and therefore they can be sentenced to such punishments, diminished, however, in their duration with respect to those for adults, only for crimes committed by minors over the age of 14 years.

177. Italian law does not provide for nor admit the practice of torture and other such treatment or of cruel, inhumane or degrading punishments; rather, these practices are punished with more serious sentences (art. 61, para. 9, Criminal Code) for those who commit maltreatment, torture, or cruel punishments with abuse of power or with violation of the duties inherent in their public function. Torture, maltreatment or cruel punishment, with all the more reason, are not provided for children. And to ensure that the punishment of detention in prison has, for the minor, an effective re-educational function and that, in the course of their execution, no abuses can be committed, it is provided that this is carried out in appropriate institutions for children, with educational personnel and specialized custodial staff and that particular methods are used which permit relations with the outside world.

**IV. THE FAMILY ENVIRONMENT\***

**A. Introduction**

178. In Italy, the family - despite having undergone profound transformations - still constitutes a living reality which assures the child protection, support and affection. It is not without significance that, according to the annual statistics of the National Statistics Institute (ISTAT) of 1997, the level of satisfaction of the population 14 years and over in regard to their family is very high (93.3 per cent of those interviewed). And over 80 per cent of the population between 20 and 24 years of age declare that the institution of marriage has not been superseded.

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\* This section will respond to queries relating to articles 5, 18, paragraphs 1-2, 9-11, 19-21, 25, 27, paragraph 4, of the Convention to which paragraphs 62 to 87 of the general guidelines for periodic reports refer.

179. The family in Italy is undergoing a profound process of change:

- The number of marriages remains high (5.1 per 1,000); also, the number of de facto relationships are on the increase, as shown by the increase in the number of children born out of wedlock. In 1995, for example, of 525,609 live births, 42,664 were children born out of wedlock, while two years previously, despite the higher number of live births (549,484) only 40,457 were born out of wedlock;
- Separation and divorce, while on the increase, remain in the minority compared to the many stable unions and are far fewer in number than in other countries in the Western world: the level of divorce was 9.3 per cent in 1995 and appears, with respect to the preceding years, stable if not slightly decreasing;
- The number of children per family unit is falling drastically and this involves a relevant disproportion in the balance between the generations: in 1995 families with one child were 70.8 per cent against 24.7 per cent of families with two children and only 4.5 per cent of families with three or more children;
- The family is increasing in age: the age at which a woman has a child is increasing, from an average of 26.7 years in 1989 to 28.1 years in 1995;
- The age until which the unmarried young person who has reached the age of majority stays in the family home is increasing: in 1990, 79.6 per cent of young people between the ages of 20 to 24 years and 39 per cent of those between 25 and 29 years were still living at home. In 1996 the percentages had risen respectively to 88.4 per cent and to 54.1 per cent.

180. All these changes are indicative, on the one hand, of some difficulty in the process of construction of the autonomy by the young person (which delays the phase of separation from his or her own family unit even if he or she has reached by way of his or her occupation his or her own economic autonomy) and, on the other, of situations of difficulty which children can experience because of problems related to the single-parent family or the separated family or the family with an only child or the family with elderly parents.

### **B. Support to parenting** (guidelines 62-64)

181. The fragility and difficulties of the family today, together with the fundamental importance which it has for the development of the personality of the child, require adequate support on the part of the entire community. The organization of the State recognizes that the family, for its relevant functions of building individuality and socialization, must be supported by the State in its various sectors and that it is, therefore, indispensable to have an adequate family policy both at the national and the local level aimed at the promotion and not at the substitution of the family; at the empowering of its subjectivity and of its resources and not at rendering it dependent on social welfare; at the development of new and significant relationship methods between the family and the institutions.

182. To ensure that this policy is more organic, the task of coordination has been attributed to the Minister for Social Solidarity (and in the Department of Social Affairs, there is a specific Office for Family Affairs). Legislative action has been taken in order to support motherhood and fatherhood and to harmonize the hours of work with hours spent on the care of the family; to facilitate renting or acquisition of homes on the part of young couples and of one-parent families; to increase the nuclear family allowances to support the families and single people with dependent children and families with handicapped members, to increase tax allowances for families with dependent children, to counter poverty and social exclusion by action aimed at bringing about social integration and the economic autonomy of families who do not have the possibility of providing for the maintenance of their children due to psychiatric, physical or social causes (Decree Law No. 237 of 18 June 1998).

183. The Regions, on their part - for the duties they have which are more expressly directed to the assistance and support of individuals and the families in which they develop their personalities - have enacted a considerable amount of legislation for the promotion of the family. There are various sectors in which regional legislation has intervened:

- To promote and bring about an organic and integrated social policy aimed at supporting the rights of the family in the free fulfilment of its functions; to support the co-responsibility of the parents in the care and bringing up of their children; to support the right of spouses in positive, free and responsible choice in procreation; to promote and bring about initiatives for employment and enhancement of jobs for women and to make them compatible with other family and work needs;
- Loans at low or no interest have been provided for young families and for single people who have dependent children;
- Regulation of social assistance and health services for the family: in particular, for social work assistance in the home; to promote the parental capacities of those who have serious difficulties; for the temporary placement in residential structures of the victims of sexual assaults, pregnant women in difficulty; to find families who may be able to foster children; to assist women with problems arising from pregnancy, women alone with children and families with problems of marginalization;
- Economic assistance has been provided for housewives and unemployed women who have children; for families or persons who voluntarily and temporarily give up employment to look after elderly people, invalids, people with serious disabilities, people incapable of looking after themselves and those at risk of marginalization; for unsecured loans in favour of nuclear families or individuals in temporary difficulty; for home-help assistance, including nursing help at home;
- Some principles have been laid down for the social work services regarding children in their formative years: it has been established that these services must be organized in a flexible way to respond to the needs of the family; that these must be educational centres throughout the regions which involve parents, voluntary workers and local communities; that communal play areas of an educational and cultural nature for children and adults with children must be opened;

- Action relating to scholastic assistance and the right to study has been carried out as well as providing for the social management of the school and the central function of the family in this activity;
- The productive and social value of domestic work to the advantage of the entire nuclear family is recognized and protected: the responsibility for the risks of domestic work is taken on by the Region; courses of health education are promoted for those who carry out such work; women's associations can be subsidized as cultural bodies when they assume initiatives in this field;
- Regional commissions have also been constituted for the family to ensure political representation in the different forms and types of association in which families are organized in relevant sectors of health service, basic welfare and education: the commissions are the consultative organs of the Regional Authority.

184. Finally, how the specific services to support family relationships are provided by the law should be underlined: a national law imposes on the Regions the duty to institute, by law, Family Counselling Clinics which have, among other things, the function of giving psychological and social assistance for the preparation for responsible motherhood and fatherhood and for facing the problems of the couple and of the family, and with respect to the question of children (art. 1, Law No. 405 of 29 July 1975). Nursery schools and "family dens" encourage the increased involvement of the parents in developing and consolidating the trust of the child, in understanding his or her problems, and in developing the capacity to find his or her own educational solutions. Family Centres aim at supporting the experience of parenthood with opportunities for meetings and moments of sharing and reflection. Obviously, the rights of the child are borne in mind and are made known in these places. Moreover, in recent years, both in the ambit of Family Clinics and in Family Centres, family mediation services have been developing throughout Italy, in order to render separation or divorce less conflictual, maintain parental contact with children and uphold joint responsibility in the decisions to be made towards the children even when the marriage no longer exists.

### **C. Parental responsibilities** (guidelines 65-67)

185. The law, establishing that the age of majority is fixed at the attainment of the age of 18 years and that only at the age of majority does the child acquire the capacity to fulfil all the acts for which there is no different age limit stipulated (art. 1 Civil Code), gives both parents, as a general rule, the powers and duties of care (specified as to maintain, instruct and bring up) and the task of representation of the person of the minor child and the administration of his or her property (arts. 315-329 Civil Code). In the case of death or absence or loss of parental authority on the part of both parents these powers and duties are assigned to a guardian who exercises the same under the supervision of the tutelary judge (art. 357 Civil Code).

186. In the case of disagreement, the issue of the common responsibility of married parents (who by marriage undertake the obligation to collaborate in the interests of the family) and of

unmarried parents who cohabit is remedied through the power attributed to the father to adopt the urgent provisions which cannot be deferred in the presence of a looming danger of serious harm to the child and through the power of both parents to apply to the judge in the case of disagreement in the exercise of the authority.

187. In the maintaining, instructing and bringing up of the child, the criterion which must guide the parents is the best interests of the child, as the general principle of the entire legal system. The interests are carried out "taking account of the capacity, the natural inclinations and aspirations of the child" (art. 147 Civil Code) and, therefore, with respect to the differences of the child compared to his or her parents.

188. The Constitution guarantees that the formation of the family and the execution of the relative duties, especially with regard to large families, are facilitated with economic measures and other provisions (art. 31 Constitution). In this way, the State undertakes to help parents with their common responsibility to ensure the right to life, to survival and to the development of the child in the greatest measure possible.

189. In order to support parenthood, other than through Family Counselling Clinics, some innovative services (play centres, centres for parents and children, Family Centres) operate in numerous local centres. These tend to be not only centres for the care and education of children but also places for socialization and confrontation for the family and support for parenthood through meetings and discussions and for working out answers to problems that the parents experience. In the Orientation Manual for planning the action provided for in Law No. 285/97, the strengthening of social and psychopedagogical services in a sphere of prevention and problem-solving for parents is called for, thereby enhancing the resources of the nuclear family and involving it in methods for dealing with difficulties.

190. It is also to be noted that in the scholastic sphere, a Parent Project launched by the Ministry of Education has been in place for five years. It aims at using the school as a place to put the parents in a condition to reflect on their role and on their relationship with respect to their children. Such projects involved as of 1996, 451,709 parents of elementary school students, 352,546 middle school students and 48,513 secondary school students.

#### **D. Separation from parents** (guidelines 68-72)

191. The Italian legislation aims to remove or minimize the social-family-based causes which can involve the separation of a child from his or her family. A separation of the child from his or her parents can be due to biological causes (grave illness or hospitalization), social causes (emigration, poverty), cultural causes (practice of requesting the placement of the child in an institution), family causes (schism of the parental couple), criminal causes (detention of the parents), and even for education reasons (boarding school). The right of the child to be brought up in his or her own family sphere - and, therefore, not normally to be separated from the family for one of these reasons - is affirmed by article 1 of the Law No. 184 of 4 May 1983, while



article 2 of the same Law provides the possibility of separation with foster placement in another family or in another community and, subordinately, with placement in an institution as absolutely the last resort only when the child is deprived temporarily of a suitable family environment. All the social policies and the judicial guidelines are directed towards impeding or limiting these separations, even temporarily.

192. The undertaking to ensure that children are brought up directly by their parents living with them has been specifically carried out in some instances:

- The deinstitutionalization of children. Italy has put into place in the last 10 years a policy aimed, on the one hand, at the closure or the conversion of institutions and, on the other, at an administrative check (carried out by the Regions) and a judicial check (entrusted to the tutelary judge) on the reasons for placing children in institutions and intervening to eliminate them (art. 9, para. 4 and 5, Law No. 184 of 4 May 1983);
- The constitution of a network of foster families and family communities (or communities of a family nature) which can receive a child when the family finds itself in temporary difficulty, assuring him or her a temporary stay in a substitute family and taking care that during this period of separation the relationship between the child and his or her parents is maintained and facilitated with a view to favouring the child's re-entry into his or her family of origin (art. 5, Law No. 184 of 4 May 1983);
- Assistance to families, giving economic, employment, educational and accommodation support so that they can keep the children, but also discouraging a traditional culture which believes it is normal to place children in institutions or in institutionalized boarding school education;
- The possibility of the presence of one or both parents in hospital when a child is having treatment;
- The possibility that imprisoned mothers keep their children with them up to the age of 3 years and the extension, for short periods, of alternative forms of punishment so that the mother is not always separated from the child.

### **1. The separation of the child from his or her family**

193. When it becomes absolutely impossible for the child to remain in his or her own family, the law provides, with extreme caution, for the separation of the child from the parents or from one of them, but only if this really coincides with his or her best interests. Separation from the parents can happen in three situations:

- (a) When the conduct of one or both parents is seriously harmful (physical, psychological or sexual abuse) for the child and it is not possible to remedy the situation with other measures such as other legal provision or social help (art. 333 Civil Code);

(b) When the child is in a condition of abandonment because he or she is without material and moral assistance from the parents and relatives (art. 8, Law No. 184 of 4 May 1983) and there is a desire to declare him or her available for adoption;

(c) When the parents separate and the child must be placed in the custody of one of them or, in case both are inadequate, of a third person such as a foster parent, or in an educational institution (art. 155, para. 6, Civil Code; art. 6, para. 8, Law No. 898 of 1 December 1970; art. 317 bis Civil Code).

## **2. The procedure**

194. In all these cases the decision to separate is made by the judicial authority (the Juvenile Court for children in harmful situations or in the state of abandonment, or for children of unmarried parents; the ordinary court in case of separation or divorce of the parents) by means of a procedure in the course of which it is obligatory to hear the parents who can make use of a technical defence (obligatory, with the appointment of a public defender if they do not have their own lawyer, when they oppose a declaration of adoptability).

195. As for asking for a revision of a decision to separate the child, an appeal against the decision at first instance can be brought in every case, on questions of law, as well as an appeal to the Italian Supreme Court.

196. After passing through all or some of the levels of adjudication, the possibility of changing the separation order depends on whether the child has been adopted or not. In the case where there has been, in the meantime, a pre-adoptive foster placement or an adoption of the child, given that the adoption has constituted a new birth in a new family, it is no longer possible to revise a declaration of adoptability and therefore the child cannot be returned to his or her former family. In all other cases where the child has been separated from his or her parents, or from one of them, the same judge (ordinary court for separation and divorce, Juvenile Court for harmful situations or situations involving unmarried parents) can at any time amend the previous decision and, therefore, also order the return of the child to his or her parent or parents from whom he or she has been separated.

## **3. The hearing of the parents and the child**

197. The legislation already guarantees, in the correct manner, the right of parents to participate in the deliberations of the judicial proceedings which may have as their subject the separation of the child, as well as the right to express their opinions.

198. The problem of the hearing of the child in proceedings of separation from the parents has, on the contrary, different legislative solutions, influenced by concern about not disturbing the child with a hearing in court and not forcing him or her in any way to express a choice against the parents, as such choice would weigh heavily upon him or her. These are:

(a) In the case of judicial proceedings against the harmful conduct of the parents, provision is not made for the Juvenile Court to hear the child (but this is not excluded, because such hearing can take place as a part of the “information” to be taken into consideration), even if in this way the Court fails to satisfy the need for the child to speak and to be heard (art. 336 Civil Code);

(b) In proceedings for the separation of the spouses (either consensual separation or judicial separation which amends the previous conditions for the separation), provision is not made for the ordinary court to hear the child (art. 155 Civil Code and 706-710 Code of Civil Procedure);

(c) In proceedings for the dissolution of the marriage, the presiding judge of the court hears the minor children only if the conciliation procedure between the spouses-parents is not successful and only when “he considers it to be strictly necessary given their ages” (art. 4, para. 8, Law No. 898 of 1 December 1970);

(d) In proceedings relating to adoptability which take place in situations of abandonment, the judge must hear the child who has reached the age of 12 years and, if appropriate, also younger children (art. 10, para. 5, Law No. 184 of 4 May 1983);

(e) The bill currently being debated in the Chamber of Deputies entitled “New Regulations regarding the Separation of the Spouses and the Dissolution of Marriage” amends the provisions referred to in the preceding points, obligatorily including among “the kinds of evidence, ... except when particular reasons discourage this, the hearing of the minor child”;

(f) The provisions of the Convention on the Rights of the Child, article 12, paragraph 2, and article 9, paragraph 2, are considered to be directly in force - and therefore should have amended the ordinary law referred to at points (a), (b) and (c) - but only some judges have so far “culturally” accepted and followed these provisions.

199. A general reinterpretation of this law would be opportune, according to the principle that the child, as soon as he or she is of age, must always be heard in judicial proceedings which concern him or her and at least, if he or she is too young, there should be an indirect hearing of his or her needs, delegated to the social services, to guarantee his or her participation in decisions affecting him or her. An event such as the separation of the parents creates for the child less stressful consequences when it is explained to him or her calmly, it becomes accessible to his or her understanding, the reasons are clear to him or her and he or she has the possibility to express his or her opinions, his or her wishes and his or her expectations to the judge.

#### **4. The maintaining of personal relations with the parents after separation from them**

200. The legislation upholds the right of the child who is separated from his or her parents, and finds him- or herself therefore in a foster home or in a welfare community or a children’s home, to have direct and personal contact which his or her parents in accordance with article 5 of the Law No. 184 of 4 May 1983: “The person having care of the child must facilitate the relations of the child with his or her parents and encourage his or her re-entry into the family of

origin.” This is a general provision, which may be limited by a contrary provision and derogation by the judicial authority which, taking account of the harm which can come to the child, can regulate or reduce contact or order that this take place in a protected place or, in serious cases, prohibit it either for a certain period or for ever.

201. In the case of schism of the parental couple, article 6 of Law No. 898 of 1 December 1970, applicable to separation or divorce and by analogy also to the relations of the non-custodial parent with the child born out of wedlock, lays down that the court shall establish the mode of exercise by the non-custodial parent of the rights-duties of maintenance, instruction and upbringing and of the right to oversee the instruction and upbringing of the child. Case law provides that the regulation of contact with the child, which is qualified as the regulation of access rights, must permit the significant presence, both in terms of time and of quality, of the non-custodial parent, to continue so that he or she can fully exercise his or her rights-duties towards the child and that the child is not separated from either of the parents, even if he or she is living normally with only one of them.

202. As regards the possibility that the child, separated for whatever reason, can make known his or her opinion on the manner of the access rights of one or both of the parents, we refer to what has been said previously.

#### **5. Knowledge about the whereabouts of the separated child**

203. In the case of separation brought about by the detention, expulsion or death of one of the parents or the detention, expulsion or death of the child, there is no judicial or administrative limitation on either the relatives or the child knowing the whereabouts of the child or the family member, save where the request for information can involve harmful consequences for the interested persons. This derives from the public nature of the process and from the tendency to publish the acts of the public administration.

204. There are two exceptions to the general rule of knowing the whereabouts of the child, however separated from his or her legitimate or unmarried parents:

- When, in his or her interests, the Juvenile Court orders that the child be placed in a place which must remain unknown in order to impede contact which is held to be harmful with the parents or other family members;
- In the case of foster placement with a view to adoption by a couple who will become the adoptive parents, save where this involves people who are already known to the family of origin of the child.

205. Despite the fact that there is no legislative provision, case law holds that the adopted child, even after having reached the age of majority, cannot know the identity of his or her procreators, which is opposed by the nature of new birth at adoption. There is much debate on this point and proposals have been formulated aimed at allowing limited and guided access on the part of the adopted person who has reached the age of majority about the identity of his or her parents.

206. The objective for the future must be the provision of a wider hearing of the child separated from his or her family of origin with regard to decisions affecting him or her.

**E. Family reunification for foreign children**  
(guidelines 73-77)

207. The entire subject of immigration to Italy of “foreigners” (as are defined citizens of States which do not belong to the European Union and stateless persons) has been newly regulated by Law No. 40 of 6 March 1998, which establishes the rights and duties of the foreigner. The said Law amends prior legislation and supersedes a large part of the law and the limiting administrative procedures which were based on the previous legislation.

208. In this Law, in article 26, paragraph 3, a fundamental principle has been laid down which must guide every decision relating to administrative action as well as those of judges regarding family reunification of the child: “In all administrative and judicial proceedings aimed at giving the right to a family to be united and regarding children, the best interests of the child as a priority shall be taken into consideration, in conformity with the provisions of article 3, paragraph 1, of the Convention on the Rights of the Child.” There is therefore an explicit reference to the Convention as a criterion in terms of both inspiration and interpretation for all proceedings and for the final decisions; this reference is extended to the entire Convention and, therefore, includes also the invitation in article 10 to consider every application brought by the child or by his or her parents “in a positive, humane and expeditious manner”.

209. It is clarified that on the basis of articles 5, 6 and 27 of the said Law No. 40/1998, foreigners can find themselves legally in Italy on the basis of:

- A residence card issued for an indefinite period;
- A residence permit for a definite period (up to three months, up to six months, up to nine months, up to one year, up to two years, for a period longer than two years) and which is renewable before the expiry date;
- A family unification permit;
- A visa to enter for reunification with a child.

210. Regulations stipulated for family unification or reunification of children is differentiated according to five situations: that the parent is already in Italy and requests reunification with the child; that the foreign child asks to enter Italy to stay with his or her parents; that it is the unmarried parent who wants to join the child who has regular permission to stay in Italy; that the foreign parent or child wants to leave Italy for reunification of the family; that it is a mixed family of Italian citizens or EU citizens with a foreign spouse and/or children, either natural or adopted.

211. The first situation is defined as the most important. Italy has recently become a country of immigration and, in particular, people arrive who are alone and in search of work who, for the initial period, leave their families in their country of origin, periodically making visits to them and sending them money; if they find the situation in any way positive, there is the problem of the reunification of the family, i.e. having the spouse and children join them (as, for example, happens with the two principal communities of immigrants, from Morocco and from Albania).

212. When, however, an adult foreigner in Italy wants to be reunited in a stable way with his or her children, Law No. 40/1998 provides for this possibility:

(a) The foreigner regularly settled in Italy for more than five years and who has obtained a residence card for an indeterminate period can request that residence be extended to the spouse and children under 18 who live with them (art. 7, para. 1 and art. 29, paras. 1 and 2, Law No. 40/1998), securing for him- or herself, in such a way, the recognized and affirmed right to maintain or to reacquire family reunification (art. 26, para. 1, Law No. 40/1998). The residence card can be given individually to any minor child of that parent starting from 14 years of age. This means that the foreign parent who is settled in Italy legally for more than five years is assured an indefinite stay and complete stability for the entire family unit, not only for the child born in Italy of less than five years of age but also for the spouse and the minor child come to join him or her in Italy from overseas for less than five years - and perhaps for a very short time - or who intend to join him or her;

(b) The same right to maintain or reacquire family unity is recognized, in certain conditions, for foreigners who hold a residence permit of a duration of not less than a year, issued for employment or self-employment or for asylum-seeking, for educational reasons, or for religious motives (art. 26, para. 1, Law No. 40/1998). In these cases a residence permit is granted for family reunification for a maximum duration of two years and is renewable (art. 5, para. 3 (d) and art. 29 para. 1, Law No. 40/1998). Moreover, on reaching 14 years, the residence permit for family motives is granted to the minor individually with validity up until he or she reaches the age of majority (art. 29, para. 2, Law No. 40/1998);

(c) The foreigner who arrives or who finds him- or herself in Italy legally but outside these two situations can bring his or her family subsequently to effect the reunification if he or she has accommodation and income available and if he or she has an employment contract for a duration of not less than a year or an autonomous employment (non-occasional) or he or she comes to Italy for motives of study or religion (art. 27, para. 4, Law No. 40/1998);

(d) However, whosoever falls outside these situations cannot obtain family reunification by bringing the children to Italy (for example, the foreign worker who finds him- or herself in Italy with a seasonal employment residence permit of a duration of up to nine months or the foreigner staying in Italy illegally).

213. The second case is that of the foreign minor child who asks to enter Italy or to remain there to stay with his or her parent who are already there. For the child who asks to enter Italy, there is no specific, explicit provision. The general provisions in force grant entrance to any foreigner in possession of a valid passport and an entrance visa, but it is obvious that the Italian Consular authorities, in the evaluation of whether to grant an entrance visa to a child for

the purposes of family reunification, must certainly consider the application “in a positive, humane and expeditious manner” according to article 10 of the Convention on the Rights of the Child and take into consideration “the best interest of the child as a priority” according to the dictates of article 27, paragraph 3, Law No. 40/1998.

214. If, however, a child finds him- or herself already illegally in Italy, and there is no possibility to legalize the situation related to the presence of a parent who is there legally, Law No. 40/1998, with a principle of great civility, gives the Juvenile Court the power to evaluate whether to order, on the application of the Chief of Police, his or her expulsion (art. 29, para. 4, Law No. 40/1998) or to order protective measures for him or her, foster placement, placement in a welfare institute or adoption (art. 29, paras. 1 and 2, Law No. 40/1998 and art. 37 of Law No. 184 of 4 May 1983), which would involve his or her temporary or definitive legalization. Article 17, paragraph 2, Law No. 40/1998 allows only the Minister for the Interior, together with the Juvenile Court, and only for motives of public order and security of the State, to order the expulsion of foreign children under 18 years of age but excludes their expulsion ordered by the Prefect or set down by the judicial authority in the name of administrative sanctions or security measures, save the right of the child to follow the parent or foster parent who has been expelled. On the basis of this provision, the Italian State undertakes to take care of illegal immigrant children who find themselves even *de facto* in its territory, entrusting all evaluation to a specialized court for the protection of children. Moreover, it safeguards the right to family unity in that it mentions specifically the right of the child - who finds him- or herself in Italy in a legal or illegal situation - to follow the parent or foster parent who has been expelled.

215. This *favor minoris* which pervades the entire Italian legal system is confirmed by another specific provision for legalizing the situation on reaching of the age of majority (art. 30, Law No. 40/1998) and for the provision of the constitution of a Committee for the Protection of Foreign Children (art. 31 Law No. 40/1998) whose task it is to bring together and supervise projects for the reception of children, to watch over the modes of residence of foreign children and to coordinate the activities of the administrations involved.

216. The third case is that in which the foreign natural parents want to join their child who is resident in Italy. On this point, the law sufficiently protects the interests of the child: according to article 27, paragraph 6, Law No. 40/1998, the entrance of the natural parent is allowed for reunification with the child who is in Italy legally on the condition that later, within a year of their entrance into Italy, the said parent demonstrates that he or she has acquired the necessities of accommodation and an income. If, however, these conditions are not satisfied, or because the child finds him- or herself in Italy illegally, or because the reunion is in regard to a relative apart from the natural parent, or because the requisites of law relating to accommodation or income have not been satisfied, article 29, paragraph 3, of Law No. 40/1998 provides that the Juvenile Court, “for serious motives in connection with the psycho-physical development of the child and taking account of the age and the condition of health of the child who finds him- or herself in Italy” may authorize, outside the other provisions of law, the entrance or the settlement of a relative, for a determinate period of time.

217. In a general way, there are no obstacles to the parent or minor child, whether Italian or foreign, leaving Italy for family reunification abroad, the only limitations being those which aim only at protecting the best interests of the child. Therefore, article 3 (a), of Law No. 118 of 21 November 1967 provides, for the minor child who does not have the consent of those who exercise parental authority over him or her, that the tutelary judge may authorize him or her to obtain a passport and go abroad. In the case of opposition by the parents - one of whom refuses to give consent, for example, because the parents live apart and one has moved abroad - it is, therefore, up to a judge to evaluate case by case whether to grant consent to the child, evaluating his or her interests in being reunited with the family of the parent who lives abroad. Moreover, it is recalled that article 17, paragraph 2, of Law No. 10/1998 gives foreign children under the age of 18 years the right to follow the parent or guardian who has been expelled abroad, safeguarding in this way the family unit.

218. The last case is that of so-called mixed families, that is, an Italian or EU citizen with a foreign spouse and/or children, the latter natural or adopted. For minor children, there are no obstacles to reunification. In fact - independently of the period of residence in Italy - the cohabiting foreign spouse and minor children of an Italian or EU citizen can request and obtain, according to the case, a residence card for an indefinite period or a "unification permit" (art. 7, para. 2, art. 26, para. 2, and art. 27, para. 5, Law No. 40/1998). Therefore, the principle of family unity and the right to reunite the family in Italy are fully recognized - and further confirmed by Decree of the President of the Republic No. 1656 of 30 December 1965 - for mixed families. A limitation to the entrance into Italy is the adoption of a foreign child by Italian citizens abroad in circumvention of the procedure for prior evaluation of the requisites of capacity and age; the adoption is therefore not recognized in Italy, under article 31 of Law No. 184 of 4 May 1983 on adoption.

219. To complete the answer to the question relative to reunification of families, the following statistics are given:

**Table 4**

**Foreign children (of non-European Union countries) to whom entrance visas for reasons of family reunification have been granted**

Year	<14 years	14-17 years	Total
1990	655	306	961
1991	1 868	578	2 446
1992	2 338	565	2 903
1993	5 344	1 214	6 558
1994	4 235	1 170	5 405

Source: Ministry of the Interior.



## **F. Illicit transfer and non-return** (guideline 78)

### **1. Voluntary transfers**

220. The prevention of and the fight against illicit transfers of children abroad has been provided for in Law No. 40/1998 (Regulation of Immigration and Rules on the Condition of the Foreigner), in particular under article 10, which makes explicit reference to children. Moreover, article 31 institutes a specific Committee for the Protection of Foreign Children, with the tasks of coordination at a national level and of supervising the stay of foreign children temporarily admitted to Italy for reasons of solidarity (who in 1997 numbered about 50,000). The Committee, which has been active for some years, monitors their entrance and re-entrance, which can also be extended to residence.

221. Under Law No. 396 of 30 June 1975, Italy ratified the European Convention on the Repatriation of Children signed at The Hague on 28 May 1970, which did not come into force because it was not ratified by other countries.

222. As far as the foreign unaccompanied child is concerned, even if he or she is legally treated like an unaccompanied Italian child, the system of assistance and monitoring of the real situation remains full of lacunae. Moreover, his or her position is not dealt with in a homogenous way in the various Italian Regions. The criteria and solutions vary according to the discretion of the Juvenile Courts and the judges themselves (there are those who believe that repatriation and reinsertion into the family are indispensable and those who view this solution as the last resort). Some regions provide for the care and protection of the minor over 14 years of age. It is not clear which are the competent structures to whom the foreign unaccompanied child must refer. A coordinating structure which establishes the minimum standards for a uniform policy in favour of the child is lacking.

223. Also, taking account of the European Resolution on Unaccompanied Minors who are Nationals of Third Countries (27 June 1997), the Government is providing for a specific agreement with the Albanian Government, within measures of support in Albania promoted by the Ministry for Social Solidarity and by way of a specific convention with International Social Services.

### **2. International child abduction**

224. The increase in marriages between people of different countries and the growth of family divisions, often involving bitter conflicts, has increased the very disturbing phenomenon of international abduction of children. To fight against this phenomenon, Italy signed the Convention on the Civil Aspects of International Child Abduction, open to signature at The Hague on 25 October 1980, and ratified the same by Law No. 64 of 15 January 1994. The Convention of Luxembourg of 20 May 1980 on the Recognition and Enforcement of Decisions concerning Custody of Children and the Restoration of Custody of Children has also been implemented in Italian law. In enforcing the aforesaid Conventions, the Central Authority on Conventions was instituted and set up in the Central Office of Juvenile Justice at the Ministry of Justice.

225. The aforesaid Italian Central Authority in the period from 1995 to June 1998 dealt with the following number of proceedings:

- 364 regarding children involved in proceedings relative to the implementation of the Hague Convention of 1980;
- 48 regarding children involved in proceedings relative to the Convention of Luxembourg of 1980;
- 27 regarding children involved in proceedings relative to the Hague Convention of 5 October 1961 concerning the jurisdiction of authority and the law applicable to the question of protection of children.

226. It must be noted that, while in all the cases in which the Italian Central Authority has acted on the basis of an application coming from abroad, in no small number of cases has it been able to guarantee the repatriation of the child within a very short time. The same cannot be said for cases in which a request for repatriation was made by the Italian Central Authority to a foreign Central Authority, which has often assisted in a kind of defence to the bitter end of its nationals, assuring them of a sort of impunity. Moreover, obstacles to the enforcement of the right of the child in this sector derive also from the provision that the procedures may be initiated only with obligatory legal assistance at costs often unaffordable for most people. The regular procedures of the Conventions have not yet been demonstrated to be completely adequate instruments for the resolution of very complex conflicts which would require the sharing, on the part of the States, of more general and objective principles and criteria really aimed at the full legal protection for the child involved.

#### **G. Recovery of maintenance for the child** (guideline 79)

227. The problem regards the fulfilment of that which the Italian Constitution (art. 32) defines as the rights-duties of the parents for the maintenance of the child. The parents must provide directly for the maintenance, instruction and upbringing of the child (art. 147, Civil Code) in proportion to their means and according to their capacity in relation to professional or domestic work. If they do not have sufficient means, the other legitimate or natural ascendants are held responsible for furnishing the parents with the necessary means, up to the point where they can fulfil their duties in respect to the child (art. 148, para. 1, Civil Code). This obligation of the parents is also extended to the child born out of wedlock who is acknowledged by the parents (art. 261, Civil Code) and concerns also the parents for whom it is impossible to acknowledge their offspring because it is prohibited by law, as in the case of children procreated by incest (art. 279, Civil Code).

228. Under the profile of the affirmation of the right of the child to maintenance, the Italian legislation assures a substantially complete protection. The exception is the child born out of wedlock, who can be but has not been acknowledged and therefore is not registered at birth nor afterwards as a child of his/her parent(s), because in this case only acknowledgement effected by the parent or by judicial declaration of paternity or maternity bestows the status of being someone's child and incurs the resulting obligation of maintenance, moreover, with retroactive

effect to the moment of birth. This concerns more theoretical than real cases in that the child who is not acknowledged by either of the parents (unless he or she has a very serious disability) is given up for adoption.

229. The instruments for determining the measure in which the parents or other persons bearing the obligation (the ascendants) are held to satisfy their quota of maintenance, or support payment, for the child and to force them to contribute in such measure, are:

- An order of the presiding judge of the court, issued with a summary procedure of assessment and very simplified form of decree, aimed at the person in breach, to pay a proportion of his/her income to the other spouse or to whoever bears the expenses of the child (art. 148, para. 2, Civil Code). This order can be issued whether the married parents live together or whether they are in fact separated or whether - according to the most recent case law - they are unmarried natural parents, independently of the fact that they may live together or do not live together any more or have never lived together. Moreover, this order can be aimed either at the parents or the legitimate or natural ascendants held to be liable to maintain the child;
- The provision of the judge who, in the case of separation or divorce of the spouses, establishes the measure and the mode in which the non-custodial spouse must contribute to the maintenance, instruction and upbringing of the child (art. 155, Civil Code);
- A decree in terms of contentious ordinary proceedings which has the maintenance as its object.

230. On the other hand, in the case where the person who bears the obligation fails to comply with it, the legislative system is still objectively deficient in the scope of assuring recovery of this support payment or maintenance cheque for the child. Other than indirect sanctions, which have been shown to be of little effect (criminal proceeding for violation of the obligation of family assistance, loss of parental authority by the parent at fault or even adoption of the child who is without material and moral assistance), the principal ways to ensure the recovery of the maintenance are constituted by the resort to mediation by the tutelary judge. The judge must oversee compliance with the conditions established for the exercise of parental authority, among which those relative to maintenance, or the initiation, by the person who has custody of the child, of the expensive, long and often thankless process of moveable or immovable execution. In fact, there are numerous situations in which the payment of the support allowance is evaded and the right of the child to a normal upbringing is sacrificed.

231. In the face of this situation, a branch of Parliament, the Chamber of Deputies, is moving towards the approval of a bill entitled “New Regulations regarding the Separation of the Spouses and the Dissolution of Marriage”. This provides, among other things, a system of guarantees for periodic support credits (registration of judicial mortgages, obligations on third parties who pay a salary to the non-paying parent, extension of criminal liability), but above all it institutes, at the

Bank of Italy, a “maintenance fund” with the aim of assuring the payments and the maintenance cheques established by the judge in favour of the party with the right, a fund into which the persons held liable have to make payment and which has a right of recovery against them in case of breach.

232. So far as the international profile on this question is concerned, Italy, with Law No. 918 of 4 August 1960, ratified both the Hague Convention of 24 October 1956 on the Law Applicable to Maintenance Obligations towards Children and the Hague Convention of 15 December 1958 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations; and subsequently with Law No. 745 of 24 October 1980 which implemented the Convention on the Law Applicable to Maintenance Obligations of the Hague of 2 October 1973. Protection aimed at the recovery of support payments ordered by a foreign judicial authority is guaranteed when the parent in breach is in Italy or has goods or income in Italy. The Italian legal system provides that when the parent held to pay maintenance is in breach, the sums due are taken directly from the salary by way of withholding it at the source. In Italy, violation of the obligations of family assistance constitute a crime (art. 570, Criminal Code).

233. In order to recover the child’s support payments from his or her parents or other persons having a financial responsibility towards the child, in their own country or abroad, normal regulations relating to forced execution by executive order are in force, given that the maintenance payment is, in any case, held to be privileged with respect to others.

234. On the international plane, it is noted that Italy has ratified, under Law No. 524 of 23 December 1992, the Convention relating to the simplification of procedures for the recovery of maintenance payments, signed at Rome on 6 November 1990. That convention provides for the constitution of a Central Authority within the Central Office of Juvenile Justice. The Authority favours the collaboration between competent authorities of the respective States, with the aim of facilitating the recovery of maintenance payments. This takes the form of looking for the debtor and his or her possessions, obtaining the necessary information, declaring the order applicable, facilitating the transfer of the maintenance obligation to the creditor, ensuring that in the case of absence of payment to the creditor of the due payment, all the executive instruments are put into effect. Moreover, it informs the Central Authority of the foreign State of the measures taken and their results. As of today, the Convention has not entered into force, because article 9 provides for the deposit of the instruments of ratification, accession and approval by all the States parties, while it appears that only Italy and the United Kingdom have done so.

235. There are four conventions which have been drafted by the Conference on International Private Law in The Hague: two concern the law applicable to maintenance obligations (The Hague, 24 October 1956, ratified on 4 March 1960 by Law No. 913 and 2 October 1973, ratified on 24 October 1980 by Law No. 745) and two conventions on the recognition of foreign decrees in respect of maintenance obligations towards children (The Hague, 14 April 1958, ratified by Law No. 388 of 4 August 1960 and 2 October 1973, ratified by Law No. 745 of 24 October 1980).

236. The most important is the Convention on the Recovery of Maintenance Abroad (New York, 24 June 1956, ratified by Italy under Law No. 338 of 23 March 1958). This gives a State authority, within which the procedure must be carried out, the task of facilitating the taking of maintenance actions and the execution of the relevant decrees concerning maintenance payments in respect of a child regarding a parent domiciled abroad.

#### **H. Children deprived of their family environment** (guidelines 80-82)

237. Law No. 184 of 4 May 1983 is concerned specifically with guaranteeing special protection and assistance to children who are temporarily or permanently deprived of the family environment or who cannot be left in such environment in their best interests. This Law regulates the adoption and foster placement of children and affirms with force the right of every boy and girl to grow up in a family, obliging State officials not to resort, except in extreme cases, to the placement of the child in a welfare or educational institution, indicating as a preferential solution foster placement with another family, possibly with children, or with a single person or a family-type community.

238. It is to be emphasized, however, that the modern welfare and education institutions are very different from those of the past. The big totalitarian institution in which the socialization of the child was rendered difficult given the lack of contact with the outside world (scholastic education also took place inside the institution) are now only memories of past times.

239. The law has come, therefore, to codify a consolidated orientation of social policy, already present in the Italian Constitution: the family constitutes for the individual in his or her formative years a fundamental right of the child because it is only in a family environment that he or she has the possibility to develop both his or her own individual and social personality. And it is significant that the policy of deinstitutionalization practised in recent years has brought about a drastic contraction of the number of children who live outside their own family: the number of children living in residential socio-educational structures has been reduced from about 300,000 in the 1950s to about 150,000 in 1971 to 15,000 reported now (1998) by specific research carried out by the National Documentation and Analysis Centre for Children and Adolescents. While such research has filled a long-standing void of information on children resident in institutions, the difficulty of obtaining certain and disaggregated data on children in foster homes still remains but is destined to disappear in the near future given that the National Centre is carrying out research on this question which will be concluded by the end of 1999.

240. The first data from the research on children in residential structures testify to sharp reductions in the number of boys and girls outside the family and in large structures. Notwithstanding these results, the process of deinstitutionalization still presents some difficulties in the regions of the south of the county as appears evident from the tables which follow:

**Table 5**

**Number of socio-educational residential structures and the number of children resident as at 30 June 1998 according to Region**

Region	No. structures	No. children
Piedmont	149	1 011
Valle d'Aosta	2	11
Lombardy	288	1 919
Trentino	39	155
Bolzano	13	98
Veneto	159	840
Friuli - Venezia Giulia	29	240
Liguria	69	551
Emilia - Romagna	120	571
Tuscany	76	603
Umbria	16	204
Marche	22	115
Lazio	152	1 261
Abruzzo	12	168
Molise	11	85
Campania	133	1 869
Apulia	128	1 174
Basilicata	24	106
Calabria	121	1 386
Sicily	195	2 293
Sardinia	44	285
ITALY	1 802	14 945

Source: National Documentation and Analysis Centre for Children and Adolescents.

**Table 6**  
**Socio-educational residential structures according to the number of children resident as at 30 June 1998**

	Area of Italy					
	North-west	North-east	Centre	South	Islands	Total
No. resident children as at 30 June 1998*	15	20	15	19	20	89
Up to 3 children	71	118	52	58	25	324
4-5 children	110	84	54	65	22	334
6-10 children	244	106	86	136	89	661
11-15 children	41	14	28	60	33	176
16-20 children	15	6	10	22	22	75
21-50 children	11	2	17	67	26	133
50 or more children	1		4	2	2	9
Total	508	360	266	429	239	1 802

Source: See table 5.

\* Structure with availability and authorization to receive children which as of 30 June 1998 had no resident children.

### 1. Foster placement

241. A great deal of work has been carried out in recent years to increment the foster placement of children who cannot, for temporary reasons, stay within their own family. If, on the other hand, the situation of absolute absence of family is not temporary and resolvable but definitive, the legal system provides that the road to adoption should decisively be embarked upon as the only route which allows the child deprived of his or her own family to find a caring family as a substitute.

242. The local Social Services and the Juvenile Court have jurisdiction to evaluate the conditions of the child and, eventually, to make substitute provisions after having verified the non-efficacy of adequate support measures for the family of origin within which to guarantee the maintenance of the child. Where possible, and on the basis of a programme which also provides for the recovery of the family of origin by way of surmounting the difficulties which have made the separation of the child from his or her family environment necessary, the aim is to assist his or her placement with a temporary substitute family.

243. There are no precise data on the number of foster placements made. Research by the National Documentation Centre is being planned with the aim of fully analysing this phenomenon, not only at the quantitative but principally on the qualitative level (the situation which has brought about the separation and the foster placement, the time scale, the re-entry into the family, and any other provisions that have been made). Nevertheless, some data can be inferred from the judicial statistics: the tutelary judge, who must enforce the provisions relating to foster placement adopted by the Social Services (when the natural parents consent to foster placement), in 1994 made 1,626 orders on the subject and in 1995, 1,043; the orders for foster placement made by the Juvenile Court (when the parents do not consent) were, in the same years, 754 and 825 respectively. From more recent data of the Ministry of Justice (1997) it appears that the Juvenile Courts have ordered foster placement in 922 cases.

244. It is necessary to recognize that in effect, 15 years after the enactment of the law, foster placement is not yet a widespread practice throughout Italy as the numbers are inferior to those for children placed in communities and institutions. In any case, a considerable effort is being made to extend this legal instrument even further to provide for situations of temporary difficulty of the child and his or her family.

245. In the course of 1997, the Department of Social Affairs, with the involvement of many associations of the service sector, organized a series of regional conferences and the first National Conference on Foster Care (in Reggio Calabria on 13 and 14 December 1997). At the regional conferences, more than 3,000 people participated (officials of the public and private welfare system, voluntary workers, administrators, and foster families) and at the National Conference, nearly 800 people took part. Such conferences constitute an occasion for making comparisons, for carrying out verifications, for promoting and relaunching this instrument of assistance to children in difficulty and their families of origin.

246. National coordination of public officials who are involved with foster placement has been constituted in order to enable Law No. 184/83 to be enforced properly and consistently throughout Italy.

247. There has been an attempt to differentiate the ways in which foster placement is carried out in order to respond adequately to the different needs of children in difficulty in their family of origin: consensual foster placement/judicial foster placement; foster placement that is residential or daily or limited to weekends; foster placement for immediate placement (from one day to three months)/short term/programmed (not short but of a fixed term)/prolonged (possibly also over the age of 18) foster placement.

248. At both national and local levels, various awareness campaigns on foster placement and on training foster families and bringing them up to date have been carried out. In this field, collaboration between workers in the public and private sectors has been a positive experience.



## 2. Placement in communities

249. One of the ways of overcoming the logic of institutionalization is represented by the communities for children which have developed in Italy starting from the 1970s.

250. The judicial system has not defined the different types of community and has not, in a precise way, defined their possible characteristics. Only Law No. 272/89 stipulates the requirements for the type of community with which the Ministry of Justice may contract for applying criminal measures that are an alternative to detention. They must be family-type organizations, there may be no children undergoing criminal proceedings, the maximum capacity is 10 children, they must carry out personal educational projects in a predominately educational climate, professional workers must be present; it must collaborate with interested institutions and use local resources. Not even the regional legislation helps to codify, in a homogenous way, the structure of the communities: they refer to “family homes” and “family-type communities” and “residential communities” of “apartment groups” and “family groups”. Also, the standards proposed are very different from Region to Region: in some cases, there is a limit of 8 children, in others 10, in others 15. It is a paradox that, while in many laws on the protection of children reference is made to communities as instruments for overcoming the situations of families in difficulty, the legal system has not felt the need to define their characteristics and specifications.

251. A concept which is more or less shared provides for communities as structures which:

- Accommodate not more than 10 children;
- Use an accommodation structure of the civil habitation kind with spaces which protect the privacy of the inmates;
- Aim to overcome situations of difficulty of the child through educational projects;
- Employ social workers who have had sufficient training;
- So far as their educational projects and methodologies of work are concerned, are open to other local resources.

252. According to data relating to 1996, there are 747 communities operating in Italy and they assist, according to reliable estimates, 5,500 children: of these 5 per cent fall into of the age range 0-2 years; 4 per cent are 3-5 years; 34 per cent 6-11 years and 57 per cent 12-18 years.

253. In the year 1997, the Juvenile Court made 1,293 decrees placing children in residential communities or institutions.

### **3. Monitoring of these cases** (guideline 80)

254. The monitoring of the situation of children and adolescents for whom a form of substitute protection is provided is guaranteed, by legislative provision, by the tutelary judges and by the Regions. The law establishes that a minor of more than 12 years of age must be heard with respect to his or her placement resulting from a possible separation from the family of origin. In effect, the operative practices in many areas of the country tend to involve the child even of a younger age, complying with the general principles of the Convention, at least in relation to his or her best interests and with respect for his or her opinions.

255. Even if a specific survey has not been made, there appear to be very few cases in which, in deciding between the different solutions to adopt in response to the necessity of the separation from the family unit, account is not taken of the need for continuity in the education of the child. In finding adequate responses to individual differences, there is a growing awareness of the need to take account also of the ethnic, religious, cultural and linguistic origins of the child.

256. As we have already said, currently, at a national level, we do not have data and information on the children involved in the measures in question: disaggregated information by age, sex, ethnic (social and national), religious, cultural and linguistic origins is gathered by some Regions which have a register of children placed in residential care and foster homes.

### **4. Periodic review of placement** (guidelines 86-87)

257. The measures adopted to recognize the right of the child who has been placed by the competent authorities in a residential institution or to carry out a periodic review of the ways and means of placement of the child in public or private institutions or by social services are of a legislative, administrative and judicial nature.

258. On the legislative side, the sources are Law No. 184/83 combined with Law No. 798/75, which provide for the competence of the Regions in overseeing the institutions and residential homes. Many of the Italian Regions have legislated on a system of review and control of placement of these children, indicating structural, functional and personnel standards, and specifying the procedures for monitoring the treatment of the child from the moment of reception to when they leave. Given that national guidelines are not in existence (however, they are provided, at least as an objective, by the Government's Plan of Action for Children), it is difficult to infer unitary trends from the different approaches of the various Regions.

259. On the administrative side, in anticipation of the guidelines just referred to, it is the Regions which regulate, by deliberations and implementation circulars, the legislative directives at the national and regional levels. The municipalities and the ASLs (local health authorities), according to their diverse competencies, undertake to monitor the existence and the continuity of the requirements set out in the regional legislation (of a structural, organizational, and procedural kind) and to provide adequate regulations for its implementation (for example, the Regulations on Foster Placement).

260. The case law of the Juvenile Court, of the Court of Appeal and, for some decisions, the Italian Supreme Court represents a significant body of law to be referred to in monitoring the system of placement of children separated from their families, upholding the principles of non-discrimination, the best interests of children and respect for their views.

261. The principal authorities considered competent in this undertaking are the tutelary judges and the Social Services of the regional administrations. The frequency of the checks on placement and of the treatment given in residential structures must be carried out in accordance with the law by way of a report which the residential placement services send every six months to the tutelary judge competent for that particular area. In some Regions, there is a provision to substitute this report with the compilation of a questionnaire structured and articulated for every child placed in care in the six-month period preceding the report. To encourage co-responsibility between various bodies in monitoring the conditions of the child placed in residential care, these forms are sent, for their information, to the local and regional Social Services and to the Juvenile Court.

262. The circumstances taken into consideration in deciding on the arrangements for placing a child in a residential structure for his or her care, protection and treatment are defined within the regional sphere. In general, autonomous administrative provisions are taken, aimed at setting up integrated services, both in the sense of the presence of different professional personnel and in the prospective of a coordinated action between the operative units of different institutions (Municipalities, Local Health Authorities, Juvenile Courts, the Service Sector, etc.). Priority, in general, is given to: the various problems of the family of origin; the immediacy of the risk of abandonment, violence and, in general, psychological, social, emotional or educational harm to the child due to the inadequacy of the family of origin; the need to encourage the very prompt return of the child to the family of origin combined with the evaluation of the best opportunities to maintain contact and relations with the family during the period of separation (e.g. timing and modes of visits, distance of the reception structure).

##### **5. Difficulties encountered and pre-established objectives** (guidelines 82-87)

263. The progress made in Italy consists in a progressive and constant diminution of resort to placing children in residential children's homes, with a differentiation, more marked in the regions of the North of Italy, favouring community-family type home with respect to other institutions. Significant difficulties still exist:

(a) A reluctance still exists on the part of some administrators and professionals to make use of the institution of foster placement, whereby Law No. 184/83 has not been implemented in a wide and adequate manner throughout Italy. There are still many Regions and very many Municipalities which have not set up the procedures and the services to comply with the priorities of the legislation;

(b) Many institutions remain reluctant to put into effect a real process of conversion to smaller and better-equipped structures for residential care to respond adequately to the psychological, educational, emotional and relational needs of the children placed there;

(c) There is a prevalence of non-consensual placements, i.e. ordered by the Juvenile Court for children in harmful situations, with respect to consensual placements, i.e. recommended by the Social Services, and an indication that foster placement is conceived, in too many cases, as a last resort, often resorted to after the failure of the family and of institutions. Too often foster placement ordered by the Juvenile Courts is seen as a punitive measure rather than a tool for assistance;

(d) Difficulties exist on the part of the Juvenile Courts in intervening in a prompt and timely manner in respect of the needs and expectations of the child. The tutelary judges, who deal with consensual foster placement, may fail to take adequate action, for lack of time and preparation, with respect to the functions of vigilance and control of the children's institutions under their jurisdiction. These functions too often are only formal and not substantial.

264. The objectives which are intended to be fulfilled can be summarized in this way:

- Improvement of Law No. 184/83 also by way of the constitution of a special commission as part of the yet-to-be-constituted National Observatory on the conditions of children;
- On the administrative side, the Plan of Action provides for the monitoring and strengthening of the policy of deinstitutionalization, support for families in difficulty, promotion of foster placement and improvement of the condition of the foreign child. The institutions involved will be various at the central and peripheral levels, with an important role in the structure of coordination (State-Regions Conference and State-City Conference);
- The implementation of Law No. 285/97, which came into force in the last months of 1998, offers a notable opportunity to increase the quality and the spread of action for the protection of children separated from their families of origin. Specific intervention is provided for aimed at fighting against institutionalization, promoting foster placement (with particular attention to the integration between the various services and institutional parties involved), and supporting foster families and the families of origin;
- The proposed national law on the institution of a public guardian for the child aims at covering lacunae in the organization and coordination of the action for the protection of children placed in residential children's homes, most of all in respect of children who come from situations of abandonment, disabled children, refugees and asylum-seekers, including those who are unaccompanied.

265. Carrying out research on children separated from their families is enabling us not only to finally learn the real magnitude of the phenomenon, but also to identify the causes of the separation and the possibility of the rehabilitation of the family and of re-entry therein and, therefore, to identify the most appropriate strategies for reducing cases of separation.

**I. Adoption**  
(guidelines 83-85)

266. Adoption was reformed in Italy by Law No. 184 of 4 May 1983. Its objective is to give a family to a child who is lacking one and not to give a child to a family without children. Adoption must not be a remedy for sterility but a remedy for abandonment, and therefore must always be done in the best interests of the child. The law recognizes that the child has the right to grow up in the sphere of his or her own family, which must be helped to carry out its tasks. When there is no family or it is no longer interested in the child, there is a state of abandonment. Only the child declared to be in a state of abandonment can be adopted.

267. The jurisdiction for the procedure of adoption is that of the Juvenile Court, which is a specialized judicial organ composed of professional judges and experts. All the provisions of the Juvenile Court, including the decree of adoption, can be appealed against to the Court of Appeal.

**1. National adoption**

268. The Juvenile Court ascertains the state of abandonment of the child, chooses from among the people who wish to adopt those held most suitable for the child, and pronounces on the adoption after a trial period (pre-adoptive foster placement) of one year.

269. The parents of the child must be heard by the judge, who can suspend the finding of abandonment and put them to the test with measures to assist and supervise them through the social services. If the measures are ineffective or are held to be useless, the Court declares the state of adoptability. The parents can oppose this, presenting an appeal against the decision of the Court. If the decision is upheld, their consent for adoption is not required.

270. Those who wish to adopt must apply to the Juvenile Court. The application is not nominative and the child cannot be chosen. The Court orders a thorough social investigation to ascertain suitability for adoption and chooses from among those who have submitted applications those who are most capable of corresponding to the needs of the child.

271. The child who has reached the age of 12 years must be heard by the judge and, if opportune, a child of a younger age can be heard. The child who has reached the age of 14 years must give his or her consent to the Court.

272. The period of pre-adoptive foster placement is monitored by the social services who periodically refer to the Court. The adoption is decreed at the end of the pre-adoptive foster placement period and it is irrevocable.

273. The adopted child becomes the legitimate child of the adoptive parents and takes and passes on their surname. Relations with the family of origin cease. The adopted child does not have the right to know his or her biological parents. He or she has a right, on the other hand, not to be contacted by them; therefore, registrars and public officials must keep the details of the adoption secret.

## 2. Intercountry adoption

274. Italian law permits adoptions abroad, both in the form of expatriation of Italian children with the aim of adoption and also in the form of adoption of foreign children on the part of Italian citizens.

275. The first case (expatriation of Italian children) is merely theoretical due to the large number of applications for national adoptions and the small number of children abandoned in Italy (average ratio 15:1). There is no express provision in law which provides for the principle of subsidiarity but, as stated above, the Juvenile Court must favour the application which best corresponds with the needs of the child. This rule is constantly interpreted in the sense that couples resident in Italy must be preferred. In the case in which the child must be expatriated because a couple resident abroad have been chosen, the law provides the same guarantees for him or her as those provided for adoption in Italy and, therefore, a year of pre-adoptive foster placement under the monitoring of the Juvenile Court (in this case, through the Italian consul). If during the pre-adoptive foster placement difficulties arise, the child can be repatriated.

276. The second case (adoption abroad on the part of Italian citizens) has increased significantly in recent years. Currently, the number of adoptions of foreign children are about double those of Italian children. Those who wish to adopt a child from abroad must fulfil the same requisites required for national adoption.

277. The subject of intercountry adoption has been recently profoundly amended in the Italian legal system. Italy, in fact, has signed the Hague Convention of 29 May 1993 on the Protection of Children and Cooperation in Respect of Intercountry Adoption, subsequently ratified and entering into force in Italy under Law No. 476 of 31 December 1998. This law was passed not merely for ratification but - as was indispensable - has rewritten all the regulations on intercountry adoption.

278. The principles on which the new law is based are the following:

- The child who can be adopted in Italy must be a child of whom the situation of abandonment has been ascertained in his or her country of origin;
- The foreign child to be adopted must not have found in his or her own country an alternative arrangement which assures him or her a valid family environment;
- The prospective adoptive parents do not have a right to obtain a child as son or daughter but can only express their willingness to adopt because the instrument of adoption, even intercountry adoption, does not function to give a child to a couple who have no children, but to satisfy the need for a family for a child who does not have one;

- The preparation for such a responsible undertaking as adoption must be adequately developed because it is not easy to be transplanted not only from one family to another family but from one way of life to another which is totally different. Therefore, many functions have been attributed to the social services of the local authorities to which the Juvenile Court must transmit, within 15 days, the application of the spouses so that adequate information on the intercountry adoption can be given, and preparations made for adoption and for ascertaining their personal conditions. This activity must be completed within four months, after which the social services must send a report to the Juvenile Court, which, having heard the spouses, must decide within two months whether to grant or deny suitability. In the affirmative case, the decree is sent by the Court to the Commission on Intercountry Adoptions with all the relative documentation;
- It is the Juvenile Court which evaluates the suitability of the couple for adoption: the decree of suitability will also contain indications for favouring a better match between the prospective adoptive parents and the adopted child. The decree stays in force for the entire duration of the procedure, but the spouses have the onus of initiating it within a year, turning to one of the accredited bodies of their choice;
- To adopt a child abroad, it is, in fact, obligatory to consult an accredited agency, that is, an organization which is not a profit-making organization, which is directed and run by people who by virtue of moral integrity, training and experience are qualified to act in the field of intercountry adoption, which avail themselves of the assistance of professionals in the social, legal and psychological fields, which have at their disposal an adequate organizational structure in at least one Region, and do not harmfully discriminate in favour of the people who hope to adopt;
- The accredited agency informs the prospective adoptive parents of the adoption procedures, completes the documentation for adoption with the competent authorities of the country indicated by the prospective adoptive parents, receives the proposals for foster placement from the foreign authority, transfers all the information and all the details regarding the child, receives the written consent to foster placement by the prospective adoptive parents, receives from the foreign authority a statement that the conditions provided by the Convention exist, informs the commission, the Juvenile Court and the local social services of the decision relating to foster placement, certifies the date of placement of the child with the fostering spouses, oversees the modalities for the child's transfer to Italy and carries out support activities for the adoptive family;
- The setting up, at the Department of Social Affairs of the Prime Minister, of a Commission on Intercountry Adoptions is planned. It will have the tasks of a central authority, and must present a report to the Italian Parliament once every two years on the state of intercountry adoptions, on the level of implementation of the Convention and on the stipulation of possible bilateral agreements with non-adhering countries. It must, moreover, authorize the activities of the intermediary agencies and oversee their operation. For this purpose, it must ascertain that the agencies are in conformity with the requisites of the law. Furthermore, it must promote cooperation between all

those who are operative in the field of intercountry adoption and the protection of children; promote training initiatives for personnel and assure the uniform spread of accredited agencies throughout Italy. It is the Commission which, in individual cases, evaluates the conclusions of the accredited agency and declares that adoption meets the best interests of the child;

- This declaration cannot be made when it does not emerge from the documentation that there is a situation of abandonment of the child and when the adoption does not give to the adopted child the status of a legitimate child;
- The child who has entered Italy on the basis of a provision for adoption or foster placement with the aim of adoption enjoys, from the moment of entry, all the rights attributed to Italian children in foster care and he or she acquires Italian citizenship by effect of the registration of the adoption decree;
- Intercountry adoptions pronounced in a country which does not adhere to the Convention or which is not a signatory to bilateral agreements may be declared effective in Italy on condition that the condition of abandonment of the child or the consent of the parents for legitimizing the adoption is ascertained, that the prospective adoptive parents have obtained the decree of suitability, that the adoption procedures have been effected through the intervention of the Commission and an accredited agency, that the indications contained in the decree of suitability have been complied with, and that the authorization of the Commission has been granted;
- Special provisions are provided for in relation to the adoptive parents: in particular, they will have the right to a leave of absence from work corresponding to the period of stay abroad requested by the country of origin, and, once they have re-entered Italy, can have a period of three months of paid leave from work even if the child is more than 6 years old. Moreover, after the three months have passed and until the child has reached 6 years of age, they can ask for leave from work for six months with the right to retain their posts, not to mention the right to leave during illnesses of the child. There are also some fiscal benefits: 50 per cent of the expenses borne by the adoptive parents for the procedure of adoption can be deducted from the gross income;
- Unauthorized action by intermediaries is sanctioned and will be considered a crime punishable by imprisonment for up to one year or by a fine of 10 million lire. Also, those who have applied to unaccredited agencies or people will be liable for punishment.

### **3. Long-distance support**

279. There is in Italy a highly developed form of efficacious support to children of underdeveloped countries to allow them to remain in their country while receiving the help which allows them not only to survive but also to have a regular process of development. Italian families undertake to send a periodic economic contribution to families with children who live in situations of indigence in their countries, creating a bond of solidarity which is not only



economic but also in some way emotional. It is known improperly as “long-distance adoption” because no judicial link is created between those who assume a responsibility of this kind and those who receive aid: more appropriately, it should be referred to as “long-distance support” as this act of solidarity is beginning to be referred to. It is not a phenomenon of little importance: about 2 million people have adhered to the proposal advanced by some associations operating in the field of international solidarity. And every year about 1,500 billion lire flow from this form of aid to developing countries.

280. Recently, thanks to the undertaking of five of the biggest non-governmental organizations which carry out long-distance support projects (Ai.Bi, Cefa, Ciai, Terre des Hommes, Vis), the Italian Committee for Distance Support has been set up which has the task of proposing projects relating to long-distance support destined for children and families in difficulty (against the exploitation of child labour and child prostitution, for the prevention of the abandonment of children and the rehabilitation of street children, for the prevention of childhood illnesses and malnutrition) and for carrying out public awareness campaigns and initiatives aimed at finding supporters and at spreading a new culture of solidarity with children.

#### **4. The interests of the child**

281. The implementation in Italy of article 21 can be considered, at present, more than satisfactory, considering the rigour of the law in giving constant pre-eminence to the best interests of the child. In general, it can be said that the Juvenile Courts and local social services cooperate well and the latter, from the point of view of their professional capacity, are now sufficiently well trained on the subject of adoption and well aware of the necessity to give priority to the best interests of the child. All placements of children with a view to adoption are followed and supported by the social services in conjunction with the Juvenile Court and no adoption order is made without the social services having knowledge of the case and giving their opinion.

282. The need for a greater spread of social services throughout Italy must, however, be noted, for the purpose of preventing abandonment and helping the families of origin. There are, in fact, areas where the social services are insufficient or scarcely present. In the city of Rome, the municipality points out that the ratio between social workers and citizens is 1 social worker for every 23,000 citizens, while 1 for every 5,000 are needed. Budget restrictions and lack of funds are usually cited to justify this situation. Moreover, it must be noted that there is a negative separation of competencies between interventions of a social nature and health care, due to a recent reform of the health service which has brought further budgetary restrictions and has not sufficiently coordinated the two areas of action.

#### **5. Data on adoption in Italy**

283. The data on adoption in the five years 1993-1997 are indicative of the trend in national and intercountry adoptions and are taken from the parliamentary report that the Ministry of Justice - which carries out a monitoring function of adoption trends in Italy - must send periodically to Parliament on the state of enforcement of the law on adoption.

**Table 7**

**Children declared to be in a state of adoptability: absolute and percentage data**

Children	1993	1994	1995	1996	1997
With known parents	902	748	826	895	1 025
%	73.27	71.17	71.95	65.86	71.18
With unknown parents	329	303	322	464	415
%	26.73	28.83	28.05	34.14	28.82
Total	1 231	1 051	1 148	1 359	1 440

Source: Ministry of Justice - Central Office for Juvenile Justice, Statistic Analysis, Regulation of Adoption and Foster Placement of Children 1993-1997, Rome, 1998.

**Table 8**

**Applications to obtain the declaration of suitability for intercountry adoption**

Applications	1993	1994	1995	1996	1997
Pending at 1 January	9 013	9 457	8 451	8 560	8 721
Presented subsequently	6 329	6 007	5 849	5 768	6 217
Accepted	4 546	4 707	3 767	3 976	4 356
Refused	1 609	1 960	1 031	713	725
% of acceptance of applications processed	73.9	70.6	78.5	81.3	73.6

Source: See table 7.

**Table 9**

**Decrees of pre-adoptive foster placement and decrees of national adoption**

	1993	1994	1995	1996	1997
Decrees of pre-adoptive foster placement pronounced	710	614	854	1 027	1 141
Decree of national adoption	776	751	784	811	926

Source: See table 7.

**Table 10**

**Effectiveness of foreign provision of foster placement and adoption**

	1993	1994	1995	1996	1997
Pending at 1 January	1 334	1 619	2 327	2 955	2 713
Provisions effective as pre-adoptive foster placement	1 992	2 434	2 503	1 088	2 095
Provisions effective as adoption	40	4	19	14	11
Provisions declared non-effective	24	17	16	15	6
Revocation of pre-adoptive foster placement	5	5	5	7	7
Decree of definitive adoption	1 696	1 712	2 161	2 649	2 019

Source: See table 7.

**J. Temporary entrance into Italy of unaccompanied foreign children**  
(guideline 87)

284. Of particular relevance is the phenomenon of unaccompanied foreign children temporarily in Italy for vacation or health reasons. This concerns children who come from countries which find themselves in particular difficulties (famine, civil war, ecological disasters), to whom a temporary residence permit is given for a period which cannot exceed - except in exceptional cases - three months and who are accommodated by institutions or families, as part of specific projects. It is a phenomenon which, although often originating in a spirit of solidarity, risks, if not regulated, provoking negative effects on the children themselves. This has led to the signature of the Decree of the President of the Council of Ministers of 7 March 1994, by which, under the Department of Social Affairs of the Prime Minister's Office, a special Committee for the Protection of Foreign Children has been constituted, in which officials of the Prime Minister's Office, the Ministries of Foreign Affairs, of the Interior and of Justice take part. The task of the Committee is to coordinate and monitor the reception projects, granting or refusing permission. Under Law No. 40 of 1998, article 31, it is established that the Committee has the task of overseeing the details of the stay of the foreign children temporarily present in Italy and of coordinating the activities of the administrations involved. The Committee is made up of two representatives of ANCI (National Association of Italian Municipalities), a representative of UPI (Union of the Provinces of Italy) and by two representatives of the most significant organizations operating in the sector of the family. Moreover, with an apposite Decree of the President of the Council of Ministers, the duties of the Committee concerning the protection of the rights of foreign children in conformity with the objectives of the Convention on the Rights of the Child will be defined and the rules and the ways of entrance and residence in Italy of minor children established, restricting to those over 6 years of age, children who enter Italy in the context of programmes of solidarity for temporary care, and for the foster placement and repatriation of the same.

285. The table which follows gives an indication of the phenomenon. It illustrates the total number of authorizations granted from 1996 to 1998. It is important to specify that the figures shown indicate authorizations which do not, in any way, represent the effective number of children accommodated. It frequently happens that for one child more than one entrance is registered. The estimate is that the number of children accommodated temporarily was approximately 22,000-25,000 for 1998.

**Table 11**

**Number of authorizations for unaccompanied foreign children accommodated temporarily in Italy 1996-1998**

State	Children		
	1996	1997	1998
Bielorussia	28 978	31 263	28 907
Ukraine	11 151	10 431	8 011
Russia	1 626	1 580	1 614
Former Yugoslavia (Bosnia and Croatia)	4 943	see the specific data below	see the specific data below
Bosnia		1 944	1 232
Croatia		921	400
Serbia	186	154	82
Romania	2 805	529	382
Algeria (Sahrawis)	355	415	89
Georgia	148	268	154
Other	204	95	20
<b>Total</b>	<b>50 396</b>	<b>49 503</b>	<b>40 891</b>

Source: Prime Minister's Office - Department of Social Affairs.

**V. ABUSE AND EXPLOITATION OF THE CHILD\***

**A. Introduction**

286. The Italian Government has given particular attention to the disquieting phenomenon of maltreatment and sexual abuse of its under-age citizens. Whether this maltreatment is carried out actively (blows, beatings, injuries, sexual acts) or whether it is carried out by conduct of omission (neglect, lack of care, abandonment), it provokes grave consequences in the short, medium and long term on the process of growth and puts it at risk of being compromised.

287. No less disturbing is that form of violence against children which is expressed in the exploitation of children on the part of adults. The culture that generates this, based on reducing the child from a person to an object to be freely disposed of, has serious consequences because

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\* This section responds to the queries relating to articles 19, 39, 32, 34, 35, and 36 of the Convention to which paragraphs 88-91 and 151-164 of the general guidelines for periodic reports refer.

the abused or exploited child inevitably loses self-esteem which is indispensable for the complete development of the person and because seeing him- or herself as someone without value causes him or her to rebel and to act aggressively or passively and to behave in a hyperacquiescent way. It is of fundamental importance to prevent these phenomena and indispensable to put into effect forms of intervention for resocialization aimed at the full recovery of the child who is the victim of abuse and exploitation.

288. Given these premises, it seems opportune to bring together in this part of the report the responses to the questions relating to both the implementation of article 19 (guidelines 88-91) and the implementation of articles 32-36 of the Convention (guidelines 151-164).

289. Unfortunately, phenomena of this type are present in Italy and cut across all strata of society. Italy is still without a complete monitoring of the real incidence of these phenomena because the only accurate data are, at present, those deriving from the judicial statistics which, obviously, cannot be completely exhaustive. In fact:

(a) Some phenomena do not constitute crimes (for example prostitution, at least when it is not concerned with soliciting or aiding and abetting and exploitation, which are difficult to prove, or the personal use of narcotics);

(b) For crimes of violence, abuse and exploitation of children, reports to the judicial authority are few:

- Not all the victims are willing to report the fact in order to avoid unpleasant publicity and in order to avoid reliving, in the course of the trial, experiences which are often devastating;
- Much of the violence is perpetrated in the closed sphere of the family and this impedes detection because it is feared that public revelation will dissolve the bond existing between the adults;
- A code of silence between adults to the detriment of children covers often disquieting situations;
- The person is at a formative age or does not perceive the abuse as such or, in any event, often does not have the capacity or the courage to report the abuse to the outside world.

290. The available data in relation to single phenomena will be indicated. Here, it is opportune only to highlight the relative data regarding protective action taken by the Juvenile Court in relation to parental authority: they are obviously indicative of a dysfunction of the parental relationship which implies actions or acts of omission which produce grave prejudice to the child. In 1993, 1994 and 1995 the Juvenile Court issued, respectively, 7,736, 7,257 and 5,831 limitation or removal orders with regard to parental authority.

291. Neither is there, at present, significant research on the various forms of exploitation of children which can illuminate the extent of the phenomenon in the absence of judicial data. It is the intention of the National Observatory and of the National Documentation Centre to develop research in this field within the next few years.

## B. Maltreatment and violence

(guidelines 88-91)

### 1. Judicial data

292. Judicial data are not fully indicative of the real frequency of the phenomenon of maltreatment of children not only in terms of the high incidence of unknown cases of deviance but, as regards maltreatment and violence, also because, for the major part of the crimes, the National Statistics Institute (ISTAT) statistics do not indicate the typology of the victims and therefore it is impossible to determine whether they are children or other members of the family. Therefore, the crime of abandonment concerns not only the children but also adults who are incapable; therefore, the crime of maltreatment in the family may also involve members of the family other than the child; and therefore, the crime of violation of the obligations of family assistance may also involve behaviour which does not concern the offspring. On the other hand, crimes of infanticide and abuse by means of punishment are specific.

293. The table which follows indicates the state of the phenomenon over the last 10 years:

**Table 12**

#### **Crimes for which the judicial authority has initiated criminal action, excluding that of a sexual nature**

Crime	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Infanticide	7	14	13	4	2	6	13	6	4	3	6
Abandonment of incapable minors	295	249	217	192	163	207	271	298	334	338	388
Violation of the family allowance	5 673	6 442	6 103	5 267	2 067	3 447	3 283	3 589	4 002	4 017	4 201
Maltreatment	2 225	2 600	2 424	2 316	1 163	1 765	2 029	2 254	2 268	2 300	2 290
Consensual abduction of a child	261	265	276	219	109	150	112	123	130	112	117
Abuse by means of punishment	77	107	68	99	49	40	57	57	77	65	85

Source: ISTAT, Criminal Judicial Statistics, Year 1990, *Annuario* No. 38, ed. 1993; Criminal Judicial Statistics, Year 1991, *Annuario* No. 39, ed. 1993; Criminal Judicial Statistics, Year 1992, *Annuario* No. 1, ed. 1994; Criminal Judicial Statistics, Year 1994, *Annuario* No. 3, ed. 1995; Criminal Judicial Statistics, Year 1995 and 1996, *Annuario*, ed. 1993.

## 2. Legislative provisions on protection

294. Violence against the child in all its forms is prohibited by law, both by criminal measures applicable to every person responsible for the violence and by civil measures that concern more directly the parents and the legal representatives of the child.

295. Civil protection: The Civil Code (arts. 330 and 333) provides that the parent who violates or neglects his or her duties towards the child or abuses his or her power, causing prejudice, can be deprived, in all or in part, of his or her authority. His or her relationship with the child can be limited or suspended by the judge, who can also nominate a different legal representative for the child and can order the child placed in another environment. In emergency cases, the court can take temporary official action in the interests of the child.

296. The Juvenile Courts apply articles 330 and 333 to a large range of violent behaviour on the part of the parents. According to the law, these provisions regard physical violence including corporal punishment; mental violence or psychological abuse (humiliation, offence, mental cruelty); negligence and lack of care; exploitation; sexual abuse as generally understood and also when it is behaviour that does not constitute a crime. A large part of the case law holds that articles 330 and 333 are also applicable when, in the case of separation or divorce, the child becomes willingly involved by the parents in their arguments, or when rights of access are impeded, or when the child is taken away by the custodial parent.

297. The abandonment of the child receives greater and more specific protection in Law No. 184 of 4 May 1983 on adoption and fostering. The determination of abandonment by the Juvenile Court has been described elsewhere in this report.

298. The Juvenile Court can be directly informed about the situation of abuse or violence towards the child by a relative so that provisions for protection can be taken. The Public Prosecutor's Office can equally be informed by any person whosoever has come to know of the abuse or violence. The Office, having ascertained the foundation of the report, will initiate action through the Juvenile Court. It is to be noted that the social services (also teachers and doctors of the health services) have the obligation to inform the Juvenile Court of cases of abandonment which come to their notice during their work. The same obligation is not provided in cases of maltreatment except if they, by reason of their gravity, can be considered as cases of abandonment. Also, the child victim can ask directly for protection, applying to the Office of the Public Prosecutor of the Republic.

299. In cases of maltreatment and violence to the detriment of the child, the role of the social services is of particular relevance in identifying situations of abuse, for an initial processing of the case, and in executing provisions ordered by the court, which very often decides to attribute to the social services the tasks of support and control of the case to the extent that seems necessary in respect of the interests of the child.

300. Criminal protection: The Criminal Code provides for a series of crimes of violence and maltreatment against the individual, and therefore also against the child, and for some typical crimes of which only the child can be victim (infanticide, abandonment of children, child

homicide, instigation of a child to commit suicide, abuse of means of correction or punishment, child abuse, child abduction, avoidance of civil court orders relating to child custody, illicit fostering of children to avoid the law on adoption).

301. The criminal law obliges public officials and those exercising a health profession to refer to the judicial authority any facts that may present the elements of a crime.

302. Taking account that in Italy criminal action is obligatory, there is an unbalanced system: too rigid on the criminal side (which is concerned with punishing the guilty but does not concern itself with the victim); too tenuous on the civil and juvenile side (which is concerned with protecting the victim but not with the guilty party). It is also to be noted that, in contrast to the civil system and family law, the criminal system presents notable failings in the protection of the children and appears very outdated.

303. First of all, there is no organic criminal system for the protection of the child which takes into consideration not only the protection of his/her physical or sexual integrity - or of his/her patrimony - but also adequately protects his/her personality and his/her regular development. For example, it is significant that, in the Italian legal system, the crime of undue influence on incapable persons exists - for the punishment of those who abuse the passion, needs and inexperience of a child, inciting him or her to carry out acts which could have consequences in relation to property - while there is no regulation which sanctions an act of at least equal criminal responsibility for those outside the family who incite the child to carry out acts harmful to his or her psycho-physical development. Moreover, there is no police force for children which is effectively specialized and present in the whole territory. There is no legislative basis for coordination between criminal action against the perpetrator of the violence and civil action for the protection of the child.

304. This last lacuna is particularly damaging in the cases of violence carried out by parents; because of simultaneous competencies of different judges, different kinds of action may be carried out which are not harmonized among them. Also, the connection with the social services appears to be full of difficulties, taking account moreover of the obligatory principle of criminal action and therefore of the difficult position in which the social worker may find him- or herself.

305. Different reform proposals to improve this unsatisfactory state of affairs have been presented to Parliament but not yet approved, and it is to be hoped that these be quickly taken into consideration.

306. Furthermore, the exploitation of the child is punished by the criminal law, which characterizes certain behaviour as crimes in order to fight against the market in children for adoption and lays down very severe punishment for the exploitation of child prostitution. It appears, on the other hand, necessary to have better protection with regard to the exploitation of children by adult criminals, especially by organized crime.

307. The system of protection described above shows itself to be lacking as far as measures of an educational character directed at promoting positive, non-violent forms of discipline, care and treatment of the child are concerned. The jurisdiction for ordering measures of this type belongs to the Juvenile Court. The law provides only two types of measure: the care of the social



services, and placement in an institution. These measures must be provided for and managed by the local community, to whose competence they were transferred by a decree of 1977. In any case, despite the time that has now passed with the exception of some big municipalities the services of the local authorities appear generally unprepared in the face of these interventions, and the social politics of the local authorities seem to forget the problem.

308. A child at the age of 14 has been recognized the right to make a complaint on his or her own behalf.

### **3. Treatment of the victim of violence**

309. The most important problem is that of making the problem of hidden maltreatment and violence emerge, not only in order to persecute the guilty but principally to ensure that the child has adequate support and recovery. An action aimed at increasing the awareness of professionals (in particular, of teachers and paediatricians) who are most frequently in contact with children and minors and who can best perceive both the signs of suffering resulting from violence and the traces of physical violence is also being developed. The National Centre is closely collaborating with the Cultural Association of Paediatricians: a training seminar was held in 1997 for paediatricians who must, in turn, institute training courses on the problems of violence towards children throughout Italy.

310. Energetic activities to make the phenomenon of abuse and maltreatment of children emerge have been carried out in Italy by the non-governmental organization the Blue Telephone, both by way of a series of initiatives to build public awareness and by way of a widespread telephone network for reporting abuse or seeking advice in regard to relations with children.

311. There are also attempts to develop a new culture of respect for the personality of the child and a network of services for the protection and care of the maltreated child; this will be referred to later in this report, along with the kinds of treatment available.

### **C. Exploitation and sexual abuse** (guidelines 158-159)

312. Particular attention must be given to exploitation and sexual abuse. This is because the phenomenon appears to be in expansion - and not only in Italy - because it presents international aspects (sexual tourism, paedophile networks on the Internet) and principally because of the devastating effects on the normal maturing process of the child in his or her formative years who has suffered these forms of violence.

#### **1. Judicial data**

313. We report in the tables which follow the data relative to crimes involving sexual abuse of children.

**Table 13**

**Sexual violence against children, 1996-1997**

Territorial division	Violence against children		
	< 14 years	14-17 years	< 18 years
North	313	955	1 268
Centre	146	369	515
South	316	634	950
Italy	775	1 958	2 733

Source: Ministry of the Interior - Department of Public Security, Central Direction of the Criminal Police, Anti-Crime Service, data processed by ISTAT, 1998.

**Table 14**

**Crimes against children for which the judicial authorities have initiated criminal proceedings, 1986-1996**

Crime	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Incest	18	15	22	13	7	10	5	4	5	4	6
Rape	1 149	1 205	1 228	1 296	1 385	1 432	1 758	1 724	1 689	1 869	3 304
Indecent assault	834	963	1 069	996	884	1 094	1 461	1 599	1 672	1 859	
Child abuse	149	166	183	155	74	104	141	138	168	174	98
Abduction of children under 14	101	80	71	71	65	67	74	116	78	111	(a)

Source: See table 13.

(a) Since 1996 the relative figure for abduction of children has been included in the figure regarding child abuse.

314. The verifiable increase in 1996 for crimes reported under the heading of rape is connected not to a real increase in the phenomenon, which would be alarming, but to the fact that, following the Law of 15 February 1996, the two different crimes of rape and acts of indecent assault were unified in the single crime of sexual assault.

## 2. Legislative provisions

315. The Italian criminal legislation on sexual freedom has been completely amended with the revision of responsibilities imposed by the Convention on the Rights of the Child. This revision was initiated with Law No. 66 of 15 February 1996 regarding the provisions on sexual assault. This law established that:

- Crimes of sexual abuse are crimes against the person and not against public morality;
- The two distinct crimes of rape and indecent assault (according to whether there has been “penetration” or not) are unified in the single crime of sexual assault, which constitute better protection for the child in his or her formative years both because it excludes distressing investigations, which can be particularly traumatic, to find out whether or not there has been penetration and also because it appears evident that, for a child, sexual acts other than rape have an equally destructive effect;
- Conduct by anyone who with violence or threats or abuse of authority forces a child of any age to carry out or suffer sexual acts constitutes a crime. In this case, punishments are heavier: from 7 to 14 years’ imprisonment if the child involved is less than 10 years old, from 6 to 12 years’ imprisonment if the child involved is less than 14 years old (or 16 years old if the guilty party is the parent or guardian);
- Equally, it constitutes a crime punishable by imprisonment from 5 to 10 years for those who, even without violence, carry out sexual acts with a child who has not reached the age of 14 years (or 16 if the guilty party is the parent or guardian or another person who has care and control of the child). If the child is less than 10 years old, the punishment goes from 7 to 14 years of imprisonment;
- The crime is automatically prosecuted if the sexual acts are committed with children under the age of 10 years whereas it is prosecuted on complaint in three cases: if the sexual acts are committed with a consenting child under the age of 16 years when the perpetrator is an ascendant, parent or guardian; if the sexual acts are committed with a consenting child of less than 14 years when the perpetrator is a person who is more than four years older; and if the sexual acts are committed with a child of less than 13 years when the perpetrator is a child with less than four years of difference in age with respect to the injured child;
- It constitutes a crime (new formulation of the crime of child abuse) to carry out sexual acts in the presence of a child under the age of 14 years, with the aim of making him or her witness the same acts (punishable by imprisonment from six months to three years);
- Participation of several persons united in acts of sexual assault constitutes the crime of group sexual assault;

- To protect the personality of the child victim of sexual crimes, proceedings are carried out in chambers and, moreover, the Public Prosecutor may ask that evidence be taken in the pre-trial phase when it involves taking the evidence of the child under the age of 14 years and that such evidence may be taken in a different location than the Court, using specialized facilities or even the home of the child.

316. In completion of this legislation, Parliament has recently approved a new law on the sexual exploitation of children (Law No. 269 of 3 August 1998) entitled Law against the Exploitation of Prostitution, Pornography, and Sexual Tourism to the Detriment of Minors: The New Forms of Slavery. This establishes that:

- Whosoever procures a person under the age of 18 years for prostitution or who aids and abets it or exploits prostitution is punishable by imprisonment from 6-12 years and a fine of 30 million to 300 million lire;
- Whosoever, even though the fact no longer constitutes a serious crime, carries out sexual acts with a child between the ages of 14 and 16 years, in exchange for money or other economic advantage, is punishable by imprisonment from six months to three years and with a fine not inferior to 10 million lire;
- The public official or public service officer who has information that a child practises prostitution is obliged to give immediate notice to the Office of the Public Prosecutor which takes action regarding protection;
- Whosoever exploits children under the age of 18 years with the aim of carrying out pornographic exhibitions or to produce pornographic material is punishable by imprisonment from 6 to 12 years and with a fine of 50 million to 500 million lire. The person who markets the pornographic material is liable to the same punishment;
- Whosoever distributes, divulges, or publishes, including by telematic media, pornographic material and information aimed at the solicitation and the sexual exploitation of children is punishable by imprisonment from one to five years and a fine of 5 million to 100 million lire. In this regard, the law provides that the organ of the Ministry of the Interior which is in charge of the security and the regularity of telecommunications services can set up on information networks sites to enable the interception and reception of all information necessary to carry out police investigations in the sector;
- Whosoever cedes to another, even without payment, pornographic material produced by way of the sexual exploitation of children under the age of 18 years is punishable by imprisonment for up to three years and a fine of 3 million to 10 million lire;
- Whosoever procures or holds pornographic material produced through the sexual exploitation of children under the age of 18 years is punishable by imprisonment of up to three years or with a fine of not less than 3 million lire;

- Whosoever organizes, assists or publicizes journeys abroad with the aim of taking part in activities related to prostitution to the detriment of children is punishable by imprisonment from 6 to 12 years and a fine of 30 million to 300 million lire;
- Whosoever traffics in or in any way trades in children under the age of 18 years with the aim of procuring them for prostitution is liable to the same penalty under article 601 of the Criminal Code;
- The aforesaid crimes can also be prosecuted if committed abroad by an Italian citizen or by a foreign citizen acting together with an Italian citizen;
- The Prime Minister's Office shall coordinate all the public administrations relative to the prevention of, assistance to and protection of children from sexual abuse;
- The fines gathered constitute a fund to finance specific programmes for prevention, assistance and rehabilitation of child victims;
- The Prime Minister's Office shall acquire data at a national and international level on prevention and repression and shall promote studies and research on the social, health and judicial aspects of the phenomenon of the sexual exploitation of children.

317. Finally, by Decree of the Minister of the Interior dated 30 October 1998, special squads of the judicial police specialized in the fight against such crimes were set up, giving more impetus to the activity carried out by the Children's Office already operating at Police Headquarters.

### **3. Preventive action**

318. Besides the initiatives for general prevention of violence and abuse, both physical and sexual, and the initiative for recovery from sexual violence, a public awareness programme has been carried out, for a more widespread understanding of the problems of exploitation and sexual abuse, in particular, by leading associations and centres specialized in abuse which have operated on a national scale for several years. Of these, we have already mentioned the Blue Telephone of Bologna, which has carried out a great deal of work in order to bring the extent and gravity of the phenomenon of violence in childhood to the notice of the general public and to spread a different culture of respect for the child and for his or her rights, and has also set up telephone lines for reporting cases of abuse and for telephonic support for children in difficulty and parents with problems; the Hansel and Gretel Study Centre in Turin; "Break the Silence" in Turin; the Centre for Maltreated Children in Milan; the Association of Santa Maria Mater Domini in Venice; the Toniolo Centre in Naples. On the international aspects of the phenomenon, a special public awareness project has been carried out by the organization Terre des Hommes Italia.

319. Training programmes for health workers, teachers and parents have also been launched to help them hear and decipher the signals which come from children, so that the latter can speak and confide in someone, breaking the silence. Also, for Juvenile Court judges, action has been taken by the Italian Association of Judges for Juveniles and for the Family to raise their awareness of the problem. For prevention to be effective, the new criminal laws should be

accompanied by a law on child education on relationships and emotions, and, above all in school, to develop in the young a responsible and informed approach towards their sexuality. Until now some legislative initiatives in this direction have not had good results. However - in anticipation of this law - the Italian school already constitutes an important time and place for education in the implementation of the educational plans for health and the prevention of pathologies connected with drug addiction, by way of initiatives of focal point teacher training, single school educational projects for children and centres of information and counselling. The educational orientation prevailing and which is held to be more fruitful is that which does not uniquely deal with specifically sexual themes, but gives space to the elaboration on the part of the children of the emotions connected to affectivity and to relations with the other sex, offering in that way the possibility of confiding about what has happened and of coming out of the solitude of their own negative emotions to those who have had the experience of disturbed relationships and of abuse.

320. Also Catholic religious teaching programmes in the secondary schools (approved by Decree of the President of the Republic No. 350 of 21 July 1987) provide, in the third year of secondary school, which constitutes the eighth year of compulsory primary education, that themes of emotional and sex education are also dealt with from the moral and religious point of view.

#### **4. Child prostitution**

321. The problem of child prostitution in Italy merits special mention.

322. No specific data exist in relation to this phenomenon because the activity of prostitution - if not procured or aided and abetted - is not sanctioned by the criminal law and the child over the age of 14 years has the right to the free exercise of his or her own sexuality. There do not appear to be sufficiently credible estimations of the extent of the phenomenon (it is said that there are 2,200 under-age prostitutes) because it is not clear on the basis of which elements such estimates have been produced. Furthermore, the data on judicial and criminal statistics do not allow the crime of trafficking in women with the aim of prostitution to be looked at singly, nor is there any disaggregated data by age or country of origin.

323. With the aim of a better understanding of the phenomenon and with a view to being able to more precisely programme action to counter it, the Department of Equal Opportunities of the Prime Minister's Office has become the promoter of an investigation on the problem of prostitution in Italy entitled "Traffic in Immigrant Woman and Sexual Exploitation: Aspects and Problems. Research and Analysis of the Italian Situation and Social Action in the Sector", in collaboration with the association for research and social action called Parsec and with financing from the European Commission as part of the Daphne Initiative. The results of that research are now being published.

324. In the course of an investigation by the police or of the social welfare services of local authorities, evidence was found of a substantial number of under-age prostitutes coming from Africa and, in particular, from Albania. It is not certain whether the phenomenon of immigration for prostitution is the consequence of violence or trickery or of free choice (given the conditions of economic, social and cultural deprivation which have existed in Albania in the last few years,

it is difficult to believe that for some of these girls it is an authentically free choice). There is, however, no shortage of evidence and testimonies from which it can be deduced that the recruitment of at least of some of these girls, in particular of 12-year-olds, is carried out by kidnapping them from village streets and the Albanian countryside. Regarding this, there are indirect data (the number of complaints against Albanian citizens for crimes connected with prostitution) on the role of prostitution, its exploitation and trafficking with this aim, in immigration from Albania.

325. To counter the phenomenon, action by the police has limited value even if it is useful to block exploitation; the girls taken off the streets do not stop prostituting themselves, among other reasons because it is very difficult for them to return to their own countries due to the social stigma. Therefore, in Italy, forms of health assistance to prostitutes (street assistance) are developing, which also opens the way for contact with other means of social assistance. In some social situations particularly hit by the phenomenon, the “City and Prostitution Service” is developing for creating dialogue, understanding of the problems and providing an alternative to life on the street by way of the preparation of a personalized plan of reintegration in society which confronts the logistics (accommodation centres) the legal aspects (assistance with obtaining residence permits in Italy), employment (training courses and entry into employment). Some voluntary associations (such as the religious association “Pope John XXIII”, and the voluntary association “On the Road”) have also organized a vast network of logistical accommodation centres which range from the family home, to the recovery community, to the agricultural cooperative, to the emergency social services, by means of which they have consistently managed to take away from the prostitution market a number of under-age girls and have put into effect a number of preventive health measures as well as providing social information.

326. To counter the phenomenon, it is necessary to follow some fundamental objectives:

- Produce programmed, strategic and synergetic plans of action which can give cohesiveness to preventative, rehabilitation and training processes;
- Intensify the control of agencies suspected of organizing the exploitation of under-age prostitution;
- Favour the entry of the young people implicated into employment;
- Promote action networks.

327. It is, moreover, to be emphasized that, in order to protect children from prostitution and assure their recovery, the recent law on immigration, most opportunely, has laid down criminal penalties for whosoever carries out activities aimed at assisting the entry into Italy of people destined for prostitution or of children to be used in illicit activities with a view to their exploitation (art. 12 Consolidated Act) and has provided that “when, in the course of police operations, investigations or proceedings relating to one of the crimes referred to in article 3 Law No. 75 of 20 February 1958 [the Law on Prostitution] or of those provided for under article 380 Code of Criminal Procedure [crimes which provide for obligatory arrest when caught in the act] or in the course of acts of assistance of the local authorities by the social services, situations of

violence or of grave exploitation towards a foreigner are ascertained and there are concrete risks for his or her safety caused by his or her attempts to remove him- or herself from the control of an association dedicated to one of the aforesaid crimes, the Chief of Police shall issue a special residence permit to allow the foreigner to remove him- or herself from violence and from the control of criminal organizations and to participate in a programme of assistance and social integration” (art. 18 Consolidated Act).

#### **D. A new strategy against violence in childhood**

(guideline 159)

328. In the last few years a series of initiatives have been taken in Italy to counter the disquieting phenomenon of violence and abuse - physical, psychological and sexual - which involves children. Apart from the legislative initiatives already spoken of and the initiatives connected with the implementation of Law No. 285/97 which provides expressly for prevention and assistance in the cases of violence, several plans have been undertaken in this sector. Very briefly, these are:

(a) Non-governmental or professional organizations have undertaken to raise public awareness;

(b) To intensify the police action aimed at the prevention and countering of criminal phenomena harmful to children, the Ministry of the Interior has produced and implemented a project called “Arcobaleno” (Rainbow Project) aimed at redefining and strengthening interventions in the sector by the establishment of “Children’s Offices” at all offices of Chiefs of Police; a special telephone line has been installed to put into effect procedures of emergency action in favour of children with the aid of the qualified personnel of the aforesaid offices; a link has been set up between this new structure and the private or public bodies which operate in the same area; adequate training has been provided for managers attached to such structures and for the workers, by way of training seminars lasting one week having as their subject criminal matters involving children and protective action, with particular regard also to connections with international organizations (UNICEF, the United Nations Interregional Crime and Justice Research Institute (UNICRI)) operating in the sector. An appropriate organizational unit has been set up, at a central level, at the Central Directorate of the Criminal Police, with the objective of constantly monitoring the evolution of criminal activity involving child victims of crime, in harmony with the activities carried out in other countries;

(c) Specialized structures are being set up throughout the country with the task of dealing with the treatment of child victims of violence; the intervention is obviously not separated from support for the family of the abused child. Also, in the diversity of the methodologies for intervening, it can be said that similar structures have constructed models of significant and useful intervention for the recovery of the child victims of abuse and that the experimentation carried out in this way is extremely useful;



(d) The setting up of an adequate network of services throughout Italy is being attempted. A national coordinating Committee of the centres and services for prevention and treatment of abuse damaging to children has also been set up. This committee has produced an important document which contains guidelines for the intervention of psychiatric health professionals on the theme of sexual abuse in childhood;

(e) To counter, at both a European and at an international level, international organizations dedicated to the sexual and commercial exploitation of children having transnational dimensions and ramifications, the Central Directorate of the Criminal Police has provided for:

- Coordination of information and investigations through Interpol channels;
- Active participation in the Permanent Working Group of Interpol on crimes of which the victims are children. The task of this group is to identify the principal themes on the subject, to develop sufficient and in-depth research for formulating recommendations to the General Secretariat for the possible issuing of appropriate resolutions (among others, the training of police personnel, national legislation on child pornography and on underage prostitution, pornography on the Internet, the exchange of information on networks of paedophiles discovered in various countries, and steps to counter sexual tourism are being analysed);
- Cooperation with the collateral foreign organizations of the operative police telecommunications squad which, among other things, undertakes to counter at an international level exploitation of and trade in pornographic material involving children via Internet;
- Collaboration with the joint action of Europol in regard to the trafficking in human beings and to the sexual exploitation of children and women;

(f) In 1997, the Department of Social Affairs of the Prime Minister's Office established a National Commission for the Coordination of Action regarding the Maltreatment, Abuse and Sexual Exploitation of Children, in order to increase the effectiveness of the actions for the prevention of all forms of violence and abuse in childhood and adolescence. The Commission - which included, in addition to some experts on the subject, representatives of all the interested ministries - defined an organic and global strategy based on five approaches to intervention:

- (i) More organic and exhaustive collection of data relating to the phenomenon of violence and abuse and a map of the resources throughout Italy;
- (ii) Intense activity related to basic training on the phenomenon of maltreatment and abuse on the part of all those who are involved in the educational process in order to acquire the necessary competence to understand the signs of difficulty, and adequate specialized training for the staff delegated to diagnose abuse and take care of the victims;

- (iii) Strengthening the quality of resources, by including the construction of networks to carry out global projects to help children and the adoption of diverse protocols of understanding between the various competent institutions (social-welfare-health integration, relations between judicial offices, between social-welfare-health services and judicial offices, between school social services and health and judicial offices);
- (iv) Agreements, at an international and national level, for the fight against the sexual exploitation of children, centralizing databanks linked to foreign countries, harmonizing the legislation on sexual tourism with that of the foreign country, connecting with foreign institutions which operate in the sector;
- (v) Agreements with the media for the dissemination of a culture of childhood which respects the Charter of the United Nations.

#### **E. Economic exploitation** (guidelines 151-154)

329. The economic exploitation of the child, of his or her capacity and energy by adults is not unfortunately absent in Italy and it is not limited to the phenomenon of exploitation of child labour. Before examining this latter phenomenon, it is opportune to mention some other cases of economic exploitation of children.

330. In the last 20 years a market for children with a view to adoption has developed in Italy. The disparity between the number of couples willing to adopt and the number of adoptable children brought about private contracts to evade the law on adoption. So contacts were made - during pregnancy - with unmarried girls or even married women not wishing to have another child. The woman was offered a considerable sum of money; the child born by the woman was acknowledged as a child born out of wedlock on the part of the man of the couple aspiring to adopt (or the child born of the girl with whom the contract was made was passed off as a child born of the woman of the couple aspiring to adopt); the child was then placed in the new family. At a certain point criminal organizations also entered into this market.

331. The phenomenon was strongly countered both by heavy criminal sanctions provided by the reform of 1983 of the law on adoption and by way of specifically checking up on all acknowledgments of children born out of wedlock on the part of a married man. Even though there are no specific data on the phenomenon, if it has not disappeared, at least it has very much diminished.

332. A specific, if different, market in children has been made up of intercountry adoptions because aspiring adoptive couples were allowed to act autonomously in the countries of origin of adoptable children and could turn to any channel of intermediation that was available. The situation has radically changed, given the approval by Parliament of the law of reform of intercountry adoption on the basis of the Hague Convention of 1993. In fact, this law provides that all intercountry adoptions must be effected by way of accredited agencies and provides criminal sanctions for illegal mediation.

333. The phenomenon of the use of children in begging is unfortunately still present in Italy, if now only involving the gypsy minority. The act is criminally sanctioned (article 671 of the Criminal Code punishes with imprisonment from three months to one year whosoever uses or allows, for the purposes of begging, a person under 14 years to beg). The criminal sanction has not eradicated the phenomenon because the practice of begging using children is strongly based in the culture of this minority. Nor does it seem possible to resort to alternative solutions: taking action in relation to parental authority has proved ineffective and the resort to adoption is impractical, given the strong attachment of the gypsy child to his or her family. It seems here that there is nothing to be done but depend on the actions aimed at integration and schooling which are being carried out by the local authorities with the support of "Opera Nomadi".

334. The use of children in advertising and in performances. With ever more frequency, advertising tends to use the image of the child as a vehicle for propaganda for products and ever more frequently performances in the theatre, movies or television resort to the use of children and young people in the representation of life. This is a new form of child labour of which neither the consenting parent nor the institutions have perceived the precise consequences, not so much on the physical plane (e.g. regarding the prolonged working hours of children in theatres) so much as on the psychological plane. In this regard, it should be noted that the Convention on the Rights of the Child expressly recognizes the right of the child to his or her privacy (art. 16), as does the Italian legal system (and also the case law) which recognizes a right to privacy as a fundamental human right. For the person who has the full capacity to act, consent to the use of his or her image overrides the principle of privacy. For the child, the present system seems to hold that it is sufficient for the consent be given by the legal representative of the minor without any further control. But, except for the fact that the very personal rights, such as the right to privacy, must certainly be considered and cannot be exercised by way of representation, it appears at least inopportune that the consent only of the person who holds the authority - whose interest in the exploitation of the image of the child can be more his or her personal interest rather than that of the child - legitimates violating the right to privacy which is fundamental for the child in his or her formative years because it also involves the construction of a more authentic identity. It appears frankly paradoxical that the parent cannot alienate any property of the child, even if of limited economic value, without authorization of the tutelary judge, but can, on the other hand, alienate the image of the child and decide on its use. It would, therefore, at least be necessary to hold that the consent of the parent to the use of the image of the child constitutes an act of extraordinary administration and as such be subject to control. This has opportunely been provided for in a government bill, which would give that authority to the Privacy Commission, which must determine that no situation exists of potential prejudice, not only moral but also psychological and pedagogical.

335. The use of children in cinematographic, theatrical and television performances and in transmission of entertainment programmes also requires more protection of the personality of the minor. The legislation in force on the subject, albeit recently reformed, appears not only to be lacking in effective protection but also with respect to the bodies that have to carry out the control and make the decisions. The Decree of the President of the Republic of 24 April 1994 is concerned with reforming article 4 of Law No. 977 of 17 February 1967, but not with the necessary aim of increasing the protection of the minor in an employment sector which presents notable risk factors but only to simplify the authorization proceedings for the employment of minors in the performing arts. The Labour Inspectorate will grant the authorization, on the basis

of the written consent of the parents or the guardian, on the condition that the employment is in non-hazardous work in relation to the child's physical or bio-psychological integrity and does not continue after midnight. The Decree adds (it is not clear for what purpose) that since the conditions for the authorization already exist, in part, that permission is subordinate to the existence of all the necessary conditions to assure the physical health and morality of the child and the observance of the compulsory education requirements. One can observe that the written consent of the parents or of the child does not sufficiently protect the child because the parents - as experience has shown - are more keen to secure fame for the child and to receive large payments than to worry about and be aware of the damage which such activity could cause, not only to the physical health but also to the psychological health of a child in his or her formative years. The reference to bio-psychological integrity appears not to be enough to effectively protect the regular formative process of the child. Attributing such a function to a body such as the Labour Inspectorate, which has the technical but not the psychological competence, renders merely declamatory the need to evaluate the possibly damaging effects of work in such a sector on the personality of the child. The law, with a view to simplifying the authorization procedure, says nothing about the kind of information which must be given to the Labour Inspectorate so that it can effectively evaluate not merely the physical environment in which the work is carried out, but also the type of scenes which the child would be called on to interpret and the equivocal or violent situations in which he or she could be involved.

336. The exploitation of the child on the part of adult criminals. The phenomenon of the use of children in criminal activities by adults is very worrying. Given that the child is, rightly, assured criminal immunity - completely for a child under the age of 14 years, but also often for the child under the age of 18 years - irresponsible parents or people outside the family, increasingly are using children for committing thefts, drug trafficking, committing robberies and extortion, and even for contract killings. The provision in article 111 of the Criminal Code which provides that only the person who has caused the child to commit the crime is responsible for it does not seem to be sufficient. The damage from this kind of incitement is not only that consequent to the commission of the crime but is also connected to the launching of the child in his or her formative years on the road to delinquency.

337. This damage is done to the child both if he or she commits the criminal act and if he or she does not have the opportunity or the courage to do so. It would therefore be appropriate to establish a new crime which sanctions, and in a severe way, the incitement of the child to commit crimes, whether these are felonies or misdemeanours.

338. It would also be opportune to sanction severely those forms of organized crime which are being formed to use children to commit crimes, or for child prostitution, or child pornography, or the exploitation of illegal child labour or begging. Some serious episodes which have been reported in Italy in this sense make more decisive intervention necessary on the criminal level to protect childhood, which is increasingly being exploited and less respected.

339. An activity aimed at preventing the involvement of children in criminal activities has been carried out. Under Law No. 216 of 19 July 1991, an attempt has been made to curtail the phenomenon of juvenile delinquency, and in particular the recruitment of young people by adult criminals, including organized crime, by carrying out actions aimed at the prevention of juvenile delinquency and to bring about the resocialization of minors involved in criminal episodes.

Funds come from the Ministry of the Interior and the Ministry of Justice. The former has tried principally to develop network projects throughout the territory to deal with situations of risk. The idea is to create a nationwide network of interconnected interventions on a single project model, made up of many organizations operating together. From 1991 to 1997, the Ministry of the Interior allocated 250,557 million lire, the major part of which (51.28 per cent) to municipalities while 43.43 per cent was given to associations.

340. The Ministry of Justice, for its part, has used the funds allocated under Law No. 216 to establish local educational services for the support and treatment of children not in detention, in collaboration with local social services and agencies. These include centres for multifunction activities including entertainment, listening, scholastic support, sport, expressive activities, self-governing spaces, family counselling and personalized educational programmes; training in socially useful services, in particular in the field of protection of the environment and public parks; work experience programmes with craftsmen's cooperatives or firms; work training with scholarships; social and/or criminal mediation services to offer young people a space in which they can express situations of conflict in the presence of counsellors capable of furnishing them with the instruments to work through and manage them; services aimed at foreign children with a cultural mediator; information services for the family aimed at supporting the awareness of the role of every member of the family and facilitating a process of responsabilization; social information services by way of the construction of an office open to the public which gives information on the resources available throughout the territory; psycho-social interventions and information/guidance services.

341. Exploitation of child labour. Child labour has always been on the agenda of the departments of the Ministry of Employment through the arrangement of appropriate supervision, usually programmed in the summer period at the end of the period of compulsory education. From the controls carried out it seems that the phenomenon is widespread, if at different levels of intensity, throughout the country and involves both the violation of the legal age limits for starting work and of the provisions on health and safety. The sectors mostly involved in the phenomenon are the agricultural sector, some artisan activity, and small-scale services to the public. In 1997, under the ordinary control system, about 600 children were involved. There have also been initiatives carried out on a local basis, using officials and police of the Labour Inspectorate in the areas at risk in 19 Italian towns. From the information gathered it can be seen that the phenomenon exists but the estimates proposed by the various bodies and organizations diverge substantially. The estimate of 300,000 children working illegally is recurrent. This estimate is inferred principally from data on children evading compulsory schooling, but the two phenomena, although obviously connected, cannot be considered to have a relationship of cause and effect. The absence of quantitative, but most of all qualitative, data on illegal child labour remains a void to be filled, and is included as an objective of the Charter of Pledges for the Promotion of the Rights of the Child and the Adolescent and for the Elimination of the Exploitation of Child Labour signed on 16 April by the Government and the social partners.

**Table 15**

**Accidents at work indemnified by INAIL (National Institute for Industrial Accident Insurance), 1994-1995**

Region	12 years	13 years	14 years
Piedmont	1	1	66
Valle d'Aosta		1	
Lombardy	2	3	292
Liguria	1	1	3
Veneto	1	1	148
Trentino		1	98
Friuli			7
Emilia Romagna	8	5	155
Tuscany	1	1	46
Umbria			24
Marche			55
Lazio	2		20
Abruzzo			18
Molise			4
Campania	1		5
Apulia		2	71
Basilicata			9
Calabria			5
Sicily		2	31
Sardinia			5
<b>North</b>	<b>13</b>	<b>13</b>	<b>769</b>
<b>Centre</b>	<b>3</b>	<b>1</b>	<b>145</b>
<b>South</b>	<b>1</b>	<b>4</b>	<b>148</b>
<b>ITALY</b>	<b>17</b>	<b>18</b>	<b>1 062</b>

Source: INAIL.

**Table 16**

**Violations of the minimum age for employment, 1996**

Region	Industrial companies			Artisans	Commercial	Agriculture	Total
	Big	Medium	Small				
Piedmont				1	3		4
Valle d'Aosta							
Lombardy		4	1	1	8	8	22
Liguria			2		3		5
Veneto		1		5	8		14
Trentino					1		1
Friuli					1		1
Emilia Romagna			1		1		2
Tuscany	1	1	1	3	2		8
Umbria							
Marche		1			1	2	4
Lazio			2	1	13		16
Abruzzo				1	4	1	6
Molise			1				1
Campania		1	8	4	2	2	17
Apulia	3	7	8	9	17	3	47
Basilicata							
Calabria					5		5
Sicily							
Sardinia							
<b>North</b>	<b>0</b>	<b>5</b>	<b>4</b>	<b>7</b>	<b>25</b>	<b>8</b>	<b>49</b>
<b>Centre</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>16</b>	<b>2</b>	<b>28</b>
<b>South</b>	<b>3</b>	<b>8</b>	<b>17</b>	<b>14</b>	<b>28</b>	<b>6</b>	<b>76</b>
<b>ITALY</b>	<b>4</b>	<b>15</b>	<b>24</b>	<b>25</b>	<b>69</b>	<b>16</b>	<b>153</b>

Source: Ministry of Employment and Social Security.

342. The legislation relative to the protection of child labour is very rigorous, as shown in the previous report. The legislative references are: Law No. 977 of 17 October 1967, Decree of the President of the Republic No. 36 of 4 January 1971 (light work in which young people of not less than 14 years of age can be employed), Decree of the President of the Republic No. 479 of 17 June 1975 (periodical medical visits for young people employed in non-industrial work which exposes them to harmful processes), Decree of the President of the Republic No. 432 of 20 January 1976 (definition of hazardous, tiring and unhealthy work), Decree of the President of the Republic No. 367 of 12 April 1997, Decree of the President of the Republic No. 365 of 20 April 1994 (employment of children in performances), Decree Law No. 566 of 9 September 1994 (amendments to regulations regarding sanctions relating to protection from child labour), Law No. 196/97, article 16 (amendments to the law on apprenticeship), Law No. 157/81 (ratification of ILO Convention No. 138).

343. These appear to be useful steps in bringing Italy into line given the new socio-economic state of the country; less adequate appears to be the system of monitoring with the risk that the protection legislation will end up being more a declaration of intent than an effective system of protection. It is, however, to be pointed out that:

- In 1997 the action of control of the Ministry of Employment was intensified by way of the Inspectorate and a special police support squad and that, in that year, 25,780 commercial companies were visited. In Sicily, given the dramatic cases of exploitation of child labour, a specific task force has been instituted by the Ministry's police squad - which will be extended also to Calabria, Campania and Apulia, the regions most at risk - to curtail and control the phenomenon;
- As already stated, the Ministry of the Exchequer and social partners have stipulated a Charter of Pledges against the exploitation of child labour in which, among other things, the Government undertakes to promote interventions aimed at monitoring the abandonment of compulsory education and at countering it; to develop actions against poverty and child labour; to combat the plague of undeclared and hidden employment;
- The Ministry of Employment, in collaboration with ILO and ISTAT, will carry out an investigation (first of all in a Western country) to gain quantitative and qualitative knowledge about child labour, which will permit actions to be identified both at the preventative as well as the repressive level;
- The National Centre has opened, in an experimental manner, an information office on child labour aimed at citizens, social service operatives, institutions and associations which wish to receive information and documentation on the legislation and the contractual rules which regulate in Italy the work relationship with citizens who have not reached the age of majority but have the right to work;



- Attention has been given to professional training (151,634 young people participated in regional courses in the two years 1994-1995 and 148,991 in the two years 1995-1996); and besides the offer of ordinary training, there is also the EU initiative called “Occupation - Youthstart” in which projects have involved 5,000 beneficiaries between the ages of 14 and 19 in the two years 1995-1996 and 22,800 in the subsequent two years 1997-1998;
- The Ministry of Employment has given its patronage to an initiative of the confederated unions Cgil, Cisl and Uil, promoted together with the Italian Committee for UNICEF, which has collected from among workers and companies about 3 billion lire in order to raise public awareness about the exploitation of child labour and to launch ILO-UNICEF integrated projects initially in Nepal, Bangladesh and Pakistan.

#### **F. Sale, trafficking and abduction of children** (guidelines 160-162)

344. The possibility of sale, abduction or trafficking in children is present as a preoccupation at a general level and at various specific levels. The problem concerns, in particular, children who are born in Italy who are sold by or abducted from their parents and then falsely registered as the child of those who have bought or abducted them. For foreign children, it is thought that some adoptions carried out in the countries of origin may arise from the purchase or abduction of children and that intermediaries traffic children with the aim of satisfying the desire for children on the part of Italian couples.

345. One phenomenon which has been discovered is children who have been brought to Italy by organizations that bought them from their families of origin to be used to beg or steal or become prostitutes, sometimes reducing them to a state similar to slavery. On the other hand, the investigations carried out have not permitted verification of rumours that emerge every now and again of children who are given or imported for the traffic in organs.

346. In any case, at this point, the question of separated parents who belong to different national communities who abduct their child from the parent who has custody or do not return him or her at the agreed time would appear to lie outside these phenomena. This situation is regulated under the relevant conventions of the Council of Europe of Luxembourg and of The Hague, ratified by Italy by Law No. 64 of 15 January 1994, which laid down procedural rules which now render action effective.

347. On the general problem of sale, abduction and trafficking in children, Italy has not as yet concluded any bilateral or multilateral conventions with other States, nor has the need been felt to do so, owing to the extremely low incidence of the phenomena and to their control through action by the ordinary police force. The limited and occasional circumstances in which these events occur explain why no specific measures of an administrative, educational, social and financial nature have been adopted except for taking action under the general instruments of protection of children from the various forms of exploitation and save what will be said in the following points.

348. Italian legislation offers sufficient and suitable instruments to repress these activities. At the base there is the acceptance of the International Conventions for the Suppression of the Traffic in Women and Children approved at Geneva on 30 September 1921 (ratified and implemented in Italy under Royal Decree No. 2749 of 31 October 1923) and of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery - which makes explicit reference to children - approved at Geneva on 7 September 1956 (ratified and made executive in Italy with the Law No. 1304 of 20 December 1957).

349. In implementation of these conventions the Italian Criminal Code, under articles 600, 601 and 602, provides the crimes of reduction to slavery, trafficking and trade in slaves and alienation and purchase of slaves which also punish conduct which places a person in a condition analogous to slavery. These criminal provisions were applied a short time ago in the criminal proceedings against members of organized crime which paid poor families in the former Yugoslavia sums of money to acquire children to bring them to Italy in order to break into houses.

350. Trafficking in children with the aim of making them prostitutes in Italy is made a crime under Law No. 75 of 20 February 1958 which punishes both Italian and foreign organizations and those who, personally or in association with others, recruit people with the aim of making them engage in prostitution, with a double punishment when the passive party is under the age of 21. It should be added here that the new law which was recently approved (Law No. 269 of 3 August 1998, art. 9) has introduced as a specific crime anyone who "commits trafficking or in any way trades in children under the age of 18 years with the aim of procuring them to become prostitutes".

351. The employment of children in begging is punished by article 671 of the Criminal Code but is limited to children under the age of 14 years, and therefore there is a loophole in criminal repression. The phenomenon of nomad families and citizens of States which do not belong to the European Union who use not only their own children for begging or for washing windscreens but also other children given by their family of origin for this "work"; this has been discovered many times, but it has been preferred to intervene with measures of protection, taking the children away from these situations.

352. The buying of newborn babies (or their "kidnapping" from the hospital where they are born, with the complicity of someone on the staff) by couples who then falsely register the child as their own is punished very severely as the crimes of suppression of status and alteration of status (arts. 566-567, Criminal Code), of abduction of incapable people (art. 574, Criminal Code) and of kidnapping (art. 605, Criminal Code).

353. As regards the concern that, in intercountry adoptions, children are sometimes kidnapped or acquired in their countries of origin or in which intermediaries operate with the aim of satisfying the desire for children on the part of Italian couples, the remedy is about to be supplied with the ratification, currently in course, of the Hague Convention for the Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993 and by the law which modifies intercountry adoption which accompanies the latter, which provides that in Italy only

children who pass through the accredited and supervised channels can be adopted and introduces the system of bilateral agreements between Italy and the countries of origin of the children. The same law stipulates that couples who aspire to adopt must follow obligatory training.

354. The Italian legislation considers the category of “exploitation” within the category of harm and entrusts the Juvenile Court (arts. 330, 333 and 336, Civil Code) with the task of taking the measures against parents or those exercising parental authority who carry out harmful conduct - whatever this may be - to the detriment of the child.

355. Action by a judge against abusive adults or institutions outside the family is not expressly provided but the Juvenile Courts act in a wider manner in these situations. It is also affirmed in principle, taken from article 23, Decree of the President of the Republic No. 616/1977, that the Juvenile Court can, in situations of ascertained harm, oblige the local authority to provide assistance (which can range from an adequate extra-familial arrangement to educational support to control) for the protection of a minor who in any way is in a situation of harm.

356. As regards administrative actions relating to protection, article 9 of Law No. 142 of 8 June 1990 gives municipalities all the administrative functions which involve the population and therefore also the task of intervening by way of their social services in possible situations of exploitation of children.

357. Regarding a category of minor which is more easily subject to exploitation, namely foreigners, article 31 of Law No. 40 of 6 March 1998 provides for the establishment of an appropriate Committee for Foreign Children at the Department of Social Affairs of the Prime Minister’s Office. It has the task of controlling the modes of residence of foreign children admitted temporarily into Italy and of coordinating the activities of the administrations involved. In that regard the Government, with a recent legislative decree approved on 9 February 1999 concerning Amendments to the Consolidated Act of the Provisions concerning the Regulation of Immigration and Provisions on the Condition of Foreigners, has established that the tasks of the aforesaid committee must also include the task of achieving the best interests of the child, which is normally to live in his or her own family. The regulation, therefore, based on the supposition that in Italy the presence of the unaccompanied child must be considered an exception, provides the procedure of assisted repatriation of the foreign children with the aim of allowing their reunification with their families in the country of origin or in a third country, attributing the jurisdiction to order such measure to the committee itself.

358. In this situation it is intended to widen the area of protection against all forms of exploitation of the child with the introduction (by way of an appropriate law which defines the powers-duties and the structures) of the figure of the guarantor - or guardian - for children, a figure which today has been established in only two Italian Regions (Veneto and Friuli-Venezia Giulia).

## **VI. BASIC HEALTH AND WELFARE\***

### **A. The right to life, survival and development** (guidelines 40-41)

359. Italy has always clearly recognized the principle - established by the World Health Organization (WHO) - that health needs to be understood not only as the absence of disease or infirmity, but mainly as a state of complete physical, mental and social well-being, which enables the individual to develop to his or her fullest potential and to participate actively in society. The Italian Constitution affirms that health is both an individual right and a collective resource; that the State protects (rather than promises to protect) this resource; that every individual - not just every citizen but every human being - has the right to health; and that health is a fundamental right, which means that it is inviolable, inalienable, and unable to be transmitted, disposed of or renounced. The Constitution, therefore, commits the entire society to take action so that a resource of primary importance such as health does not risk being compromised if already possessed, and can be attained if lacking. To ensure that this right is fulfilled, curative measures are not enough: preventative and proactive measures are also needed.

360. The Italian legal system recognizes the right to life of the unborn child: Although Law No. 194 of 22 May 1978 does indeed legalize abortion - but only in particular circumstances and in precise ways - this same law affirms that the State protects human life from conception and that abortion is not a means of birth control (art. 1). It obligates family planning centres to work towards resolving problems arising during pregnancy and to contribute to overcoming the causes that may prompt a woman to seek an abortion (art. 2).

361. Other regulations also provide for the protection and health of the unborn child. The law protecting working mothers contains practical provisions to safeguard a woman's physical integrity, but its main objective is to ensure the optimal development of the unborn child: Law No. 860 of 26 August 1950 (art. 5) and Law No. 1204 of 30 December 1971 (art. 4) prohibit the employment of women in the period immediately preceding childbirth - and make it impossible for the pregnant woman to renounce this protection. Law No. 1204 of 1971 (art. 3) prohibits employing pregnant women in work that involves the transportation or lifting of heavy objects or in work that is dangerous, tiring or unhealthy. The Criminal Code (art. 146) stipulates that a pregnant woman cannot serve a prison sentence, a measure that is clearly not meant to privilege the sentenced woman but to protect the unborn child (and, in fact, it applies for the six months following childbirth as well, when the health of the child and not the mother is at stake).

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\* This section deals with the issues relating to articles 6, 18, paragraph 3, 23, 24, 26 and 27, paragraphs 1-3 of the Convention, to which paragraphs 92-104 of the guidelines refer and article 33 of the Convention, to which paragraphs 155-157 of the guidelines refer.

362. Italy is strongly committed to combating infant mortality, and the results have been noteworthy. During the last few years, infant mortality has continued to decline, falling from 8 per 1,000 live births in 1991 to 6.5 per 1,000 in 1995, while perinatal mortality fell from 11 to 8 per 1,000 live births over the same period. Similar trends are found in other Western European countries, among which Italy ranks in the middle. It should be noted, however, that wide discrepancies continue to exist between the Centre-North of the country and the South: in 1995, for instance, infant mortality was less than 5 per 1,000 live births in the Centre-North while it exceeded 8 per 1,000 in many regions of the South. This gap can undoubtedly be linked to the environment and to social inequalities, but it is also the result of inadequacies in the regional structure for intensive infant care. There are, in fact, sharp differences in perinatal and infant mortality rates among regions with similar socio-economical and educational levels.

363. A reporting system for infant mortality exists in Italy (and all deaths are registered). Nevertheless, this reporting system should go beyond the traditional role of recording mortality rates to monitoring health and the quality of life in relation to chronic conditions and critical events that are not fatal, such as disability, poverty and at-risk behaviour.

364. While infant mortality has declined in Italy, accidents are still a leading cause of death in childhood: accidents rank fourth in causes of death after perinatal diseases, malformations and tumours. Italy still lacks an epidemiological monitoring centre for the collection of data relating to childhood accidents (which would be an important step towards reaching the WHO goal of reducing accident-related deaths by 25 per cent). A significant source of information is nevertheless provided by the extensive sector analyses carried out in various parts of the country. From these, it can be seen that most accidents occur in the home; boys tend to have more accidents than girls; most accidents occur between 11 and 24 months and after 10 years of age; accidents also frequently occur in schools and especially in gymnasiums. Intensive information campaigns need to be promoted, targeting parents. Stricter regulations on the safety of school structures are also needed (in secondary schools many gymnasiums do not meet safety standards). Luckily, most household accidents are not serious.

365. One positive trend that needs to be highlighted, however, is the steep decline in the number of childhood deaths due to road traffic accidents: between 1975 and 1995, the number of road traffic deaths among under-14-year-olds fell from 721 to 174, which in absolute numbers is 547 fewer deaths, or a 75.6 per cent reduction. In 1975, deaths due to road traffic accidents represented 7.6 per cent of all deaths in this age group, whereas in 1995 they represented only 2.7 per cent.

366. In our country - but not only in ours - there has been an increase in psychosocial problems among pre-adolescents and adolescents, which often seriously compromise their development and sense of identity. A number of factors point to this increase - even if the total numbers are not yet alarming:

- The increase in serious cases of mental disorder (too often minimized as being merely symptomatic of psychosocial problems and kept under control with an unsatisfactory regime of prescription drugs);

- The notable increase in cases of bulimia and anorexia (longitudinal studies have shown that in 1950 only 0.5 per 1,000 adolescent girls had minor eating disorders, whereas today 8-10 per cent of adolescents have serious and dangerous disorders, with occurrences among boys as well as girls);
- The increase in the number of children under 15 years of age using public medical services for drug addiction (between 1990 and 1995, there were 463 cases, 429 of which involved boys and 34 girls);
- The failure to reduce the number of suicides (45 in both 1987 and 1996) and attempted suicides (from 150 in 1987 to 145 in 1996) (see tables 3.7 and 3.8 attached);
- The significant number of children who leave home without a trace (see tables 15.1-15.3 attached);
- The increase in bullying, in more or less serious forms, among school-age children (studies undertaken in several regions of Italy reveal that 41 per cent of children in primary school and 26 per cent of those in middle school have been victims of bullying).

367. It is indispensable that steps be taken to help adults who are in contact with adolescents learn to recognize the symptoms of maladjustment more readily and to give adolescents themselves greater opportunities to learn to be at ease with themselves and to get along with others.

368. The implementation manual for the law relating to the promotion of the rights and opportunities of children and adolescents recommends and provides for the following measures:

- Measures for the social and emotional education of children, to be carried out in schools with the collaboration of the teachers;
- Educational measures for parents for the prevention of maladjustment;
- Measures that facilitate children's social integration and adequate support for parents, when less serious forms of maladjustment emerge; psychotherapy made available even within the public structure;
- The establishment of specific communities for adolescents with psychological problems.

369. To help young people to become more self-reliant, adolescent health centres have been set up alongside or within family health centres. Recent research (carried out by the Italian Institute for Social Medicine) reveals that in Italy 348 adolescent health centres/offices are already in operation (119 in the North, 78 in the Centre, 94 in the South and 57 on the islands) with a total staff of 1,891. Adolescent health centres, unlike family health centres, provide

services that are equally divided between sex education and social welfare measures (including measures for the prevention of drug addiction, scholastic or professional orientation, health education, and prevention of maladjustment and delinquency).

370. A further development along these lines is desirable and would represent an important contribution to overcoming maladjustment among adolescents. A fundamental step towards improving conditions for child development and ensuring full health as defined by WHO is to make the social environment more responsive to the needs of children and young people. For this reason, the Ministry for the Environment is strongly committed to creating child-friendly cities, modifying the way cities have been managed up till now, in that children need to be considered as indicators of the quality of urban life and their needs and spaces as parameters for the promotion of sustainable development. These measures herald a new season for urban planning, devoting a portion of general measures planned by cities to initiatives for children, rethinking services for children, using school structures to their best advantage, organizing safe play areas, setting up youth councils and other participatory bodies, devising urban road traffic and transportation plans, promoting environmental education activities, and encouraging the establishment and use of neighbourhood recreational areas.

371. The Ministry for the Environment has also set up an office for child-friendly cities, which is responsible for monitoring local measures. This office has established a children's seal of approval in four principal sectors (environmental, social, cultural and institutional) and has opened an advisory desk and a web site on child-friendly cities. With the Ministerial Decree of 3 August 1998, an award was established for "child-sustainable cities" to be assigned to different municipalities in Italy. During the present year, on a trial basis, the initiative targeted municipalities with populations exceeding 15,000. On 17 November 1998, a commission was nominated to examine and evaluate these projects, composed of representatives from the Ministry for the Environment, the Department of Social Affairs, the State-City Commission, ANPA (the Italian Environmental Protection Agency), the Italian Committee for UNICEF and, for the first time, three young people representing the National Committee of Youth Councils and several environmental associations. Municipalities received awards on the basis of actions they had taken to improve the conditions and opportunities in the lives of children. On 22 December 1998, 15 of the 82 municipalities examined received the award.

372. In addition, the Ministry for the Environment has organized an international forum on child-friendly cities; it has promoted workshops for staff of local authorities in order to illustrate the accomplishments, techniques and administrative instruments for the creation of parks, play and recreation areas, for the reduction of traffic and for sharing experiences in participatory planning; and a workshop for adolescents who illustrated and compared their experiences.

373. Furthermore, the State has allotted 300,000 million lire for the realization of urban-renewal measures in poor outlying areas of cities. The programmes seek not only to find solutions for degraded buildings and areas but also to provide concrete opportunities to reduce the different forms of social deprivation and to encourage the training and work placement of adolescents.

## **B. Health education**

374. For the right to health, or the right to well-being, of every child to be promoted effectively, intense training activities are required. And these activities must take place within the school system, which reaches all children and creates particularly strong relationships with them on the level of training. The Italian school system has for some time planned and carried out a full programme of health education and the prevention of alcohol, tobacco and substance use.

375. Health education for adolescents has generally sought to:

- Raise adolescents' self-esteem and self-knowledge;
- Enable them to gain a better knowledge of their own potential, and increase their self-reliance and sense of responsibility;
- Foster among adolescents a sense of belonging to the community and its institutions as a antidote to the absence of values and a sense of being without roots;
- Develop their abilities to think critically and to resist peer-group pressures; and
- Foster a realistic understanding of substance and alcohol abuse.

376. In particular, health education has:

- Promoted attitudes and lifestyles that favour self-protection, the conservation of health and the prevention of illness;
- Raised awareness about the interaction between social developmental processes and the quality of health;
- Improved the interaction between the citizen and the health system;
- Strengthened the capacity of young people to understand their own needs;
- Promoted and spread a positive attitude towards health that takes into account biological, psychological and social resources, overcoming a negative view of health that equates illness or disorder with medical or pharmacological measures, even in the face of more complex biological or psychosocial disorders.

377. The Ministry of Education has carried out the following projects:

- The Rainbow Project (*Progetto Arcobaleno*), with activities in 2,400 nursery schools, reaching some 400,000 children between 3 and 5 years of age (43.9 per cent of the population in this age group);



- The Children in the Year 2000 Project (*Il progetto Ragazzi 2000*), with 4,270 projects in 3,000 primary schools, reaching approximately 1 million pupils (43.4 per cent); and 7,400 projects in middle schools, involving 56 per cent of the population in this age group;
- The Young People in the Year 2000 Project (*Il progetto Giovani 2000*), which has been developed in 75 per cent of secondary schools, reaching 864,000 students (35.4 per cent).

378. Health education teachers have had access to training courses and on-the-job training. Training has enabled them to gain a better knowledge of the various developmental stages of children, including cognitive, psychological and emotional development; to understand, in the context of new knowledge and learning theories, the different ways of knowing and learning that exist and the role that individual motivation plays in these; to learn teaching methods and techniques that value diversity and the students' resources; to understand the importance of emotional factors in the teaching-learning process and the role that student-teacher relationships play within the classroom; to learn to identify and tackle collectively the difficult cases that arise and, when necessary, to seek assistance from the competent services.

379. "Information and Advice Centres" have been set up which provide advice to individuals on health problems; plan information campaigns on the main health themes and preventive measures on topics relating to affectivity, sexuality and pathologies connected with at-risk behaviour; involve students themselves in planning initiatives aimed at preventing and promoting health; and design measures to help counter scholastic difficulties. Courses were also held with parents in order to increase their competence in and awareness of educational issues and to provide them with information that could enable them to take an active part in preventing maladjustment and addiction.

### **C. The situation of children with disabilities** (guideline 92)

380. During the last decades the overall situation of children with disabilities has progressively improved, and their welfare, health and educational needs are far better met today than in the past. This progress is the result of many factors, including the profound and radical cultural and socio-economic changes that have occurred within Italian society; improved legislation relating to social problems and issues specifically connected with disabilities; and the realization of increasingly innovative and targeted social policies.

381. Compared with the situation in the 1970s, children with disabilities - whether congenital or acquired - now have greater opportunities to grow up in a family setting; they tend to be included in mainstream schools rather than placed in special education centres; and they increasingly take part in everyday life.

382. Attitudinal changes are also apparent among families with children with disabilities: they no longer feel ashamed of their child; they have come out of their social isolation, overcome attitudes of resignation, and avoid forms of delegation; they make their requests for assistance known and demand that their civil rights are recognized and respected.

383. Associations of families have been formed and have made themselves heard. Either independently or in collaboration with other similar organizations, they have given priority attention to the problems of children with disabilities. Many of these organizations promote and set up rehabilitation centres and day-care centres; they organize cultural and social events to make the public and local authorities aware of problems connected with disabilities; they focus the attention of institutions on the needs of children with difficulties; and they exert pressure on local authorities to set up area services.

384. Organizations of volunteer groups and groups of professional workers are becoming actively involved in raising awareness of the needs and problems of individuals with disabilities. Their situation is increasingly being viewed as a social problem, and is finding responses in the law, in treatment and rehabilitation strategies and in the choice of social policies.

### **1. The rights of children with disabilities under Italian law**

385. Italian legislation recognizes that children with disabilities have specific rights and are entitled to specific forms of protection and equal opportunities to develop their personalities, self-reliance and ability to participate in society. The numerous relevant provisions, besides being part of child-related legislation, largely originate and are placed within the context of legislation on disabilities.

386. Initially these laws were developed in response to the welfare needs of individuals with disabilities; subsequently and to an increasing extent, they have been in response to the growing needs connected with their social integration.

387. Early laws, which were specific and fragmentary, have been followed by others that are less sectoral and more general relating to:

- Financial assistance (Law No. 62/66 and Law No. 406/68; for blind persons, Law No. 381/70; for deaf mutes, Law Nos. 118/71 and 18/80; for civilians with disabilities, Law No. 508/88; for all categories, Law No. 104/92);
- Social welfare (Decree of the President of the Republic No. 616/77, Law No. 6972/80 and Law No. 104/92);
- Health care (Law Nos. 118/71, 833/78 and Law No. 104/92, financial laws);
- Education (Law No. 118/71, Law No. 517/77; for compulsory schooling, Law No. 270/82; for nursery schools, Law No. 104/92);
- Professional training (Law Nos. 845/78 and 104/92);
- Work (Law No. 482/68; on obligatory placement, Law No. 104/92); and
- Mobility (Law No. 118/71, Decree of the President of the Republic No. 384/78, and Law Nos. 41/86, 13/89 and 104/92).

Together, these legislative measures define an ever-wider legislative framework for persons with disabilities and create conditions that favour their cultural, economic and social integration.

388. At present the Magna Carta for Italian children with disabilities can be considered Law No. 104 of 5 February 1992, the “Framework Law for the Assistance, Social Integration and Rights of Persons with Disabilities”. Its aims are respect for human dignity, maximum self-reliance and participation, functional and social rehabilitation and the elimination of social marginalization.

389. In accordance with constitutional provisions, this legislation has sanctioned the general principles of the rights of persons with disabilities. It has brought together and integrated previous provisions and set out measures (information, early diagnosis, health education, removal of prenatal, post-natal and environmental risk factors) to prevent and eliminate disabling situations. It has planned services that support independent and integrated living; made provisions to counter processes of marginalization and discrimination; specified legal and administrative instruments to give an adequate and holistic response to individuals with difficulties. It has made it clear that persons with disabilities are considered “handicapped” when their disabilities cause difficulties and lead to social disadvantage. One no longer speaks of the “seriously handicapped”, but rather of persons with serious disabilities, using a terminology that indicates a vision of the evolving and dynamic nature of the psychological, physical and social conditions of persons with disabilities.

390. The law pays particular attention to the needs of children with disabilities:

- It provides for entry into a crèche from birth to 3 years of age;
- It sets out a series of measures to guarantee integration in nursery schools and all other academic establishments;
- It provides for specific facilitations for working parents; and
- It identifies measures and services that ensure social integration (foster placement, day-care centres for social rehabilitation and education; community and children’s homes).

391. Two successive amendments have been introduced (Law No. 162 of 21 May 1998 and No. 17 of 28 January 1999), which provide, among other things, for:

- Promotion of statistical research on disabilities, and the convening of a national conference every three years on policy issues relating to disabilities in order to identify eventual corrections required in the laws in force;
- Promotion of pilot projects aimed at improving the living conditions of persons with serious disabilities;

- Guaranteed technical and teaching support for university students with disabilities, as well as the support of specialized tutors and teachers to ensure the students' integration;
- Planning and implementing personalized programmes to help individuals with serious disabilities to become as self-reliant as possible, with monitoring of the services provided and their efficacy.

392. With the progressive decentralization of State competence to local authorities, there has been an increase in regional legislation relating to the family and children, as well as in detailed regulations concerning the particular needs of children with disabilities (assistance, the right to education, the removal of architectural barriers, mobility, information, leisure, sports, etc.).

393. Framework Law No. 104/92, together with subsequent State and regional legislation, has not been fully implemented in every social context and geographic area. A number of factors - among which, the fact that sectoral laws continue to exist in the legislation, the lack of adequate practical laws, the scarce responsibilities of competent bodies in observing these laws, the intermittent coordination among different institutions and the insufficient involvement of local bodies and the local community - still prevent children with disabilities from fully enjoying their civil rights and make it difficult for them to integrate into all social spheres (family, school, community).

## **2. Prevention, early diagnosis and rehabilitation**

394. In addition to Framework Law No. 104/92 and its subsequent amendments, a number of national and regional laws relating to health contain principles protecting children with disabilities and promoting their health. These laws regulate how and when services are provided and their integration with social welfare measures.<sup>12</sup> In particular, children with disabilities are guaranteed specific forms of medical assistance (table 16).

395. In the context of the health system, ongoing programmes and specific guidelines set out specific measures relating to prevention, early diagnosis, treatment and rehabilitation.

396. In the national health plan for 1994-1996 a project to be implemented throughout the country concerned the protection of mothers and infants. It provided, in particular, for the following measures:

- Strengthening and ensuring an adequate distribution of services for the prevention and early diagnosis of genetic diseases;
- Setting up and strengthening services of integrated home assistance for families with children, aged from birth to 14 years, with serious disabilities;

- Identifying and strengthening structures for the prevention, diagnosis, treatment and rehabilitation of disabilities, and, more specifically, starting up services for the rehabilitation of children (birth-14 years).<sup>13</sup>

Additional projects have been set up for children with disabilities in the related health plans of the different regions.

**Table 16**

**Specific types of health care for children with disabilities**

Recipients	Services	Modality	Responsibility of
All children requiring treatment	Rehabilitative treatment	Services: home care outpatient semi-residential residential	Local branch of the National Health Service (ASL) Private services operating within the National Health Service
Children with disabilities	Prostheses	Free provision	ASL
Children with disabilities	Pharmaceuticals	Exemptions from payment of user fees	ASL
Children with disabilities	Specialist care	Exemptions from payment of user fees	ASL
All children requiring treatment	Health care in a foreign country	Reimbursement of costs sustained	ASL Region

397. Inasmuch as institutional responsibilities have been defined, the right to receive health services or rehabilitation is not equally guaranteed throughout Italy. Some Regions have long had structures capable of meeting the specific rehabilitative needs of children with disabilities. Others, instead, have such inadequate facilities that they cannot assure continuity of treatment, forcing individuals in need to seek treatment in centres in other Regions.

**3. Measures for families with children with disabilities**

398. In Italy, the practice of institutionalizing children with disabilities, although still in existence, is becoming less common and in fact is nearly obsolete. In its place, integrated structures that provide alternatives to the family of origin are being set up. In 1992, the total number of children under 18 years of age with disabilities assisted by health and social services programmes within institutions was 3,901. The exact number of children with disabilities in institutions is currently unknown, but with the progressive implementation of the provisions of Law No. 104/92, it is likely that their numbers are decreasing dramatically.

399. Today, children with physical, sensorial and mental disabilities, in the vast majority of cases, live and grow up in the family, which is the primary environment on which institutional and social responses are concentrated. The fact that the vast majority of children with disabilities live at home - and among these, children with serious disabilities - has required and brought about radical changes in health and social services provision. Services, which tended in

the past to be sectoral and specifically oriented towards the child with disabilities, are today increasingly directed at the family or, in any case, are integrated with other measures targeting the family.

400. Based on current laws, on institutional competence and on organizational procedures, some facilities are currently provided for children with disabilities and their families (higher family allowances, paid leave for working parents when the child is under 3 years of age and paid leave for three days a month when the child is over 3, tax benefits, tax and economic benefits to overcome physical barriers within the home), special allowances (both continuing, such as indemnity for companions and attendance, and non-continuing); and integrated social and welfare services and support services for families (home care or household help, personalized help, day-care centres for the rehabilitation and education of the child) or in replacement of the family (foster care and residential structures).

401. The various solutions have not always been found in a holistic and timely way.

402. The economic and tax benefits provided for in national laws have not been accompanied by the social and welfare services foreseen, which are the responsibility of the local authorities. At the local level, the policies in support of the family, within which responses to the needs of its members must be placed, still appear to be disorganized and discontinuous. In many Regions the commitment of the local authorities towards the needs of children with disabilities, even in the absence of the family of origin, have resulted in surveys, planning of projects and the realization of a locally provided integrated system of services as an alternative to institutionalization. In other situations, especially in southern Italy, the network of local social and welfare services is not complete or is thinly spread. In some cases, the lack of services for children with disabilities is truly dramatic, especially when, for various reasons, parents are absent or unable to fulfil their functions. In many situations, institutionalization is the only option, in structures that are outside of the Region or at any rate far from the child's home.

#### **4. Local services for the promotion of self-reliance and social integration**

403. In Italy, there is greater acceptance and integration of children with disabilities than in the past, and overt forms of discrimination and violence towards these children are only exceptionally found.

404. It is widely believed that the family and the school are not, and cannot be, the only worlds in which children with disabilities live. All children have the need and the right to play, to learn and to express themselves; to be with others and to have different cultural, social and recreational experiences; to grow up in environments and spaces outside of their home and school. Using areas to play, to talk and to socialize with others is therefore not the exclusive need of certain people. Children with disabilities do not have special requirements in this respect, but often, precisely because of the permanent situations of disadvantage with which they live, they have more need than others do for this kind of space.

405. This growth of social awareness has not given rise, in all areas of the country, to the necessary arrangements for related services and extracurricular measures. Often the right of children with disabilities to equal opportunities is still conditional and, in some cases, denied.

The barriers that exist in public and private buildings, in social and tourist structures, in urban areas and in public transport are for many children with physical or motor difficulties the concrete indicators of their daily discomfort. When local authorities create recreation and social services and areas for children, they do not always take into consideration the needs of children with mental disabilities and they do not arrange adequate forms of support to facilitate their participation.

## **5. Outlook for overcoming the barriers to equal opportunity**

406. In respect for and in the implementation of the principles approved by international organizations and affirmed by Italian law, social policies adopted in the last few years in Italy have contributed to a general improvement in the quality of life enjoyed by children with disabilities. Nonetheless, inequalities still exist: poverty; cultural, social and affective deprivation; gaps and discrepancies in the provision of local services; difficulties in socializing.

407. The participation in programmes of the European Community and the contacts, exchanges of experience and the forms of cooperation carried out by the public administration, private social organizations and associations have favoured research and the choice of innovative solutions on a practical level. These initiatives in different areas have made it possible to try out and realize new intervention models in the sectors of rehabilitation, professional training and mobility; together, they have contributed to the definition of specific strategies for dealing with disabilities and have resulted in improvements for people with disabilities in terms of communication and forms of participation in social life.

408. In this process, and through the sharing of strategies of good practice for realizing equal opportunities, the problems that still exist can be overcome mainly by improving, on a local level, the programmatic choices of social policies, the organization of childcare services, information about disabilities, the ethos of integration and the practice of solidarity.

409. The situation of children with disabilities must be considered within the context of the overall situation of children. Children with disabilities do not have "special" needs; they can have greater difficulties and thus require different and targeted measures, but they need, first of all, the same responses as their peers.

410. The lack of knowledge about the total number of children with disabilities in a given area should not in any way be an obstacle to planning measures in their favour. Many local services (transportation, social centres, gymnasiums, swimming pools and parks) do not have to be organized especially for children with disabilities, but rather also for them.

411. As is already happening in different Regions, a timely knowledge about the cases of children with grave disabilities and a systematic survey of their needs are of fundamental importance in order to give immediate and detailed responses to specific situations and thus should be encouraged and accomplished but not emphasized.

412. Disability is normally not a stationary condition, and its seriousness can change over time, depending on multiple variables (cultural, social, economic, technological and environmental).

413. Continued efforts are needed throughout the country to make the best use of existing resources, to survey children's needs whatever their form, and to build a network of services that is flexible and able to adapt to the different and changing needs of families and their members. It is a matter of making a network of integrated area services visible, functional and measurable. This network should involve private organizations, associations, voluntary groups and informal self-help networks. It should be able to offer a wide array of measures and support for the best promotion of child development, with particular attention to individuals at risk of being marginalized, and it should also be able to promote and sustain a permanent ethos of respect for civil rights and solidarity.

**Table 17**

**Children with disabilities (0-17 years) in social welfare institutions,  
by age and region, 1992**

Regions	< 5 years	5-17 years	Total
Piedmont	11	260	271
Valle d'Aosta	-	2	2
Lombardy	7	301	308
Trentino Alto Adige	-	26	26
Veneto	22	363	385
Friuli	-	43	43
Liguria	4	84	88
Emilia Romagna	11	136	147
Tuscany	5	101	106
Umbria	-	61	61
Marche	1	81	82
Lazio	15	428	443
Abruzzo	4	112	116
Molise	-	19	19
Campania	114	359	473
Apulia	47	404	451
Basilicata	1	50	51
Calabria	8	134	142
Sicily	50	608	658
Sardinia	1	28	29
<b>ITALY</b>	<b>301</b>	<b>3 600</b>	<b>3 901</b>
<b>North-west</b>	<b>22</b>	<b>647</b>	<b>669</b>
<b>North-east</b>	<b>33</b>	<b>568</b>	<b>601</b>
<b>Central</b>	<b>21</b>	<b>671</b>	<b>692</b>
<b>South-Islands</b>	<b>225</b>	<b>1 714</b>	<b>1 939</b>

Source: ISTAT, *Statistiche della previdenza della sanità e dell'assistenza sociale, anni 1992-93* (Health and Social Welfare Statistics, 1992-93), *Annuario* n. 33 (Yearbook No. 33), 1995.



414. For a discussion of the integration of children with disabilities into schools, see the section of the following chapter of this report regarding schooling for children in especially difficult situations.

## **D. Health and health services** (guidelines 93-98)

### **1. Statistics on the health of children in Italy**

415. Data on the health situation of children in Italy can be found in the attachment to this report (points 2, 3, 4, 5).

416. It should be noted, that except for sporadic and exceptional cases which are statistically insignificant, malnutrition is non-existent in Italy and clean drinking water is available everywhere; no significant risks exist in connection with environmental degradation and pollution; and there are no traditional practices that are prejudicial to the health of children, or otherwise contrary to the principles and provisions of the Convention.

417. As far as international cooperation is concerned, reference is made to the paragraph related specifically to this type of intervention.

### **2. Access to services**

418. All children have access to health services, with exemption from user fees for low-income families and payment of a small user fee for all others. Health care is guaranteed to all foreign children living in Italy, including illegal immigrants. Article 33 of the recent Law on Immigration stipulates that “the health of the minor will be protected in accordance with the Convention on the Rights of the Child”. Immigrants have the same rights as Italian citizen to vaccinations and family planning assistance. The same law - which establishes that services should be provided free-of-charge to indigent users - also ensures that illegal immigrants can use health services without risk of being discovered and deported, specifying that “access to health structures on the part of the foreigner not adhering to the regulations relating to residence cannot involve any type of reporting to the authorities, except in cases in which reports are obligatory, the same as they would be for an Italian citizen” (art. 33, para. 5).

### **3. The national health plan and child protection**

419. The national health plan 1998-2000 makes special provisions for children and adolescents. It recognizes that:

- Although infant mortality is being progressively reduced throughout Italy, there are still wide regional disparities, with the South lagging behind the North;
- The increase in the proportion of children with disabilities resulting from congenital or acquired pathologies points to the need for better early-intervention techniques;

- Particular attention must be paid to situations of abandonment, neglect and the deprivation of primary health care in early childhood, and to anomalies and developmental disorders in later childhood.

420. Consequently the plan sets out the following general goals:

- To reduce infant and perinatal mortality to 8 per 1,000 in all regions;
- To prevent at-risk behaviour among pre-adolescents and adolescents connected with serious accidental injury, self-injury and substance abuse;
- To prevent the causes of mental and sensory disability and multiple disabilities;
- To prevent cases of psychological and social maladjustment due to problems at school, with the family and in relations with others, and also connected with abuse and neglect;
- To promote aware and responsible parenthood, monitoring at-risk pregnancies and providing adequate support to families;
- To assist programmes of prevention and control of genetic diseases;
- To monitor the physical, psychological and social well-being of children and adolescents, including through the National Observatory on Children.

421. The objectives of the plan will be elaborated in a specific project for mothers and children, which is currently being drawn up. Some measures will also seek to protect women's health, in all phases and contexts of their lives. Nevertheless, the plan already establishes some measures to protect children's health, which should be provided for in regional and local plans:

- To make reliable prenatal and post-natal screening and diagnosis available;
- To carry out measures for the promotion of health among pre-adolescents and adolescents;
- To rationalize the hospitalization of young children, taking into account the particular requirements of each age group, coordinating and integrating hospital care with district services and giving a greater role to the family paediatrician;
- To upgrade outpatient services, especially day hospitals, for the treatment of neurological or psycho-pathological disorders and disabilities;
- To make services for children more humane, including through the use of appropriate biomedical technologies;

- To establish guidelines for pregnancy, childbirth, paediatric hospital care, and family and community paediatricians;
- To integrate the maternal and paediatric services with social, welfare and education services, taking into account the provisions of the national programme of action relating to childhood and adolescence.

#### **4. Health prevention and protection**

422. While services for the treatment of acute diseases are generally widely and evenly spread, they are limited as far as basic preventive care is concerned. A survey in 1988-1989 revealed that medical check-ups are mainly requested by mothers with higher levels of education; that the prevalence of routine medical check-ups is significantly lower in the South; that 11.5 per cent of 6- to 10-year-olds have orthodontic treatment in the North, compared with only 4.8 per cent in the South and 3.4 per cent on the islands; among the 11-13 year age group, the percentages are 24 per cent in the North-West and 7 per cent in the South and islands; similar data are also found with regard to the correction of visual impairments. It seems that the introduction of the National Health Service has made it possible for the various social classes to have equal access to general practitioners and hospital care but not to preventive and specialist medicine.

423. Even the immunization system is not universal, particularly with regard to optional vaccinations. For example, only 35 per cent of infants in the southern province of Campania receive their first vaccination by their third month. In areas where immunization is low, it would be opportune to keep an immunization register in every local health unit; to encourage general paediatricians to develop, in collaboration with the local health unit, initiatives that guarantee coverage of their patients; to make paediatricians working in hospitals responsible for the immunization of children who have not been properly vaccinated, as happens in other countries; and to ensure that immunization strategies are devised and well coordinated.

#### **5. The child and the hospital**

424. It is worth pointing out that the Regional Council of Friuli Venezia Giulia has very opportunely drawn up and approved, by a law dated 4 May 1998, a Charter on the Rights of the Child in Hospital, which will provide guidelines for all local health services in the Region. In brief, this document acknowledges that children in hospital have the right:

- To enjoy health to the maximum extent possible;
- To receive comprehensive care;
- To have access to the best possible medical treatment and care;
- To have their identity respected;
- To have their privacy respected;

- To have their physical, psychological and emotional development protected, maintaining relationships even in cases where isolation is required, and not subjected to restraints;
- To be informed, in a manner appropriate to their age and understanding, about their conditions of health and the procedures they will have to undergo;
- To express their views freely on every issue that concerns them;
- To have their opinions taken into consideration, in accordance with their age and maturity;
- To be involved in the process of consent/non-consent to treatment;
- To be involved in the process of consent/non-consent to experimental treatment;
- To be able to manifest their discomfort and suffering and to be given less invasive and painful treatment where possible;
- To be protected from every form of violence, insult or physical or mental cruelty, abandonment or negligence, ill-treatment or exploitation, including sexual violence;
- To be taught to take charge of their own treatment as far as possible, and in cases of disease to be given knowledge of signs and specific symptoms;
- To enjoy a confidential patient-doctor relationship; to ask for and to receive information that helps them to understand their own sexuality, to protect themselves from unwanted pregnancies and sexually transmitted diseases; to ask for and receive information on drug addiction and to be given adequate guidance on rehabilitation services;
- To participate fully together with their family.

425. With regard to this last point, it is now becoming common practice in most paediatric wards to allow parents to stay with their children in hospital at all times. Nonetheless, research carried out nationally on a sample of 102 hospitals has revealed that approximately 10 per cent of the heads of hospital do not allow parents to be present outside of normal visiting hours.

426. It is to be hoped that the practice of allowing parents to stay with their children will be extended to all paediatric wards and that a similar Charter for the Rights to Children in Hospital will also be adopted in other Regions.

## **6. AIDS and children**

427. The number of new AIDS infections among children in Italy has fallen sharply in recent years. Following a period of little progress, with a high of 76 new cases in 1995, in 1996 only 49 cases were recorded, and in 1997 only 9. The majority of these cases involve HIV

transmission from mothers to infants. Although the use of antiretrovirals in pregnancy can reduce the probability of HIV transmission to approximately one third, it is likely that the decline in new cases is mainly the result of awareness-raising campaigns launched by the Ministry of the Health - Department of Prevention. Between 1990 and 1998, approximately 10 campaigns were carried out (through newspaper articles, distribution of informative pamphlets, television and radio spots, training and information measures etc.). Five campaigns were targeted specifically at women of reproductive age and stressed the importance of responsible motherhood and safe sexual behaviour and the risks involved in drug injecting with shared needles. The other five campaigns targeted children and adolescents.

More complete data can be found in table 5.1 attached.

428. It should also be emphasized that a group of paediatric immunologists has been formed in Italy, which has involved universities and paediatric centres in the important work of prevention, treatment and protection of the children affected by AIDS. In 1992, a Charter for the Rights of the Child with AIDS was also approved, which asserts that children with HIV/AIDS are persons like all others and enjoy the same inalienable rights. In particular, they have the right:

- Not to be discriminated against or marginalized because of their illness;
- To grow up in their own families like other children;
- To receive the social and psychological assistance they require;
- To be admitted to a hospital only to undergo specific treatment;
- To have the confidentiality of health information about their condition protected;
- To grow up with their peers, to attend nursery school and regular school, to use recreational facilities and to practise all sports activities;
- To have timely access to all treatments for the prevention and treatment of AIDS and associated diseases;
- To receive advanced treatments, even if experimental, benefiting from rigorous protection, including from an ethical viewpoint;
- To be informed about their condition in a manner appropriate to their age;
- Not to become object of speculation of any kind.

## **7. Family planning education and counselling services**

429. In order to foster a better understanding of parental duties, including those relating to health, and to encourage responsible parenthood, family planning centres were established in 1975.

430. According to 1991 data, the latest available, 2,542 public family planning centres were in operation at that time, representing an average of 1.7 centres for every 10,000 women of childbearing age. To these must be added the many private family planning centres in existence, mostly Roman Catholic but also non-denominational.

431. In this area, as in others, disparities between the North and South are wide.

**E. Social security and standard of living**  
(guidelines 99-103)

432. The Italian Social Security System provides, first of all, for the child's right to health care. This entitlement is an individual one since the national health-care system is universal - that is, it is accessible by all residents and financed through taxation. As far as social security is concerned, instead, the child's rights are only derivative, since they are connected with the work activities of his or her parent(s).

433. In the pension system, orphan's benefits are payable to minors, students or to children who are unable to work because of a physical or mental infirmity. Benefits are equal to 70 per cent of the pension entitlement if the child is the sole survivor; to 40 per cent for each child in the absence of a spouse who has an entitlement; and to 20 per cent for each child if surviving spouse benefits are also payable.

434. The allowance granted to the core family is inversely proportional to the total income of the core family and directly proportional to the number of family components. The core family consists of the applicant, of his or her spouse if not legally separated, of children less than 18 years of age, or over that age if disabled. The upper income limit is increased in the case of single-parent families or in the presence of minors who have difficulties in performing tasks and functions normal for their age.

435. In situations where the minor or his or her family experience particular difficulties - not only economic but also relational - the local authority steps in with welfare measures to protect, maintain and promote the child's rights, as has been explained in detail in other parts of this report.

436. The problem does not so much consist in the recognition of the right to welfare - which is amply provided for in Italian legislation, even at the constitutional level, but rather in the timely identification of children living in extremely difficult situations. Families that are destitute and at great risk of marginalization often remain hidden on the outskirts of big cities or in remote rural areas. These families rarely seek access to available services; because their economic poverty is often compounded by severe cultural poverty, they often are even unaware that they can ask for help and support. Social services should greatly improve their ability to identify these situations and not limit themselves to waiting for the citizen to apply for help. Moreover, they should vary the kinds of measures used according to the different needs encountered. But that will be difficult to do if policies relating to services are not developed - evenly over the entire national territory - that provide expressly for such activities and make adequate resources available to the local services, including in terms of staff.

437. As has been discussed in detail in the first chapter of this report, the Government is strongly committed to the promotion of strategies that address the needs of families living in poverty, unfortunately still numerous in Italy (see tables 16.1 and 16.2 attached).

**F. Drug abuse**  
(guidelines 155-157)

**1. Data**

438. The Italian Government carefully monitors the incidence of drug abuse, including by minors, a trend that is obviously alarming. A permanent Observatory on drug use, within the Ministry of the Interior, has been in operation since 1984. Its purpose is to provide continuous and up-to-date information on the use and abuse of drugs, supplying statistics, news and analyses of trends, concerning not only individuals but also the structures and services involved and the degree to which the law is being properly enforced. The following tables give some indication of the extent of the drug addiction.

**Table 18**

**Drug addicts registered for the first time, by age and geographic location**

Geographic location	<14	15-17	Total <18	Total all age groups	<18 as % of all age groups
North-east	128	1 548	1 676	31 669	5.3
North-west	56	786	842	16 875	5
Centre	127	1 643	1 770	30 324	5.8
South	102	1 363	1 465	17 914	8.2
Islands	50	982	1 032	11 394	9.1
Total	463	6 322	6 785	108 176	6.3

Source: Ministry of Health - Health Information System, Department of Prevention, *Rilevazione attività nel settore tossicodipendenze, anno 1996*, (Survey of Activities in the Sector of Drug Abuse, 1996), 1997.

**Table 19**

**Users of public services for drug addicts, by age, 1992-1996**

Age	1992		1993		1994		1995		1996	
	No.	%	No.	%	No.	%	No.	%	No.	%
<15	112	0.11	85	0.08	98	0.09	89	0.07	118	0.09
15-19	5 021	4.84	4 293	4.10	4 000	3.52	3 880	3.13	4 181	3.22
20-24	29 435	28.36	26 821	25.61	26 619	23.40	25 752	20.80	24 820	19.11
25-29	37 965	36.57	37 241	35.55	39 333	34.58	40 550	32.75	40 923	31.51
30-34	21 030	20.26	23 684	22.61	27 701	24.36	32 278	26.07	34 170	26.31
35-39	7 499	7.22	9 081	8.67	11 071	9.73	14 436	11.65	15 823	12.18
>40	2 743	2.64	3 537	3.38	4 913	4.32	6 843	5.53	9 849	7.58
Total	103 805	100.00	104 742	100.00	113 735	100.00	123 828	100.00	129 884	100.00

Source: see table 18.

**Table 20**

**Drug-related deaths, by age**

Age	1994		1995	
	No.	%	No.	%
<18	4	0.46	6	0.58
18-24	199	22.95	195	18.70
25-29	350	40.37	347	33.26
30-39	282	32.53	428	41.04
>40	32	3.69	67	6.42
Total	867	100	1 043	100

Source: see Table 18.

**2. Prevention of drug addiction**

439. The Government is carrying out an intense strategy of prevention on various levels.

440. A previous paragraph discussed the health education and drugs-prevention campaigns the Ministry of Education carries out in schools. Although activities are mainly for students, some also involve families.

441. In 1996, the Presidency of the Council of Ministers transferred to the Regions 75 per cent of the national fund for the fight against drugs (which in 1996 amounted to 202,940 million lire). The aim was to ensure, through decentralization, a better distribution of resources, enabling measures to be taken locally to prevent drug abuse and to rehabilitate drug addicts.

442. In addition, a toll-free hotline has been set up called "Drogatel", which consists of three telephone lines active seven days a week from 9 a.m. to 9 p.m. This anonymous service provides information on drug addiction and alcoholism; counsels callers about their options; screens callers for placement in appropriate public centres or other structures operating within the National Health Service; and manages and keeps up to date a computerized databank containing information relating to centres of various types. In May 1996, the Department of Social Affairs of the Presidency of the Council of Ministers also launched an information campaign to combat drug abuse, which has had three phases:

- An anti-drug publicity campaign promoting positive values and social solidarity and targeting both young people and adults through radio and television spots, posters, announcements in daily newspapers and magazines;
- An itinerant exhibition using material produced by schoolchildren; and
- An information leaflet (in 500,000 copies) containing first-aid instructions and emergency telephone numbers, distributed widely throughout Italy.



443. The Ministry of the Interior, for its part, has launched an initiative known as Project Adolescents, which is aimed at young people at risk of drug abuse and other deviant behaviour. The general philosophy behind the project is that young people should be considered not only as project beneficiaries but also as project designers - in other words, what is needed is a project that is both for and with adolescents. Pilot projects have been carried out in approximately 30 municipalities, more than half of which are located in the South. Municipalities are in fact thought to be the correct level at which to conduct initiatives that link the State with local authorities. The Ministry of the Interior also supports drug-prevention projects that seek to educate and influence children and young people and their communities through information and publicity campaigns; a project evaluating the measures undertaken by Operational Squads on Drug Addiction and fine-tuning a surveillance and appraisal system that can serve as a model for similar monitoring structures; and a programme of training and coordination of area services that provides continuing education for relevant staff.

### **3. Minors, drug use and the law**

444. In Italian legislation the possession of drugs for “personal use” is no longer a criminal offence, which means no young person is subject to criminal charges for drug use or abuse. The use of drugs is, however, often linked to other crimes: first of all to the trafficking of drugs (about 70 per cent), but also to crimes against property to obtain money to purchase drugs.

445. Young immigrants from non-European Union countries are especially apt to be involved in drug trafficking and are used by organized criminal rings for drug peddling.

446. The Ministry of Justice has begun large-scale rehabilitation programmes for young drug users who have entered into the criminal justice system. The services responsible for the administration of juvenile justice in collaboration with local social and health services have carried out rehabilitation programmes that have emphasized psychological support rather than using prevailing pharmacological methods; this strategy is used not merely to limit the spread of drug abuse among minors, but chiefly to treat minors within structures for juveniles in a way that goes beyond merely reducing the damage already done, helping to educate young people and modify their behaviour. In the case of foreign minors, provisions have been made for the use of “cultural mediators”, whose task is to provide not only linguistic support but also to help the minor take full advantage of the opportunities that the local services have made available.

### **4. Use of alcohol, tobacco and other substances**

447. For the use by children of alcohol and tobacco, see attached tables 4.8 and 4.9.

448. It is against the law to sell tobacco to children under 14 years of age (art. 730, para. 2, Criminal Code); furthermore, it is illegal for taverns or stores to serve alcohol to children under the age of 16 (art. 689 Criminal Code). Young people easily get around these laws by asking their older friends to purchase alcohol or tobacco for them.

449. The same preventive and educational measures discussed earlier in relation to drug addiction apply in the case of alcohol and tobacco use.

## VII. EDUCATION, LEISURE, CULTURAL ACTIVITIES\*

### A. Introduction

450. The right of the child to a suitable education is one of the fundamental human rights expressly recognised in the Italian Constitution.

451. Article 34 of the Constitution, having stated that school is open to all, decrees that education is compulsory and free for at least eight years; the right of those who are capable and deserving, even if lacking the means, to reach to highest levels of education; and the commitment of the Republic to fulfil this right with grants, family allowances and other measures awarded by competition. Under Law No. 9 of 20 January 1999, Urgent Provisions for Raising the Age of Compulsory Education, with effect from the school year 1999/2000, compulsory education is increased from 8 to 10 years (art. 1, para. 1).

452. The right to education is not limited to the mere possibility for the child to attend a school, irrespective of the result which such attendance can achieve in terms of real acculturation. Illiteracy is not only the inability to read and to write even a brief and simple text about everyday life (according to the 1956 UNESCO definition), but also embraces those who can read and write but are incapable of writing a short description of their daily activities (according to a more recent UNESCO definition). It must be recognized that even today, notwithstanding the remarkable progress achieved in the growth of schools in Italy, the second type of illiteracy is still widespread. Consequently, many have their concrete, not abstract, right to education violated. This right must find fulfilment in order to facilitate, in the increasingly complex reality of modern life, not only the understanding of diverse messages which intersect our lives, but also the necessary ability to express oneself and therefore communicate with others. A lack of the indispensable means to acquire knowledge and make oneself known can lead to grave social marginalization (indeed delinquency, including juvenile delinquency, is closely related to dropping out of school). This marginalization hinders not only the development of the personality but also impedes an active and cognizant participation in society. A wide-ranging acquisition of culture has a double value, individual and collective, in that it guarantees a practical contribution of every citizen to the life of the community and to the defence of a democratic State.

453. Moreover, education cannot be synonymous with the acquisition of ideas alone but must be closely allied to an adequate and overall development of the personality. Education, upbringing and training are three aspects of the same fundamental right of the child to be assisted in developing completely as a person, to overcome his or her initial disadvantages and to allow him or her to make the choices that best suit his or her personality and plans for the future.

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\* This section responds to the queries relative to articles 28, 29 and 31 of the Convention to which paragraphs 105-118 of the general guidelines refer.

**B. The formal school system**  
(guidelines 105-116)

454. In Italy, the school system is in line with the aims outlined in article 29 of the Convention. It will suffice on this point to cite the first article of the very recent secondary school pupils' charter (Decree of the President of the Republic 29.5.1998), according to which:

(a) The school is a place of training and education by way of study, the acquisition of knowledge and the development of a critical conscience;

(b) The school is a community of dialogue, research, and social experience, informed by democratic values and aimed at the growth of the individual in all his or her dimensions. Here each person, with equal dignity and in a diversity of roles, works to guarantee a training in citizenship, the realization of the right to study, the development of each child's potential and the overcoming of situations of disadvantage in accordance with the principles prescribed by the Constitution and by the Convention on the Rights of the Child, and with the general principles of Italian legislation;

(c) The school community, interacting with the wider civic and social community of which it is part, bases its programme and educational activities on the quality of teacher-pupil relations, it contributes to the development of the pupils' characters also through education towards the awareness and appreciation of their identities as humans. It develops their sense of responsibility and their individuality and pursues the attainment of cultural and professional objectives suitable to the evolution of knowledge and entry into a working life;

(d) The life of the school community is based on the freedoms of expression, of thought, of conscience and of religion, with the reciprocal respect of all the people who comprise that community, whatever their age or condition, and rejecting all ideological, social and cultural barriers.

**1. The principal features of the current school policy**

455. Schools of every level and type try to follow these principles. The Government is currently committed to a thorough reform of the entire school system in order to fulfil these principles completely. The leading features of this reform are as follows:

(a) Reform of the courses: The reform seeks to transcend the idea of the mere transmission of knowledge, a concept currently fundamental to Italian schools, in favour of the concept of transmission-acquisition of methods of learning. This is not meant to throw doubt on the value of general instruction, which it is proposed be reinforced in all curricula; it is intended to respond to the multiplicity of questions which society has posed about schools in recent decades and particularly to the problems of pupils repeating a year, expulsions and dropping out, whose incidence is certainly too high. In synthesis, the reform of the courses seeks to promote successful education for all, a rise in the cultural level of each citizen and consequently of society as a whole, the appreciation of the value of work in its most diverse forms, the integration of education and professional training, the growth of a democratic conscience, the development of a culture based on the appreciation of differences, on the values of pluralism and

of freedom. To attain these aims the reform provides for an educational programme structured in three stages: an initial infant course of three years (3-6 years of age); a primary course of six years (6-12) divided into three two-year periods; a secondary course of six years (12-18). The first and second two-year periods of the primary programme aim at literacy, meaning not only the acquisition of language and basic knowledge, but also the beginning of developing a critical capacity, the pleasure of learning, the recognition of the values of democratic living. The third two-year period aims at consolidating and expanding the knowledge already acquired as well as at developing an independent capacity for studying and investigating. The final three-year period is directed at in-depth instruction in each of the subjects including the possibility of practical exercises and brief work experiences;

(b) A more efficient system of school and professional guidance: Recognizing that the mechanisms of selection, which have been eliminated from the beginning of various stages of schooling, are nonetheless operative at other times, and considering that these mechanisms especially affect the socially and culturally weaker sections of the population, and also considering that this is attributable not only to the uniformity of the education courses but also to the mistaken choices of the students, measures are to be developed for guidance. These are intended as a combination of activities aimed at forming and developing the students' capacity to get to know themselves, the environment in which they live, the cultural and socio-economic changes, and the training possibilities available to them. This should enable them to make their own plans for the future and to experience their studies, their families and social life in an active and responsible way and on equal terms;

(c) Reform of school subjects: In view of the profound transformation in human experiences and knowledge due not only to the effects of the world of the media but also to the epistemological revolution in science, art, technology and collective behaviour in this century, it is not enough that schools be up to date: they must be in a position to redefine their cultural fabric, with a view also to the context of globalization. A commission has been set up, made up of so-called *saggi* (wise men), to identify those subjects which, in the near future, will be essential for a complete education. On the basis of the results of this work, new syllabuses will be determined and objectives and standards defined;

(d) School autonomy: A rigorous decentralization of educational institutions is taking place, giving them teaching, organizational, research and development autonomy and the status of legal persons. This autonomy should be the means of greater educational success both in quantitative terms (through major attention to the needs of individuals and groups) and in qualitative terms (through the enrichment of educational opportunities and wider choices). The schools are given the responsibility of identifying strategies, methods and means for the pursuit of national objectives and standards.

## **2. Public expenditure on education**

456. It is not easy to calculate the amount spent in this sector because it is divided among the budgets of a multiplicity of public authorities (the Ministry of Education, the Ministry of Works, the regional and local administrations) and because much of it does not fall directly under the account heading for education (for example, the amounts spent on the construction, acquisition and rent of buildings).

457. It should also be emphasized that the quantitative variations for the years 1994-1998 reflect two diminishing factors (the general fall in the school population due to the decline in the birth-rate, and the policy of limiting spending) and to two growth factors (the increase in local government spending, and the increased spending on investment (updating, improving training schemes, combating waste, etc.) with respect to current spending (wages).

**Table 21**  
**Spending on education (absolute values and percentage values)**

	1994	1995	1996	1997
1,000 billion lire	52	48	50	51
Current expenditure %	88.4	87.6	86.6	86.4
Capital investment %	11.6	12.4	13.4	13.6

Source: Ministry of Education.

**Table 22**  
**Spending on education (in billions of lire)**

Year	Expenditure (rounded off)
1996	65
1997	72
1998	83

Source: Ministry of Education.

**Table 23**  
**Public expenditure for schooling by source of financing, 1994-1995**  
**(in billions of lire)**

	1994	%	1995	%	Variation (%) 1994-1995
Government					
Central government expenditure	51 841.6	79.7	47 364.8	77.1	-8.6
Of which capital expenditure	509.7		496.7		-2.5
Regions					
Regional administration expenditure	1 025.1	1.6	1 056.7	1.7	3.1
Of which capital expenditure	66		98.4		49
Local authorities					
Local administration expenditure	12 148.5	18.7	13 047.9	21.2	7.4
Of which capital expenditure	1 796.5		2 007.4		11.7
Total expenditure	66 015.2	100	61 469.4	100	-5.5
Education public administration					
Of which capital expenditure	2 372.2		2 602.6		9.7

Source: Ministry of Education.

### 3. School attendance in various levels of schools

458. In the tables attached to this report, tables 6.1 to 6.12 show data relating to the level of school attendance in the country, both by class numbers and child-teacher ratios and public and private schools, as well as the percentages of pupils lost to the system.

459. Any in-depth comment on this data is unnecessary since the picture that emerges speaks for itself. It will be noted that attendance in the compulsory education schools is quite satisfactory with a low drop-out rate in the primary schools (0.08 per cent) and a little more alarming in middle schools. A certain concern arises from the data on the rate of failure in the compulsory years.

460. It should be noted, however, that a 1995 survey of persons of every age who had not achieved the school-leaving certificate, taking into consideration the generations for whom schooling was already compulsory, revealed that in Italy 15.4 per cent of the population questioned had not achieved the certificate, with 11.6 per cent in the north-west, 10.4 per cent in the north-east, 11.9 per cent in central Italy and 22 per cent in the south and the islands. It is also significant that women outnumbered men. It is, however, reassuring that while the percentage of those not having the certificate is 36.0 per cent in the 40-42 age group, this falls to 8.5 per cent in the 15-19 group and to 7.8 per cent in the 20-24 range. There is, therefore, a noticeable decline in the phenomenon of failing to complete the period of compulsory schooling.

461. The problem of compulsory schooling dropouts is, however, enough of a problem to merit focused intervention.

462. Early school leaving does not seem to be related to economic factors. Indeed, compulsory education in Italy is free and the local authorities provide notable support to ensure that all pupils, even the most economically disadvantaged, can avail themselves thereof. Free education is not, in fact, intended merely as an exemption from the payment of school fees. It serves also to ensure - through the provision of books, school materials and even transport - the conditions which eliminate any obstacle to regular school attendance, especially for those economically worse off.

463. The legislation provides also for making parents responsible by the provision of a specific offence. Article 731 of the Criminal Code makes it an offence for anyone with authority over, or charged with the supervision of a minor, to fail, without just reason, to instruct or provide elementary instruction to that child. (In reality the rule in article 731, taken together with the regulations which extend compulsory education to the end of the middle school, cover the entire period of compulsory schooling: Cass 17.2.1988 [Supreme Court] in *Rivista penale* 1989, p. 199.)

464. It seems that the phenomenon of dropping out of school is related to socio-cultural issues which are not easily resolved.

465. The Ministry of Education is committing itself particularly to this matter. In the Charter of Intent to promote the rights of children and adolescents and to eliminate the exploitation of child labour, it is explicitly affirmed that it is intended, during the 1998/99 school year, to

promote enterprise for training teachers and directorial staff in the problems of hardship and of early school-leaving which might lead to a reconsideration of the content, methods and organization of teaching in relation to the deep needs of childhood and adolescents; to introduce additional activities of interest to the pupils, helping those in major difficulties to overcome the sense of alienation and the suffering which often characterizes their school experience, predisposing them to failure, to undervalue themselves and finally to drop out of school; to provide flexible ways of re-entering school in the case of child workers; to manage school registration and monitor attendance in such a way that attention is drawn quickly not only to dropouts, but also to cases at risk, and so that opportune measures, including preventative ones, can be taken also involving other institutional and private social agents; to involve also families through training parents to be more aware of problems; to provide for “contracts” with the families of dropouts, with forms of incentives/penalties to encourage pupils who are not attending school to return.

466. In the past the Ministry of Education had already put in place measures to support pupils in difficulties through a link between school and professional training. In 1995 there were about 600 programmes involving 50,000 pupils and in 1998 there were 1,150 involving 65,000, while for 1999 there are plans for 3,100 such projects for about 110,000 pupils.

467. Finally, it should be noted that, to assure the right to study for all who have the capacity and are deserving to do so, according to the constitutional principle, family benefits and other allowances are provided which allow the deserving, less well off to study to the highest level of education.

#### 4. Schooling for those in particular difficulties

468. Provisions are made for the right to education of children in particularly difficult situations.

##### (a) Foreign children

469. Notable effort has been made to cater for foreign children in schools: the following table speaks for itself.

**Table 24**

#### **Enrolments of foreign students**

Year	Primary school	Middle school	Higher secondary school
1992/93	15 018	6 320	1 234
1993/94	19 256	8 001	1 417
1994/95	20 199	9 089	6 060
1995/96	23 991	9 471	6 410
1996/97 (a)	23 568	11 042	6 060

Source: Ministry of Education, processed from data from Central Statistics Office.

Source (a): Prime Minister’s Office - Department of Social Affairs.

470. Moreover, it should be noted that schools are committed to providing support for foreign children attending compulsory education schools and who find language difficulties in integrating into school. The regulations provide for extra teachers for these pupils. Moreover, the regional administration, on the basis of Law No. 943/86, promotes special Italian language and culture courses to encourage integration. Numerous ministerial circulars have stressed the importance of valuing also the language and culture of origin of foreign pupils through recourse to mother-tongue experts and mediators.

**(b) Children in hospital**

471. For children in hospital, teaching posts at hospitals have been instituted to ensure the continuity of the sick child's education. Of particular note is the protocol between the Ministries of Education and of Health, the national association of local authorities and Italian Telecom to put into action a project of tele-teaching with the use of multimedia stations, to guarantee the right to study of the hospitalized child.

**(c) Minors in penal institutions**

472. Minors confined to penal institutions are served by branch sections established by the primary and middle schools situated in the area in which the detention centre is located. It devolves upon the workers who run the centre to monitor attendance at the school activities. Moreover, to provide these children with a schooling related to their particular educational needs, the activities which are planned, organized and undertaken are not aimed exclusively at the school-leaving certificate but seek to provide a real opportunity to mature. The courses, therefore, pay particular attention to the cultural characteristics and socio-psychology of the children and are arranged according to the length of time the child spends in the centre.

**(d) Minority children**

473. For children of linguistic minorities there is a legislative provision in the process of approval which will permit, in those localities where the 12 protected languages are spoken, the use of the minority language not only in public offices but in schools as well.

**(e) Disabled children**

474. Considerable effort has been made to guarantee schooling for disabled children and to foster their integration in schools. Given the importance and specificity of the measures, some detail is given here.

475. All disabled children have the right to register at and attend schools of every type and level. About 20 years after the first legal provisions specifically relating to compulsory education (Law No. 517/77) the process of integration is widespread and general practice in all schools. Continuing legislative and administrative development, methodological and didactic innovations and the choice of social policy of the local authorities have contributed to improving education services on the whole.



476. The normal school system today admits almost all disabled children of school age and has suitable structures and resources to run personalized education courses. For pupils who cannot attend school for at least 30 days for health reasons, instruction is guaranteed through special sections in hospitals.

*The methods of school integration*

477. The education of disabled children is realized through the operations and services coordinated partly by the various branches of school administration and the local authorities (regional, provincial and municipal and local health services) that offer whatever forms of support fall within their competence.

478. The strategies for integrating each disabled pupil into the school system are based on precise procedures which involve the local social health services, school personnel and the family, which must be informed, involved and collaborative. The family takes part, together with the teachers and others, in the planning of the courses.

479. The integration of the pupil proceeds in various phases:

- The identification of the disabled pupil and the relative functional diagnosis, undertaken by the local health services;
- Drawing up a profile of the pupil's functional dynamics, in collaboration with social workers, teachers and family.
- Arrangement of an individualized educational plan by the teachers.

480. To favour conditions of equal opportunity various forms of assistance and didactic support are offered: specialized teachers, computer aids, flexible organization, research and development in education and methodology.

481. The presence of specialized teachers - currently distributed, according to the regulations, not related to the number of disabled pupils but equal to a teacher-pupil ratio of 1:138 - is the principal element of educational assistance and represents a qualified resource which ensures, in many cases, the necessary psycho-pedagogical technical and organizational support in the individualized learning activities and in itself serves as a learning experience for the whole class.

482. Currently the inclusion of disabled children in schools is an integral part of the normal education system and is supported by a network of operational groups at diverse levels of school administration,<sup>14</sup> by structures for the initial training of specialized teachers,<sup>15</sup> and by study, research and investigation at local and national levels.<sup>16</sup>

*Quantitative aspects*

483. From an analysis of current data from the Ministry of Education it is shown that in the last five years the overall number of disabled pupils in nursery and other (compulsory education) schools surpassed 100,000 and has stabilized both in absolute numbers and in percentage at

about 2 per cent of the school population (table 25). At the different levels of school, on the other hand, it can be seen that the percentage of disabled pupils varies. The low presence of such pupils in the nursery schools may be due to the fact that schooling at that level is not compulsory and to the late diagnosis of the disabilities. The differences in percentages between primary and middle schools highlight a problem of discontinuity in the school system. Notwithstanding the setting up of diagnostic and methodological measures, they demonstrate the differences and difficulties of identifying a homogeneous system of evaluating disabilities in the school context.

484. Another quantitative datum of particular interest regards the presence of special assistant teachers. In 1997/98 there were 52,978, evenly distributed in all levels of nursery and other schools, on average almost equal to one teacher for every two disabled pupils.

**Table 25**

**Disabled pupils in nursery and compulsory education schools in the school years 1992/93 to 1996/97 (absolute values and % variation)**

Level of school	School year 1992/93		School year 1993/94		School year 1994/95		School year 1995/96		School year 1996/97		Variation 1992/93-96/97	
	ab. v.	v. %	ab. v.	v. %	ab. v.	v. %	ab. v.	v. %	ab. v.	v. %	ab. v.	v. %
Nursery schools	7 460	0.90	8 145	0.97	8 884	1.03	9 080	1.02	9 669	1.06	2 209	+29.62
Primary schools	49 299	1.83	48 626	1.86	48 466	1.86	48 335	1.86	48 599	1.87	-700	-1.41
Middle schools	43 753	2.3	42 893	2.27	42 710	2.32	42 949	2.36	42 995	2.45	-758	-1.73
Total	100 512	1.83	99 664	1.86	100 060	1.88	100 364	1.88	101 263	1.92	+712	0.74

Source: Ministry of Education - Office of Studies and Programming.

**Table 26**

**Pupils and special teachers in nursery and compulsory education schools in the school year 1996/97**

Level of school	Number of disabled students	Number special teachers	Ratio students/teachers
Nursery schools	9 669	6 020	1.61
Primary schools	48 599	24 595	1.98
Middle schools (first level)	42 995	22 366	1.92
Total	101 263	52 978	1.91

Source: Ministry of Education - Office of Studies and Programming.

485. The data on disabled pupils categorized by type of disability give information on the variety of disabilities. The Ministry of Education statistics distinguish three types of disability among pupils: sight, hearing and psycho-physical disabilities. In the school year 1996/97, in nursery and other schools the sight impaired totalled 1,913, the hearing-impaired were 4,281 and those with psycho-physical disabilities were 95,069 (table 27). These figures show no

significant variation from those of previous years, neither in absolute numbers nor in percentages, confirming that their distribution is by now consolidated at all levels of schooling.

**Table 27**

**Disabled pupils by school level and type of disability, school year 1996/97  
(absolute values and percentage values )**

Level of school	Disability					
	Sight		Hearing		Psycho-physical	
	No.	%	No.	%	No.	%
Nursery schools	239	2.47	640	7.25	8 790	90.90
Primary schools	925	1.90	2 079	4.28	45 595	93.81
Middle schools	749	1.74	1 562	3.63	40 684	94.62

Source: Ministry of Education - Office of Studies and Programming.

*Problems and prospects*

486. The current major problems are no longer ones of instruction in the normal school system, inasmuch as they relate to the quality of the service not being uniform throughout the country. In some places the involvement of the local administrations is still insufficient to guarantee that all disabled pupils can exercise their right to study.

487. One aspect of the data compares accessibility to school buildings. In the year 1997 only 62.33 per cent of school buildings overall were without architectural barriers, the percentage varying in different areas. The greatest number of schools without barriers was in the southern regions (table 28).

488. Moreover, on a national level, it is found that there is a lack of the services that should be guaranteed by the municipal authorities (adequate transport, special non-teaching assistants for children with severe disabilities); in particular there is a lack of supportive action which should be guaranteed by the health services (both in the planning of the functional dynamics profile of the child and more so in the monitoring of personalized education programmes).

489. Some inefficiencies within the school system must also be overcome: incomplete basic training of all the teachers, insufficient qualifications of the permanent specialized teachers and their insecurity of tenure, attitudes of non-acceptance of responsibility among workers, lack of continuity from one school level to the next, lack of educational and teaching programmes suited to pupils with serious and uncommon disabilities.

**Table 28**

**School buildings free of architectural barriers**

Area	Level of school				Total buildings	Buildings free from barriers	
	Nursery	Primary	Middle	High		No.	%
North-West	1 472	2 364	821	662	9 289	4 866	52.38
North-East	918	1 899	591	594	7 450	3 768	50.57
Centre	1 952	2 329	891	805	8 169	5 313	65.03
South	3 413	3 448	1 679	1 310	12 329	8 719	70.71
Islands	1 507	1 672	869	608	6 041	4 313	71.39
Total	9 262	11 712	4 850	3 979	43 274	26 979	62.33

Source: Ministry of Education - Office of Studies and Programming.

**5. Respect for the opinions of children**

490. The recently approved students' charter guarantees the custom of listening to the opinions of the students which, within the limits and variety of the cultural history of society, has been a constant factor of the pedagogical method adopted in the Italian school. It should be added only that the recent law governing immigration expressly affirms that the school community embraces the linguistic and cultural differences as a valuable and fundamental starting point for debate, based on reciprocal respect, on the exchange between cultures and on tolerance (art. 36, para. 3, Law No. 40 of 6 March 1998).

491. Beyond listening to the demands of minors in the schoolroom context, it is to some degree assured by the collegial democratic management of schools: since 1974 there has been representation of parents within the schools for pupils up to 14 years and direct representation after the age of 14 on the governing bodies of secondary schools (class councils, committees and boards at different levels).

**6. Provisions for improving the qualifications of teachers**

492. The Ministry of Education has taken the following initiatives in order to improve teachers' qualifications:

- An Inter-ministerial Decree of 10 March 1997 abolishes teacher training schools for teachers in nursery schools and the teachers' training colleges for elementary schoolteachers and, under Decree of the President of the Republic No. 47 of 3 July 1997, the graduate course for the initial training of infant schoolteachers becomes the only means of qualifying for such teachers;
- Decree of the President of the Republic No. 47 of 3 July 1997 also establishes postgraduate university training for secondary schoolteachers;

- Ministerial Circular No. 73/97 establishes the regulations and curriculum of training courses for teachers who win places on such courses;
- Ministerial Circular No. 226 of 13 May 1998 defines for the first time specific priorities for in-service training, considering in particular the strengthening of the learning process and training opportunities, pupil guidance and its link to professional guidance, training for democratic coexistence, intercultural understanding and active citizenship (human rights, equal opportunities).

### **C. The non-formal education system** (guidelines 117-118)

493. The formative education system outside the school - not left solely to the free market but organized by local authorities, engaged in realizing conditions which render possible the full development of the person - has the function, through educational and cultural activities, of giving the chance of responding to those needs for communication, exploration, planning, imagining and adventuring which are typical of growing children and essential to them in the building of a complete personal identity and the development of a suitable social personality. Such needs risk being left unsatisfied in some cases. In addition to these there is a need to encounter other people to understand oneself better in relation to others; the need to try out one's own imagination and creativity in games without the pressure to succeed and to develop a knowledge which is not merely notional; the need for information and training outside the school; and the need for free experiment and expression.

494. In the first place, if the formative process devolves not solely upon the school system, but must make use also of local resources outside the school, the lack of a suitable structure which permits everyone in the area to benefit from an integrated education becomes a cause of unjustifiable inequality among the citizens. If the right to study - which is substantially the right to education - must, for constitutional principles, be assured for all, it is not acceptable, given the new burden assumed by the formative forces outside the school in determining the quality of a person's life, that there should be profound differences in those resources and therefore substantial inequalities among those who have local educational and cultural opportunities at their disposal and those who do not.

495. Given such a premise, the Italian Government recognizes the fundamental need to promote personal development and facilitate interaction among children through the establishment of an integrated system of education.

#### **1. The activities of local authorities**

496. The local authorities have in recent years paid particular attention to educational activities. Of course it cannot be said that the network of such activities is everywhere equally widespread, but the commitment of all the local authorities - which was given a boost by Law No. 285 of 1997 - gives reason to hope that the lacunae will soon be filled.

497. The following services have already been established and should be augmented for:

- Very young children, recreation centres and any available spaces set aside for children to gather in their free time and offering the opportunity of organized games or play at liberty; *Ludoteche* (children's play centres) are a sort of library of toys organized on the basis of spaces given over to play activities, with shelves and cupboards where toys and games are kept which are also available for loan; public spaces for games to allow the children to leave home unaccompanied, meet friends and play in the open;
- Pre-adolescents and adolescents, recreation centres (theatre and creative workshops, centres for games and pre-sport activities, meeting places) and educational centres (to promote cultural interests, to rediscover games and liberating activities, for virtual travelling, for the discovery of other cultures, to support the pre-adolescent desire to be the centre of attention); these centres are fundamental not only for discouraging delinquency but also to help the physiological path of development of the normal pre-adolescent.

498. The local authorities have undertaken initiatives for summer school holiday activities: sea and mountain holidays; day camps for smaller children.

499. For all these initiatives the local authority very often works in cooperation with local social organizations. This useful cooperation between the public and private sectors needs to be developed further because it is the only way to ensure the widespread satisfaction of the demands of children.

500. The network of municipal libraries has also grown, especially in small centres, and is made good use of by children. There are no national statistics but the data available from local research seem encouraging: for example, in the province of Gorizia, in 11 out of 24 libraries, the number of users aged 6-14 exceeds that of all other age groups, that is, they exceed 50 per cent of users, while in another 6 libraries, the 6- to 14-year-olds are said to constitute at least 40 per cent of users.

## **2. Data on young people's use of free time**

501. It is impossible to show what percentage of the local authorities' budgets is spent on educational leisure activities, nor to obtain precise data on the use of such facilities by the young people. Such data are difficult to trace since these initiatives are not centralized.

502. It can only be indicated that, from statistical research, the following picture of such activities in our country emerges:

- 57.2 per cent of boys and 42.5 per cent of girls between 11 and 14 years of age regularly play sport, while the percentages for those between 3 and 17 are 42.4 and 32.6 respectively;

- 45.2 per cent of boys and 34.4 per cent of girls between 11 and 17 read a newspaper at least once a week; of those aged 6-17, 45.1 per cent of boys and 58.8 per cent of girls read books;
- 97.7 per cent of boys and 97.7 per cent of girls habitually watch television while those who watch more than five hours per day are 9.0 per cent of boys and 8.5 per cent of girls;
- 0.3 per cent of boys and 0.3 per cent of girls attend the theatre more than 12 times a year; for cinema attendance the figures are 4.1 per cent and 2.7 per cent respectively; for museums and exhibitions, 0.8 per cent and 9.7 per cent; for classical music concerts 0.4 per cent and 9.5 per cent; other concerts 1.1 per cent and 0.5 per cent; for sporting events 19.9 per cent and 3.2 per cent; 6.2 per cent of boys and 6.1 per cent of girls go to discotheques and other places of dancing; 5.3 per cent and 7.0 per cent attend public festivals;
- 71.8 per cent of boys and 63.8 per cent of girls meet their friends daily.

503. It seems evident from the above data how much remains to be done to develop genuine cultural interests in the generation who face the future. The school and the local community must exert themselves further in this regard. But it will be difficult to make progress in this field if the mass media peddle only the trivialization of life and its problems and a passive non-engagement. To be welcomed, therefore, is the drawing up, in association with the Government, of a television authorities' code of conduct which, for the first time, takes account of the needs of the education of children at an impressionable time of life, not only to avoid disturbing their paths of development but also to help such development. In addition, the State television service has produced a daily news programme for young people.

### **3. Associationism**

504. Outside the school, the role of associationism is fundamental in youth development. An association centred on small groups can encourage children to plan and decide together; it teaches friendship and participation, helps develop a sense of belonging and independence from the family.

505. Juvenile associationism is well developed in the nation (see the data in the statistics appended to this report). It should be noted that:

- About 15 per cent of boys and 19 per cent of girls of 14 years of age and 15 per cent of boys and almost 20 per cent of girls between 15 and 17 have taken part in cultural or ecological groups;
- 5.1 per cent of 14-year-olds and 6.8 per cent of 15- to 17-year-olds have been active in voluntary associations;
- Participation in trade unions has been insignificant, perhaps because so few young people are yet working;

- Political activity is widespread, although not in the traditional form within a political party.

## VIII. SPECIAL PROTECTION MEASURES\*

### A. Children in situations of emergency

#### 1. Refugee or asylum-seeking children (guidelines 119-122)

506. Italy is a party to the 1951 United Nations Convention relating to the Status of Refugees which it implemented into domestic law with Law No. 722 of 24 July 1954. It also harmonized domestic law with the 1967 Protocol relating to the Status of Refugees with Law No. 95 of 14 February 1970.

#### (a) Statistics

507. The following tables provide data relating to asylum-seeking children under 18 years of age, and include both unaccompanied children and children accompanied by their parents or by any other persons:

**Table 29**

**Number of asylum-seeking children under 18, by country of origin**

Countries	1994	1995	1996	1997	Total
Albania	1			13	14
Angola	2	1	1		4
Burundi	1				1
Cameroon			1	1	2
Ethiopia	1	1	1	1	4
Former Yugoslavia			1	2	3
Iran			1	1	2
Iraq	2	4	1	8	15
Liberia		1			1
Poland	1				1
Romania	19	5		1	25
Russian Federation	1		1		2
Rwanda		5	3		8

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\* This section will examine the special protection measures contained in articles 22, 38, 39, 40, 37 and 32-36 of the Convention to which paragraphs 119 to 165 of the general guidelines for periodic reports refer. It should be noted, however, that information concerning children in situations of exploitation has been placed in the section relating to the abuse and neglect of children, given the clear connection between the two phenomena, and that drug abuse is discussed in the section concerning basic health and welfare.



**Table 29 (continued)**

Countries	1994	1995	1996	1997	Total
Sierra Leone				3	3
Somalia	2		1		3
Syria		1			1
Turkey	1	2		4	7
USSR		1			1
Zaire			3	5	8
Total	31	21	14	39	105

Source: Ministry of the Interior.

**Table 30**

**Number of accompanied asylum-seeking children under 18, by country of origin**

Countries	1994	1995	1996	1997	Total
Afghanistan	2	10	10		22
Albania	7	3		308	318
Algeria	1	10	9	2	22
Angola	8	7	10	6	31
Armenia			2	2	4
Bangladesh				1	1
Bulgaria	5			1	6
Burundi	3	6	8		17
Cameroon		1	1		2
Chad		2			2
China	3				3
Colombia		1			1
Congo, Rep.			1	2	3
Cuba	2				2
Egypt	2	4			6
Estonia		1			1
Ethiopia	9	6	2		17
Former Yugoslavia	18	7	1	9	35
Georgia			1		1
Ghana			2		2
Hungary	1				1
Iran	4	19	5	10	38
Iraq	8	22	13	38	81
Lebanon			5		5
Liberia	2	1			3
Nigeria		1			1

**Table 30 (continued)**

Countries	1994	1995	1996	1997	Total
Pakistan	1	2			3
Peru	3				3
Poland					0
Romania	156	50	4	7	217
Russian Federation	3	4	1		8
Rwanda	1	11	9	6	27
Sierra Leone					0
Somalia		9	5	2	16
Sri Lanka	20			1	21
Sudan	4	5		1	10
Syria		5		10	15
Tajikistan			1		1
Togo		1		1	2
Tunisia	2			1	3
Turkey	3		3	6	12
Ukraine	3	7	2	3	15
USSR		2			2
Viet Nam	1				1
Zaire	4	1	8	6	19
Total	276	198	103	423	1 000

Source: Ministry of the Interior.

**Table 31**

**Outcome of asylum applications by children under 18, 1994-1997**

Situation	On waiting list	Not considered	Not granted	Granted	Suspended	Total
Unaccompanied	3	-	73	25	4	105
Accompanied	49	15	674	245	17	1 000
Total	52	15	747	270	21	1 105

Source: Ministry of the Interior.

**(b) Procedures**

508. The child can be assisted by a guardian ad litem during hearings related to his or her application for asylum, if it is considered necessary by the presiding judge or the Central Commission for the Recognition of Refugee Status. The child is also guaranteed the assistance of a qualified interpreter. The child's views and the information he or she provides are taken into due account by the Commissioners in their deliberations. Applications for family reunion are generally seen in a favourable light and processed quickly.

**(c) Non-recognition of refugee status and the possibility of remaining in the country**

509. A government bill for a law on asylum-seekers (A.S. No. 2425, Regulations relating to Protection and the Right to Asylum) is currently being considered by Parliament. Under article 9, it provides that, when the Commission finds it inappropriate to send an asylum-seeker back to his or her country of origin or of residence, such circumstances enable the Commission to grant the applicant a temporary authorization to remain in the country for one year. This authorization is renewable one year at a time. After five years, the applicant can obtain residence papers that entitle him or her to the same rights as those granted to a political refugee. The same rules apply to an unaccompanied asylum-seeking child. Moreover, there is provision that a hearing for the recognition of refugee status for such a child will have priority over others and that legal action will be suspended until the competent Juvenile Court can name a guardian ad litem to follow the case.

**(d) Assistance**

510. Children who have not obtained refugee status are not entitled to the same assistance and protection as refugees. Nonetheless, article 31 of Law No. 40 of 6 March 1998 provides that a committee will be set up with responsibility for monitoring the situation of foreign children who are authorized to remain temporarily in Italy. Responsibilities will only be defined precisely in a subsequent act of the President of the Council of Ministers, but will certainly be inspired by the principles set out in the Convention on the Rights of the Child.

511. The procedures currently in place do not require that all refugees (whether adults or children) be automatically placed in reception centres. Refugees are free to choose a domicile anywhere in Italy and to provide for their own maintenance. They can apply to the State for an exceptional grant to cover the initial expenses incurred in settlement.

512. Local authorities provide access to health care for all refugees, just as they do for all Italian citizens in need.

513. Asylum-seekers who have entered into Italy without means of subsistence or accommodation can benefit from an emergency allowance for a period not exceeding 45 days. It should be added, however, that the proposed law mentioned earlier provides for a series of welfare measures benefiting asylum-seekers. These measures range from medical and hospital care to reception in refugee centres with a right to room and board for the entire period needed for processing the asylum application.

514. Italy collaborates with various non-governmental and intergovernmental organizations - and in particular with the Office of the United Nations High Commissioner for Refugees (UNHCR) - regarding welfare programmes aimed at enabling refugees to settle permanently in Italy.

515. The State is obviously committed to ensuring that the child and his or her family members do not find themselves in dangerous situations.

516. It should be pointed out that, at least from the scarce official data that exist on refugee and asylum-seeking children, the problems faced in Italy differ greatly from those encountered in other countries. Two situations are in fact prevalent among asylum-seeking children:

- A high proportion of the applications made by accompanied asylum-seeking children are rejected on grounds that they are unfounded, yet there is practically no information on what happens to child applicants once they are denied asylum;
- Unaccompanied asylum-seeking children represent only a small portion of asylum-seekers and in general are given full assistance.

517. Because of this situation, very few initiatives targeting refugee children exist in Italy, with the exception of humanitarian relief efforts addressed through special legislation, as in the case of children from Rwanda, Somalia or the former Yugoslavia. In these cases, much attention has been directed to the psychosocial recovery of these young children and their integration into Italian society, when possible. The major problem today appears to be refugees who cannot or do not want to return to their country of origin and whose future circumstances in Italy are highly uncertain (this is especially true of refugees who come from the former Yugoslavia and whose residence permits expired in July 1998).

518. On the basis of this experience, article 18 of Law No. 40/1998 provides that the President of the Council of Ministers can, by decree, make temporary protection measures for refugees, even in partial revocation of existing provisions of the law, in cases of impelling humanitarian need resulting from armed conflict, natural disasters and other events of particular gravity in non-European Union countries.

**(e) Children in Albania**

519. Numerous projects were launched in Albania in 1998, aimed at the protection of Albanian children. These are one- to two-year projects run directly by various Italian non-governmental organizations (NGOs) in close collaboration with local NGOs and financed by the Department of Social Affairs of the Presidency of the Council of Ministers. Located throughout Albania, the projects aim to create and strengthen the following: 20 educational structures for children; 5 family-type communities for minors in difficult circumstances; 11 youth centres; and 2 centres for the protection of Albanian girls at risk of becoming part of prostitution rings operating in Italy, which will also serve as centres for the reintegration of former young prostitutes who have repatriated to Albania.

520. Other projects involve aid at a distance, professional training (the training of youths as well as the training of trainers) and the development of information services on social and health concerns. Specific projects target children with disabilities, orphans, child drug abusers and children living or working on the street. Of particular interest is the project directed by the International Labour Organization (ILO) that seeks to raise awareness of children's rights.

521. A total of 14,500 million lire have been allocated to these projects, approximately half of which is devoted directly to measures affecting children.

522. In addition, an agreement was signed between the Government of Italy and the UNICEF Office in Albania in August 1999 for the realization of a multisectoral “Plan for Child Protection”, which is estimated to cost approximately 2,500 million lire.

523. The President of the Council of Ministers also signed an important agreement with International Social Service (ISS), a step that can be considered a follow-up to the Statement of Intent signed by the Italian Minister for Social Solidarity and the Albanian Ministers of Social Affairs on 20 May 1997 and 21 July 1998. ISS is mandated to organize the repatriation of non-accompanied Albanian children currently in Italy, whose return to their home country is considered to be in their own best interests. It will also assist repatriated children, facilitating their re-entry into their family, enrolment in school, professional training, job placement, and so forth. From December 1998 to the present, approximately 150 Albanian minors have been repatriated, and all have re-entered their family of origin. In addition, approximately 50 were integrated successfully into the work environment, thanks to the availability of “work scholarships”.

## **2. Children in armed conflict** (guidelines 123-131)

524. Italy has addressed the situation of children in armed conflict both by intervening within conflict-torn countries and by launching initiatives in Italy. Included in the first category are the numerous measures taken by the Ministry of Foreign Affairs. The Regions and the local authorities have also promoted related activities (such as Law No. 14 of the Tuscan Region dated 22 April 1991 concerning “contributions for aid to asylum-seekers, refugees, prisoners and populations caught up in exceptional events caused by armed conflict, natural disasters and situations of malnutrition, lack of hygiene and poverty”, and Law No. 11 of the Trentino Alto Adige Region, dated 30 May 1993 “in favour of populations of non-European Union countries affected by war, natural disasters or particularly difficult economic and social conditions”).

525. The initiatives carried out in Italy have essentially been in favour of children affected by armed conflict in Somalia, Rwanda and the former Yugoslavia. Building on the positive experience of the Medevac Programme, which brought more than 200 wounded children from Yugoslav conflict zones to Italy for treatment, article 34 of the new Law No. 40/1998 sets out special procedures to facilitate entry into Italy for medical treatment. In addition, several NGO initiatives have enabled trained personnel to work with child victims of armed conflicts in order to promote their physical and psychological recovery and social reintegration, and to strengthen their ties with their culture of origin, including the maintenance of bilingualism. These initiatives have usually been part of European-wide activities. They remain, however, isolated episodes, which makes it difficult to estimate what funds have been allocated up until now specifically for the physical and psychological recovery of these children. In this regard, there have repeatedly been calls for a coordinating body to be established for NGOs active in foreign countries, including countries affected by armed conflict. Such a body would facilitate the use of different kinds of child-welfare measures, including those financed through the mechanism of aid at a distance.

526. Given the current emergency situation of Kosovar refugees in Albania, Montenegro and Macedonia, the Government of Italy has organized a humanitarian drive called Mission Rainbow (*Missione Arcobaleno*), with coordinating bodies in Rome and in Tirana. A toll-free number was set up on 31 March 1999, which is connected with a crisis unit of the Civil Protection whose task it is to provide information about the amount of funds raised (by end April 1999, a total of 84,000 million lire had been collected) and about the refugees' specific needs for assistance. It also provides information about the possibility of providing support to the children of Kosovo through the organizations that take part in the "Albanian Children" Programme. Within this programme, the Department of Social Affairs is developing a project for aid at a distance, in collaboration with a network of volunteer organizations (*AIBI - Associazione amici dei bambini* [Association of Friends of Children], *AVSI - Associazione volontari per il servizio internazionale* [Association of Voluntary Organizations for International Service], *CEFA - Volontari nel mondo* [Volunteers in the World], *CI AI - Centro italiano aiuti per l'infanzia* [Italian Centre for Aid to Children], *Terres des Hommes*, *VIS - Volontariato internazionale per lo sviluppo* [International Volunteers for Development]). The objectives of this project are:

- To raise funds through the promotion of individual donations of 300,000 lire, which allow one child to stay with an Albanian family for at least six months or to be placed in a centre which is backed by a network of 21 observatories involving both Italian volunteers and the Albanian authorities;
- To provide the support of a psychosocial team for reception, guidance and prompt psychological care for the relief of post-traumatic stress disorders;
- To carry out intensive activities regarding registration and documentation in order to trace missing family members and promote family reunification.

The project expects to benefit approximately 7,000 children.

#### **B. Children involved with the system of administration of juvenile justice** (guidelines 132-150)

527. The Italian legal order view children as legal persons who have both rights and needs that must be recognized and fulfilled. For this reason, all judicial proceedings involving minors are presided over by a specialized judge, who can fully respect the personality of the child, understand his or her needs and provide for the child's basic developmental needs - as far as this can be done in a court. This judge puts together a special commission competent not just in legal matters but also in psychology, pedagogy and social welfare (the commission is normally composed of two professional judges and two expert judges who have specialized knowledge in child-related fields). It is very significant that the Constitutional Court, in its decision No. 222 of 1983, recognized that the protection of children is guaranteed by the Constitution and that the State, in order to fulfil its constitutional obligation in protecting children, must promote the development and operation of various institutions, among which is the Juvenile Court. It would be anomalous, therefore, to entrust certain proceedings that profoundly affect the lives of minors (such as custody in cases of parental separation) to a non-specialized judge.

528. The protection of the fundamental needs of the child and the promotion of educational measures when the child's education has been interrupted are important elements not only in civil proceedings relating to child protection but also in criminal proceedings that concern the child not as a victim but as the possible perpetrator of a criminal offence. The new criminal procedures applicable to juvenile offenders intend to emphasize education far more than retribution, as will be explained in detail later, and have as their main objective the rehabilitation of the juvenile offender.

### **1. Criminal responsibility of the child and the trial**

529. The age of criminal responsibility in Italy is 14 years of age. Children under that age are presumed not to have the capacity to infringe the criminal law and therefore cannot be charged with a criminal offence or be subjected to criminal proceedings. Between the ages of 14 and 18, youngsters can be charged if they are capable of understanding and committed the offence wilfully; that is, if it can be proved that they were capable of forming the necessary criminal intent in relation to the specific offence they are accused of committing.

530. Criminal proceedings involving an alleged juvenile offender take place in the Juvenile Court and are presided over by a specialized interdisciplinary commission. Even the investigation and the prosecution will be handled by a specialized juvenile judge, the Public Prosecutor for Juveniles.

531. The juvenile is entitled to all of the procedural guarantees provided for adults. In addition, article 1 of Decree of the President of the Republic No. 448 of 22 September 1988 (Approval of Provisions on the Criminal Procedure Applicable to Juvenile Offenders) provides that the rules governing the proceedings must always be applied in a way that is consonant with the personality and educational needs of the defendant. This law was enacted to avoid a youngster's contact with the juvenile justice system being miseducational or perceived as an act of incomprehensible violence perpetrated by adults. During the trial, the judge must explain to the young defendant the significance of the proceedings at which he or she is present, as well as the content of and grounds (including those of an ethical and social nature) for the court's decisions. These explanations are given so that the juvenile is fully aware of what is occurring during the proceedings and why it is occurring.

532. Respect for the child's personality is a principle enshrined in the law. The judge must fully evaluate the juvenile's personality from a psychological, social and environmental point of view, obtaining information about his or her personal, family and social circumstances, resources and background. This information is used to determine whether the juvenile can be charged and the degree of his or her responsibility, and to evaluate the social significance of the offence.

533. The judge is responsible for questioning the juvenile, and no cross-examination is allowed. When it is considered necessary for safeguarding the personality of the youngster, proceedings may be held with or without his or her presence.

534. Hearings in the Juvenile Court are conducted in closed chambers, but the judge can, at the request of a defendant over the age of 16, authorize a public hearing.

## **2. The rights of children during criminal proceedings**

535. It is a fundamental principal of Italian law that an individual can only be punished for an act that is expressly recognized as an offence by the law in force at the time it is committed. This principle is applicable to everyone, regardless of age, gender or personal or social circumstances (article 3 of the Constitution).

536. The minor, like every other person, is presumed innocent until proven guilty according to law.

537. The juvenile defendant, like every other defendant, has the right to be informed promptly of the charges against him or her. Therefore, immediately after the first act in which a defence counsel has the right to be involved, the public prosecutor must send the defendant a notice (called “information on guarantees”) containing the details of the laws that are thought to have been infringed and the date and place of the offence, and inviting the defendant to exercise the right to name a defence counsel of his or her choice. If the defendant does not nominate a defence counsel, the court will appoint one on his or her behalf.

538. The court must appoint a defence counsel whenever a juvenile is without legal representation. The court-appointed defence counsel must be a lawyer specialized in juvenile law. The State advances the costs of legal fees, and in case of conviction, seeks reimbursement from the minor’s parents when their income is above a certain level established by law.

539. During the entire procedure, young defendants have the right to receive the emotional and psychological support of their parents or of any other person of their choice if so authorized by the court. In any event, they must be ensured access to the assistance of the services responsible for the administration of juvenile justice.

540. The law provides that the public prosecutor must conclude his investigations and request that the juvenile be brought to trial within six months (a year in the case of more serious crimes). The judge may extend this period if he deems fit. There is no provision for accelerating the proceedings on grounds of being under the age of majority.

541. Following the public prosecutor’s application for a hearing, the judge sets the date for a preliminary hearing, which must be held within 30 days of the application. This time limit was introduced by the reform of 1988 but has proved difficult to respect because of the severe shortage of judges.

542. The preliminary hearing is held in the Juvenile Court, before three judges (a professional judge assisted by two “expert judges”). The court decides whether to prosecute after hearing the minor, his or her parents and the social services. If the defendant has previously had a clean record, the court may issue a judicial pardon and close the case. The court may also dismiss the case immediately if the offence is a minor one and has not been repeated. In addition, it may suspend proceedings and order the juvenile to be placed on probation and to undergo non-custodial treatment, releasing him or her to the services responsible for the administration of juvenile justice. If the court considers that probation has had positive results, it can close the case. Treatment can involve mediation and victim-offender reconciliation and is carried out in



collaboration with the local services. The court may also sentence the juvenile during the preliminary hearing if it deems that he or she should be fined or subject to other non-custodial measures. On the other hand, if it decides that a more serious punishment is required or that it does not have sufficient evidence to make a decision, it can call for criminal proceedings to be instituted.

543. Criminal proceedings are always held in the Juvenile Court. During the proceedings, the public prosecutor has to prove the accusations. Young defendants cannot be cross-examined and cannot be compelled to testify against themselves. They are allowed to call witnesses who will testify on their behalf, and have the same guarantees as adults on trial for a criminal offence.

544. Young defendants also have the right to the assistance of an interpreter if they cannot understand or speak Italian.

545. If found guilty, they can lodge an appeal against the sentence in the Court of Appeal (Juvenile Division); and can also appeal to the Supreme Court against a sentence of the Court of Appeal.

546. The privacy of minors is protected as hearings have to be held in closed chambers, and the law prohibits the publication or dissemination of information or pictures that might make it possible to identify young persons involved in criminal proceedings.

547. The Ministry of Justice has sought to develop social and educational programmes to promote the social reintegration of young offenders. In this connection, it has signed formal agreements with territorial bodies, public bodies, cooperatives and social-action voluntary groups for the management of appropriate recreational, cultural and educational activities. Among the organizations involved are the World Wide Fund for Nature (WWF), UISP (*Unione sportiva per tutti*) [Union of Sports for Everyone], AICS (*Associazione italiana cultura e sport*) [Italian Association of Culture and Sport], Rotary International, CSI (*Centro Sportivo Italiano*) [Italian Centre for Sports], ETI (*Ente Teatrale Italiano*) [Italian Theatrical Society], Arciragazzi, MoVI [Italian Volunteer Movement].

### **3. Specialized authorities and institutions**

548. The Italian system of juvenile justice is made up of a specialized court - the Juvenile Court in the first instance, the Court of Appeal (Juvenile Division) in the second instance - with a special office of the Public Prosecutor's Office, Juvenile courts are located in every city where there is a Court of Appeal.

549. The Juvenile Court has competence over all criminal offences perpetrated by children under the age of 18 years. It is also authorized with regard to civil or protection matters, such as child abuse or abandonment, national and intercountry adoption, and criminal offences perpetrated by children under the age of 14, that is, children who have not reached the age of criminal responsibility.

550. Besides the Juvenile Court, there is a special office within the Ministry of Justice concerned with juvenile offenders: the Central Office for Juvenile Justice. This office is

composed of technical staff (social workers, educationalists, psychologists) and administrative staff. In addition, in every city with a Juvenile Court, there is also an office for social services within the Ministry of Justice, consisting of social workers, psychologists and educationalists.

551. If related to criminal law, the actions and measures decided on by the Juvenile Court are carried out by the youth services of the Ministry of Justice, in collaboration with the social services of the local community (municipalities, provinces). If related to civil law, they are carried out by the social services of the local community. Children under 14 who have infringed the criminal law fall within these civil law activities. These children often live in precarious family situations with abusive or negligent parents. In these cases, parents are ordered by the court to accept the supervision of the local social services. Children can be released to the care of the local social services and must adhere to any behavioural rules they set. If children cannot remain within their family environment, the court may order placement in a foster family, a family-type community or in an institution, under the responsibility of the local social services.

552. Reformatories run by the Ministry of Justice have not existed for many years (since 1977). The services of the Ministry of Justice, as mentioned earlier, can only become involved in criminal cases, and therefore only handle cases involving children who have reached the age of 14. Exceptionally, they can become involved in the cases of younger children, when the court considers a child to be a danger to society and orders, as a security measure, that the child be placed in a judicial reformatory. This measure is only provided for in relation to very grave crimes (e.g. murder). Until 1988, custodial sentences involving placement in a judicial reformatory were carried out in institutions run by the Ministry of Justice. This procedure was amended by Decree of President of the Republic No. 448 of 1988, and young offenders are now placed in a community setting.

553. Although the law gives ample leeway to the judge and the social services in the treatment of young offenders under the age of 14, undoubtedly much still remains to be done. Many municipalities have inadequate social services, and social workers find it difficult to add these cases to their caseloads.

#### **4. Training of personnel**

554. Legal provisions have been enacted to ensure that all staff involved in the system of juvenile justice receive training. Decree of the President of the Republic No. 448 established special sections for minors within the Criminal Investigation Department of the Public Prosecutor's Office. Professional training courses and refresher courses for staff of these sections are carried out by the Ministry. Court-appointed lawyers are also required to take specific training courses, and the bar association of any city where there is a Juvenile Court has to organize annual refresher courses for lawyers on issues related to juvenile justice and the problems of the formative years. Training of judges and public prosecutors is carried out by the Higher Council of Judges, which periodically holds seminars for judges, usually of a few days' duration. At present, much attention is being focused on improving training courses for judges, since attendance is not obligatory. The Higher Council is therefore examining the possibility of holding decentralized courses of a longer duration.

555. Training of the staff of the youth services of the Ministry of Justice is the responsibility of the Central Office for Juvenile Justice. In all training courses, time is allocated for studying the provisions of the Convention on the Rights of the Child and other relevant international instruments in the field of juvenile justice. In particular, the Central Office for Juvenile Justice - in accordance with the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice of 1985, the Council of Europe's recommendation No. R (87) 20 on social reactions to juvenile delinquency, and the Riyadh Guidelines - has an intense programme of training courses, which are held in schools located in the North (Castiglione delle Stiviere), Centre (Rome) and South (Messina) of Italy. Training is targeted at the following groups: initial training for newly hired technical staff (educationalists, social workers, psychologists); on-the-job training involving special project work for already employed staff; training for various categories of personnel (staff of the Ministry and of local authorities; penitentiary guards).

### **5. Data on juvenile offenders**

556. Data on juvenile offenders can be found in the tables attached to this report. From these data it can be seen that:

- There has been a slight increase in the number of young persons accused of offences;
- More girls are in trouble with the law than in the past, while the percentage of boys is decreasing;
- The average age of juvenile offenders is falling (for example, while 14-year-olds made up only 9.2 per cent of all juveniles in trouble with the law in 1990, they have represented approximately 13 per cent in the last few years);
- Most of the offences are committed by children who did not continue their schooling after completion of compulsory education;
- The most common criminal offence is theft;
- The number of foreign children accused of offences is increasing, and there are more foreign than Italian children in custodial facilities due to the lack of valid alternatives to detention.

### **6. Deprivation of liberty**

557. It is a fundamental principle of the Constitution that no one may be deprived of his or her liberty unless this is decided by a judge and only in cases where such punishment is provided for by law. This principle applies equally to youngsters and adults. In addition, it is a fundamental principle of juvenile justice that the use of detention for juvenile offenders is to be considered as a last resort.

558. Juveniles can only be deprived of their liberty when they have been found guilty of committing an act that is expressly defined as an offence by the criminal code or by criminal law.

559. The police can arrest a minor on the spot if he or she is caught in the act of committing a serious crime (e.g. murder, rape), but they must immediately inform the public prosecutor and the juvenile services. The public prosecutor can order the juvenile to be placed in a reception centre or released into the custody of his or her parents while waiting for the judge's decisions.

560. Within the ensuing 48 hours, the public prosecutor has to request the judge to determine whether or not the arrest was justified and accordingly confirm or annul the arrest and decide whether or not to place the child in pre-trial detention.

561. Pre-trial detention or preventive custody in prison is permitted only for very serious crimes, the same ones for which immediate arrest is provided. The judge can order a juvenile to be remanded in prison only when any other measure would be inadequate and there is a danger that the youth will try to escape or tamper with the evidence, or where there is a risk of recidivism. The judge must, in any event, take into account the need not to interrupt any educational processes already in act. Preventive custody takes place in special juvenile penal institutes where youths are not in contact with adults. The length of detention provided for by law is reduced by two thirds for youngsters between 14 and 16 years of age, and by one half for those between 16 and 18 years old.

562. The law also provides for non-custodial measures. These are mainly placement in a community, house arrest or other restrictions. Although these measures effectively limit personal liberty, they do not involve imprisonment. Pre-trial detention may also be substituted by one of these non-custodial measures. The juvenile who is subject to preventive custody measures is always handed over to the juvenile justice services, whose activities involve both support for and control of the youngster and are carried out jointly with the local services.

563. While restrictions and house arrest are common measures, placement in a community is far less frequent because of the very limited number of such communities. The Ministry of Justice, which is responsible for organizing such communities, has encountered difficulties in doing so.

564. The law does not provide for indeterminate detention. For juveniles as for adults, only the punishment provided by law for a specific offence is admissible. Deprivation of liberty is only applicable to juveniles convicted of a criminal offence or for those on pre-trial remand, in the ways and within the limits described above (see guideline 138).

565. Young refugees or asylum-seekers have the right to assistance and are not deprived of their liberty because of their status. Nonetheless, much still needs to be done to improve the situation of foreign youths, especially refugees, illegal immigrants and Romani children. Foreign youths represent a disproportionately high percentage of the total inmates of juvenile detention centres (in 1995, admissions for foreigners were 903 compared with 1,110 for Italians; in 1997, more foreign than Italian admissions were registered - 954 compared with 934). A pattern of discrimination is also evident in the data relating to pre-trial provisions. According to

research carried out by the Ministry of Justice, 21.9 per cent of Italian youths arrested in 1995 were put under house arrest compared to only 8.74 per cent of foreign minors. In contrast, pre-trial detention was a measure applied more often to foreign (31.85 per cent) than to Italian (21.86 per cent) minors.

566. On an average, some 45,000 juveniles are accused of crimes every year (of whom 10,000 are foreigners). About 4,000 are arrested, roughly half of whom are foreigners (in 1997, there were 2,007 Italians and 2,189 foreigners arrested). As can be seen, arrests represent less than 9 per cent of the total.

567. Approximately 10,000 juveniles accused of crimes are under 14 years of age, which means they are not liable to charges and cannot be judged or sentenced because they have not yet reached the age of criminal responsibility. The only applicable sanctions are civil measures that are non-custodial and do not limit their freedom. Any action is the responsibility of the local social services. Local communities, however, as has already been mentioned, are not always alert to the problems or often have inadequate social services.

568. Between 1990 and 1995, the number of Italian minors accused of committing crimes remained substantially stable (from 34,457 to 34,698), whereas the number of accused foreign minors almost doubled (from 6,594 to 11,353).

569. The juvenile who is under arrest is not detained in prison. The police must immediately notify the public prosecutor of the arrest, who in turn can arrange for the minor either to be returned to his or her parents or to be placed in secure accommodation pending his or her appearance before a judge. Small, protected apartments are usually used for this purpose. They are not meant to seem like prisons but, at the same time, effectively ensure that the minor remains at the court's disposal. Where it is possible, they are located within the Juvenile Court. The juvenile must remain in this accommodation until a preliminary hearing is held to decide on pre-trial provision. At that hearing, the judge must determine whether or not the arrest was carried out legally, and whether any precautionary measures need to be applied pending the trial, including detention in prison if provided for by law. Only 37.5 per cent of arrested juveniles are, as a precautionary measure, incarcerated. As mentioned earlier, the judge has to arrange for a preliminary hearing within 48 hours of receipt of the public prosecutor's application.

570. The police have to accompany juveniles caught in the act of committing minor crimes (such as purse-snatching, burglary or car theft) directly to the police station and detain them there for only the time strictly necessary for returning these youngsters to their parents and, in any case, not more than 12 hours. The public prosecutor must be notified immediately of the arrest.

571. New provisions relating to foreign minors were introduced with Law No. 40 of 6 March 1998 on immigration. The Law prohibits the expulsion of a foreign minor unless necessary to protect national security or public order. The measure of expulsion is taken by the Juvenile Court on the application of the police commissioner. While awaiting a decision, the foreign minor is temporarily detained in a reception centre and provided assistance as needed.

572. At the request of the surveillance judge, a residence permit can be issued at the Juvenile Court to a foreigner who has finished serving a prison term for a crime committed while he or she was still a minor and who has successfully completed a programme of assistance and social integration.

573. In the event of serious psychological or physical problems and bearing in mind the juvenile's age and health, the Juvenile Court may authorize a relative of a juvenile who is living in Italy to enter into and reside in the country for a defined period of time, even in derogation of the existing provisions of the immigration law.

574. The law has, moreover, instituted a Committee for Foreign Juveniles, made up of representatives of the various ministries, local authorities and volunteer groups. This Committee is responsible for coordinating the activities of the interested administrations and for monitoring the residence formalities of foreign youths temporarily residing in Italy.

575. Since the law has only recently been passed, no information about its application to minors is as yet available.

576. As far as prevention is concerned, it should be noted that two instruments exist that are particularly relevant for carrying out preventive measures in collaboration with the local authorities: Law No. 216 of 1991 and Law No. 285 of 1997. The former intends to promote, in particularly crime-prone areas, measures aimed at preventing minors from becoming involved in criminal activities, while creating within local administrations a greater awareness of children's issues and better planning within this sector. The projects target young people who have very limited opportunities for schooling or social interaction. The second law - which is also preventive in nature - has required Centres of Juvenile Justice to take an active role in drawing up agreements on programmes that define territorial plans of action.

577. Apart from the projects carried out in connection with the above-mentioned laws, the Ministry has paid particular attention to all of the initiatives carried out jointly with local authorities for the implementation of projects that can reduce juvenile delinquency and disadvantage.

## **7. Respect for article 37 (c) and (d)**

578. In an effort to ensure respect for article 37 (c) of the Convention, the Ministry of Justice has made a special effort to train all staff dealing with children deprived of their liberty. Both educationalists and psychologists serve on the staff of juvenile detention centres. Even the guards (penitentiary police officers) are chosen and trained to interact correctly with minors.

579. No juvenile can be held in an adult prison. Youngsters serving a custodial sentence are detained in separate juvenile detention centres and have the right to maintain contact with their family through telephone calls, correspondence and visits. Juveniles in pre-trial detention have to obtain authorization from a judge to have contact with their families.

580. Juvenile detainees currently enjoy all the rights set out in Law No. 354 of 26 July 1975 (Prison Rules and Provisions on the Enforcement of Prison Sentences and Measures Restricting Freedom). The Government intends, however, to introduce a bill in Parliament for a law specifically regulating the treatment of juveniles deprived of their liberty.

581. In every Juvenile Court, there is a judge responsible for the supervision of minors. This judge monitors both the conditions of juvenile detention centres and the treatment of detainees, as stipulated in Law No. 354/1975 cited above.

582. Classes are held in juvenile detention centres, enabling detainees to complete compulsory education or repeat scholastic years; professional training courses and sports activities are also available, in collaboration with both the local community and voluntary organizations. All detainees have the right to medical care.

583. The provisions of article 37 (d) of the Convention are assured by the regulation requiring the court to appoint a defence counsel whenever a minor does not have a lawyer of his or her own choice. The public prosecutor or the judge nominates a defence counsel at the start of the proceedings. Juveniles already serving a custodial sentence have the right to challenge the legality of their detention through the Juvenile Court, whereas juveniles in pre-trial detention must go before a judge whose task it is to validate it or not. Time limits for this decision have been established.

584. Law No. 448 stipulates that minors have the right to maintain continuous contact with their families, who are considered to be important references in every aspect and step of the hearing (art. 21). It is stressed even earlier (art. 7), however, that there is a duty to give notice to the person exercising parental authority of “the information on the charge” and the order setting the date of the hearing, with the risk of annulment when this duty is not fulfilled. Article 31 also requires the person exercising parental authority to be present and “unless there is a legitimate reason for his or her absence, the judge may order him or her to pay a fine in the event of non-compliance”.

585. With the measures provided for in articles 20 and 21, the family is urged to reassume the educative role that it is under a duty to fill.

586. Within the limits set by law, relations with family members are encouraged for detained youths as well, through conversations and cultural and artistic events held at detention centres. Activities are oriented towards the recovery, if necessary, of a positive relationship between the minors and their families.

587. The Central Office establishes the types of treatment to be provided in juvenile detention centres, effecting periodic controls by monitoring the activities carried out in the peripheral structures. Periodic inspections are also carried out to verify that the activities carried out are those provided for in accordance with the law. The judge responsible for the supervision of minors, in turn, monitors conditions in the detention centres, with respect to the penalties, through inspections, administrative controls and judicial acts and measures.

588. In compliance with the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, young detainees are kept in separate structures from adults. Youngsters who are under arrest are taken to secure accommodation where they remain until the preliminary hearing. This kind of accommodation is especially valid in some cases in that it provides a space for problems to be addressed, thus permitting minors to return to their own environment without having had to experience prison life. Circular No. 60080 of 19 January 1995, which regulates the administration of juvenile detention centres, clearly states that each centre must carry out the provisions of the judicial administration, ensure that the rights of the juveniles are respected and promote the young person's sense of responsibility and self-worth, including through an orderly and organized community life.

589. The health needs of the juveniles are catered for through medical posts set up inside the juvenile detention centre, in which nurses and doctors provide not just basic medical assistance, but also undertake other global interventions relating to the persons and the environment of these centres. The detention centres cover the cost of medicine, analyses and specialized medical examinations.

590. In all services relating to juvenile justice, a psychologist is always a member of the team (either on the staff or under contract) in order to provide psychological support and facilitate clarification processes.

## **8. Punishment**

591. Neither adults nor juveniles are subject to capital punishment in Italy.

592. The sentencing of a minor to life imprisonment was abolished by decision of the Constitutional Court (Decision No. 168 of 28 April 1994).

## **9. Rehabilitation**

593. As has already been said, criminal proceedings aim at the physical and psychological recovery and social reintegration of the child.

594. It can be added that:

- Programmes for the recovery and support of children who are victims of neglect, exploitation or abuse are the responsibility of the local community services. Notable differences therefore exist nationally in the types of action carried out. Some large municipalities (such as Milan and more recently Rome) have shown special concern for children who are victims of sexual violence, setting up special centres for abused children. Complementing local services, these are composed of specialists who run special projects for the assistance and reintegration of abused children, which involve the temporary placement of the abused child in a special children's shelter;
- Shelters for battered women are also common, and temporary stays are envisaged not just for women fleeing from domestic violence but also for their children;



- Considerable efforts are being made to increase school enrolment and retention of Romany children, whose numbers are very high in the large cities of North and Central Italy. In Rome, for instance, where the Romany population numbers more than 5,000, some 1,223 Romany children are enrolled in compulsory schools. Special transportation programmes have been set up to facilitate attendance. Nonetheless, only 870 pupils attend school regularly. It is clear from the experience of this programme that efforts to integrate Romany children into schools are, by themselves, not enough. Much more needs to be done to ensure that Romany children and their families can enjoy more dignified accommodation in adequately equipped stopping-grounds. Better-coordinated measures are also required to tackle the widespread problems of unemployment, illegal residence status and the lack of identity documents. National data on these phenomena are not available.

595. As far as training is concerned, it is possible to indicate, apart from the data already presented, the latest initiatives of the Office for Juveniles of the Ministry of Justice:

- Programmes and activities for the physical and psychological recovery and social integration of young detainees;
- Staff training has received particular care and attention.

596. In 1996:

- Training of 41 specialized educationists;
- Training courses on “The Rights of the Child: Educational and Procedural Issues in the World of Justice”, sponsored by the Central Unit for Juvenile Justice of the municipality of Messina and aimed at a mixed group, including legal prosecutors, law students and sector workers;
- The project camp school laboratory on “learning about legality” in collaboration with the provincial education office of Messina and the provincial observatory for school drop-outs, targeting at-risk students in primary and middle schools in Barcellona P. di G., Capo d’Orlando and Tortorici;
- Refresher courses for State penitentiary police and workers in juvenile services, in collaboration with the police headquarters and the Juvenile Social Services Office of Messina.

597. In 1997:

- Training course for newly hired psychologists;
- Training course on juvenile issues for 100 penitentiary police transferred to the juvenile sector after a special recruitment campaign;

- National seminar for principals, teachers and workers of the juvenile detention centres, at which courses for the middle-school level have been started on the theme of “Adolescents Without a Future? Schools and Juvenile Detention Centres: Let Us Work for an Integrated Training Programme”, organized by the Ministry of Education.

### **C. Children belonging to a minority or an indigenous group**

(guidelines 165-166)

598. In Italy, a number of linguistic minorities can be identified:

- Groups living in border zones who, for historical reasons, share the same language and cultural traditions as the populations in the neighbouring countries: the French-speaking minority in the Valle d’Aosta, the German- and Ladina-speaking minority in Trentino Alto Adige, and the Slovenian-speaking minority of Friuli-Venezia Giulia;
- Groups historically settled in different localities of the country who have totally distinct characteristics: the ethnic pockets of Alberesh, Carinziani, Carnici, Catalans, Cimbri, Croatians, French Provençals, Grecanici, Mcheni, Occitali e Walser;
- Groups of the same identity forming the entire population of a specific region: the Friulani and the Sardinians who form a majority-minority.

599. Given that article 3 of the Constitution provides that all citizens, without distinction of any kind, have equal rights before the law and equal social dignity, and that article 6 expressly obligates the State to adopt special measures to protect linguistic minorities, it can be said that adequate protection for minorities does indeed exist in Italy. In fact:

- Almost all regions with linguistic minorities have adopted laws aimed at their protection;
- The Central Office for Border Zone and Ethnic Minority Issues - which is part of the Ministry of the Interior - not only contributes to drafting regulations protecting minorities, but it has also harmonized these with the principles of equality and liberty set out in the Constitution and in the international conventions ratified by Parliament (in particular, the Council of Europe’s Framework Convention for the Protection of National Minorities (1995), ratified by Law No. 302 of 28 August 1997);
- The Central Office has arranged for the dissemination of information about minority groups (publications, brochures, films) to draw the attention of personnel in institutions and others to the concerns of linguistic minorities; it has written reports containing data, case histories and cultural aspects of the minorities, including a focus on children of minorities; it has developed programmes aimed at increasing knowledge of minority cultures in general; it has carried out research studies, jointly

with the Ministry of Education, which provide a useful knowledge tool about different aspects of minority cultures (and organizations representing the minorities themselves were actively involved in this activity);

- In order to identify children belonging to linguistic minorities, functional measures have been taken to improve and spread knowledge of the mother tongue through training courses which aim to preserve and spread knowledge of minority languages;
- To ensure their rights to use their own language and enjoy their own culture, minority children have been encouraged to participate in mother-tongue poetry and prose contests; artistic exhibitions on the theme have been promoted; local newspapers have been financed, which include columns on children's problems; museums and cultural centres have been set up that can be visited by children and in which children collaborate; radio and television programmes for children in minority languages have been promoted;
- Religious freedom is fully guaranteed to all citizens in Italy, and therefore minorities can worship according to their own beliefs.

600. To ensure that minorities can use their own language, together with other members of their group, the following measures have been adopted:

(a) Mother-tongue language courses have been introduced in schools, and the necessary teaching aids have been made available. Reports have also been distributed free of charge, and dictionary and glossaries have been published;

(b) Initiatives have been undertaken to spread knowledge through the mass media about the cultural heritage of minorities; some minorities are entitled to use their mother tongue during legal proceedings and, in any case, minors, when they request to do so, may use their mother tongue throughout the proceedings, nominating an interpreter if necessary.

601. Steps have not yet been taken to translate the Convention on the Rights of the Child into minority languages. The Convention is, however, available in Italian, which is spoken by all minorities who live in our country.

602. It can therefore be said that minorities enjoy ample protection within Italy. It is also important to mention that this protection will be even greater when the new "Consolidation of Provisions relating to the Protection of Linguistic Minorities" is approved by Parliament, which is likely to be in the near future.

#### **D. Children of the so-called "Repented"**

603. The children of informants who have been admitted to witness protection programmes are a category at special risk. These children are sometimes victims of cynical and vicious clan vendettas. Furthermore, they have already suffered a series of traumatic events since the witness protection programme involves moving to a more secure locality, and in the more dangerous cases, a change of identity. Becoming part of a new environment (usually in a different and

distant locality) and being required to take all sorts of precautionary measures add up to a pattern of life that is often incomprehensible to the child. Furthermore, the child's development can be seriously jeopardized by the need to change schools and use a fictitious identity.

604. According to a report presented to Parliament by the Ministry of the Interior, some 2,025 children are in witness protection programmes, which is hardly an insignificant number. It would, therefore, be useful for staff specialized in children's concerns (and a representative from the juvenile justice system) to take part in the commission responsible for witness protection programmes so that the particular situation of these children can be kept in mind and ways found to help them deal with their unusual difficulties.

### Notes

<sup>1</sup> Source: Eurostat, 1997.

<sup>2</sup> Jonathan Bradshaw, "*La condivisione dei costi per i figli: i pacchetti di aiuti per i figli nei paesi dell'Unione Europea nel 1996*" in *Polis*, April 1998.

<sup>3</sup> Source: National Statistics Institute (ISTAT) - National Accounting.

<sup>4</sup> Source: IRS processing of regional data in *La spesa pubblica per l'assistenza in Italia* (Public Spending on Welfare in Italy), a publication edited by the Commission on Poverty and Marginalization of the Prime Minister's Office, 1996.

<sup>5</sup> Source: IRS processing of National Statistics Institute (ISTAT) data from Certificate of Final Balance.

<sup>6</sup> Source: IRS processing of National Statistics Institute (ISTAT) data.

<sup>7</sup> Source: Social Services Aldermanry of Milan.

<sup>8</sup> Source: Ministry of the Treasury, State Accountant General's Department.

<sup>9</sup> Source: Processed by *Il sole 24 ore* of Monday, 8 June 1988 on the basis of data from the Report on the state of implementation of policies for the handicapped in Italy, 1997.

<sup>10</sup> Source: Social Services Aldermanry of Milan.

<sup>11</sup> Source: Ministry of Education, Statistics Service - SISTAN Office.

<sup>12</sup> "Treatment and rehabilitation for persons with disabilities are carried out through integrated health and social services programmes, which make the most of the abilities of each person with disabilities and act on the global situation of disability, involving the family and the community" (Framework Law No. 104/92, art. 7).

<sup>13</sup> “Rehabilitation aims to enable the maximum possible recovery of functions harmed following an illness, preventing secondary disabilities and treating the disability in order to contain and avoid a handicap and allow the person with the disability to lead a better quality of life and to be better integrated into the society” (National Health Plan 1994-1996).

<sup>14</sup> Within the Ministry of Education, in addition to specific offices, there operates a national monitoring body to study, monitor and make proposals in regard to the integration of disabled pupils. At the provincial level, there are special technical and consultative groups set up by the provincial education offices. Groups comprising teachers, social health workers and parents operate in individual schools.

<sup>15</sup> In anticipation of the provision of training on integration for all teachers at university level, initial courses and in-service training activities have been organized on a permanent basis for specialized teachers.

<sup>16</sup> Research, studies and monitoring of the progress of pupils’ integration has usually devolved onto the public administration and public organizations.

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